

TOWN OF PATTERSON
PLANNING BOARD MEETING
October 6, 2011



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PLANNING DEPARTMENT

P.O. Box 470
1142 Route 311
Patterson, NY 12563

Michelle Lailer
Sarah Wagar
Secretary

Richard Williams
Town Planner

Telephone (845) 878-6500
FAX (845) 878-2019



**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

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

**Planning Board
October 6, 2011 Meeting Minutes**

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



Present were: Chairman Rogan, Board Member Cook, Board Member Montesano, Board Member Taylor, Board Member McNulty, Rich Williams, Town Planner, Andrew Fetherston and Donald Bowman of the Town Engineer’s office Maser Consulting, and Mr. Michael Liguori of the Town Attorney’s office Hogan & Rossi.

Chairman Rogan called the meeting to order and led the Pledge of Allegiance.

The meeting was called to order at 7:03 p.m.

There were approximately 9 members of the audience.

Michelle Lailer was the Secretary and transcribed the following minutes.

Chairman Rogan stated okay good evening everybody, is anyone here for Patterson Cemetery Association, okay, do you expect anyone here...

1) PATTERSON CEMETERY ASSOCIATION – Fill Permit

The Applicant did not appear.

Rich Williams stated I did not expect anybody here.

Chairman Rogan sated okay, we have a fill permit, they want to expand the cemetery, we know where the fill is coming from, and we know that it’s clean fill. Rich, where are they are filling, can you talk about that a little bit because we don’t have an inspection...

Rich Williams stated sure, it is on the back side or north side, near the DEC wetlands, previously they had started bringing fill in, we had stopped them, I had asked Ted Kozlowski ECI to go out look at the situation and actually flag out the wetlands, which he has done, so we know where the limits are, we know the hundred foot setback, they have erosion controls up currently. My only two recommendations on this is set

a duration for the fill in which is can be, well three recommendations, that if they are bringing fill in from any other sources other than those identified that they provide those locations to the office...

Chairman Rogan stated okay.

Rich Williams stated the duration, the fill coming in and what was the third thing, oh that the site be stabilized when it's complete.

Chairman Rogan stated and maybe a fourth would be the area that is being filled, that doesn't end up larger than what we anticipated or you feel pretty comfortable with the area.

Rich Williams stated they have it delineated by the silt fence.

Chairman Rogan stated they do, okay...

Rich Williams stated yes.

Chairman Rogan stated so we'll add the area currently delineated.

Board Member Taylor stated now can we have a plan in the file or some drawing that indicates where this is going...

Chairman Rogan stated or even pictures just some photos...

Board Member Taylor stated just something to support.

Rich Williams stated yeah, I could draw something up, I mean we're doing this for the Patterson...

Board Member Taylor stated yeah that's, I understand that, I'm not saying go out and get an engineer but it just something that is a schematic that shows...

Rich Williams stated I can get an aerial photo and show the limits on an aerial photo, yeah I can do that.

Chairman Rogan stated okay and procedurally Rich on this fill permit, it doesn't have any impact to any of the surrounding area, so we don't need to do any kind of public hearing on this.

Rich Williams stated no, it is just a fill permit.

Chairman Rogan stated just a fill permit, SEQRA...

Rich Williams stated unlisted action.

Chairman Rogan stated thank you.

Andrew Fetherston stated do you want to time constraint on the stabilization, only because you're getting to the end of the germination season.

Chairman Rogan stated now you said duration, you were talking about duration of which they are bringing fill it and you're talking about time frame and stabilization.

Andrew Fetherston stated if you're defining stabilization as final seeding, you're running out of time.

Chairman Rogan stated okay so do you think they'll be able to do this fill and stabilize it and seed it this growing season...

Rich Williams stated I think he is going to be looking to catch whatever fill he can that is going on in the area and there may be fill consistent, you know consistently over the winter months...

Chairman Rogan stated okay.

Rich Williams stated that we are going to have monitor and make sure it stays within control but I do agree with what Andrew says...

Chairman Rogan stated okay and...

Board Member Taylor stated we were talking about a time limit of June 30th...

Chairman Rogan stated June 30th.

Board Member Taylor stated which would then be the next season.

Chairman Rogan stated okay and then, so they could then stabilize and seed and appropriately complete that by that point. The last question I have is do you have an estimate based on what you've seen of what the volume of fill would potentially be.

Rich Williams stated I conservatively would say it's probably about 5 and 6, yeah 600 cubic yards, he's asked for under 1,000.

Chairman Rogan stated okay.

Rich Williams stated I have to go change the battery real quick.

Chairman Rogan stated any other questions or comments from anyone on the Board, anyone need anything.

Board Member McNulty stated nope.

Chairman Rogan stated make a motion in the matter of Patterson Cemetery Association that Planning Board grants a fill permit to allow the placement of up to 1,000 cubic yards of clean fill that is currently being brought in from the Route 311 and [Interstate] 84 Multi-Modal project, the conditions being if the location of where they bring the fill from changes, they must first notify the Planner's office and provide documentation of where the fill is coming from and secondly that the location of fill be placed within the current limits of the existing silt fence that's been installed on site, third that the area be stabilized appropriately with seed prior, or I'm sorry by June 30th and that the length of this approval shall expire on June 30th without additional time given by the Planning Board, did I capture everything, anything else that you can think of, so moved.

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.

2) RCA ASPHALT PLANT SITE PLAN – Prepare Final Resolution

Chairman Rogan stated okay, RCA Asphalt Plant Site Plan.

Rich Williams stated there are two matters before the Board tonight, briefly, one is establishing both the site restoration and performance bond with the inspection fees, two months ago the applicant's engineer had submitted cost take off's for that, the Board said based on that simplicity of the application that no further review was required on those, I did do a memo just outlining that for you, the other a resolution of approval, within that there is a requirement, the applicant recently submitted a licensing and easement agreement for the driveway which we refer to the Town Attorney...

Chairman Rogan stated has that been reviewed.

Mr. Liguori stated yes I've reviewed them and they are acceptable to the Town.

Chairman Rogan stated okay, so we have, in essence we have a resolution and we have a recommendation for a bond, two actions is what you're saying...

Rich Williams stated right, so then I would just amend that section of the resolution to require that those executed easements be filed with the Planning Department.

Chairman Rogan stated Michelle, can you pull that from the record and amend the resolution when this gets reprinted out, how's that.

The Secretary stated that's fine.

Chairman Rogan stated all right, Andrew anything from you, you didn't do anything on this right...

Andrew Fetherston stated not really I'm just, there was talk of a culvert at some point, no...

Rich Williams stated there a brief mention of a culvert down at the entrance I don't know that ever went anywhere...

Chairman Rogan stated okay.

Andrew Fetherston stated there was no need for a crossing from one side of the roadway to the other, that was mentioned at one time, I don't know if it was required, I guess not.

Chairman Rogan stated okay.

Andrew Fetherston stated okay.

Chairman Rogan stated Charles anything from you, any questions, comments, anyone...

Board Member McNulty stated no...

Chairman Rogan stated pretty straight forward, better for the residents along Burdick Road, right, motion of the resolution...

Board Member Cook stated do we do that...

Chairman Rogan stated you can do the resolution first and then we can do the bond.

Board Member Cook stated I'll make the motion with regard for final site plan approval with regard to RCA Asphalt LLC the applicant and Peckham Materials Corp as owner, whereas the Planning Board opened a duly notice public hearing on the subject application and final site plan at it's meeting on September 1st and closed the public hearing on that same night after receiving comments from the public, now therefore be is resolved that in the application of RCA Asphalt LLC for final site plan approval, pursuant to Chapter 154 of the Town Code, the Planning Board finds the subject application and final site plan as modified in accordance with any applicable conditions set forth in this resolution, complies with all requirements of Town law and Chapter 154 of the Code and hereby grants final site approval, subject to the applicant's compliance with 5 general and 10 special conditions within 62 days of the date of this resolution, be it further resolved that the Planning Board authorizes the Chairman and Vice Chairman to sign the final site plan, be it further resolved, the final site plan approval shall be deemed null and void if the applicant fails to comply with all conditions stated above, further resolved that (inaudible) this approval has been granted and will not require the issuance of a building permit that this approval shall expire one year from the date that the plat is signed by the designated representatives in Planning Board.

Chairman Rogan stated can I have a second please.

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.

Chairman Rogan stated okay, Putnam County National Bank we talked...

Board Member Cook stated hold on...

Chairman Rogan stated oh I apologize, getting ahead of myself.

Board Member Cook stated that's all right, the bond.

Chairman Rogan stated recommendation to the Town Board.

Board Member Cook stated I make the motion that the Planning Board recommend to the Town Board...

Chairman Rogan stated correct.

Board Member Cook stated that the applicant RCA Asphalt LLC, should post with the Town 5% inspection fee of \$2,698.50 and a restoration bond for the amount \$5,690.00.

Board Member Montesano seconded the motion.

Chairman Rogan stated okay, you concur with those numbers; right they're in your memo, okay.

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 the numbers sounded so small at first but we're not...

Board Member Cook stated well maybe I should say that the...

Rich Williams stated I can check the estimate if you want...

Chairman Rogan stated no, no, no, but you know what it is when we see the actual cost of the 53 because we've changed the way we do these so much, we're used to seeing bigger numbers.

Board Member Cook stated the Insite Engineering estimates that the total cost of completing the site improvements is in the amount \$53,970 and that is what the bond are based on.

Chairman Rogan stated great, thank you, okay Putnam County National Bank...

3) PUTNAM COUNTY NATIONAL BANK – Release of Bond

The applicant did not appear.

Chairman Rogan stated we had a request for release of bond, we sent letters to the owner to make sure that they are aware that releasing the bond would basically give up his rights to the site plan for the site here on Front Street. We got correspondence back from the owner stating that he understands this and still wishes to get the bond back and ultimately give up any rights to the previously approved project so we have bond

that the Town is holding for the amount of \$61,000 in the matter of Putnam County National Bank site plan I'll make a motion to recommend to the Town Board the release of that bond and ask that this copy of this October 6, 2011 memo from the Town Planner to the Planning Board be given to the Town Board so that they can make sure, because this reads very well, I think its well written and explains exactly where we are and also let's them know that Mr. Ryder wishes abandon the project and have his bond returned. So moved.

Board Member Taylor 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.

Rich Williams stated strangely enough I've never seen this before, there is actually a for sale sign on the property right now.

Chairman Rogan stated wow.

Board Member McNulty stated I noticed that today myself.

Chairman Rogan stated okay...

Rich Williams stated the Ryder's don't sell property.

Chairman Rogan stated items 4a and b are the same application but two different actions...

Board Member Cook stated same site...

Rich Williams stated same site, two different actions.

Chairman Rogan stated okay so is the 4a the action that the Board has been considering for the last so many months...

Rich Williams stated no.

Board Member Montesano stated no.

Board Member McNulty stated no, 4b.

Board Member Taylor stated that's 4b.

Chairman Rogan stated so then on 4a Thunder Ridge Ski Area, this new application, I will recuse myself from this and ask Charlie if he would be so kind as to run the meeting for the next two items, thank you sir, I am going to read this handbook, thanks...

4a) THUNDER RIDGE SKI AREA – Site Plan Waiver

The Applicant did not appear.

Vice Chairman Cook stated okay Thunder Ridge Ski Area, that site plan waiver, Michael we have this application before us to grant a waiver for the site plan that certain work can be done on a ski patrol building, the questions that come up that we would need your guidance on is that we have received a site plan on the property, it is incomplete, okay. So can you give us some guidance on how we should proceed with this particular application.

Mr. Liguori stated following the work session where the Planning Board reviewed the applications, I think it was last Thursday, I had received a request to review this particular question which was can you obtain or can the Board grant, the waiver of site plan approval in connection with the application, so here was a ski lodge building with limited expansion for patio and overhang and the question is does it qualify for the waiver of a site plan approval. §154-86 of the Code regulates waivers of site plan approval and that requires the applicant to show details for the entire site, one of the ways to look at that, if you're not looking at a ski lodge, let's say you have a commercial building with 4 tenants, you would show the tenancies, the signage and show that it's in conformance and once that's shown the Board can issue the waiver of site plan approval. In this case here, the question that came to me was well there is an open violation for the signage for the property, can we still issue, can a waiver of a site plan approval be issued, the way I read the Code, it appears that you have to show that the plan is, that the site is in conformance before a waiver could be granted and in my opinion, I guess there are a few ways really to skin the cat, you could notify the applicant that the Board can't be, can't grant the waiver of site plan approval if there is a non-conformity, that's not either pre-existing or legitimized, here if there is an open violation, there would be no way for the applicant to show that the remainder of the site is actually in conformance. The other, there are other ways to handle it you can condition any grant of site plan approval on the conformity, the non-conformity being remedied, one of the ways to do that is to state that no certificate of occupancy shall be issued until such time as the violation is remedied, that's, you know one of the methods of dealing with it but in my opinion you wouldn't qualify unless you were in conformance so its, at that point, up to the Board to determine if they, if it's something that's, you know so significant we need you deal with this, there is a lot of process involved or if it's something that the Board might want to consider and condition the issuance of the C.O. on remedying the violation.

Vice Chairman Cook stated how does that thought process then apply to our review of the waste water treatment plant.

Mr. Liguori stated here is what I would like to see happen with the Planning Board in general, number one is the Building Department charged with the enforcement of the Code but it's inherent in the process that when the Planning Board comes across a violation that they notify the Building Department to deal with it. When you issue a site plan approval, according to the Code, generally your authority is limited to issuing approvals for things that are in conformity with the Code so if there is something that is not in conformity with the Code then I would like to see the Board have that conformity, non-conformity dealt with. So for instance with the waste water treatment plant, although it hasn't, I only recently became aware of the fact that there was an open violation, you are already in the process, you're the applicant, you're spending a lot

of money to be here, you might as well get all the bang for your buck and deal with the violation and I would like to see the Board deal with that and I think that even though we don't have a law in the Code that says we can not process your application because you have a violation, if you are ultimately going to issue a site plan approval for even an aspect of the project, you do want to have conformance with all the provisions of the Code.

Vice Chairman Cook stated part of the submissions from the folks representing the waste water treatment plant, they did submit a site plan but it was not complete.

Mr. Liguori stated it, the site plan for Thunder Ridge and this is unique, this isn't like many other applications and I think it is important for the Board to recognize that because of how the use has developed for instance, this isn't a start from scratch application, blank piece of property, applicant comes into the Board with a site plan approval, you can track a, b, c, and d for you know as long as the conformance or non-conformance. The site plan that has been submitted is more a kin to an aerial photograph with more details, that is the way I look at it but considering that we are dealing with the ski lodge and if you look at the provisions for site plan approval let's say, you know, you have a requirement for a tree survey but you're dealing with over a hundred acres of land, I mean you can see how hairy it could become to have all of the various aspects so there is a site plan that's on file, it isn't of the type that you would normally require in connection with let's say new construction but if you had asked you know for that to be modified to show that that could be done.

Vice Chairman Cook stated see I'm trying to think of, you know in the first case with the, making the modification to the ski patrol house, it just seems a little onerous to place on that particular applicant to come up with a site plan.

Mr. Liguori stated right.

Vice Chairman Cook stated you know, so...

Mr. Liguori stated I think the decision for the Board is, the Board is aware of this violation that's out there, if you want to deal with it with the ski patrol application, then there is a method to deal with that that is inherent in the waiver requirement, if you want to deal with it as part of the waste water treatment plant application which is probably more of a thorough application then I think the Board has the discretion to do that given that there are two applications pending before the Board, there is nothing to say that either one would be abandoned, wouldn't be abandoned so for instance, I, they could withdraw the waste water treatment plant application but I don't see that happening considering that it's a mandate from the DEP, they need to get that done...

Vice Chairman Cook stated right.

Mr. Liguori stated so at that point it's really, I think the Board has some discretion to say okay we want to, maybe we can separate these things out of that is what the Board is looking to do.

Vice Chairman Cook stated Ron...

Board Member Taylor stated can I weigh in on this, yes...

Vice Chairman Cook stated sure.

Board Member Taylor stated as a historian I look at things where they came from and where they're going...

Mr. Liguori stated sure.

Board Member Taylor stated we have a history with this applicant which is not a good history, they have been repeatedly asked to correct some violations which they have not done, they were asked over the summer to take care of some erosion problems, it has not been done as far as we know, maybe Ted can weigh in on this...

Rich Williams stated there has been some progress, I won't say it's all been cleaned up, it's all been taken care of but there has been some progress.

Board Member Taylor stated there has been some progress, the violation, the one violation that is outstanding is not a huge issue, is it not, it's a sign, I don't see that tying the two together is any burden on applicant in terms of getting this done, take care of the sign and do their building and since it is clearly covered under the Code that says they have to be in compliance, I would say we make it a requirement of this...

Board Member McNulty stated make what a requirement, that the sign is completed...

Board Member Taylor stated that they clean up the violation on the sign while they are doing this, if they can do it while or will they have to do it first before we give them any approval.

Mr. Liguori stated you have some discretion in the Code to make it, to either do two things, to say we can not grant a waiver until conformance is proven or you can make it a condition of the grant of the waiver that is in the discretion of the Board.

Vice Chairman Cook stated that is the correction of the violation.

Mr. Liguori stated that's right.

Board Member Taylor stated now I would give them the site plan waiver without the complete site plan because as he says, I mean with the more extensive work is coming on the next project, I wouldn't require that they update this site plan and get this site plan into conformance but certainly the sign because it is such a small issue and because of the history with these people, I think its establishing the fact that we are serious about this and they can't keep going on ignoring the laws of the Town.

Vice Chairman Cook stated right.

Board Member McNulty stated how does this compare to be fair with other applicants that have put applications in and had violations but we haven't acted on.

Mr. Liguori stated I think the difference between the last application that we saw for the Board where there was a violation and this one was the request for the waiver, I think that was really the difference, my coming on in July, I think the last application that we had where there was a violation was that culvert...

Board Member McNulty stated the wetlands application to replace the culvert...

Mr. Liguori stated right, it was the, to replace the culvert and there were some other issues on the property that needed to be dealt with.

Board Member McNulty stated that was the violations, they were...

Mr. Liguori stated that was the violation.

Board Member McNulty stated the storage of equipment.

Mr. Liguori stated the storage of equipment, in that case, following the permission from the Board to deal with wetland issue and that culvert, that was time sensitive and then also the referral over to the Building Department to deal with the violation which was the overall use of the property. The difference here is that that applicant didn't ask for a waiver, this applicant has asked for a waiver and it's in those waiver provisions...

Board Member McNulty stated okay.

Mr. Liguori stated that detail the conformity.

Board Member McNulty stated all right.

Vice Chairman Cook stated okay so we could approve the site plan waiver application on the condition the violation gets corrected.

Mr. Liguori stated that's right and the way that you would do that is to put language in the waiver that would say and the condition that I would think of is that you can built it but we will not grant you certificate occupancy to use it until such time as the violation is remedied. Your alternative is to apply for site plan approval and in that case, you would have to remedy the violation anyway.

Rich Williams stated the concern that I have with that is that they've now got it built, it is sitting there and the reality is they are probably going to use, even though they don't have a C.O., it is just an overhang, I like what Michael is saying but I think maybe it should be conditioned on the issuance of a Building Permit.

Board Member McNulty stated also I think we should condition it on a health and, if we can do this, it's a health and safety issue that it is for the ski patrol to grant a better service area for the public that is using that ski slope, the people using it for recreation and I think health and safety is important to note on that.

Board Member Taylor stated this is new information to me, maybe I missed it at the work session that this was already built...

Vice Chairman Cook stated no.

Board Member McNulty stated no it's not.

Rich Williams stated no, no, no...

Mr. Liguori stated no, no, it's not...

Board Member McNulty stated they are saying if it was already built.

Board Member Montesano stated the addition hasn't been put on the building.

Rich Williams stated if they build it and you condition it on clearing up the violation, that they can't get a C.O. until they do that well they've already got it built...

Board Member Taylor stated built, okay.

Rich Williams stated and you can't expect them not to use it.

Board Member Taylor stated okay, so you're saying in terms, instead of doing it to the C.O., do it to the Building Permit.

Mr. Liguori stated the reason why I made the recommendation for the condition on the C.O. and I recognize Rich's point explicitly was to, recognize the end of the construction season, that really was what my thought was, is all right, you're probably not going to build this in the dead of winter and you might lose the opportunity to do it this year...

Rich Williams stated that is valid.

Board Member Taylor stated but again the sign is a minor thing, if they want to do this, they can go out and take care of the sign in a few days...

Mr. Liguori stated sure, they can remedy the violation but...

Rich Williams stated well they're not, I mean the remedy to the violation is going to be a variance, they are going to have to make application to the ZBA, that is not going to happen for the October meeting at this point, it's not going to happen until November at the earliest, there is a time factor, Mike is absolutely right with the construction season and the time factor.

Board Member Taylor stated well they can also remedy the violation by removing the sign...

Mr. Liguori stated oh yeah Ron, that's, except that, yeah...

Board Member Taylor stated I mean, they put us in this bind and they expect us to yield.

Mr. Liguori stated no, no, no, look you can easily just not grant the waiver for site plan approval because of...

Board Member Taylor stated or we can grant it conditional upon the fact that they correct the violation and then they can make the decision whether they want to remove the sign...

Mr. Liguori stated sure.

Board Member Taylor stated or they want to wait until doing construction until the spring...

Mr. Liguori stated that's true.

Board Member Taylor stated it shouldn't be our onus to make these decisions, this is.

Board Member McNulty stated I know.

Vice Chairman Cook stated okay, help me with this when I say this, I'll make the motion, we are okay with what has been presented, right, I mean...

Board Member McNulty stated I think what Ron stated is...

Vice Chairman Cook stated now I mean...

Board Member McNulty stated I'm agreement with as far as condition to remedy the violation, not only that its fair to previous applicants that have come in front of this Board, I mean it's, present a standard so people know what they can expect.

Vice Chairman Cook stated we are in agreement with what has been presented to us that the applicant wants to do.

Board Member Taylor stated yes.

Board Member McNulty stated an overhang...

Vice Chairman Cook stated yeah, a slab and the whole batch...

Board Member McNulty stated and the slab.

Vice Chairman Cook stated okay, so I'll make the motion that the Planning Board approve the site plan waiver presented by Mr. McCarthy, dated September 1, 2011 on the condition that the outstanding Notice of Violation be corrected before a Building Permit is issued.

Mr. Liguori stated that's correct.

Board Member Montesano seconded the motion.

Vice Chairman Cook stated discussion.

Rich Williams stated or you do what Ron said, you just can be corrected and not even go the Building Permit in there. I think that is where you were going...

Board Member Taylor stated no, I'm willing to go with...

Board Member Montesano stated no.

Rich Williams stated okay, that's fine.

Board Member Taylor stated yeah.

Vice Chairman Cook stated are you okay with that.

Rich Williams stated yeah, I'm okay with that.

Vice Chairman Cook stated motioned second okay...

Vice Chairman Cook asks for all in favor:

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

The motion carried by a vote of 4 to 0.

Vice Chairman Cook stated thank you gentlemen.

Board Member McNulty stated you're welcome.

Vice Chairman Cook stated moving right along, Thunder Ridge waste water treatment plant.

4b) THUNDER RIDGE SKI AREA – WWTP Upgrade Site Plan/Wetlands Permit

Mr. John Watson of Insite Engineering and Mr. Robert Ravallo of NYC DEP were present.

Mr. Watson stated can we also get a site plan waiver.

Board Member Montesano stated sure, bye.

Board Member Taylor stated you can ask for one, do you want to add another step to the process, I think we already gave you waiver, did we not, a partial waiver.

Vice Chairman Cook stated all right.

Mr. Watson stated good evening, since I was here last we revised our plans, as I noted in our cover letter, there were a lot of technical issues and final details that we did not address, we specifically did not address them. We addressed what we thought were some of the threshold issues that the Board has, we would like to get general agreement on some of these primary concerns before we deal with the secondary concerns. So in this submission what we did was provide a staging plan, installation and details for the bridge, show limits of disturbance for the driveway access, show specific trees to be removed, show the existing and proposed tree canopy, provide a site plan for the entire Thunder Ridge facility and we revised the layout of the treatment plant area, we relocated the generator to the back of the building so its further away from the residence across on Birch Hill Road, we rearranged the driveway turn around so we that we could turn around a larger truck, shifted the building around, moved the propane tanks to the back, general site redesign.

Vice Chairman Cook stated I will take it that where you said certain items will be taken care of because they are...

Mr. Watson stated yes.

Vice Chairman Cook stated your word (inaudible) minor in nature or...

Mr. Watson stated secondary.

Vice Chairman Cook stated okay, all right, we'll take it that Andrew, you'll agree with that although I did some make notes that, you kept talking about in a couple of your memos back in June and back in, I think it was September, about the infiltration area and the compaction, you had a concern about that and then the location of a EQ tank, you with me.

Andrew Fetherston stated yeah, yeah, John could you do me favor, you had a staging plan can you flip to that maybe, may that would be the best one to look at...

Mr. Watson stated I spent a lot of time on this staging plan, working with Contech and figuring out where everything was going to set and at the end of the day it ends up with just a couple boxes on a plan because it is actually pretty simple.

Andrew Fetherston stated to your question, I'm sorry, temporarily during construction they've got the orange construction fence around that infiltration area to keep the trucks and the workers off of that area, I guess maybe permanently is what you're speaking about, what my concern more was the flat area right on the side of the road, to keep vehicles from parking on that and possibly crushing it or rendering it not to operate...

Mr. Watson stated we can run a post and rail fence along the road and up to the wall here.

Andrew Fetherston stated okay, all right, that addresses that.

Vice Chairman Cook stated okay.

Mr. Watson stated that would be fine.

Andrew Fetherston stated yeah,

Rich Williams stated Charlie.

Vice Chairman Cook stated want to say something.

Rich Williams stated yeah, real quick, one quick question that I had, they are proposing a staging area off of the Birch Hill Road side, to set the crane to set the bridge, John is there anything that stops you from coming in from the ski area side to do the staging.

Mr. Watson stated we're more space limited on here and this is a steep slope coming down, all the way down to this pad, so I don't think we have enough room.

Rich Williams stated could you build the road, driveway going in, get your grade and then set it off, I am just thinking about keeping the crane off Birch Hill Road.

Andrew Fetherston stated I guess, that was in with my other comment, my other new comment, once I saw the plan was think of traffic safety, that is a very narrow road, very windy road, steep road and just that you were placing the materials for building the culvert and the walls necessary right on the edge of the road, you know what is the maintenance and protection, the traffic for that area, just because of what it is, that is a tough road...

Mr. Watson stated that's fine.

Andrew Fetherston stated and I don't know that necessarily, were you thinking of staging to build the bridge from...

Rich Williams stated yeah, set the crane over on the south side of the road...

Mr. Watson stated Rich I do think that the, this driveway is too steep...

Andrew Fetherston stated I think its prohibitive, I agree it is probably prohibitive to build the bridge from that section, I don't know that its prohibitive to build the treatment plant from that side, that may be more feasible, certainly then the bridge from that location but...

Board Member McNulty stated what is the time frame of construction for a crane to be there.

Mr. Watson stated oh for this...

Board Member McNulty stated the bridge.

Mr. Watson stated the entire bridge will be set in one day, it comes in I think its 6 or 7 sections, the crane will set, the crane will show up in the morning, one truck will come and pull off right here, they'll pick, they'll spin and they'll drop and they just line them up, it's a one day process.

Board Member McNulty stated okay.

Andrew Fetherston stated they do go in very quickly...

Board Member McNulty stated no I understand.

Andrew Fetherston stated the preparation will take a good amount of time.

Board Member Montesano stated the day that this is going to be done, is the Town going to be notified when its going to be and what are you going to do to assist the residents trying to get up and down, especially going into work, coming home, etcetera.

Mr. Watson stated they'll be, there is no road closure associated with this, the truck is going to pull up Birch Hill Road, it will be totally off the pavement, off the side of the road, there should be two way traffic, I can't guarantee 100% of the time but there will be at least one way traffic all the time, there will be no disruption to Birch Hill Road.

Board Member Montesano stated are you going to have the proper personnel out there to assist if necessary.

Mr. Watson stated Andrew mentioned he wanted a maintenance protection and traffic plan, we can, as if it were more like a DOT job...

Andrew Fetherston stated right.

Mr. Watson stated we can provide local road maintenance protection traffic...

Board Member Montesano stated you are going to have trucks moving up and down I would assume...

Andrew Fetherston stated I would just look, you do have a nice flat area there, short of that area that you are reserving for the infiltration system but the remaining area, if you can just pull that away from the road as best as possible.

Mr. Watson stated this.

Andrew Fetherston stated yeah, absolutely get that away from the road as best as possible, as to not obstruct the road, the traffic...

Mr. Watson stated we can do that.

Andrew Fetherston stated the people using the road, that's it.

Board Member Taylor stated I had a question on this, you give us a plan view but not an elevation except your little elevation down in the corner there and the elevation in the corner does not match the bridge that you gave us.

Mr. Watson stated we haven't come up with the final wing wall details yet, as soon as we...

Board Member Taylor stated that's my question, just can you fill me a little bit are you being, extending these walls all the way up to the road level.

Mr. Watson stated no, not all the way, well it's, that is close what we are going to do is, right now we want to have, there is the road, the road is curved, we are going to have guiderail just outside the curb and what we want to have is a roadway with curb and then we are going to slope down so the wing walls don't have to be as high, it's easier to work with fill than it is with concrete walls, so I can show you here...

Board Member Taylor stated show me here, that is what I want to see.

Mr. Watson stated I'll show you there.

Board Member Taylor stated what are you doing right above the bridge.

Mr. Watson stated I would guess the top of the wing wall would be about where my finger is and then they'll be a three to four grade change from the road down to the top of that head wall, wing wall.

Board Member Taylor stated and how are you doing that.

Mr. Watson stated with...

Board Member Taylor stated are you sloping it down.

Mr. Watson stated correct.

Board Member Taylor stated so this is going to be even wider, you've got it right on the edge right now, it's right on the edge.

Mr. Watson stated no, nope, see the, (inaudible)...

Andrew Fetherston stated hey Ron part of my comment was...

Mr. Watson stated that's curb...

Board Member Taylor stated this is the slope here.

Mr. Watson stated nope that's curb, that's guiderail, that's slope, that's top of wall.

Board Member Taylor stated okay.

Mr. Watson stated so we have probably six feet, five or six feet...

Board Member Taylor stated yeah, I saw your comment, I was wondering about where you got those figures from.

Andrew Fetherston stated I thought a cross section of the road would clarify it, that will clarify what will be done.

Board Member Taylor stated so those walls are partially going to go up.

Mr. Watson stated yes.

Andrew Fetherston stated correct.

Board Member Taylor stated and what is being done in these areas here, these are also sloped.

Mr. Watson stated yeah those are, this is, this whole pink area is not going to be disturbed at all...

Board Member Taylor stated okay.

Mr. Watson stated this is a rip rap swale on the high side of the road, to protect the road...

Board Member Taylor stated okay.

Mr. Watson stated this is a two on one slope, this is a fill slope, what we are doing is we're putting the road, we're trying to keep, we're trying to minimize the cut to minimize any rock excavation and build the road in fill out here so we can run our pipes in the fill section and not have to do rock excavation, that is going to be a two on one slope, that is going to be just grass and what we're considering planting some vegetation, some shrub type vegetation to help cut down there.

Vice Chairman Cook stated okay, I have a few, are you okay Ron for now...

Board Member Taylor stated I have one more question on the bridge, if I can find the bridge plan, here it is, I just, it seems like this thing gets bigger and bigger every time you come in, its now done what 175% wider because of guard rails...

Rich Williams stated actually it went bigger because I raised the issue about you don't want to disturb the stream channels with excessive disturbance...

Mr. Watson stated what we tried to do to keep...

Board Member McNulty stated brought it up within the (inaudible)...

Rich Williams stated stay out of the stream channel.

Mr. Watson stated what we tried to do to keep construction costs down was make the bridge as small as possible.

Board Member Taylor stated how does making it wider keep you out of the stream.

Mr. Watson stated because now...

Board Member McNulty stated Ron I think you may be confused, they've made it longer.

Board Member Taylor stated yes but they've also made it wider, they went from...

Mr. Watson stated yeah, we did, longer and wider.

Board Member Taylor stated how does that reduce the impact on the stream, you're going...

The Secretary stated hold on.

(Tape 1, Side 1 Ended – 7:44 p.m.)

The Secretary stated okay.

Mr. Watson stated it don't necessarily reduce the impact on the stream...

Board Member Taylor stated but that is what your statement is, are we on...

The Secretary stated yes.

Board Member Taylor stated they went from 16 to 28 feet wide and said that it was to reduce the impact of the stream and provide for guiderails that is 175% increase in the width of the bridge, I mean, somebody at one point expressed a concern about this bridge becoming a major traffic way to the back of property, it is certainly becoming wide enough to be that, it didn't really make sense, you comment about, so you're saying that comment wasn't valid, I understand making it longer...

Mr. Watson stated yes.

Board Member Taylor stated so you pull back from the banks but how making it wider, it's the length that is the...

Mr. Watson stated yeah, I don't think making it wider helps, does anything in either way...

Board Member Taylor stated okay, so you should say the length is doing it rather than the width then.

Mr. Watson stated but it does provide less by making it wider like that our wing walls, by bringing those wing walls down it will help with the visual, it will look less massive, it will help with cost, construction cost, height of wall, all of that stuff...

Board Member Taylor stated sure, yeah, I understand that.

Mr. Watson stated okay.

Board Member Taylor stated yeah I'm done with that section.

Vice Chairman Cook stated let's go back to a little bit, do you want to do something else here.

Mr. Watson stated no, whenever you're done.

Vice Chairman Cook stated previous discussion about the site plan you submitted...

Mr. Watson stated yes.

Vice Chairman Cook stated okay, you know its missing details...

Mr. Watson stated from Rich's letter...

Vice Chairman Cook stated right.

Mr. Watson stated yes.

Vice Chairman Cook stated okay so you will correct that.

Mr. Watson stated yup.

Vice Chairman Cook stated thanks.

Mr. Watson stated just so you know we got, what we did for that was we used the latest available aerial photography, so what, that is a snapshot of the latest readily available stuff we could get so we can update...

Rich Williams stated there is actually a 2009 digital (inaudible) photos up online which (inaudible – not using microphone)...

Mr. Watson stated okay, yeah we were using...

Rich Williams stated 2007.

Mr. Watson stated I think it's actually 2003, this is aerial 3d photography for aerial mapping...

Rich Williams stated photo (inaudible)...

Mr. Watson stated not, right, not aerial, when I say aerial I'm sorry, right, we were using photometric not aerial. We will fix that, no problem.

Vice Chairman Cook stated do we Michael, do we have any concerns relative to dealing now with this application relative to the lack of a site plan, I mean the applicant said he's going to correct it, update it, so we don't have to stop our review...

Mr. Liguori stated it's the, again it's the waiver that triggered the requirement on the initial application but again, I'm sorry the sign app...

Board Member McNulty stated the ski lodge...

Mr. Liguori stated the ski lodge, right that's, those provisions for a waiver require conformance but also inherent in the Code provisions for the issuance of site plan approval, I've said to the Board that it is important for the remainder of the site plan to be in conformance, now there isn't a Code provision that is in your Code that says all aspects of a site are required to be in conformance for a site plan to issue but it is inherent in the provisions of the Code that that be in place. So if that, you know if you felt it necessary to tie the two together then certainly we could do it.

Vice Chairman Cook stated so there is nothing preventing us from continuing reviewing...

Mr. Liguori stated that's right.

Vice Chairman Cook stated but if we don't have a site, an accurate site plan you can't approve...

Mr. Liguori stated again this is a, it's kind of a hairy part of the Code because its not explicit in the Code, okay but for instance it would make no sense logically if you could not accept an application for a waiver because there wasn't conformance but then you can issue a site plan approval if there wasn't conformance.

Vice Chairman Cook stated right.

Mr. Liguori stated why would you have one without the other and when you look at the case law in these situations, there is always the argument, if you see a situation where a site plan approval was granted but there was some non-conforming feature of the project, the applicants, the litigants will scream up and down but I was issued site plan approval it must have indicated that there was conformance, that that was okay meanwhile the board, the town, the municipality knows that it isn't but again this is, when you read the Code provisions, that is why I say its inherent in the intent of the Code to deal with these things, now its important for the Code Enforcement arm of the Town to deal with them, that's, that's where, you indentify these things, you're dealing with Code Enforcement but again there is this opportunity that arises in front of the Planning Board where these things are kind of highlighted and again what I was saying before earlier about getting your bang for the buck, you're already making an application, you're spending all the money on consultants, you're here...

Vice Chairman Cook stated right.

Mr. Liguori stated you might as well deal with it.

Vice Chairman Cook stated okay, thank you. The SPDES permit that was attached to your submission, is obviously expired...

Mr. Watson stated yes.

Vice Chairman Cook stated and I take it that you have submitted a new one.

Mr. Watson stated no, the way, Bob correct me if I'm wrong, these upgrades were intended to have been completed a decade ago and I think what the DEC has done is they issued permits based on the old plants and then they issued permits for the new plants, assuming that the new plants would all be built within the next expiration period so any of the SPDES permits that have expired, I believe they've not given renewed permits, I've seen this on other jobs where we have permits that expired ten years ago and they are just holding that permit, they are holding those permit standards until the new plant gets built then you have, with the new plant there is much more stringent effluent requirements so they just keep, as far as I know, is that correct...

Mr. Ravallo stated John, the current plant will be required to meet the requirements of, the, you know the standards that are existing right now, 6 months after I send a letter to the owner that says you are authorized to start up and do performance testing, as of that date a clock begins and 6 months later DEC imposes the new limits, so right now that plant is required to meet the current limits, now I didn't know that the current permit...

Mr. Watson stated yeah, the current SPDES permit is expired.

Mr. Ravallo stated yup, did they submit an application to the DEC...

Mr. Watson stated I don't know...

Mr. Ravallo stated they should really.

Mr. Watson stated okay.

Mr. Ravallo stated I mean, even if we got approval tomorrow...

Mr. Watson stated we have had other projects with expired permits and when they are in the upgrades we just...

Mr. Ravallo stated yeah, sometimes the DEC might have and I don't know want to talk about the DEC, that is their jurisdiction, knowing that you know, we're building something they might have been loosey goosey, as far as enforcing the requirement to renew the permit but strictly speaking they should...

Mr. Watson stated we'll check with DEC.

Mr. Ravallo stated yeah, it is really DEC's call but my expectation is you should have an active permit at all times...

Mr. Watson stated okay.

Vice Chairman Cook stated so whatever DEC is doing, I mean we're not sure of obviously...

Mr. Watson stated neither are we.

Vice Chairman Cook stated yup but all we have is this expired permit and I have to tell you that when you submit the application for a new permit, I guess is that the correct terminology...

Mr. Watson stated yup.

Vice Chairman Cook stated it really should be for year round, okay because things are going there today, things have gone on during the summer, things go on year round at that site.

Mr. Watson stated okay.

Mr. Ravallo stated John, can I ask you a question about the current permit.

Mr. Watson stated sure.

Mr. Ravallo stated and I don't have it with me.

Mr. Watson stated I have it.

Mr. Ravallo stated is I'm assuming based on my recollection but you know, I've looked at so many of these and I can't remember all of them, it is an all year round permit versus a seasonal permit.

Mr. Watson stated no, it, the current is seasonal.

Mr. Ravallo stated it is seasonal...

Mr. Watson stated yeah.

Mr. Ravallo stated okay, that presents another issue and I don't even, it's a bit complicated but its real simple, in order to go from a seasonal permit to an all year round permit, you have to make application to DEC to do that and okay, how DEP reacts to that that doesn't come under my jurisdiction and you know what I can't talk to that. In order to, I have a similar situation currently where a treatment plant informed me that the owner was contemplating going from seasonal to all year round and they were planning to go before the DEC. They have to, there is no question and they have to do that.

Vice Chairman Cook stated all right, okay, so you have to do that...

Mr. Watson stated yup.

Vice Chairman Cook stated as long as we understand it's year round, that's all.

Mr. Watson stated yeah.

Vice Chairman Cook stated okay I think it was in your last letter John that you said some other agencies are waiting for a SEQRA determination before they'll move forward...

Mr. Watson stated correct.

Vice Chairman Cook stated now what about the past letters that you received from DEC and DEP but not Bob's area, I mean have to responded to them in different points, I mean...

Mr. Watson stated yeah there are different responses at different parts of the project.

Vice Chairman Cook stated yeah and because I'll tell you why because we would obviously be interested in that seeing that as well as you know, their responses back to you that they are saying you know you should do x and you go back and you should do it this way...

Mr. Watson stated okay.

Vice Chairman Cook stated and you go back and say yes we're going to do and we are going to do it that way.

Mr. Watson stated the way I understand the process is those letters were generated from a SEQRA lead agency circulation and what we've done in the past is when we get those letters because those letters are actually directed to you as the Board, not to me as the applicant, so what we do, that is directed to you, you're saying we want to be lead agency, do you have a problem with that, they say no, we don't but we have these concerns to you, we get those, you give us those letters, we respond to you in those letters saying how we're going to address those things, we don't submit back to those agencies and they don't get back to us. Once you make a SEQRA determination then we make formal application to all of these agencies that is their time to dig in and really comment.

Vice Chairman Cook stated are you saying that in this ever growing file that we have, that you have answered those points.

Mr. Watson stated I believe I have.

Board Member McNulty stated a number of them.

Mr. Watson stated yes.

Board Member Taylor stated the bog turtle study.

Vice Chairman Cook stated yeah.

Board Member Taylor stated was one of them.

Mr. Watson stated yup, yes...

Vice Chairman Cook stated I know that was done...

Mr. Watson stated I did a response letter to you...

Board Member McNulty stated (inaudible) July...

Mr. Watson stated and addressed their comments.

Vice Chairman Cook stated that would be helpful.

Mr. Watson stated I have done that.

Board Member McNulty stated we have that, July 21st letter, memo that you sent.

Vice Chairman Cook stated yeah but wait a minute that's...

Board Member McNulty stated it was specific to the DEP points.

Mr. Watson stated Rich do you remember, okay.

Rich Williams stated yes, no I, I remember, they have responded...

Board Member McNulty stated so the question is...

Rich Williams stated to the comments from the other agencies, now you may or not agree with those responses but they have provided the responses they feel are appropriate.

Vice Chairman Cook stated in the SWPPP.

Rich Williams stated no...

Mr. Watson stated in words, I did a written response.

Rich Williams stated separate cover letter.

Vice Chairman Cook stated you responded to all of them, my apologies.

Mr. Watson stated that's okay but those are, there is not a lot of technical in depth stuff, those are just broad general questions of we're concerned about this and we say we're going to mitigate that with this...

Rich Williams stated we go back to the, Charlie if you remember the letter, I actually took what I thought were all the issues from the agencies and Ted and everybody and then laid out the responses that...

Mr. Watson stated I remember that.

Rich Williams stated we received back...

Vice Chairman Cook stated right.

Rich Williams stated from the engineer and/or the changes to the plan which I thought addressed those issues so at least you can see what the concerns were from the other agencies and then what the responses were you know, point by point, I was basically taking it right out of their letter.

Vice Chairman Cook stated okay, all right, I guess that you're talking about July 7th letter...

Rich Williams stated I think it was, yeah.

Vice Chairman Cook stated and we did it in italics...

Rich Williams stated yup.

Vice Chairman Cook stated I took that that's what you saying that was coming from John [Watson]. I didn't read into it that you were accepting this.

Rich Williams stated I wasn't I was providing it as information to the Board, this is what the other agencies are saying...

Vice Chairman Cook stated right.

Rich Williams stated this is the responses we're getting back from John for the changes to the plans and again as I preface my initial remarks here, it doesn't mean we agree with everything but these are his responses.

Mr. Watson stated and we can't, we can't make application to any of these agencies without a SEQRA determination, it is one of the things we need is that to make initial application...

Board Member Taylor stated we understand.

Mr. Watson stated that is why, once we make application to them, then we get detailed comments which we respond and copy you, we already said we are going to copy you on all outside agency correspondence, so everything we do, you will be copied on.

Vice Chairman Cook stated okay, we are not going to make a SEQRA tonight, so you know that...

Mr. Watson stated okay.

Vice Chairman Cook stated we're just not ready yet, we had a good discussion at our work session, we'll have another one and then hopefully we will be ready. This may be the same thing but in your letter there was this O'Brien and Gere report, do we have that or what was that...

Mr. Watson stated I'm not sure, do you have the, do you have it.

Vice Chairman Cook stated yes.

Mr. Watson stated we can get you a copy of anything.

Vice Chairman Cook stated here you go, number one.

Mr. Watson stated as part of the WWTP review process and approval process, O'Brien and Gere will demonstrate the proposed WWTP will meet the DEC's SPDES permit effluent limitations, one of the approvals we need to get is a waste water treatment, this is a site plan approval for a building, the guts, all the treatment process inside the building has to be reviewed and approved the Department of Health, the DEP and the DEC as part of that, that is a whole other separate set of approvals, that is where O'Brien and Gere who is going to design of the process, they have to, that is a whole separate process, just like I'm doing with you and they will go back and forth and prove to those agencies that we can meet these effluent limit discharges with this new plan...

Vice Chairman Cook stated right, okay.

Mr. Watson stated so that is a whole separate, we can copy you with that if you'd like but it's...

Vice Chairman Cook stated Rich, we need from you right a review letter on the SWPPP.

Rich Williams stated well at some point we need to do, review the SWPPP and comment on it and you know make sure it meets the technical requirements, as I've said to you, we've kind of held off on that, we took a quick look but we're held off on that, you know pending a determination on what you're going to do with SEQRA because if you know you go left on SEQRA then we jump into technical details, if you go right on SEQRA well there is a lot more information that the applicant is going to have to develop to prove out that there are no significant impacts and the SWPPP is going to be an integral part of that and we would look at it then.

Vice Chairman Cook stated okay so the SWPP is tech, because we haven't seen the SWPPP.

Rich Williams stated yeah, I think I've seen a preliminary, that's about it.

Mr. Watson stated we submitted what we call a preliminary SWPPP and what the preliminary SWPPP is enough to, what that does it we've proven to ourselves that what we show on the plan meets the DEC requirements and Town requirements, it doesn't have all the final details of a construction drawing set of documents but we are convinced that what is here is approvable, so that is what that is.

Vice Chairman Cook stated right what, what that, that is a technical document, that is what you're saying...

Mr. Watson stated yes.

Vice Chairman Cook stated we have not seen it, so...

Rich Williams stated yes, that is generally something that I ask the applicant to submit 3 copies...

Vice Chairman Cook stated okay.

Rich Williams stated Andrew gets one, I get one and the file gets one and its usually pretty thick.

Vice Chairman Cook stated okay.

Andrew Fetherston stated the preliminary one is just saying for all intents and purposes we believe on this site that we can meet (inaudible) permit.

Board Member McNulty stated I agree with Charlie about the open violation and the seasonal use, the seasonal use I bring up, the design of the waste water treatment plant, is it designed to go for a seasonal use...

Mr. Watson stated yeah it, this type of plant is an MBR, membrane bioreactor type of plant, they are very forgiving with big flows, low flows, no flows, so whether its seasonal or year round, the design of the plant doesn't change.

Board Member McNulty stated my question with the DEC, they're funding this correct.

Mr. Ravallo stated yes...

Board Member McNulty stated is it...

Mr. Ravallo stated what he's saying is accurate, all right; the plant is essentially designed to address peak daily flow, whether it's running you know 6 months or 12 months, it has to meet the immediate requirements of the 30 day average, you mention, are you saying that that facility is operating all year round.

Mr. Watson stated yeah.

Board Member McNulty stated yes at different degree of levels during the summer, my other question does the DEP have funding to run it for seasonal use.

Mr. Ravallo stated that is really a big issue and I don't have the answer to that, the funding is not an issue, if we resolve it...

Board Member McNulty stated well it is or it isn't, you just said it is.

Mr. Ravallo stated wait wait, it could I don't know if they will get approval for all year round operation, if they got approval for all year operation, it's possible that that part of running the plant to meet the regulatory rules and regs, might be our responsibility but you're raising some legal issue that might not have a definitive answer at this moment.

Board Member McNulty stated I think that is a key component if we are going to approve something that if it's going to work all year...

Mr. Ravallo stated that's not an issue, okay, if we're going to approve, there is no question that it will work all year, you asked a question...

Board Member McNulty stated I understand that that plant will function year round but will there be funding to run it year round, there is no sense in approving it if its not going to function, whether you have...

Mr. Ravallo stated we'll pay for all eligible costs to run that plant, you're asking me a question that perhaps a final decision hasn't been made, this is, here is the issue, this is a treatment plant that is located in a phosphorus free, phosphorus restricted basin, when you go to expand a plant or build a new plant in a phosphorus restricted basin you have to get a variance from the DEP putting aside all the approvals from the DEC and getting that variance is essentially tied into environmental benefits. Now here is a question

that I can't answer, is going from a seasonal facility to an all year round facility, is that considered an expansion, I will defer to the lawyers on that...

Vice Chairman Cook stated get us the answer.

Mr. Ravallo stated that's the, I can't answer that question.

Vice Chairman Cook stated that's fine, thank you.

Board Member McNulty stated with that, I lost my train of thought there for a second...

Vice Chairman Cook stated take your time.

Board Member McNulty stated with the seasonal use, oh John and Rich, the DEP wrote a response to our lead agency request, they had a number of issues which John answered in a letter, I think it was in July, have we sent that to the DEP for their response.

Rich Williams stated we have not.

Board Member McNulty stated because I think their response to his...

Board Member Taylor stated they are not going to respond, at this stage, they are not going to respond.

Rich Williams stated well, the big issue is that...

Board Member McNulty stated well I don't, they can't have a rebuttal to John's response because we are not experts in the environment and it would be key to get the DEP's assessment of their own project, does that not make sense...

Rich Williams stated we, let me jump in here, you have comments back from another involved agency which provides guidance to you on what the potential issues might be, very clearly SEQRA says you are not supposed to be experts in making that determination of significance, you're just supposed to take a reasonable approach to what those potential impacts are, whether they are significant or not, that was one of the purposes of going through that part two, certainly I can respond...

Board Member McNulty stated but I think their response would be key to know its significance.

Rich Williams stated my concern is but I think at this point, they said it is your responsibility, we are going to defer to the Patterson Planning Board to be lead agency, it is now your responsibility to act accordingly, we certainly can send responses down to the DEP on their concern but now we get into a very tricky issue about you know, if I'm responding to the DEP on their technical concerns but I'm not representing the applicant, you know or Andrew if he was doing the same you know I'm not so sure we're not crossing a legal line there...

Mr. Watson stated I can't think of a project where we have ever done that.

Rich Williams stated we generally don't and I've got to say, I went through the DEP's comments and I think most of their comments were technical in nature, we think there is the potential for large amounts of erosion out there, yes so do we if you don't put erosion control up...

Board Member McNulty stated and John answered those responses...

Rich Williams stated right.

Board Member McNulty stated but they may pose those questions, it would be nice to have their rebuttal to say these seem in line...

Mr. Watson stated the people...

Board Member Taylor stated but Tom, they're going to respond to the application, when the application goes down, they are going to look at it, if I understand this right...

Rich Williams stated correct.

Board Member Taylor stated and say yes, you have put these measures in or you haven't put these measures in, all they are telling us is a heads up...

Board Member McNulty stated okay.

Board Member Taylor stated look for these issues, this is what we're going to look for...

Board Member McNulty stated okay, I understand that...

Mr. Watson stated the people that...

Board Member Taylor stated we've got to make a decision on SEQRA without their assistance, when the application comes back for approval we will have all those results before we vote on the application itself.

Board Member McNulty stated okay.

Board Member Taylor stated but for SEQRA it sounds like time (inaudible) to make a decision.

Rich Williams stated the ball is your court...

Board Member Taylor stated yeah.

Vice Chairman Cook stated right.

Rich Williams stated it is now time.

Board Member McNulty stated well I went back to review this application and I just get disenchanted with it because I look at the initial application from November and its submitted as a concept site plan, it doesn't even list all the proper tax maps and now we have another submission in January understand what you haven't seen that revise that somewhat I believe...

Rich Williams stated yes, yes, as I said we took a site plan application in from the applicant, the site plan application box wasn't checked, we appreciate you bringing that to our attention, I've notified John and he is going to get us a corrected site plan application form.

Mr. Watson stated we...

Board Member McNulty stated I just feel like this is being just pushed through, there are a lot of inaccuracies, we can't get the application right how do we get the mitigation factors...

Mr. Watson stated I take offence to that immensely, we were told by your Board that we had to include every property adjacent to or across the street or in the vicinity of the subject parcel that is owned by the same people even if its in a different name. I don't remember another application where we've had to do that in any town, so...

Board Member McNulty stated on the original application.

Mr. Watson stated that is what, yeah, the original application we came in with three tax map parcels, the three parcels that we're doing work on.

Board Member McNulty stated I only showed one tax map number on the original one...

Mr. Watson stated (inaudible) okay...

Board Member McNulty stated and it showed 1 dash 50...

Rich Williams stated yeah we are going to get all that cleaned up, it's...

Board Member McNulty stated it's just, it's just, I don't know I feel that this whole application is a mess, it doesn't make sense, the DEP is going to spend state money, public money to build a project that I'm all for treating the effluent of the ski lodge and making things better for the waterways, it just sounds like we're not getting the bang for the buck on the money and I just had to say that, I had to get it off, it's out of control.

Vice Chairman Cook stated I think we asked you for that total picture because we were looking, we wanted to look at alternative sites for this, starting from day one with out major concern about this impact on the stream, impact on the slopes and that type thing so we wanted to go through that exercise to see what else is out there and why you couldn't put this plant on there.

Mr. Watson stated okay.

Vice Chairman Cook stated that's all that was...

Board Member McNulty stated it was a concept plan without any alternates.

Vice Chairman Cook stated so that was, I mean whether you checked the wrong box or not that was the reason why we wanted to go through that scenario and like I said hopefully that's something came up that didn't affect the stream.

Mr. Watson stated okay, once again on the alternates I can't think of a project where we'd come in with something and show you our project and all of our alternates up front, we came in with a proposal, you know it's our right to come in with a proposal that we want, if you want to see alternates, you request

alternates, we give them to you, that's the way it happens, that's the way it did happen so it's, we come in, we have a proposal that we want to do and that what we came to you with.

Vice Chairman Cook stated okay.

Board Member McNulty stated no, I understand, it's just...

Vice Chairman Cook stated all right, Ron anything else.

Board Member McNulty stated frustrating.

Board Member Taylor stated yeah, a lot else, one more specific question...

Mr. Watson stated yes, yes...

Board Member Taylor stated on your tree plan, you have a total of how many trees, I see a number 166, is that the...

Mr. Watson stated well that is just the number of trees within this area.

Board Member Taylor stated yes I understand, that's what I'm asking you, what is the total, is it 166...

Mr. Watson stated 168.

Board Member Taylor stated that is the highest number I could find, no, yeah you're right 168. How many trees are you x-ing out...

Mr. Watson stated I don't remember I think it's in the neighborhood of 40...

Board Member Taylor stated what's the percentage, how many did you add...

Ted Kozlowski stated 66.

Board Member Taylor stated 66 are coming out.

Mr. Watson stated we took out 66.

Board Member Taylor stated okay, so could you compute the percentage of that and put it on the map, I mean it's a different way of looking at it, looking at a bunch of x's...

Mr. Watson stated yeah but I could also say there are 4,000 trees on the 300 acres and we are taking out 66 of the 4,000, I mean it's...

Board Member Taylor stated but we're talking about this parcel on here, it just would help us poor laymen...

Mr. Watson stated sure we can do that.

Board Member Taylor stated get some sense of this stuff, you throw so much stuff at us, it's sometimes hard to digest. I just wanted to go through a review; we talked about this extensively at the work session we've been talking about it for months...

Mr. Watson stated bless you.

Board Member Taylor stated some points, these are not necessarily in any great order, I am just going to cover them, one of the things that was mentioned at the work session was the problem of if we go with a positive dec that the cost of the EIS is a burden for applicants, I just want to point out in this case, I mean in general that's true, in this case the applicant is not paying for this, DEP is paying for this, from my understanding, you're being paid by DEP is that correct.

Mr. Watson stated yes.

Board Member Taylor stated so, I mean that's got nothing to do with you, this is internal discussion that we had.

Mr. Watson stated right but it shouldn't matter who's paying for this, it's still...

Board Member Taylor stated the point was brought up...

Mr. Watson stated okay.

Board Member Taylor stated okay, in terms of our general process of not wanting to do positive dec's...

Rich Williams stated and that is exactly it, it was a generalization that in general doing an environmental impact statement is a very costly process that is often burdensome on applicants and it's not, it was made not specific to this project...

Board Member Taylor stated right, I understand that, I'm just responding, this is a special project in many ways unfortunately. One of the ways of reducing those costs is through the scoping document.

Rich Williams stated yes.

Board Member Taylor stated you reduce the number of things you're asking for, if we go that direction, we will limit our questions to this stream crossing I think, I mean we are not concerned about traffic so much or economic benefits or historical impacts or air quality or what are all those other things are...

Mr. Watson stated correct.

Board Member Taylor stated all right, there was a comment made about stream crossings, this is kind of a cumulative comment, people keep talking about, there were comments about the road and how the road drains into the stream and the amount of additional impervious surface that might drain into the stream from this driveway and bridge is minor compared to what is currently draining into the stream. I think that is a good point but this issue is a cumulative impact that needs to be looked at...

Mr. Watson stated can I quickly respond to that.

Vice Chairman Cook stated Ron he wants to...

Board Member Taylor stated yeah, go ahead.

Mr. Watson stated and I'm not getting into a debate because...

Board Member Taylor stated yeah.

Mr. Watson stated right now Birch Hill Road has culverts that just dump water directly in...

Board Member Taylor stated yes I understand, I agree with you.

Mr. Watson stated and our new driveway is going to be curbed, we have catch basins, we are picking up, we are infiltrating every, all, every impervious surface...

Board Member Taylor stated right, yes...

Mr. Watson stated we're infiltrating so, that is a, that is some mitigation that is one of the mitigations we're doing...

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

Mr. Watson stated so it's like, thank you...

Board Member McNulty stated on the road as well, the Birch Hill Road...

Mr. Watson stated no, we're not doing (inaudible).

Board Member Taylor stated no, what they are doing themselves. What it brings up though is the, it's, it went then into a discussion of stream crossing, there was mention of a stream crossing upstream, that we just approved a stream crossing upstream and I wanted to point out that that stream crossing was an existing stream crossing where they were actual driving through the stream to get to the other side and it was the only access to the property. There was a plan before the Board to develop that property and they were proposing a new stream crossing farther north but the Board was saying if you do that, then you have to close the stream crossing at the south. Here we are talking about a brand new stream crossing so anybody who talks about there are existing stream crossings upstream, it doesn't really apply here, this is, the question is does one of, does the effect of one additional new stream crossing and as we've said from the beginning there are alternatives to not crossing the stream whether they area acceptable to you or not, there are alternatives. There's the, I had mentioned this earlier in the evening, there is the precedent of extending, of putting this crossing a new crossing which then could be widened and extended or the use of it expanded in the future, we have to be concerned I think with that to a certain extent and we are establishing precedent for a new stream crossing, whether and we have to weigh you know what the importance of that. There is an issue about whether this applicant is treated differently than other applicants, this whole history and I am bringing this up now, the election has passed, let's get this stuff out if it's hiding in the background, this applicant has been treated differently than a lot of people in Town in the past it seems to me, they've had these erosion issues, they haven't had violations issued against them, poor Mr. Castellano had his violations and still he went to court and he paid his fine and he assumed it was done, he paid for it, it was done, it wasn't he didn't correct it...

Board Member McNulty stated Mr. Rocchio, I think you're talking about...

Board Member Taylor stated Rocchio, is that it...

Board Member McNulty stated Centrum Properties.

Board Member Taylor stated Centrum Properties, yes, it just seems like these people were treated differently for some reason, is it because they're the Ryder's, is it because its an important business in Town, is it because they a involved in politics, I don't know whether that is something, something is happening there or not but it seems to me that if there are violations and we run into this problem that if there had been documented violations over a period of time, we'd have a much better stance on this because we can say here, this is a history of violations which you haven't dealt with, now we're talking about you know well we talked to him and how serious were the violations that you just let it go...

Vice Chairman Cook stated all right but Ron with regard to this application we haven't treated these applicants...

Board Member Taylor stated no, we have not.

Rich Williams stated stop.

(Tape 1, Side 2 Ended – 8:20 p.m.)

Board Member Taylor stated I agree we have not, in the present we haven't, there was also the mention of, I won't say who said this but somebody said you know I may not agree with this project but the man owns the property, its his property he can do with it as he pleases and I had to point out that it's been, the Supreme Court has ruled that private property is part of the community and all of these environmental laws are based on the fact that property owners have to give up some of their rights because they are a part of the community, so that you know, we need to weigh, part of what we do I think is we weigh those private interests versus the public interests in what we're doing here. The biggest issue I think that we're facing, the biggest confusion that we are facing is we have a disagreement between our Planner and our Environmental...

Vice Chairman Cook stated Conservation...

Board Member Taylor stated Conservation Inspector and I think the disagreement and they get heated about it sometimes, I think the disagreement is a different perspective they are looking at this differently, one of them is looking at this as an engineer, the other one is looking as an environmentalist...

Rich Williams stated as a planner, as a planner.

Mr. Watson stated as a planner.

Board Member Taylor stated okay a planner, however, I say engineer I think the distinction in building is between engineers and architects, John was out at a meeting we had at the hospital, I pointed out I thought (inaudible) the architecture was and his comment was it stands up, I'm an engineer, this is fine. I think some of that is going on, they have different perspectives but we see though in the history of this is that and the DEC pointed this out, that these regulatory agencies are moving away from the engineering standpoint, more toward the environmental standpoint and its not so much that they've become tree huggers as they've found that the engineering standpoint which of course maintenance and installation is more expensive in

the long run whereas the environmental, have to let nature take its course, it's a little cheaper that way its not that it can't, it does need maintenance but it's a little less and then I think it was DEC who pointed out that they were moving from mitigation to avoidance and that is really the issue we're facing here, we are saying and John is saying we'll mitigate, we're saying don't need to mitigate, avoid and I think we've got to weigh that and because really in what we're dealing with, with this positive and negative declaration, our, this is, I'm getting near the end here and Ted has said something in his comments that its, so we're left confused because one is saying one and one is saying the other and we're not experts, we don't know, okay but Ted says its not up to use to weigh those things, it's the applicant's responsibility, if we need a study, a stream study or something to make a decision on this then maybe that is what we need to ask for and if that is part of an EIS then maybe that is where we need to go. The main thing that I see, we went through the, that form, assessment form...

Rich Williams stated part II of the Environmental Assessment Form...

Board Member Taylor stated Environmental Assessment Form and we rechecked some boxes or we changed the checks in the boxes and all the checks next to the boxes, there is a box that says does it have an impact and there is a box that says how great of an impact is it, all the boxes were minus, they were small impacts but cumulatively if you look at the impacts, then what is going on, I mean that is what we've got to weigh, the cumulative impacts here. In terms of the Great Swamp, what we see happening all the time is we are only going to encroach ten feet into the buffer, we are going to encroach this much into the wetland but there is acre here, there are ten acres there and then cumulative impacts which is what we're supposed to be watching, perhaps becomes significant and that's the case here, what's the cumulative impact to the stream of this particular thing, there is also something in ecology of the tipping point, you can reach a point where nature sustains itself and then you get beyond that point and engineers aren't real good at predicting that tipping point so we don't know, this might be the tipping point for the stream, again that is something that we need to weigh. We're not ready, I think we need to think about this some more but I think next month it's about time for us to sit down and make a decision...

Board Member McNulty stated I agree.

Board Member Taylor stated we've considered enough things, right now I must say I'm leaning toward a positive dec because it would force the applicant to come up with some more data for us to make a decision on and it would go down, it would allow them to go on to the next process, it would eventually, go to the next level where we get responses from other people then, at which we're looking for and it wouldn't and I think what's important is it would red flag this project to those other people, I mean Ted has wondered for months how DEP could support this project and it would perhaps red flag this project for the other part of DEP that is going to review this environmental impacts of this, that hey take a real look at this, no disrespect to you sir, but let's not just rubber stamp this because he wants to rush it through and get his agenda completed, let's really take a look at this and see if it fits in with our requirements or not, that's...

Mr. Ravallo stated by the way the other part of the DEP that has to meet that review and evaluation, they don't report to me, I have no control on them, they are totally independent souls really and they do a good job okay, so, I have full and I can't give my final approval until they sign off and I won't and I've never done that.

Vice Chairman Cook stated okay, thanks Bob.

Mr. Watson stated the only thing I would like to add is if you do pos. dec. this, we still don't make any outside agency submissions that puts off that whole part of the project indefinitely until you make the SEQRA determination so that...

Vice Chairman Cook stated until you do the EIS and we review that and...

Mr. Watson stated right, so that by pos. dec-ing it, it pushes this timeline out...

Board Member Taylor stated is not pos. dec. a SEQRA determination.

Rich Williams stated positive determination is a SEQRA determination, yes and the process then, we would do the scoping document which would out, basically the outline for the content of the EIS, the applicant would prepare a draft EIS, we would circulate it with all the other involved agencies and post it on our website...

Mr. Watson stated I would expect that to be a 6 to 12 month process to go through the...

Vice Chairman Cook stated understand, yup, yeah. John do you have anything else you want to comment on...

Mr. Watson stated I did have one question, it seems pretty insignificant now but one of Rich's comments was he question the need to remove some of these trees along the existing tree line, right now this is, it's woods up to here, this is the existing tree line, what we're doing is we are removing some of the trees right at the edge of the tree line, there are trees that are in the 20 to 30 inch diameter range, they are very, very big trees, we felt that there was safety concerns have a 30 inch diameter tree, 30 to 35 feet away from our new building, so what we, if you look you can see those, there is a lot of mature trees there now, we are going to take out the very large trees and if you look at that planting plan we submitted it doesn't have specific trees on the, it doesn't have specific trees called out, it just has symbols but we're showing taking out the really big trees and filling it with some smaller deciduous trees giving the other trees room to grow and not having these large trees next to our building, so that was a, all the comment letters, everything seemed fine and addressable, I just wanted to discuss that with the Board and see what your thoughts were, you don't have to make a decision tonight, that is my thinking.

Vice Chairman Cook stated okay, that will be on our next work session.

Mr. Watson stated yeah.

Vice Chairman Cook stated all right, you're okay.

Mr. Watson stated yup.

Vice Chairman Cook stated Tom, you have anything else to say...

Board Member McNulty stated no.

Vice Chairman Cook stated Ron, you're okay.

Board Member Taylor stated yup, I've said it.

Board Member McNulty stated well said Ron.

Vice Chairman Cook stated just a comment for the audience why this has gone on, we haven't talked to the applicant in about three months, so there was a lot that they had to prepare, a lot that we had to discuss and that is why this discussion went for quite awhile tonight, thank you for your patience. John, thank you.

Mr. Watson stated thank you for your time.

Vice Chairman Cook stated Bob thank you.

Board Member McNulty stated okay.

Mr. Liguori stated as a, I just want to add as a threshold, Ron raised an issue, I'm sorry Tom raised an issue which was going from the seasonal permit to the annual permit, if you can just get some clarification from the DEP because that's, pos. dec., no pos. dec. that is a very significant threshold issue, you know, so if we can get some correspondence or some indication from the DEP on that particular issue, I think it would be helpful.

Mr. Watson stated okay, will do.

Vice Chairman Cook stated Richard, anything else from you.

Mr. Watson stated so we're on for November 3rd, Rich.

Vice Chairman Cook stated yeah, thank you.

Mr. Watson stated okay, thanks guys.

Board Member McNulty stated you're welcome John, good night.

Chairman Rogan stated 5 minute break.

Board Member Taylor stated I could use some water.

Board Member Montesano stated yeah, that sounds like a plan.

Board Member Cook stated tow minute break.

Board Member Taylor stated Shawn's coming and asking for a five minute break.

(Break ensued – Meeting resumed at 8:39 p.m.)

The Secretary stated all right, you're on.

Chairman Rogan rejoins the Board.

Chairman Rogan stated okay, next up Adam Levine...

5) **ADAM LEVINE – Fill Permit**

Mr. Adam Levine and Mr. Joe Raguso were present.

Chairman Rogan stated we have our staff from Maser Consulting or Maser Engineers who will speak to the soil conditions, the chemicals, the items that were found and maybe shed some light to this Board on, just please use the microphone, state your name for the record also, please.

Mr. Bowman stated my name for the record is Don Bowman or Donald Bowman, Maser Consulting, I'm with the environmental services group. I have reviewed the documents regarding the Levine project and what I understand is that the homeowner brought fill in a year and a half ago and the Town issued a notice of violation for a lack of fill permit and have fill at the homeowner's property, C & D, construction and demolition debris and we are in a situation where we want to, the Planning Board is asking for the next step at this point, a recommendation for the next step and that is where Andrew brought me in. My recommendations, I'll summarize them here but I believe Andrew forwarded to all of you, based on my experience, I did a project in Staten Island this year, one of my coworkers did one on Brooklyn that is similar to this, where you have sites that had contaminants above, in this case above commercial (inaudible – not using microphone) objectives in New York and we both consulted with on DEC this as I understand, the Town has also consulted with DEC...

Board Member McNulty stated excuse me, is your microphone on, I don't know if it's on.

Mr. Bowman stated the green light is on.

Chairman Rogan stated can you hear him in the back of the room.

Mr. Bowman stated can you hear me.

Chairman Rogan stated it's not.

Mr. Bowman stated okay, that's a little different, do I have to start over now.

The Secretary stated no.

Chairman Rogan stated no.

Mr. Bowman stated okay, how long were going to let me go on like that...

Chairman Rogan stated we can hear you fine but you know...

Mr. Bowman stated where were we, based on my experience and my firm's experience with a similar situation and content with the DEC, the DEC's response to contamination in all three cases, the two we worked on and also the site here, you have contamination about what's called the unrestricted soil clean up objectives and the DEC's response was, in this case, we don't have any jurisdiction, we don't have any oversight of this because its not under one of our remedial programs and remedial programs meaning it's a superfund site, it's a Brownfield's clean up site or more commonly its where a discharge was, petroleum discharge, if you had one of those situations then you would have DEC oversight of it. So what they and you got a response back, an e-mail back from the DEC solid waste inspector back in March who gave, who talked about an exemption there and I reviewed that exemption and it seems to fit this case where a

homeowner can take C & D debris and it, the exemption being it is not considered an illegal dump, okay, which is in your Town Code as well that is what you're trying to prohibit, the issue we have here is how do we, you've got fill here and how do we remedy that because your fill permit application says, there is a certification at the bottom that says I certify this is clean fill and what I'm recommending here based on my experience is clean fill should be the unrestricted soil objectives in DEC's regulations and even though we're not under DEC's oversight here it falls back to okay the Town is reviewing the fill permit application now should we react to it and what I proposed in my e-mail I'll summarize again here to remedy this is that you have and it's actually similar to what the homeowner's landscape architect, LADA submitted, if you think of it that way, it's proposing a two foot cap of clean fill, clean fill again meaning it meets the unrestricted soil clean up objectives to the DEC, also what you have is a demarcation layer, which is before you put the fill in, like an orange fence or like a bright layer of sand, something that clearly defines, stratifies it that look if you start excavating you hit it, you're breaking a cap, there is something below here. The third thing I would add, okay I'm sorry, let me start over, putting in a demarcation layer, two feet of clean fill, a demarcation layer and then the deed restriction, you've all, this particular property has a well right in the middle of the fill, it is obviously fill, it looks just like my site, I worked in Staten Island, it's a fill site, C & D debris brought in over the years, a deed notice would, combine those three things, the clean fill, the demarcation layer and the deed notice you've got a remedy that is protective of the homeowner, protective of the Town, the Planning Board issuing the fill permit and you bet DEC's requirements, those are what the DEC would impose on you if you had a spill, if you had a discharge, those are, they would tell you do the same things, they would require you to do the same things and that's what, another way of looking at this is if you take, if you take the homeowner's letter, the consultant's letter has almost everything in it, it has the two foot layer, clean fill layer, just add to that testing the clean fill, let's make sure it meets the unrestricted criteria, the demarcation layer and the deed restriction to the homeowner's landscape architect's letter.

Chairman Rogan stated the question I would have is and I don't know whether you can answer this, based on the soil analysis is there any likelihood that the contaminants can migrate from the soil over time into the water supply or into specifically the drinking water supply because I'm concerned that we allow the material to be kept and then 20 years from now we're the Board that approved the superfund site on you know this road that we have three or four contaminated wells and well we didn't know better back then and you know that's certainly concern, I'm sure it's a concern of Mr. Levine's as well.

Mr. Bowman stated you have, I believe it was all pesticides, I don't believe they are going to migrate as fast as volatile organics would be for example, petroleum products but yes the well is a concern, do we have, is the well tested at all, do we have any base line data for what it now or what it is before, the time to get the baseline...

Chairman Rogan stated right, well it would be a good time to get the baseline because it is more likely that the contaminants haven't migrated you know, off this site and should there be a sampling you know, inventory or set up done that we say every 5 years, you know then what do we do when we go find something, what happens if a neighbor tests their well 10 years from now and finds chemicals but they don't have a baseline, they are going to obviously say it's Mr. Levine's fault, so I know you're not a lawyer and I'm not asking you to answer in that regard but it poses the information is fantastic and I appreciate you being here but what this Board I think, will have to struggle with of course and what Mr. Levine is certainly going to have to struggle with is number one what does the deed restriction do to his property value because I can't imagine that anyone, that I would want to buy a house that had a, that kind of deed restriction on it but there is a buyer for everything and I think this Board and this Town has to in consultation, likely with Health Department and other agencies at least make sure that we're not approving

something that has the potential for future problems, beyond the scope of this Board, 15 or 20 years from now when...

Mr. Bowman stated right.

Chairman Rogan stated maybe we're all gone and someone else is dealing with this, questions, comments...

Andrew Fetherston stated I just wondered, Don is there, the other alternative to completely remove the material from that home, although that may be even more cost prohibitive remedy then capping but to address your concern of years down the road if its removed that is another alternative...

Mr. Bowman stated that's another alternative...

Chairman Rogan stated sure.

Mr. Bowman stated excavation.

Board Member Taylor stated can you answer why you prefer capping, what are your reasons for preferring capping to removal because you say cap the homeowner's but remove the neighbor's and it seems inconsistent to...

Mr. Bowman stated well yeah, that's a good point, the neighbor could do the same thing, I just...

Chairman Rogan stated we just don't have consent of the neighbor at this point.

Mr. Bowman stated the biggest thing is it was not, I don't know the neighbor, I don't know if the neighbor consented to it, the neighbor could do the same thing, yes, yes Ron.

Chairman Rogan stated so if the neighbor in essence sent a legal document that said we authorize that Mr. Levine could do the same thing on our property as he does on his, we're fine with that, whatever it is then that puts us on a level playing field...

Mr. Bowman stated puts on a level playing field and the neighbor would have to have the deed restriction also.

Chairman Rogan stated understood.

Board Member Taylor stated but why do you prefer capping to removal.

Chairman Rogan stated I don't think he's saying that.

Board Member Taylor stated yes he does, he recommends capping.

Mr. Bowman stated less expensive.

Board Member Taylor stated is that the only reason.

Mr. Bowman stated I mean yeah, removal is, excavation is the ultimate remedy.

Board Member Taylor stated all right, that's what we want to know, this law that you quote or this code, or DEC whatever it is, they use the term facility, does that apply to any site or are they talking about a specific landfill that was a facility for receiving debris of some kind and it also says in there uncontaminated, so the exception is for a facility with uncontaminated fill, it doesn't apply here, it seems to me this was not a facility unless they are using that word in a very broad sense and the fill is contaminated so I don't see where the exception applies.

Mr. Bowman stated they say, okay I've got it transposed here but I've got recognizable uncontaminated concrete, so...

Board Member Taylor stated you said I think its uncontaminated concrete comma, da da da da, so the uncontaminated applies only to the concrete or does it apply to everything else on the line...

Mr. Bowman stated I can check on that but I've got it, what I sent in my e-mail, I thought I quoted it from the regulations, from DEC's regulations recognizable uncontaminated concrete...

Board Member Taylor stated and it continues.

Mr. Bowman stated and concrete products...

Board Member Taylor stated keep going.

Mr. Bowman stated including steel or fiberglass reinforcing rods that are embedded in the concrete, asphalt pavement, brick, glass, soil and rock.

Board Member Taylor stated so does uncontaminated apply to all of those things but just the first one.

Mr. Bowman stated not a lawyer.

Mr. Liguori stated (inaudible).

Mr. Bowman stated asphalt's got contaminants itself...

Mr. Liguori stated asphalt, if you look at asphalt, if you took crushed asphalt and put it on your property and you went and tested it, you would trigger the DEC's regulations for VOCs even though you can put a driveway on your property but...

Chairman Rogan stated sure.

Mr. Liguori stated because it's asphalt...

Board Member Taylor stated so the uncontaminated goes just with the concrete then.

Mr. Liguori stated no, no, it's very difficult to...

Board Member Taylor stated to say, okay, badly worded, yes and what about the facility you don't, I mean why do they say use the facility, it implies to me that it's, you know it was set up to be a landfill, it's not, which is not the case here, we have a private homeowner who brought in fill.

Board Member Montesano stated is it a generic term...

Board Member Taylor stated you don't know either.

Mr. Bowman stated well I mean the DEC's e-mail said that hey this may apply, so I am going by that saying he...

Board Member Taylor stated I understand that.

Mr. Bowman stated the inspector thinks that facility can mean in this case homeowner; homeowner is taking the fill he's not being paid to take it...

Board Member Taylor stated it should say site then instead of facility but okay.

Mr. Bowman stated yeah it's because a lot of these environmental regulations are based on businesses and commercial, not residence, in his e-mail he was deferring, he's saying this is out of, this is not in DEC's jurisdiction.

Board Member Taylor stated okay.

Chairman Rogan stated Ted, you want to come up and just use this one to make it easier.

Ted Kozlowski stated I basically, I just have a question for the Town Attorney, my involvement has been from the beginning with this and I'm mostly concerned about protection of the Town and do you see Mike any scenario where this gentleman, if he's allowed to keep all this fill and we all know what it looks and it is an eyesore in the neighborhood, if he can't sell his house five, ten years from now, is there any recourse he's going to come back to the Town, after us for allowing this to go forward, to put tow more feet of elevation of fill on top of already an enormous pile of fill, I don't, personally I don't see somebody buying this house and you know, with a contaminated well, are we going to have, is this Board and this Town going to have a responsibility in the failure of this gentleman to sell his house, are we going to responsible.

Mr. Liguori stated Ted, I honestly don't know, not an answer I've had to research...

Ted Kozlowski stated yeah and that is what I'm afraid of, that is my fear is next thing you know the Town is buying this house because we allowed this to happen and that is what I'm concerned about...

Board Member Taylor stated and that fits in with Shawn's fear that if there is contamination down the road then is the Town liable for that...

Chairman Rogan stated just come up and use the microphone that's all...

Mr. Liguori stated you know where the courts would look at the liability is what, whether or not what the Planning Board approved was reasonable at the time, you know what was the standard, what is customary for a municipality to do in this particular situation and if the accepted method of practice is to cover and demarcate then cover, then I would be confident that you would not have liability, that doesn't mean people won't sue you...

Chairman Rogan stated sure, sure...

Mr. Liguori stated okay and that doesn't mean that those lawsuits would be covered by your insurance, those are questions that would be out there but that would be the standard that the court would look at in determining whether or not you had some liability and quite frankly, if I, let's say the neighbor, your action would be in negligence, they would be suing the Town for negligence if you did not act in accordance with those measures...

Chairman Rogan stated sure.

Mr. Liguori stated so those, so I don't have a definitive answer for Ted but I believe that would be the standard that they would look at.

Chairman Rogan stated Mr. Levine.

Mr. Levine stated well, doesn't move does it, anyways, I would not hold the Town responsible for purchasing my residence, I would be more than happy to sign a document, unbeknownst the house I'm sure is worth less than what I purchased it for five years ago at the moment anyways but doing my best to pay the mortgage and for the next thirty or now I think its almost another thirty years since I renegotiated and by the time I'm 65, 70 years old and paid it off, one day I am hoping to sell it. It will not be the Town's responsibility that is in my mind, ludicrous, it was a tremendous mistake on numerous parts that this even happened and I am upset that I'm wasting your time...

Mr. Liguori stated no, just so you know, it's not liability from you, it's liability from people that are affected by your property...

Mr. Levine stated okay.

Mr. Liguori stated that is where the liability would be, it would be from the neighbor, they neighbor had a contaminated well and as of today there were no pesticides but five years from now there are pesticides, that is where the liability would, they would sue the Town and say you issued a permit for this thing, we are suing you in negligence for issuing a permit, you should have made him remove that fill...

Ted Kozlowski stated well it's also the neighbor next door that can't sell his house because somebody doesn't want to move next to Mr. Levine's house because it doesn't, it looks what it looks like...

Mr. Liguori stated that's where the...

Ted Kozlowski stated that is where I'm worried about (inaudible)...

Chairman Rogan stated or they find out there is contaminated fill on site and they don't want to live next to what they consider, the public would say is a landfill or something.

Mr. Liguori stated right.

Board Member Taylor stated so Mr. Levine are you willing to remove this fill.

Mr. Levine stated I don't have the money, it is an impossibility, I mean, what I would...

Board Member Taylor stated so you would prefer capping it.

Mr. Levine stated in looking and doing research, which I have done numerous research on what capping is and if there is any danger to when I do have children because this is a major concern of mine, of course and my pets, my dog and in talking to the people that I actually pay to do those soil samples and if the animal, which is my dog that I care about unbelievably, if the dog would eat any of this dirt would it harm the animal and their answer was you'd have to eat pounds and pounds and pounds, I mean the dog would die of eating twenty pound of dirt...

Board Member Taylor stated dirt.

Chairman Rogan stated right.

Mr. Levine stated and that a concern, would children ever get hurt from eating or consuming any of this and it would still be the same thing, twenty pounds of dirt would hurt any child or any one of us but we're not going to eat that amount of dirt, so I did a lot of research to make sure that I was going to be safe in one day putting a swing set or having the kids ride a bicycle around on the lawn, it's going to happen, kids are going to fall down, they're going to get scraped, they're going to get dirt in their cuts, will any of that harm and all of my research shows that there is nothing and I spent hours on this, I mean literally couldn't sleep because of this thing.

Chairman Rogan stated the one concern though is, if the contaminants do get into your water supply, even if it's only yours...

Mr. Levine stated okay.

Chairman Rogan stated I certainly am concerned about your future children also...

Mr. Levine stated absolutely.

Chairman Rogan stated they are not getting that one little bit of exposure, they are getting that long term drinking the water you know everyday because I don't want you to have Poland Spring water in your house and so now if you don't test the water, let's just play this forward, all of a sudden your kids are 9, 10, 11 years old and you're noticing there's issues with them and they say well we should check the water and you find there are contaminants in it and they've been drinking it for nine years, you know it's that chronic exposure, we've had even in Putnam County cancer clusters in areas and they do research and they realize oh there was an illegal dump site somewhere, and not saying it proves that it was from that but all of a sudden you have six people with the same type of cancer in one area, you have these issues and now they are going to, they are going to be saying you know, it's from here...

Mr. Levine stated yes, well we only drink Poland Spring water, I don't like the well water as much for whatever reason, we do get Poland Spring but I will make sure that, you know whatever every five years or whatever we should test it, it is only a good idea to test the water anyways, sometimes because I don't know the name of the site but to the right across from Ace Endico, they were doing a lot blasting for awhile and I was changing the filter in the, the full house filter weekly and I stopped by and I talked to one of the guys and I said what's going on here I mean every week I'm buying these \$20 filters or else I don't have any water coming out of the shower head...

Chairman Rogan stated wow.

Mr. Levine stated and then everything and it was pink and red, like clay...

Chairman Rogan stated shows you how connected you are through the water supply to areas a mile away from you.

Mr. Levine stated I think they were blasting in the ground whatever they were doing but I would want to make sure that the water is fine and I would do testing to make sure.

Chairman Rogan stated I want to make sure I put back on the record in front of you that something I hope you realize that this Board really has struggled with this over the last 16 months that no one here wants to hurt you, we are all trying to struggle with this and we've been trying to get answers from the DEC and this is really people, like Ron saying the DEC isn't responding, we need to now as a Town home rule, we need to take care of our own business and give you some direction because its not fair for you not to have direction in this case.

Mr. Levine stated yeah.

Chairman Rogan stated everyone on this Board feels for the situation you're in, you didn't create it on purpose, I believe that, I am very concerned about being on the Board that approves this thing and finding our ten, fifteen years from now we have a problem, I don't believe that is going to happen but I'm fearful that it will because these things do happen. I understand your circumstances with the economy and with the price, I can't even imagine if we threw out a number of what this would cost to remove it all because as I understand it would have to go as if it were contaminated with oil, it would have to go per ton to a solid waste site that is special for this and its incredibly expensive, these are the things that we're going to have to struggle with, getting the advice of technical people like Don, is very important to this Board, I mean we rely on the information that our technical people provide us...

Mr. Levine stated correct.

Chairman Rogan stated and we generally follow that within reason but I appreciate Don saying you know customarily and given this situation, capping it would be adequate, we do need to tackle the issue about the neighbor's property one way or another, either removing or a letter saying what you're going to do on yours, is fine to do on his but I'm hoping that is something you're working towards.

Mr. Levine stated I had spoken to her and she had said she was going to come out and see it and I haven't heard from her, she said that she's always travelling but...

Chairman Rogan stated because I'm sure...

Mr. Levine stated she said, you know I told her that I'm working with the Town on it and then my hope is that we are just going to cap it and I'll tell her that and I had already told her because I had spoken to somebody that there shouldn't be any fines which that relieved her that there are no fines and then if we can cap it, I would of course take care of capping hers and making sure everything is perfect and then having a nice backyard to play in is you know for the dog...

Chairman Rogan stated I have a feeling they are going to have you put a stonewall up right on the property line to keep you off after what you did.

Mr. Levine stated well she seemed to be a very nice lady.

Chairman Rogan stated good but some day they are wanting to sell that property and someone else is going to want to have a house or something because that is residential right next to you...

Mr. Levine stated yes, yes.

Chairman Rogan stated but anyway...

Board Member McNulty stated I have a question.

Chairman Rogan stated yes.

Board Member McNulty stated Don, if the plan you outlined, the capping plan, were to take place, what do you recommend to the Board here and the Town for oversight of that clean up, is there anything special we should be looking for in the oversight documents, special outside third party engineering, what do you recommend for the oversight to protect the Town.

Mr. Bowman stated the biggest thing...

Chairman Rogan stated you're not as loud as the rest of us.

Mr. Bowman stated oaky recommendations for that, certainly testing the clean fill and making sure it's clean, take multiple samples, make sure it meets the unrestricted soil clean up objectives.

Board Member Cook stated excuse me, so that let's say you say recommend doing that on an annual basis...

Chairman Rogan stated no, no, this is for the material that would be for the capping...

Board Member McNulty stated no, this is the actual clean up.

Ted Kozlowski stated coming in.

Board Member Cook stated oh.

Chairman Rogan stated make sure you're starting with clean.

Board Member Cook stated I apologize.

Rich Williams stated can I just ask a quick question here...

Chairman Rogan stated sure.

Rich Williams stated if the material is virgin material coming from a virgin site, it still needs to be tested.

Mr. Bowman stated yes.

Chairman Rogan stated yeah what if it's coming from a golf course or a radio...

Rich Williams stated well no I'm thinking we're doing the excavation and it's not coming here but we're doing the excavation over on [Route] 311 and [Interstate] 84 that material would be brought in...

Chairman Rogan stated that would be a clear, we just did it on another application, so that would fit the bill for we know that that's but I understand what you're saying if we don't, we need to be very clear about where the material is coming from.

Mr. Bowman stated yes, this has pesticides in it, everybody treats with pesticides...

Chairman Rogan stated and also understand that material, that material you're talking about I think they want something that will eventually grow something, I understand that material isn't the finest quality for stability and things like that...

Rich Williams stated it's not the greatest material in the world, I was just hypothetical...

Chairman Rogan stated right, I understand, but you know, okay, sorry...

Board Member Montesano stated sitting next to Ron anyway...

Mr. Bowman stated definitely testing the clean fill, I would make sure that the demarcation layer is adequate when it's put down, make sure you know that it is, I would also talk about the well, I didn't put that in my e-mail but I've thought about it since then, test the well, do you have well data from the past Mr. Levine, have you ever had it tested for drinking water standards...

Mr. Levine stated I'd have to check.

Chairman Rogan stated you would have it when you bought your house.

Mr. Levine stated I'm guessing from when I purchased the house.

Chairman Rogan stated (inaudible) profile.

Mr. Levine stated I don't know I would have to ask the, the inspector I guess did it, right.

Chairman Rogan stated if you search your files probably from your closing documents, you probably have a Putnam County profile which would have ten or twelve, it might not have VOCs or anything like that but it would have your iron, manganese, bacteria.

Mr. Bowman stated it will show your baseline.

Chairman Rogan stated give you some baseline.

Mr. Levine stated okay, I'll have to look for that.

Chairman Rogan stated also, didn't the Health Department draw some samples from your house.

Mr. Levine stated Rich, helped on...

Chairman Rogan stated the Health Department didn't, they went out there I thought they were...

Rich Williams stated we brought them out...

Chairman Rogan stated I thought they were going to take VOCs out of that, I'll find out.

Mr. Liguori stated do we know what the shelf life is on the material that is on the property.

Chairman Rogan stated the shelf life.

Mr. Liguori stated some...

Rich Williams stated certain chemicals breakdown.

Mr. Liguori stated right, right...

Chairman Rogan stated oh.

Mr. Liguori stated are these the type of chemicals that do breakdown after ten, fifteen, twenty years sooner.

Chairman Rogan stated I'm thinking no...

Mr. Bowman stated no, not pesticides. The other thing I would besides testing the clean fill and checking on the well demarcation layer is again get well data, there must be tests, some kind of baseline from when the well was put in...

Mr. Levine stated okay.

Mr. Bowman stated and test it now and then put some kind of testing program together, to trend it over the years, yeah...

Chairman Rogan stated would we, in part of this, since his well is the closest to the source, if there were any kind of blips in the radar and triggered it, we can then work outward but should any surveillance program include neighboring wells as baseline, especially from a liability standpoint to have that baseline.

Mr. Bowman stated for down gradient properties, I don't know the direction of ground water flow there...

Chairman Rogan stated towards the highway.

Mr. Levine stated it goes toward [Interstate] 84.

Mr. Bowman stated toward [Interstate] 84...

Mr. Levine stated there is nothing on [Interstate] 84.

Mr. Bowman stated then I would say if you confirm the direction of ground water flow is toward 84, then probably not, everything else would be up gradient of it.

Mr. Levine stated everything else is up the hill.

Chairman Rogan stated we have to look at that.

Mr. Bowman stated it's a good question.

Rich Williams stated just a quick question, is the Board considering approving or taking an action on this tonight.

Chairman Rogan stated we have to, we're going to do a public hearing on this one.

Rich Williams stated okay, how about we have Don, you know and the questions are good and I'm not saying stop the questions...

Chairman Rogan stated yeah, sure.

Rich Williams stated but how about we have Don write something up on this...

Chairman Rogan stated sounds great.

Rich Williams stated so we have it in writing.

Chairman Rogan stated yeah, we're going to need that definitely.

Mr. Raguso stated before we close out, Don how much top soil would he have to put on top of that clean fill.

Mr. Bowman stated there is no requirement for the top soil on top, I believe in your consultant's letter you said what six inches you would seed.

Chairman Rogan stated so eight inches as a whole...

Mr. Bowman stated it is just two feet of clean fill on top...

Chairman Rogan stated so it would sixteen inches of material with six, eight inches of top soil.

Mr. Bowman stated correct.

Chairman Rogan stated okay.

Andrew Fetherston stated the, you had also mentioned the deed restriction, probably work that out with Mike.

Rich Williams stated the language.

Andrew Fetherston stated yeah.

Mr. Liguori stated this would be, more than, it would be a, the restriction is a misnomer because its not a restriction it is more of a notification...

Chairman Rogan stated a notice.

Mr. Bowman stated notice is probably a better word than deed restriction.

Mr. Liguori stated right that's what you would (inaudible – not using microphone).

Chairman Rogan stated Andrew you had mentioned this I think with subdivisions that are built on old apple orchards that that is customary that the subdivision everything gets noted...

Andrew Fetherston stated it goes right on the plat, yeah.

Chairman Rogan stated yeah.

Mr. Liguori stated when you have a permit from the DEC to do work in the wetland, you now record what is called a confirmation deed and essentially what that is, is a deed where you are both the grantor and the grantee and it contains a notice that this property contains, a wetland permit has been issued for wetland L9 which is located on the subject premises, please be on notice of the following regulations a, b, c, and d and that is essentially what, notice in a deed. What I was hoping was that there would be some shelf on this thing so that...

Chairman Rogan stated like some half life you mean...

Board Member McNulty stated breakdown...

Mr. Liguori stated some half life or breakdown, whatever the right term is...

Chairman Rogan stated yeah, it's about 4,000 years so we are going to hold you accountable...

Mr. Liguori stated I'll tell you, when you, you know the next purchaser whether it's Bank of America or whoever it is, that is going to be a tough one.

Chairman Rogan stated yeah.

Mr. Levine stated you think though actually selling it will actually be a problem because if it's only a notation on the deed that says that this dirt is here, it's not, you're not going to eat it, they're not going to build anything there, they are just playing on it, its just like if there was...

Mr. Liguori stated if houses were a rare commodity, I would say that it would not be an issue but if...

Mr. Levine stated well it's a nice area in Patterson, I'm hoping.

Mr. Liguori stated there is not question about it but the reality is, is that I don't think any house is that particularly special where you can, you know you can choose to shop somewhere, it's just an economic reality, that's all.

Chairman Rogan stated that's what scares me too, really, I'm scared for you.

Board Member McNulty stated one last question I had, sorry Shawn...

Chairman Rogan stated no, thanks for jumping in.

Board Member McNulty stated a landscape architect devised this initial concept of a capping plan, should it be some kind of certified engineer in that field or is that landscape architect sufficient to do that.

Mr. Bowman stated that is a good question and the answer is if you were, if this were a remediation site and you were under DEC's oversight...

Chairman Rogan stated hold on one second Don.

(Tape 2, Side 1 Ended – 9:10 p.m.)

The Secretary stated okay.

Mr. Bowman stated ready, if this was a remediation site and you were doing it under DEC's oversight, to come up with a capping plan, an engineered capping plan would require a New York License Professional Engineer to prepare it, yes.

Board Member McNulty stated okay.

Mr. Bowman stated if you were, if it was a DEC oversight.

Chairman Rogan stated which is kind of funny because I don't care whether it's a DEC oversight or not, I care that we're dealing with it and that it's done properly and so does Mr. Levine.

Board Member McNulty stated but maybe those guidelines should...

Chairman Rogan stated and we have our engineers making sure with the review, you know there is the checks and balances to make sure that things are done right.

Mr. Bowman stated yeah the guidelines just, it's in my e-mail but I'll state it for the record, its DEC's policy DER-10, technical guidance for site investigation or remediation. I would just like to add two more things if you're talking, for further action tonight, well ones not further action but at further action, Andrew you were talking before about should we have the extent of the C & D debris brought in surveyed as well.

Andrew Fetherston stated you're going to get a letter from a professional engineer stating how we're suggesting this issue is addressed on both parcels, how this is addressed, then it would have to be brought the neighboring parcel and say are you in agreement...

Chairman Rogan stated sure.

Andrew Fetherston stated you know both parties agree, it's going to go, it's going to stay, whatever happens but yeah I suppose...

Mr. Bowman stated just to delineate the extent of the...

Andrew Fetherston stated if you're going to do one thing on one property and one on the other...

Chairman Rogan stated well because, let's say somebody wants to put a pool in the future...

Andrew Fetherston stated yeah.

Chairman Rogan stated you're going to need to know where that is because you don't want to dig down through that soil.

Andrew Fetherston stated that's true, that's true.

Chairman Rogan stated so there are all kinds of variables that can come up with excavation and ponds and water features and god knows what else.

Mr. Liguori stated do we know the actual removal cost...

Chairman Rogan stated I have not a clue.

Mr. Liguori stated do you have any idea.

Chairman Rogan stated do we have any idea how many thousands of yards of material were brought in.

Mr. Levine stated I don't know but I think Terri Hahn did an assessment, my landscape architect that I hired, I think, is that her proper title, landscape architect...

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

Chairman Rogan stated she did an assessment of what was on site, I thought she did an assessment of what you would have to do.

Mr. Levine stated yeah, I think she did a measurement, correct.

Board Member McNulty stated I don't remember an actual measurement but landscape architect is correct is what I was commenting.

Mr. Levine stated okay, yes, she did a drawing for you guys...

Chairman Rogan stated right we have it...

Mr. Levine stated as far as I know.

Chairman Rogan stated just don't have it in front of me.

Board Member Cook stated in her letter she says the fill is currently from six inches to ten feet deep and covers approximately 25,000 ± square feet.

Chairman Rogan stated and its more, it probably averages every bit of five feet because it was four to five feet on the neighbors property and around your well it was all of ten feet...

Mr. Levine stated towards the back end it came up because the property came like this and then dropped and then it was hilly.

Chairman Rogan stated okay, sure, even if you did seven, whatever, we have engineer's doing calculations right...

Rich Williams stated he's got an app...

Andrew Fetherston stated I've got an app for that.

Board Member Taylor stated I've got a couple of questions, procedural question on the last meeting we talked about sending a memo to the Town Board, did we do that, did we get a response...

Rich Williams stated they, I talked to Mr. Griffin about it today, he wanted to know what action the Town Board should be looking at this point, I said we've got a meeting tonight that there was going to be you know, considerable discussion and get back to him tomorrow...

Andrew Fetherston stated I spoke to Mike also and told him...

Chairman Rogan stated what did you just figure a rough idea on yard.

Andrew Fetherston stated I said five times 20,000 would be 3,700 yards.

Chairman Rogan stated okay so say anywhere from 3 to 4,000 yards and what does a yard of material weigh...

Mr. Raguso stated (inaudible) a ton...

Mr. Bowman stated about a ton and a half.

Mr. Raguso stated yeah 1.5, yeah...

Chairman Rogan stated so let's say you have 5,000 tons, what does a ton cost to bring to a proper landfill...

Mr. Raguso stated a hundred dollars a ton.

Chairman Rogan stated all right so that's, you're looking a half million dollars right here, just for removal, just for paying for it, not even getting it there, right.

Mr. Raguso stated that's not picking it up and putting it in the truck...

Chairman Rogan stated that's not picking it up, so you're talking it's a million dollar clean up, a million dollar clean up because you're talking to remove it and all that, trucking because it has to go way up...

Mr. Raguso stated it's got to be a 360, recognized site.

Board Member Taylor stated then the other question was we were going to ask the Town to authorize consultants, did they authorize to pay for him...

Rich Williams stated no.

Board Member Taylor stated we weren't supposed to do that.

Chairman Rogan stated he was authorized to be here tonight.

Rich Williams stated it's fine, it was taken care of...

Chairman Rogan stated yes.

Board Member Taylor stated oh all right.

Mr. Bowman stated thank you.

Board Member Taylor stated (inaudible) salaries or something.

Mr. Bowman stated now you get dinner.

Chairman Rogan stated we're going to have a tip jar on the way out, you have to do a little jig up here before you're done.

Mr. Bowman stated have to earn it.

Chairman Rogan stated yeah.

Rich Williams stated let's just say I know the guy that signs the bills.

Board Member Taylor stated my final question is if you remember the topography of this site, we have a level bench with steep sides going off...

Chairman Rogan stated that's right.

Board Member Taylor stated we've got a level bench that runs into the neighbors property and then drops down, now I don't know the extent of the neighbors property but was that bench in the middle of their property and are they going to want a bench if it's ten feet high in the middle of their property...

Mr. Levine stated it's only a couple feet...

Rich Williams stated yeah the bench was four feet and on the neighbor's property there was a lot organics mixed in with it, a lot of tree logs, chips and brush...

Board Member McNulty stated yeah.

Rich Williams stated that is going to break down over time, so you're going to get a sinking, more gradual slope going back in there...

Board Member Taylor stated but you need, but I think you'd...

Rich Williams stated if it stays there.

Board Member Taylor stated before this is presented to the neighbor I think you need to consult with the neighbor about how they want their property to look after you're done.

Mr. Levine stated I had mentioned to her that the hope is that we're going to cap it from the terminology I'm learning and then in capping it would be slowly graded down so there is a slight slope up, all grass and more or less like a beautiful soccer field and I had mentioned to her that I would like a place for my dog to run around, she absolutely has no problems with the dog you know running through the woods and having fun, so she, that was...

Board Member Taylor stated saying before you finalize this, you should...

Mr. Levine stated yes that is why I spoke to her...

Board Member Taylor stated yes.

Mr. Levine stated she said she wants to see it and I told her everything that is happening.

Rich Williams stated you should be prepared if we are going to require her to put some sort of deed notice on her property...

Mr. Liguori stated to remove her's...

Rich Williams stated she is probably not going to allow the fill to stay on her property, one of the other things that was suggested is moving that fill over onto to Mr. Levine's property to finish the grade...

Board Member Taylor stated fill in the well, you have to do something with that well to, you can't just cap that well and leave a hole...

Chairman Rogan stated well he's going to raise it up and fill in...

Mr. Levine stated I'm going to raise it up and then bring it directly to the level of the house.

Andrew Fetherston stated I really think you need a survey because you've got to not bring that material on the adjacent parcel off the site but bring it on to his property, you really need to know what that is, how high its going to be, then two feet on top, you're really almost going to need a grading plan for that just to figure out...

Chairman Rogan stated sure.

Andrew Fetherston stated it's not...

Chairman Rogan stated the slopes were pretty steep, they were greater than one on one just when we were out there, past the well...

Andrew Fetherston stated you're going to have to make sense of your property...

Mr. Raguso stated so if he's able to reclaim what's on the neighbor's property, then that takes the neighbor out of the equation then.

Chairman Rogan stated oh yeah but the neighbor still has issues with him about getting the property back...

Andrew Fetherston stated yeah...

Mr. Raguso stated right, he reclaims it off their property, takes them out of the equation as far as the deed attachment on the neighbors...

Chairman Rogan stated he's louder than you...

Board Member Taylor stated yes, I know.

Chairman Rogan stated yeah, you just need to give us you're name for the record.

Mr. Raguso stated oh Joe Raguso...

Chairman Rogan stated Joe Raguso...

Mr. Raguso stated Joe Raguso.

Chairman Rogan stated we usually get everybody on mic because if Michelle can't get anything you said, we're going to try to forget about it...

Mr. Raguso stated okay.

Chairman Rogan stated and we don't want to forget about you.

Mr. Raguso stated I'm just here to help Adam in his time of despair.

Chairman Rogan stated okay because if you can remove it from their site, if they, if you can bring it over on to yours, they may still say we want to plant trees back there, do whatever you have to do...

Mr. Levine stated there was none there, it was like a waste land, you guys have the pictures of five plus years ago, and it almost looks the same as the Google map picture of today...

Chairman Rogan stated oh okay, it's almost like old farm land there.

Mr. Levine stated I don't even know, it was just like nasty and that was the idea when the guy approached me, I can make it look beautiful like a soccer field so the idea of grandeur were there...

Chairman Rogan stated yeah right, I'm going to do you a favor because I like you.

Mr. Levine stated exactly, as my friend told me, you know give me an iPod and I'll give you a quad, when it's too good to be true, it's, I have to think numerous times and consult with the experts...

Board Member Taylor stated so are we ready to move on this...

Chairman Rogan stated we're not ready to do anything on this.

Board Member Taylor stated you want to set a public hearing, no I mean take some actions...

Chairman Rogan stated I think we need to know what the action will be before we set the public hearing or do you think we should do the public hearing to drive the action.

Board Member Taylor stated well then we need to make a decision on the action, I don't want this sitting around for six more months and not do anything, I think we need a timeline on this.

Chairman Rogan stated we don't even know, we don't have the, I don't think we have, I understand what you're saying and I appreciate it but I don't think we have enough information to decide the action, we need to know whether or not the neighbor is going to allow capping removal because that is going to be part of the process...

Board Member Taylor stated well we need, we could decide whether we are going to give him a fill permit, right, then he has to...

Rich Williams stated yes but is the fill permit going to include such things as removing the fill from the neighbors property onto his property, what is the extent if we're going to be doing a survey, what is the extent...

Board Member Taylor stated but we have to know what all that is before we make the decision, all right, so we need something...

Rich Williams stated and you may want that for a public hearing for people who are going to be coming in.

Board Member Taylor stated should we set a timeline on this.

Andrew Fetherston stated we were just thinking, internally what our timeline is, we want to get a report the Board...

Chairman Rogan stated sure.

Andrew Fetherston stated of you know suggestions, get the code, all the information to the Board, do that in a week and have that to you...

Board Member Taylor stated if you haven't noticed we work on a monthly schedule so a week is fine...

Andrew Fetherston stated I know but we can have that to you in a very short period of time.

Rich Williams stated practically speaking, you're going to have a public hearing on this, you said you want to have a public hearing...

Chairman Rogan stated definitely...

Rich Williams stated even if you set it tonight for the next meeting, that's November, you make a decision there or are you going to hold it off for a month, now you're into December, nothing is going to happen after December.

Chairman Rogan stated oh no, this isn't getting remedied, this until...

Rich Williams stated no, this is a spring project...

Chairman Rogan stated springtime at best anyway but everybody understands that.

Rich Williams stated so now you have months.

Board Member Taylor stated well but I don't want months, I...

Rich Williams stated I hear what you're saying but I'm saying you have some time in which to, you know digest the report, set the public hearing before you have to worry about that because what you really want is the problem fixed as best you can...

Board Member Taylor stated yes.

Chairman Rogan stated properly.

Rich Williams stated and that's not going to happen until the spring.

Board Member Taylor stated all right, I understand, I'm just...

Board Member McNulty stated but let's be ready for the spring.

Board Member Taylor stated yes, exactly.

Chairman Rogan stated right.

Andrew Fetherston stated wind it up.

Board Member Taylor stated but if we need a complete application, is that what we need, we need a proposal before we can make a decision on this and we need a proposal to present at the public hearing...

Rich Williams stated we need some sort of plan, we need to contact the adjacent property owner and make sure she's aware of the discussion that has gone on here tonight, what the options are that are being proposed, probably...

Chairman Rogan stated where does she live Adam, the daughter...

Mr. Levine stated she didn't tell me exactly.

Rich Williams stated I have her contact information.

Chairman Rogan stated does she live in New York.

Rich Williams stated she is in New York, I believe she's either in Fishkill or Newburgh but don't hold me to that...

Chairman Rogan stated no, okay, but she's not in the Virgin Islands or anything...

Rich Williams stated no and we do know how to get a hold them now in the Virgin Islands, we'll just issue another violation.

Chairman Rogan stated okay.

Board Member McNulty stated so what action do we need Mr. Levine to take at this time, is it time for him to formulate a legitimate capping plan...

Chairman Rogan stated we have to wait until we get the correspondence from our...

Mr. Liguori stated you can start with the survey though.

Chairman Rogan stated you can call the surveyor and have them update your survey with the limits of disturbance right now and the information that we want to get on that so we can start to...

Rich Williams stated do you want any staking while we're doing this, where the property line is...

Chairman Rogan stated the property line would be smart between...

Board Member McNulty stated we can't...

Chairman Rogan stated the only one need is the one between him and the neighbor...

Rich Williams stated exactly.

Chairman Rogan stated yeah definitely, a couple of stakes in the ground while they're out there.

Andrew Fetherston stated do you want anything going down stream, downhill...

Chairman Rogan stated his property goes way back, he's got acres, and you've got what 7 or 8 acres.

Mr. Levine stated 6 and a half but it goes all the way to [Interstate] 84 and there is nobody back there.

Chairman Rogan stated there he's good.

Mr. Levine stated so...

Mr. Bowman stated the historical well data too, well test data.

Mr. Levine stated I'd like to try find that, would that be in the Town records, if I don't have those records.

Chairman Rogan stated there should be copies from Randy Laurent when he built the house and if not go to the Health Department and you can do a FOIL request for anything they have on your lot.

Mr. Bowman stated is there a well permit when it was put in, probably was tested when the well was put in.

Mr. Liguori stated if you go to the Health Department and ask to see your file, whoever built your house, try to find out who the well digger was...

Chairman Rogan stated that will be on the permit, yeah.

Mr. Liguori stated that is the key.

Chairman Rogan stated you will have to fill out a FOIL request, be specific about to make sure you get what you want.

Mr. Levine stated okay, Terri Hahn can do the staking.

Mr. Liguori stated Terri's going to help you, she'll be able to help you find out that well data.

Mr. Levine stated okay.

Mr. Liguori stated I know Terri very well, we all do.

Chairman Rogan stated unfortunately the reality of all this is that the testing that's done for a normal well is not going to pick up what we're talking about so its going to give us some information but it's not going to give us a base line for what we'd be looking for from this fill so at some point as a baseline you're going to have to probably draw...

Mr. Bowman stated test it.

Chairman Rogan stated a chemical analysis which is fairly expensive, those tests, what do they run, twelve hundred dollars...

Mr. Bowman stated yeah \$1,000, \$1,400...

Rich Williams stated more than that.

Chairman Rogan stated more, but you're going to have to get that baseline to protect yourself really.

Board Member Cook stated it's either that or a million dollars to remove it.

Chairman Rogan stated right.

Board Member Taylor stated do we want that baseline as part of what we're doing, do we want to make it a requirement.

Chairman Rogan stated it has to be part of it; it has to be done anyway.

Board Member Taylor stated so then you should proceed with that too then.

Chairman Rogan stated it has to be done to protect in terms of knowing what we're starting with for a number of reasons.

Board Member McNulty stated it may come back clean which is a good sign.

Mr. Levine stated I'm guessing because it is feet away from the well and it's, I mean it's, I'm hoping, hope for the best.

Chairman Rogan stated I am going to tell you right up front to be honest with you, I am not in favor of this whole capping thing but I understand and appreciate the situation and the situation that you're in and I am willing to go along with everything that we're doing, I don't think anybody here likes idea of leaving this material but I think you're getting a sense of everybody appreciates your situation...

Mr. Levine stated I thank you, more than you can believe.

Chairman Rogan stated I hope that your lawyers are working on something with the people who screwed you...

Mr. Levine stated I spoke to a couple people and then it takes money to sue; it takes money to do everything though.

Chairman Rogan stated it's a million dollar lawsuit though...

Mr. Levine stated it takes money to do everything, I'll talk to another lawyer and see what can be done.

Chairman Rogan stated okay, everybody is on the same page at least for now, let's move forward in fairness to the gentlemen in the back of the room and the lady up front who is very patient.

Mr. Levine stated okay.

Chairman Rogan stated thank you sir.

Mr. Levine stated thank you, have a good evening guys.

Mr. Ragusa stated thank you.

Chairman Rogan stated appreciate it.

Mr. Levine stated thank you.

Chairman Rogan stated have a good evening. Okay, Boniello, no I'm teasing M & S...

Board Member Montesano stated you're teasing M & S...

Mr. Holt stated at this hour you can joke.

Chairman Rogan stated we get punchy as it gets a little bit later.

6) M & S IRON WORKS – Site Plan

Mr. Dan Holt, Mr. Phil Spagnoli, Mr. Anthony Spagnoli, and Mr. Peter Monteleone were present.

Chairman Rogan stated we used to start at 7:30, this would have been 10 o'clock already but again in appreciation for the lady, we start at 7 now.

The Secretary stated thank you.

Chairman Rogan stated you're welcome.

Rich Williams stated (inaudible – not using microphone).

Chairman Rogan stated good evening.

Mr. Holt stated good evening, I'm Dan Holt, engineer on this project. I guess to reference earlier, it's been some time since we've been here before you but during that time we've been doing...

Chairman Rogan stated you've been busy.

Mr. Holt stated a lot of offline conversations both with Rich and with Andrew, of course their comments and notes previously has done some help too. That all brought me to the plan that we submitted more recently and that prompted a very detailed set of reviews from both Andrew and Rich which is really what we want to get to in the first place...

Chairman Rogan stated sure.

Mr. Holt stated and honestly most of the comments that Rich has given us, I don't want to downplay any of it but they are kind of nit type of things...

Chairman Rogan stated sure.

Mr. Holt stated where a couple things here, a couple of things there...

Chairman Rogan stated clean up.

Mr. Holt stated within two days I could have all those cleaned up, what's left is...

Chairman Rogan stated we might hold you to that, you better be careful.

Mr. Holt stated I have a proviso though, the only gap there is the deal with his SWPPP comments which is going to take me a little longer to take care of and some engineering that I have to do behind that, with that said, I guess you know, the only other thing that is on, in my mind because I need to do it, prepare or finalize the EAF so you can complete lead agency...

Chairman Rogan stated yeah.

Mr. Holt stated is I just wanted to be able to dot some of my I's as well and the one that is standing out with me right now is the ability to use the gravel pavement in areas because it has a direct relationship to our calculations...

Chairman Rogan stated sure.

Mr. Holt stated and of course some of the other calculations that we're doing.

Chairman Rogan stated and we had spoken about that right from day one...

Mr. Holt stated yes.

Chairman Rogan stated and I don't remember there being overwhelming objection to that, we were talking about the areas that, there were specific areas that you were keying in on...

Mr. Holt stated right.

Chairman Rogan stated they can bring the trucks in, there is also the waivers in here that we should talk about tonight real quick...

Mr. Holt stated right.

Chairman Rogan stated about the parking stalls and for the trucks...

Mr. Holt stated the reason I keep bringing back, I think the reason I brought back the stone is because I know Rich has some concerns early on and I just want to make sure that he's okay as well...

Rich Williams stated you tell me it's okay, it's okay.

Chairman Rogan stated the, refresh my memory though, the area, you have the plan can you point to the area where you're proposing gravel as opposed to asphalt.

Mr. Holt stated let me grab this so...

Chairman Rogan stated thank you.

Mr. Holt stated very simply its this area that I'm scratching out with my pen right now, it's the area where the trucks are going to do all the traveling, the cars and the passengers and the visitors and so on will be parking in the paved parking lots, so again this is all truck traffic and that is where we're doing the gravel.

Chairman Rogan stated okay, so in essence it's not a public area, it's not a place where the employees would be parking in, they are going to come in and go to their work, and it's for the business end...

Mr. Holt stated the business end of it, the only place where that argument could go away is that if in the future it's determined that we need more parking then we think we need, well then that would have to be constructed and we would have to deal with that issue.

Chairman Rogan stated let me ask this, let me throw this out for a second because I am not against this, can we approve the gravel but either do one of two things, either bond it as asphalt in other words if there is a problem in the future where it's getting not maintained and it's getting all rutted up it be in their best interest to do that but where the Town has an ability upon you know, say notification, M & S look this is really falling apart, you either have to fix it or you have to pave it that we can address it, the problem is stormwater I realize.

Rich Williams stated yeah, I think it's a better tact to design the way we think it should be right up front and deal with that, can you bond it yeah, you probably could bond it but that's an additional cost that you're placing on the applicant that's going to be yearly, it's a head ache for Town trying to make sure that bond stays in place, so you know I go back to let's be comfortable with the design, it is an appropriate thing...

Chairman Rogan stated sure, true, I would go back to things we've done like additional parking spaces that aren't needed that we say show them on the plans as if they exist so they are available for future, so we don't build something over them for instance and that, we haven't had to call that, you know hand so to speak, it's been there, we've played around with that...

Rich Williams stated sure.

Chairman Rogan stated and I was thinking along the same lines you know that you have ability if at some point in time, you have to either put concrete or asphalt, you can do it the problem again is the stormwater would be...

Rich Williams stated well hopefully we're going to come up with a stormwater design which will be fine...

Chairman Rogan stated okay.

Mr. Holt stated yeah I think just to your point on the gravel versus the pavement, the kind of traffic that we have on this site its you know basically, flatbed trucks coming in with steel and a lot of weight, asphalt will tend to breakdown with those trucks turning on it, spinning on it, we would be better off with a flexible stone type pavement which is easier to fix and we are not going to deal with you know the alligating that happens with asphalt and all the other things that go on with that.

Chairman Rogan stated with the pervious, I call them grass pavers, I know that's not correct but would those be an option in this where you have this solid surface with the gravel in between or something to, for the water to absorb in.

Mr. Holt stated the only place that I think it would be appropriate is if we had to build more parking space, only because they really don't hold the kind of load and the turning movements that I think trucks will put on these grass pavers.

Chairman Rogan stated and the reason I ask is on the old Route 6 project, I don't know the name of the company but its right down by, I'm sorry...

Board Member McNulty stated it's a moving company.

Chairman Rogan stated yeah and those trucks are loaded to the hilt when they come in and out of there and it's all, the entire place is all grass pavers.

Mr. Holt stated again it's...

Chairman Rogan stated it's not Clancy...

Board Member McNulty stated it's not, it's...

The Secretary stated it's like Collins or something...

Chairman Rogan stated Brewster, that's still Brewster isn't it.

Mr. Holt stated Collins is back there too.

The Secretary stated I think its Collins, it's across from Hughson that development...

Chairman Rogan stated and they did the whole place in that and it seems to be holding up, they've been in there what a year and half now, it seems to be holding up pretty darn well.

Mr. Holt stated yeah, I've been to the property because I actually used them when I moved and again the difference is that we're dealing with kind of a small site, so these trucks aren't taking the liberty of making wide turns, they are taking tight turns, backing into loading spaces or hauling material out, I think it is a little different application.

Chairman Rogan stated so are you talking about clean gravel or item four.

Mr. Holt stated no we're talking about, again to Rich's point earlier is the item four is what he was concerned about because there are a lot of fines in it...

Chairman Rogan stated clean gravel as they turn the tires, is smooshing out and then they have to re-grade it, right.

Mr. Holt stated we...

Rich Williams stated I want to say that the real concern here is the increased maintenance to the applicant...

Mr. Holt stated right.

Rich Williams stated if he's doing something like item four with a lot of fines in it or gravel that is going to run off and get into the stormwater management system, there is going to be a significant increase in the maintenance...

Mr. Holt stated right.

Chairman Rogan stated sure.

Rich Williams stated that is going to go back to the applicant.

Chairman Rogan stated right, same thing...

Andrew Fetherston stated same thing, I was saying nothing is maintenance free, if you guys feel like that's the best way to go with the gravel, so be it, it's on a private site you know nothing, nothing is going to be without maintenance.

Chairman Rogan stated exactly.

Mr. Holt stated and not to try to allay your fears but the gravel that we're talking is used on other lots in the property already, its crushed 2 inch and stones, it's larger, it has a lot of angle on it, there is a lot void space, they chink in together very tightly and they are running equipment all over that place right now and we haven't seen it breaking down, so I think I am pretty comfortable with telling you that it's better than the asphalt and certainly would be workable and not free of maintenance of course.

Board Member Montesano stated there is one problem I got with this and I know there's got to be way because we ran into it before, when you have the gravel there, do we have a membrane underneath that gravel to catch any oils or gasoline, diesel fuel, how do we catch anything because not all of these trucks belong to your applicant so if the guy comes with the truck that's leaking diesel fuel or oil, it's going to go right into that gravel and than seep down from there...

Rich Williams stated if I could jump in, that is usually a concern where you have a construction yard, where you have a lot big equipment, they are notorious for having hydraulic leaks all over the place, this is really a different kind of operation...

Chairman Rogan stated we get a big leak, it will be treated like we were just talking about, it will be a clean up from DEC because it will be a spill if we know about it and it will be, they'll dig the soil out...

Rich Williams stated yeah it you have a spill but the trucks are more delivery trucks, they are not construction trucks (inaudible - Board Member Montesano spoke over).

Board Member Montesano stated I realize that I drove delivery trucks for a long time and I know that some of those trucks belonged in a junk yard not necessarily being delivered...

Rich Williams stated not with the DOT inspections they all have to go through now...

Chairman Rogan stated jump right in Andrew.

Andrew Fetherston stated code, regulations, it's not a hot spot, it's not a DEC hot spot...

Chairman Rogan stated right.

Andrew Fetherston stated a filling station, a warehouse, that you'd have to address those issues from stormwater point of view, if you have a leaky truck and its asphalt or you have a leaky truck and its gravel, it's going into the ground either way, you have deep sump catch basins and they are full of water because they are going to hold water and the oil and the gas is going to float to the top, it's going to go into the basin the basin is dirt, it's going into the ground anyway. You have a leak, you have to address it right away, you know.

Board Member Montesano stated all right.

Andrew Fetherston stated yeah, I see your point but its going to go to the same place Mike, you know.

Board Member Taylor stated the run off from these areas, the one to the right of the building...

Mr. Holt stated you're talking about this area here...

Board Member Taylor stated yes.

Mr. Holt stated okay.

Board Member Taylor stated that slope is toward the next property.

Mr. Holt stated we have (inaudible), grab the mic...

Board Member Taylor stated you are going to capture all that runoff.

Mr. Holt stated we have a high spot right here so that the area that you're talking about is here, we are cutting swales in and we are diverting it back the other way, virtually what we've done with the stormwater analysis to this point is a good section of this area right here, actually drained into Commerce Drive, we've cut that down to about a third of what it does right now and we're bringing everything to the basins or the infiltration, things that we're dealing with right now.

Chairman Rogan stated okay, so what is consensus on the gravel, sounds like everybody is okay...

Board Member McNulty stated yeah.

Chairman Rogan stated it is what it is...

Mr. Holt stated thank you.

Chairman Rogan stated we are going to do that in the form of a waiver, though on that right...

Rich Williams stated motion.

Chairman Rogan stated motion for a waiver. In the matter of M & S Iron Works, I make a motion that we grant a waiver to allow gravel as shown on the current plans in the non-public areas of the facility, not sure how to capture it that it doesn't change but we will be working on these plans, the idea is that they can move forward with this.

Rich Williams stated yes.

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.

Chairman Rogan stated on the stalls, they are claiming that they only need two full length, Rich gives two different perspectives which I like, one we can either say we change the number of loading spaces that are allowed or we change the requirements for the size, either way it is the same net result it is just how we get there. Basically saying again we have the ability, this is being done in phases, correct.

Mr. Holt stated correct.

Chairman Rogan stated so we have the ability, even though we are looking at it now, if we can show that we have the potential as the business grows that if you need to lengthen some of these stalls to make three full loading space, we have the room to show that that can be done...

Mr. Holt stated that's right.

Chairman Rogan stated then I think that goes a long way to meeting that, you know...

Mr. Holt stated sure.

Chairman Rogan stated that everybody would be amendable to that, seems reasonable.

Board Member Cook stated yes.

Board Member McNulty stated yes.

Chairman Rogan stated so we are looking at, I can't find where we have it in the document...

Rich Williams stated last page.

Chairman Rogan stated last page, it's a long document...

Rich Williams stated yeah, third to last page.

Chairman Rogan stated second to last, okay, so we're looking, you're going to provide two that are full length, right the 10 by 45's...

Mr. Holt stated that's correct.

Chairman Rogan stated and then the other two will be 15 by 24, is what you can provide, correct.

Mr. Holt stated that's what we're showing, yes.

Chairman Rogan stated okay, so ultimately we're looking at having to, so we need a waiver for two at full length, correct, okay. Make a motion in the matter of M & S Iron Works that the Planning Board grants a waiver from the loading space to allow two at code and two at less than code at 15 by 24...

Rich Williams stated seven.

Chairman Rogan stated it says 24.

Mr. Holt stated 7 spaces.

Chairman Rogan stated oh I'm sorry, have to provide 6 to 7 enlarged, so 6 to 7 enlarged is in addition to the 2 at full.

Rich Williams stated correct.

Chairman Rogan stated ok have that amended please on the motion, so moved.

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.

Chairman Rogan stated okay so you're going to work on addressing these items...

Mr. Holt stated absolutely.

Chairman Rogan stated moving forward, procedurally we have the EAF to complete, the train to go by, what did you say...

Rich Williams stated go ahead, you were saying.

Chairman Rogan stated I was waiting for you.

Rich Williams stated okay, the last issue is the metal, the issue of the metal sided buildings, twice now the Board, you know that's come up before the Board...

Chairman Rogan stated sure.

Rich Williams stated has said we don't have a problem with the metal sided buildings.

Chairman Rogan stated especially in Commerce Drive, however.

Rich Williams stated you need to formalize that.

Chairman Rogan stated what we also need though to see what, we can say it can be metal sided but until we see what it's going to look like it's hard to...

Rich Williams stated those architectural had been submitted awhile ago.

Mr. Holt stated we actually brought in samples.

Chairman Rogan stated and I must have liked them, I don't remember...

Mr. Holt stated (inaudible – laughter).

Chairman Rogan stated they didn't stick out to me...

Board Member Montesano stated they must have ate them up that day.

Chairman Rogan stated everybody was okay with that, Commerce Drive.

Board Member Cook stated yes.

Board Member Taylor stated yes.

Chairman Rogan stated motion for a waiver on M & S Iron Works to allow a metal sided building as per what was presented to the Board previously and through the architectural renderings.

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.

Chairman Rogan stated okay, thank you for keeping us on point. Everybody's good moving forward, yes...

Mr. Holt stated thank you.

Board Member McNulty stated I just had one question Rich, your comments are always taken well, you're thorough and you get through to us and I appreciate it but I just have some questions, I didn't read this whole document, I just went through it and some of the things, I am just looking at page 5, the designer should consider placing a small temporary berm, when you phrase that like that is that something that yes that has to be done or that is a suggestion that we would like to have done.

Rich Williams stated that is a suggestion, you know...

Chairman Rogan stated it's like best practices or something.

Rich Williams stated yeah, I'm not a civil engineer and I'm not...

Board Member McNulty stated no I understand.

Rich Williams stated the designer on the project and I don't want to impose my design on the designer even though sometimes some of my suggestions take it that way, so yeah I try to suggest and if he doesn't want to do, if he's got a good justification for not doing it you know, so be it. Other times I, you know, make it a little bit more direct you know looking at the stormwater ponds I made some very direct suggestions...

Chairman Rogan stated right.

Board Member McNulty stated yeah and I haven't read the whole document yet but I just wondered, you

know if it's a burden that you know, it's tough times, some of these, if it's a burden to the applicant they don't do it but, it's a suggestion that's what I want to know...

Rich Williams stated it is a suggestion and he needs to evaluate it on its merits.

Board Member McNulty stated okay.

Board Member Cook stated is it a suggestion to the applicant or is it a suggestion to us, you know...

Chairman Rogan stated to have a conversation about it.

Board Member Cook stated to have a conversation with him.

Board Member McNulty stated (inaudible – too many speaking) the plan for it.

Rich Williams stated it depends on the comment really, sometimes the comments are fairly technical but you know I am always working for the Board, I am always here are my recommendations to the Board to give to the applicant if you agree with them.

Chairman Rogan stated and if there is something that you feel strongly enough, you'll bring it up to the Board and we'll discuss and if we agree and we can do it within the Code then we'll have that conversation.

Mr. Holt stated I'll make it a little simpler, we already talked about it earlier today and I agreed that we would do something there and I'll come with an answer.

Chairman Rogan stated well I think that was just an example, I don't think that was...

Board Member McNulty stated yeah just an example...

Mr. Holt stated well just to that point though.

Board Member McNulty stated I just want to make sure everybody was, I'm still new to this getting on the Board so...

Mr. Holt stated I appreciate it.

Board Member Cook stated good you brought it up because there is a question that, if it is a suggestion that way and then the applicant comes back, right in this case this gentleman is going to come back responding to all of this...

Chairman Rogan stated a written response, right.

Board Member Cook stated and then if, no offense...

Mr. Holt stated that's all right.

Board Member Cook stated if he was to ignore your suggestion at a particular point and you really felt strongly about it, you would then say to the Board...

Rich Williams stated and we would have a further conversation.

Chairman Rogan stated great.

Board Member Cook stated right, okay.

Board Member McNulty stated good.

Rich Williams stated all right but a lot of times he's looking at it from one perspective, I'm looking at it from another you know he needs to explain his perspective to me and clarify.

Andrew Fetherston stated the suggestion, just to clarify, Tom, the suggestion was to keep a wayward vehicle, a construction vehicle from damaging a brand new construction feature on the site, put that berm up and keep them out, what do you think, yeah I think it's a good idea, that's as far as it went, it was I think suggestion is just this might save you money, might save the applicant, might save you know, somebody just did something, let's protect it, let's fence it off that is the kind of level of suggestion it was, if he doesn't want to do, then don't so it and maybe something won't damage it, it was kind of helpful thing...

Board Member McNulty stated Rich's comments are always helpful because they always get us through...

Andrew Fetherston stated that was the kind of thing.

Board Member McNulty stated okay.

Andrew Fetherston stated you know...

Rich Williams stated I thought it was a cheaper alternative than telling him to put a fence up.

Mr. Holt stated and that's why I agreed to the berm because I wasn't putting a fence up.

Board Member McNulty stated okay, just so we're all on the same page and I'm on the same page.

Chairman Rogan stated thank you gentlemen, we appreciate your time.

Mr. Holt stated thank you gentlemen.

Board Member McNulty stated thank you for your patience.

Chairman Rogan stated thank you for waiting tonight, I know it was long getting through.

Board Member Taylor stated I'd like to say something to Mr. Monteleone before he leaves, I, it's my understanding that the Board is ready to move forward on the comprehensive plan for his properties...

Board Member McNulty stated yeah I think we talked about it...

Chairman Rogan stated for the wetlands issues sure.

Board Member Taylor for the wetlands issue to deal with your other properties, if you'd like to come in, if you can next work session and start that process...

Chairman Rogan stated what we, after last time we discussed it I thought the ball was back in Mr. Monteleone's court.

Board Member Taylor stated not quite ready yet.

Rich Williams stated I'm getting both.

Chairman Rogan stated sorry, hold on wait until you get here.

Board Member Montesano stated get to the microphone, come on smile.

Mr. Monteleone stated I guess you know my name by now. What I would like to do is come in some night in an informal night and try to discuss what can we do with all the other sites in a different, get your opinion on what you guys would like to see there...

Chairman Rogan stated it seems like we did that though that last time we talked about this, we had the map out and everything.

Mr. Monteleone stated but I really, right, but I don't have a clear picture of what...

Chairman Rogan stated nor do we, because you haven't proposed anything yet. That is where I think we were, we were talking about everybody kind of being open to the idea of you know looking at which wetlands are more functioning, we don't have anything now, like we would be having the same conversation I think and I think we would probably frustrate each other.

Mr. Monteleone stated okay, I'm at the point where I really don't...

Chairman Rogan stated you don't know what to do right, and I don't either.

Mr. Monteleone stated don't know what to do, I'm coming to you guys for your advice so to say what would you like to see there and then with that I would be able to try to get somebody interested, I mean I can't go out and borrow money to building anything any more there because of how the economy is...

The Secretary stated hold on.

(Tape 2, Side 2 Ended – 9:46 p.m.)

Mr. Monteleone stated is that we could get together and say okay, we have four parcels, we could build a small building here, a larger building here, join these two lots together do something here and then I could go out and try to sell that to somebody...

Chairman Rogan stated right, right.

Mr. Monteleone stated because for me to say that I come in and put up five buildings, I can not do that.

Chairman Rogan stated I think we can work towards that.

Mr. Monteleone stated so I would love suggestions.

Rich Williams stated well I don't know that we can at this point because what I'm hearing is there seems to be a, some sort of misunderstanding what I've heard the Board say in the past is that they are more than willing to consider sacrificing some of the wetlands, allowing additional development on some of the lots providing that those impacts are mitigated some place...

Chairman Rogan stated correct.

Rich Williams stated and Mr. Monteleone needs to look at how they are going to be mitigated elsewhere and I think that's where everybody is right now. If Peter, if you're saying that you're not willing to offer any mitigation out there for any...

Mr. Monteleone stated no.

Rich Williams stated loss of wetlands then we can have the conversation about maybe what the capacity of each one of the lots are, as far as building.

Mr. Monteleone stated okay but that is the key now, the key is we have to know what can be done every lot or what...

Chairman Rogan stated okay.

Board Member Cook stated right.

Mr. Monteleone stated in other words I have client, somebody says the other day...

Chairman Rogan stated I understand.

Mr. Monteleone stated I could use 50,000 square feet, if you said to me okay you take lot 3 and lot 4 and put 50,000 square feet and take the half of lot 4 or whatever they call on the end and do wetlands there, that's fine...

Chairman Rogan stated sure.

Mr. Monteleone stated but I can't come to you and say I want to do this because I don't have nobody for anything unless we all understand, I am leaving it up to you guys to make a decision but at the same time I need to know...

Chairman Rogan stated but it sounds like you're also leaving it up to us to design it for you and that's where I think it's a little bit of a, what we need to do, what Rich is saying is say okay, if you want to say what can I put on this lot as it exists without, treat it as it's own lot, without doing anything outside of the lot, that is pretty easy because we already know what the rules are and you know that it is very limited because of the property...

Mr. Monteleone stated right.

Chairman Rogan stated what we're, I think we're hoping to help you with was if we assess the lots together which we did when you were in a couple months ago, we sat and we looked at conversationally and said okay well this lot is kind of limited but if we use some of this area to do mitigation we can maybe have

more area to work with on another lot, some of these you have to look at it as you own the whole property as opposed to each individual lot, you know...

Mr. Monteleone stated all right.

Board Member Taylor stated if I can interrupt, it sounds like we need to take another stab at this...

Mr. Monteleone stated right.

Board Member Taylor stated instead of discussing it tonight...

Chairman Rogan stated okay.

Mr. Monteleone stated right, when...

Board Member Taylor stated let's not have a conversation, let's draw up some plans and you can make some choices I think that's, my understanding is there are choices involved...

Mr. Monteleone stated okay but before I spend...

Chairman Rogan stated so come into the next work session. We have the plan, you did a great job with that overview.

Rich Williams stated I still have that, I still have all the (inaudible – too many speaking) for the other lots.

Board Member McNulty stated Shawn if I recall right, I think there was a lot that had Town wetlands, the Town's was up against a state wetland, we talked about having that state wetland flagged so you knew because you did have it...

Mr. Monteleone stated we did it already.

Rich Williams stated yeah, it was done.

Board Member McNulty stated so if we can get that information that would help us a lot.

Chairman Rogan stated right.

Board Member McNulty stated because we can work with you on the Town wetlands, state is where we're...

Chairman Rogan stated we did ask you to have those wetlands...

Mr. Monteleone stated flagged and I did, I did that.

Chairman Rogan stated and you did that right away, so there is something new that we now know...

Mr. Monteleone stated oh yeah no, at the same time as (inaudible), there are wetlands on every lot...

Chairman Rogan stated right, right.

Board Member Taylor stated we understand.

Mr. Monteleone stated look at it as none of the lots can be built unless something gets...

Board Member Taylor stated right, that's what we're trying to do.

Mr. Monteleone stated unless I can go put 1,000 square foot building on every lot...

Chairman Rogan stated no, we won't do that.

Mr. Monteleone stated if that is what you want, I don't think that is for the Town's best interest...

Chairman Rogan stated no.

Mr. Monteleone stated because there would be no tax revenue coming in on a 1,000 square foot building, so at some point we have to get together on that and see what...

Board Member McNulty stated so that new flagging information is that something you will provide or Rich do you have to go out and look at...

Mr. Monteleone stated he has it already.

Rich Williams stated no, I have it.

(Inaudible – too many speaking.)

Board Member Taylor stated great, next one.

Chairman Rogan stated thank you.

Mr. Monteleone stated thank you.

7) OTHER BUSINESS

a. Boniello Site Plan

Chairman Rogan stated Rich what is the conversation on...

Mr. Monteleone stated good night.

Chairman Rogan stated good night, good night gentlemen, what is the conversation with Boniello Site Plan.

Rich Williams stated all right, I just wanted to put it on the record that, you know, several weeks ago, I did issue, I did receive back from Joel Greenburg drawings in response to my previous comment memo, Mr. Greenburg had taken my comment memo and marked it up in red saying done, done and I reviewed everything again and issued a memo back to Mr. Greenburg that well no it wasn't done, no it wasn't done right down the list, it was difficult and I had contacted Anthony Boniello, this was just before Hurricane

Irene and asked him to come, I explained the situation to him, I said I would really like to sit down, go through the comment memo, go through the plans, show you what's going on, he said he was interested in doing that but then we had Hurricane Irene, he called me up and said he was very busy, didn't have the time, I have not heard from him since and I just wanted to get that...

Chairman Rogan stated maybe we can get that though, if we can reach back out either I or you and when, if we can set that up, if either I can come over and sit with you or Charlie can come over and so that its not just on you of, at least you have another set of eyes saying well look, listen to what you're saying because you know how that goes sometimes.

Rich Williams stated that's fine, if you want to reach out to Anthony and sat something up, I'm pretty flexible...

Chairman Rogan stated I don't know if I can set something up but I will reach out with the intent.

Board Member Cook stated the last letter if your August 17th memo, right, that covers this.

Rich Williams stated sounds right.

Board Member Cook stated okay, we got no response from Mr. Boniello or his...

Rich Williams stated I've got nothing back in...

Board Member Cook stated architect or whoever, okay I just wanted to make sure.

b. O'Mara Wetlands/Watercourse Permit Renewal

Chairman Rogan stated and O'Mara we have a request for a one year extension on a wetland permit, now where is that.

Rich Williams stated that is on Old Road opposite Collinwood Drive, Apple Hill Subdivision, Deerwood...

Chairman Rogan stated oh the one Harry Nichols did...

Rich Williams stated yeah.

Chairman Rogan stated to the left of that little cabin.

Ted Kozlowski stated they've already started, I was over there the other night.

Board Member McNulty stated yea, we pretty much discussed this and we were just looking for something written from the applicant.

Board Member Cook stated yes.

Chairman Rogan stated what we got, okay, motion for a one year extension...

Board Member Cook stated I'll make the motion that...

Chairman Rogan stated there you go, well said...

Board Member Cook stated that the Planning Board approves one year extension on the O'Mara wetlands permit as requested in their fax of October 3, 2011.

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.

Chairman Rogan stated okay Centrum Properties...

c. Centrum Properties

Chairman Rogan stated what's with Centrum, they're getting punchy.

Board Member Montesano stated I'm telling you, they get in competition here.

Chairman Rogan stated they get punchy, that's your guy.

Ted Kozlowski stated what.

Board Member Cook stated Centrum.

Ted Kozlowski stated oh god.

Board Member Montesano stated oh god.

Rich Williams stated you want the mic.

Mr. Liguori stated you just said (inaudible)...

Board Member McNulty stated the chicken property.

Ted Kozlowski stated there's no change, I can't get a hold of Denis.

Chairman Rogan stated oh that's Centrum, okay, I'm losing my brain.

Ted Kozlowski stated I wanted to see...

Board Member Montesano stated just remember the chicken.

Ted Kozlowski stated I wanted to see the culvert after all the storms...

Chairman Rogan stated yeah...

Ted Kozlowski stated and he assured me it looks great but...

Chairman Rogan stated okay.

Board Member McNulty stated you haven't been to the property.

Ted Kozlowski stated no.

Board Member Montesano stated you afraid of that chicken.

Ted Kozlowski stated I need a body guard yes.

Chairman Rogan stated and we have minutes from the 25th, what...

Rich Williams stated and there has no been movement on the violation out there.

Chairman Rogan stated what do I got...

Board Member Montesano stated you got the old one.

d. Personnel Policy

Chairman Rogan stated computer policy...

Board Member Taylor stated the computer policy.

Chairman Rogan stated we don't have computers.

Rich Williams stated that's a typographic error on my part, just to let you all know and you all should have gotten a copy of the new Town Employee handbook...

Board Member McNulty stated talk about punchy.

Rich Williams stated there is a sheet that we will be getting you or can come in, the last page of the handbook requires you to sign off and return it to the Supervisor's office or return it to us and we'll get it to the Supervisor's Office. We will print out that signature sheet separately so you can not have to tear the book, unless you just want to tear it.

Board Member Cook stated we can all go in and make a copy.

Board Member McNulty stated and if we don't sign it.

Chairman Rogan stated you get fired.

Rich Williams stated well it's easy just to print it out.

Board Member McNulty stated that wasn't part of the deal when I signed up.

Board Member Montesano stated do we have to hand the book back in too.

Chairman Rogan stated you should read the fine print.

Board Member McNulty stated never read the fine print.

Chairman Rogan stated you do that and then they pat you on the back.

Board Member Cook stated right, the acknowledgement is that you received it.

Chairman Rogan stated and that you understand and will abide by it...

8) MINUTES

Chairman Rogan stated okay and then we do have minutes from August 25, 2011 and September 1, 2011 that Michelle did a wonderful job on, any corrections...

Board Member McNulty stated I will abstain from the...

Board Member Taylor stated no...

Board Member Cook stated motion to accept the minutes from August 25th and September 1st.

Board Member Montesano seconded the motion.

Chairman Rogan asked for all in favor.

Board Member Cook stated discussion...

Board Member McNulty stated no.

Chairman Rogan stated discussion.

Board Member McNulty stated I will abstain from September 1st because I wasn't here.

Board Member Cook stated anyone else, what about you...

Chairman Rogan stated I was here, I was at both these meeting.

Board Member Montesano stated it says so right on the back.

Chairman Rogan stated okay so other than the one abstention from the one day, everybody in favor.

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 and then I have one more motion on here on my agenda, anything from anyone else, before I make my last motion, no, motion to adjourn.

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.

The meeting adjourned at 10:00 p.m.