

APPROVED MINUTES
Town of Goshen Planning Board
Town Hall
41 Webster Avenue
Goshen, New York
September 17, 2015

Members Present:

Reynell Andrews
Dr. Kris Baker
Lee Bergus, Chair
Phil Dropkin
David Gawronski
John Lupinski
Giovanni Pirraglia

Also Present:

Sean Hoffman, P.E. PB Engineer
Kelly Naughton, Esq. PB Attorney
Neal Halloran, Building Inspector
Richard Golden, Esq. PB Attorney
Melissa Gallo, Alternate Member
John Canning, PB Traffic Consultant

The PB meeting was opened at 7:30 p.m. by Chair Lee Bergus.

Approval of the minutes of the meeting of September 3, 2015 was tabled, as they were not circulated prior to the meeting.

Possible Extension or Abandonment of Applications pursuant to Town Code

Hambletonian Park

Ms. Naughton stated that this application was last granted an extension on March 10, 2015, and a six-month extension would bring this application to April 21, 2016.

John McDermott stated that he has not heard anything as far as a potential interconnection of water with the Town. Mr. Bergus stated that this is the same ongoing concern with the property.

VOTE BY PROPER MOTION, made by Mr. Dropkin, seconded by Mr. Pirraglia, The Town of Goshen Planning Board grants an extension on the conditional approval of Hambletonian Park to April 21, 2016. Approved unanimously.

Mr. Andrews	Aye	Mr. Gawronski	Aye
Dr. Baker	Aye	Mr. Lupinski	Aye
Mr. Bergus	Aye	Mr. Pirraglia	Aye
Mr. Dropkin	Aye		

Items for Discussion/Action

Timber Trail

Representing the applicant: Susan Shapiro

Mr. Bergus advised that a Resolution was received by the Planning Board from Ms. Naughton, and requested a change to year on page 2, and a correction on page 4.

VOTE BY PROPER MOTION, made by Mr. Pirraglia, seconded by Mr. Andrews to adopt the following finding: “The Planning Board has determined that to the extent that the elements of the site plan application are lacking those contained in § 97-75(B), the Planning Board hereby deems that they are not necessary and are hereby waived.” Unanimously approved.

Mr. Andrews	Aye	Mr. Gawronski	Aye
Dr. Baker	Aye	Mr. Lupinski	Aye
Mr. Bergus	Aye	Mr. Pirraglia	Aye
Mr. Dropkin	Aye		

VOTE BY PROPER MOTION, made by Dr. Baker, seconded by Mr. Dropkin to adopt the Resolution of Approval with the following conditions. Unanimously approved.

1. Prior to the signing of the plan, the Applicant shall revise the plan to include the applicable bulk table to the satisfaction of the Town Engineer.
2. Prior to the signing of the plan, the Applicant shall have the existing well tested for adequate quantity and quality, to the satisfaction of the Town Engineer.
3. Prior to the signing of the plan, the Applicant shall submit a plan indicating how the water supply system will operate, including backflow prevention or other protections (*i.e.*, check valves, etc.)
4. Prior to the signing of the plan, the Applicant shall revise the plan to: (i) show the location of the well and sewage disposal system serving the existing one (1) story house; (ii) show the location of the SDS swale; (iii) identify the graveless absorption system manufacturer, which shall be approved by the New York State Department of Health; and (iv) include a trench detail for the proposed force main and the crossing of the well supply line with the force main, all to the satisfaction of the Town Engineer.
5. Prior to the signing of the plan, the Applicant shall submit an Agricultural Data Statement to the Building Department.

Mr. Andrews	Aye	Mr. Gawronski	Aye
Dr. Baker	Aye	Mr. Lupinski	Aye
Mr. Bergus	Aye	Mr. Pirraglia	Aye
Mr. Dropkin	Aye		

Orange County Chinese Christian Church

Representing the applicant: David Higgins, Lanc & Tully

Mr. Hoffman advised the Planning Board concerning the proposed Well Complaint and Response Plan. The Planning Board needs to set a bond amount. He has provided a recommendation of a \$10,000 bond.

Ms. Naughton advised that the bond would be in place for three years from the issuance of the Certificate of Occupancy. Mr. Hoffman added that the bond amount includes a temporary water supply, and that he had contacted local water Superintendents to determine approximate bulk water costs.

Mr. Dropkin asked if the bond would be replenished, and Mr. Hoffman responded that there would be no obligation to replenish the bond, and that he would not recommend that it be because of the limited number of wells in this location.

VOTE BY PROPER MOTION, by Mr. Andrews, seconded by Mr. Gawronski, that the Town of Goshen Planning Board accepts the amount of the well bond as proposed, for \$10,000 and the Complaint Response and Remediation Plan. Unanimously approved.

Mr. Andrews	Aye	Mr. Gawronski	Aye
Dr. Baker	Aye	Mr. Lupinski	Aye
Mr. Bergus	Aye	Mr. Pirraglia	Aye
Mr. Dropkin	Aye		

Mr. Higgins stated that he submitted a letter that said he complied with conditions of the Resolution; he also mentioned that there was one addition to the project that was not identified at the time of the conditional approval. While making the revisions, the Church advised him that they wanted to include an additional pavilion and to extend the pavilion that was approved. Children would use the second pavilion when the adults were using the other. The new pavilion is off the north corner of the building – it is 20' x 30'. The other pavilion is a 24' x 40'. He does not see a concern, but he wanted to raise it now because the Church did not originally show it on the plan.

Mr. Golden stated that if the Church was going to proceed with this, it is a site plan amendment, and the Church will need to file an application for that. If it is a substantial change, it requires a public hearing, but if the Planning Board finds that it is not a substantial change, then it does not need a public hearing.

Mr. Higgins responded that he had thought that it was relatively minor and was looking to avoid needing to come back for an amended approval. If the Church needs to go through the

Mr. Canning stated that the results of the 2028 analysis would be almost the same as the analysis for 2033. The signal analysis would be similar. Science of the Soul would need a plan in place, police officers would need to be in place, and there are a whole plethora of mitigation measures. The document will be submitted to DOT whose numbers are estimated year of completion plus 10 years.

Mr. Bergus asked if there was anything realistically for improving Route 17M other than what is being proposed. Mr. Canning responded that he is unaware of the State having any improvement plans, and the changes to exit 123-124 have not been funded.

Mr. Trelstad commented that the mitigation measures are outlined in the EIS chapter, and specifically for the Science of the Soul events, which includes a traffic management plan and the police officers at certain locations. More detail would be provided when Amy's prepares a mass gathering permit, but it is not prepared to do that at this time.

Mr. Golden advised that the Planning Board is still at the EIS completeness stage, where the Planning Board determines whether there is enough information in the documents presented to send the EIS to the public and the other involved agencies. At that time, all of those agencies, the public and the Planning Board will have another opportunity to discuss these issues. But it is helpful to Mr. Trelstad at this time, because this is more than a threshold issue, and it might be easier for him to address now then wait until a later time.

Mr. Bergus asked whether Amy's included an analysis considering if the bridge was not constructed. Mr. Trelstad advised that it would be included in the Alternatives Chapter.

Mr. Andrews asked whether the study includes having a Science of the Soul event on a school day, and Mr. Canning commented that the analysis presumes that school is in session.

Mr. Hoffman comments that the other two chapters provided were Noise and Air Quality. He is looking for additional information that was missing from the DEIS in terms of completeness. Additionally, construction impacts should be included in these two chapters, both temporary impacts and post-construction impacts.

Mr. Golden informed the Planning Board that he submitted a memorandum to the Planning Board and the consultants for the applicant.

Mr. Trelstad noted that Amy's has been delayed in completing site engineering for the Stormwater Pollution Prevention Plan, and the cut and fill analysis. He anticipates submitting additional chapters on October 1st, and is looking to submit the Water, Unavoidable Adverse Impacts and Executive Summary for review on October 15. He would then see if the Applicant could get a Notice of Completion on November 19, and perhaps the Planning Board could schedule public hearing for December.

Mr. Golden stated that so far, the Board has had relatively few comments on these sections because it is a low threshold; unless there is something there that would stop the Planning Board from saying it is complete, the EIS can be moved along in that fashion. The Board is willing to work with the Applicant and are very cognizant of the low threshold so that substantive comments can be received. The Applicant's preferred schedule is that the last chapters would be in by 10/15, and anticipating that there will be as few of comments as there have been to date, then on 11/5, a whole EIS will be submitted. By the 11/19, the Board could issue a notice of completeness.

Mr. Cerrullo asked whether minutes were being taken of this meeting, as he wants to be able to forward them to his attorney. Mr. Bergus responded that minutes were being taken.

Heritage Estates

Representative for the applicant: Steve Esposito

Mr. Esposito states that this project has been before the Planning Board since 2004, proposing open space areas and a cluster development plan of 75 cluster lots and 2 estate lots on 250 acres of Kolk Farm. The Black Meadow and Otter Kill creeks run through site. This project went through extensive review, and through ACOE and DEC agencies for approvals already. The development footprint is 43 acres. 82% of site is undeveloped, and 163 acres are under some form of conservation easement. Kolk Farm has an agricultural conservation easement. Almost all of wetlands are in conservation areas. There are three water supply wells onsite. There is central water for the site, and they are connecting to the Hambletonian Park water system. The Town has expanded Water District #1, which includes Hambletonian Park and Heritage Estates. Central sewer will be used for the project, which will go to the Village of Goshen. The forcemain will tie into the Village's collection system on Old Chester Road.

Mr. Hoffman stated that this project received conditional preliminary approval in 2007, and there were 40 conditions in the conditional final approval in 2009. A number of conditions required that the Applicant return to the Planning Board, and that is why the Applicant is here tonight.

Mr. Esposito stated that the applicant wants to start construction on section 1 this fall. However, there are certain conditions that need to be satisfied prior to the signing of the map.

Mr. Bergus asked if the County Health Department submission was for entire project, and Mr. Hoffman stated that it was for section 1.

Mr. Esposito discussed Specific Condition No. 11, relating to potential impacts to surrounding wells, and stated that in the EIS, there was extensive well testing performed, and they prepared a Complaint Response Remediation Plan. There were five measures of mitigating impacts to wells. What the Applicant did was give a map that was consistent with testing protocols for the

project, and identified an area that was a certain radius around the project. The Code addresses these central systems. The Applicant picked a 2,500-foot radius as consistent with the Code, and the plan itself and its implementations were submitted. This condition included the submission of a bond.

Mr. Hoffman stated that he reviewed Complaint Response Plan, as well as the \$26,000 bond recommendation and 2,500 foot radius. He suggested that the radius be extended down Brookside Drive. The radius captures most, but not all, of the wells within the neighboring area, but does not include all of the wells along Brookside Drive. There are about 4 properties that are not included.

Mr. Esposito stated that during the testing, which was performed twice, both times there were monitored wells where there was zero influence. Therefore, there was no data on those wells, and the Applicant does not think he should inherit those problems.

Mr. Bergus responded that just because the area has historic water issues does not mean that the Applicant inherits their problems; it would need to be proven to be as a result of the Applicant's project. The entire area historically has had water problems. Mr. Bergus questioned whether it is appropriate to split that road with the radius. If Mr. Esposito is saying that there were no impacts based on the testing, then the Applicant should not have any additional problems.

Mr. Esposito stated that they have been asked to extend the water line to the property line, which they are doing and they are already contributing to mitigating the situation. The Applicant does not feel that he will get a fair rub from the neighbors. Mr. Esposito stated that he is being consistent with the Town Code in limiting it to the 2500 feet.

Mr. Hoffman stated that the plan drafted has the complainant coming to the Planning Board, and it would need to be reviewed by the Town Hydrogeologist, and his report would then need to be considered by the Planning Board.

Mr. Esposito stated that was the Applicant's position and if the Planning Board wants to do that we do not have a choice. Mr. Pirraglia asked how many homes on Brookside Drive would be excluded, and Mr. Hoffman stated that there would be several, but that the map needed to be updated to reflect subdivisions.

Mr. Gawronski asked how it would impact this project if the additional homes were included. Mr. Hoffman stated that the Planning Board would need to make a determination of whether the Applicant or project caused that impact, and if it makes the determination that it did, the Planning Board would need to pick a remedy in the plan to mitigate that problem.

Mr. Golden stated that this issue derives from the environmental review and the findings, and the way for the Planning Board to mitigate the potential impacts of this project. The Applicant has come out with a plan that they think addresses it, and Mr. Hoffman has suggested a

revision to that to further mitigate those environmental impacts. Remember, there needs to be proof for the Planning Board to make the determination that impacts have occurred as a result of this project. It is hard to see that there is an unfairness in adding additional homes, because those homes still have to prove it.

Mr. Bergus stated that the 2,500-foot radius would have been appropriate if the road didn't continue in this location, and the Planning Board is looking at the majority of that street. Additionally, the monitoring did not show any impact on the wells on this street that were tested, so the burden would still be on the owner to demonstrate that the project caused the owner's problems.

Mr. Golden noted that it is not a simple standard to reach.

Mr. Dropkin stated that he respects Mr. Esposito's position because he is trying to limit the universe of complaints, and he is doing that on a 2,500-foot radius, which is based on the Town Code and that is reasonable; however, Brookside is a problematic area. Certainly this is a reasonable position – to take either side. Mr. Esposito does not want to have the potential of someone coming in that is beyond what the Town Code says is the reasonable radius. If the Applicant extends it, there might as well be no radius. Mr. Esposito stated that he was just looking for consistency, and that this applicant be treated consistent with the Town's Code.

Mr. Hoffman recommends that the radius be extended to the end of Brookside. There are a couple of houses out on Craigville Road and four properties on Old Chester Road.

Mr. Esposito stated that the implementation of this Plan should be the Hydrogeologist or the Building Department, not the Planning Board.

Mr. Golden stated that, to protect the Town from any potential lawsuits, the Planning Board has the legal discretionary duty to review this, and it could be an unlawful delegation of duties to leave it to the Building Inspector. Building inspectors are not set up to have those broad discretionary review powers.

Mr. Esposito stated that the Applicant accepted that position, and proposed a \$26,000 bond. LBG provided cost estimates for each of the remediation measures, and the \$26,000 would have to be replenished prior to the next Certificate of Occupancy.

Mr. Hoffman agreed that \$26,000 is appropriate, with the condition that the replenishment being done prior to the issuance of the next CO.

Ms. Naughton had some concerns with this process during the last few COs; however, Mr. Hoffman said that the impact would be seen prior to the last COs. These last few COs will not have a large impact.

Mr. Bergus asked, as far as interconnection of Hambletonian Park and Heritage Estates, that's well within the safe yield of the pump tests that were performed, and the Town will be operating these wells?

Mr. Hoffman confirmed. The complaint form and map will be revised, and in response Mr. Hoffman will write a letter to the Planning Board Chairman that the revised documents have been received.

Mr. Esposito next discussed Specific Conditions 13 and 22, relating to well testing protocol. Mr. Hoffman recommended monitoring all 12 wells, rather than limiting that to three. Mr. Bergus asked if it should be the developer through the Town's consultants, because usually the Town does not want outsiders to go into Town wells. Mr. Hoffman responded that there would not be any over stressing of production wells. This is just to determine if those properties identified in 2006 have any impacts under normal operation, and that ties into the length of the period, which is 7-10 days.

Mr. Esposito stated that he was fine with the 12 wells, and is satisfied with Mr. Hoffman's notification requirement prior to the test.

Mr. Esposito next discussed Specific Condition 18, regarding the trail connection to The Heritage from the Town Park. He was directed by the prior Chairman to go out to the site with the Building Inspector in the area of the trail. The map provided shows a well-defined ATV trail. It is a preexisting disturbance. Natural hardwood chips will be put for down in a layer of 3-4 inches. Mr. Hoffman does not have a problem with the woodchip trail, but wants to confirm that it is acceptable in the open space.

Mr. Esposito stated that land where the trail is going to go would be dedicated to the Town. Prior to the dedication, the woodchips will be installed. The trail is consistent with the Planning Board's Resolution. Mr. Esposito next discussed Specific Condition No. 21, relating to locating the trees and the area of disturbance areas being overlain on the maps. The final approved area is a bit smaller than preliminarily approved area. Mr. Hoffman stated that the trees are shown on the final subdivision plans themselves. Those plans show the grading and have a bit more detail. He suggests saving three trees on the side. Mr. Esposito responded that those three trees would be able to remain as the Applicant just recently finalized the clearing and grading plan. Mr. Hoffman requested a detail be provided demonstrating how those trees will be preserved and what measures will be used.

Mr. Esposito next discussed Specific Condition 25, regarding the sidewalk between Lots 51 and 52. The Applicant was required to install the sidewalk between these lots because the trail to the Town park was proposed to be located there. Using the ATV trail instead, the Applicant would like to request that we not have to build that sidewalk.

Mr. Golden stated that, as to the sidewalk, it was specifically required by a condition. If the Planning Board wishes to amend the Resolution, the Planning Board ought to take a motion to amend that condition.

VOTE BY PROPER MOTION, by Mr. Dropkin, seconded by Mr. Gawronski, that the Town of Goshen Planning Board amend the Resolution of Approval to remove Specific Condition 25, requiring a sidewalk between Lots 51 and 52. Unanimously approved.

Mr. Andrews	Aye	Mr. Gawronski	Aye
Dr. Baker	Aye	Mr. Lupinski	Aye
Mr. Bergus	Aye	Mr. Pirraglia	Aye
Mr. Dropkin	Aye		

Mr. Esposito next requested a discussion of Specific Condition 27, relating to pedestrian pathways. The Applicant has submitted the details of the pathways, and will submit the detail to Mr. Hoffman. Mr. Hoffman requested that the detail be submitted to the Planning Board. This is a complex issue, as there will be back-to-back T-turnarounds with a gate between them, and there needs to be a connection for pedestrians. The Planning Board needs to see a blowup diagram of the connection area. Because of the complexity of this connection, Mr. Hoffman thinks it is something that the Planning Board will want to review.

Mr. Esposito discussed Specific Condition 31, requiring two copies of everything be provided to the Building Department of all documents that are submitted to all involved agencies. As this condition results in boxes of documents being provided, the Applicant submitted a three-ring binder instead of those documents that the Applicant thought was important.

Mr. Halloran commented that he should have copies of whatever Planning Board thinks is important.

Mr. Golden stated that the intent of the condition was because, at the time and during the process, there was a feeling by some Planning Board members that there was some correspondence between the Applicant and some regulatory agencies that should have been copied to the Planning Board, but was not. The Planning Board put this condition in there to force the issue. Mr. Golden suggested that the Planning Board either keep the condition or modify this condition to include other documentation as deemed prudent by the Building Inspector. That way, the Building Inspector could request what he also thought was necessary. The modification would allow for flexibility for reasonableness.

VOTE BY PROPER MOTION, by Mr. Pirraglia, seconded by Mr. Andrews, that Specific Condition 31, relating to the requirement that two copies of all correspondence with regulatory agencies be provided to the Building Department be modified to include other documentation as deemed prudent by the Building Inspector. Unanimously approved.

Mr. Andrews	Aye	Mr. Gawronski	Aye
Dr. Baker	Aye	Mr. Lupinski	Aye
Mr. Bergus	Aye	Mr. Pirraglia	Aye
Mr. Dropkin	Aye		

Mr. Esposito next discussed Specific Condition 37, regarding colors and materials of exterior walls and materials. Mr. Pirraglia asked what color the streetlights are going to be.

Mr. Esposito responded that the streetlights will be black, and will look like the “Woodmere” subdivision. They will not use savannah blue, dover white, classic cream of the Variform Contractor’s Choice siding options. They will be using Tamko Heritage premium shingles. They will be using Virginia Slate, Olde English Pewter, Aged Wood, Weathered Wood, and Rustic Black.

Maplewood

Representative for the applicant: Max Stach

Mr. Halloran recused himself from discussions on this application.

Mr. Stach, of Turner Miller Group, briefly summarized the history of the project, and noted that the zoning had been revised, which precluded this development. The Applicant has a Stipulation of Settlement with the Town that permits 103 units, 48 of the units are PAC homes. The PAC homes had been proposed to be accessed off of the cul-de-sac off of Craigville Road, which is just north of, and across the street from, Hambletonian Park. Mr. Stach stated that the Applicant was last before the Planning Board in 2012, and the project was very thoroughly reviewed by the Planning Board and its consultants. There were concerns with how water and sewer was going to be developed. The agreement was that the Applicant would provide two (2) onsite wells and hook them into the Hambletonian Park water system. The project has been revised again to replace the PAC units with 20 single-family homes. The Applicant provided a redlined text to replace the DEIS and CDs with the appendices for review. One of the reasons why there was a delay in returning to the Planning Board was that an initial comment from the Town consultants was that the preliminary subdivision plans needed to be updated, as they were part of the application. Tonight, the Applicant would like the DEIS to be declared complete. The Applicant feels that some of the items that are outstanding in the scope relate to when the PAC was proposed. Where the Applicant asks is in acknowledging reduced potential impact in the project, as this project is less than what was contemplated in the Town’s stipulation and the Town’s stipulation considered the 103-unit plan. The Applicant would also like relief from preparing visual cross-sections. This is a completion review, and the Applicant wishes to get to the public hearing and the substance issues with the DEIS.

Mr. Hoffman informed the Planning Board that project was last before the Board in 2012, and comments were provided to the Board and the Applicant. Mr. Hoffman’s approach was to

return to the 2012 comments and, understanding that the PAC was eliminated, look at those revised portions of the DEIS. With the elimination of the PAC, there are portions of the scope that do not apply to this current proposal.

Mr. Dropkin stated that he has a lot of comments; there are typographical errors and inconsistent statements in the EIS. There is a typo on Chapter 2, page 5 where there was a net deficit and net gain.

Mr. Golden asked if the Applicant has outlined the memos that he has received, and separated those comments that can be addressed now, and those that can be addressed later. Mr. Golden advised the Applicant that it would have been helpful for them to have come in prepared to say which items the Applicant was willing to address.

Mr. Stach stated that they are prepared to review the consultant comments this evening, and believe that 80-90% of changes are minor and can be addressed by statements that they are not relevant anymore or are typos.

Mr. Golden advised that the Planning Board could proceed a couple of ways. It can go through the consultant comments this evening, or, if the Planning Board is familiar with the consultant comments, and the Planning Board has stated that it is generally amenable to what has been submitted, that it can be cleaned up subject to our review.

Mr. Lupinski stated that he thinks the Planning Board should use the expedited review. Mr. Pirraglia stated that it was very difficult to review the DEIS because of the issues that are being pointed out this evening. The scope is based upon a completely different proposal. It is a difficult document to read.

Mr. Stach responded that the reason it is not easy to read is because it attempts to stick with that scope. The Applicant had an internal discussion about this, and whether it should come back and request a revised scope.

Mr. Golden stated that a revised scope is a good idea, rather than have to qualify and explaining away what is no longer applicable. As far as a cleaner document for the public and the involved agencies, it would make more sense to have a modified and revised scope that is narrowed down to what the Applicant's project is, and then the DEIS applicable to a revised scope.

Mr. Stach stated that the technical analyses can be relied upon from the prior process, because the Applicant does not want to go back to perform new traffic or water studies. This has become a less significant project, and technical studies have been performed for the more intense proposal. As far as the scoping, the other thing that would be a possibility, is to take this document which was developed around this project.

Mr. Golden advised that if the Applicant has a technical review that has measured a larger scope, it simply references that it measured a larger scope and now it has a smaller scope and it is still using the same technical analysis. The Applicant can do that in a way that is clear and people are not confused as to why you are putting items in there.

Mr. Stach stated that scoping is not always required. In order to get to the desired result of this Planning Board, would it be practical to revise the document without going through scoping again.

Mr. Golden stated that he was not suggesting another public scoping session because the Planning Board has been through that already. Because the Applicant is narrowing it down, the Applicant should propose a scope that is more tailored to the project now, and revise the DEIS relevant to that scope so that it makes sense when someone is reading through it. If the Applicant wants to work with the consultants offline while preparing to submit that, they have a good feel for what the Planning Board is looking for so that it can get it done as expeditiously as possible.

Mr. Stach stated that the substance of the comments was overwhelmed by the difference of the project.

Mr. Canning noted that there are a couple of items in the EIS that did not conform to the scope that the Planning Board may want to consider, such as whether the Route 17M and Old Chester Road intersection needs to be studied. It is a busy intersection, but it is a bit far from the site.

Mr. Bergus stated that one item that he was confused about was why Lone Oak was considered and not Young's Grove. Mr. Canning responded that most of the study is good, but it was done in 2011. It behooves the Applicant to do some traffic counts that are more current, they do not need to redo the study.

Mr. Gawronski asked whether that was covered by the Stipulation in a way, by reducing the number of homes. Mr. Golden responded that the Stipulation required that SEQRA be done with respect to the project the Applicant is proposing. What Mr. Canning is proposing is that the Planning Board can see the relevance of those numbers of 103 vs. 68, but if the data is irrelevant because it is years old. Otherwise what is going to happen is that the Applicant will have to perform another study between the DEIS and the FEIS. What he is suggesting is that the Applicant does not need to perform a study, but just an assessment to see if the data is still relevant.

Mr. Stach stated that this project started with a study back from 2008. The Applicant contributed to a study of five different developments. When the Applicant changed his project, he was made to re-test the traffic assumptions. What has happened in this area from 2011 until now that would substantially change the circumstances in the traffic? At some point, we just have to ask whether it is likely that doing additional counts will indicate that there is a significant impact that we will need to address.

Mr. Canning stated that it is easy to do the traffic counts, and if the volumes are about the same, then they are the same. If they are significantly higher then it will be dealt with. If the neighbors are not happy with the hard look taken, then they can say that the traffic was not examined. The analysis will give the Planning Board something to hang its hat on and protect from future litigation. The town-wide traffic study looked at other projects that were going on, and there were a number of improvements at different locations in Town proposed. As the DEIS reads now, it says that contributing your fair share is too much for you right now. This 2011 traffic study did not refer to the town-wide traffic study, as the scope had required.

Mr. Stach stated that in order to move this forward, they have provided counts at Route 207 and Craigville Road to show that there has not been a dramatic shift in traffic counts.

Mr. Dropkin stated that what the Town traffic consultant is saying is that if the Applicant does this non-burdensome count, it protects the Applicant from the challenge in the future and gives the additional protection to say that the Planning Board did a reasonable amount of studies.

Mr. Pirraglia stated that this would validate the four-year-old data that is in the EIS.

Mr. Golden agreed that the counts would protect the Planning Board in a lawsuit; it will demonstrate that the Planning Board took its hard look. These limited traffic counts are reasonable.

Mr. Golden stated that because of the review process that the application has already been through, it is appropriate under these circumstances. The Planning Board has the ability to revise the scope, and the scope should be resolved to be a newly proposed scope. Both the DEIS and the scope would be submitted at the same time. Scoping is required whenever the Planning Board says it is required. Most Environmental Impact Statements contain scopes. What will happen here, is the Applicant will create the DEIS, and then create the scope to match the DEIS. The reason to "reverse engineer" the scope is so that when it is produced, it makes it easier for the involved agencies to review. If the Board members want any of their comments included, we can work offline to have them addressed.

Mr. Stach asked, with regards to the Southern Wallkill Biodiversity Plan and Open Space Plan, would those really impact this project at all? Is this really an exercise in looking at what it says and determining why it applies or does not?

Mr. Golden responded that the Applicant has to look at these documents. They are included in almost every DEIS that the Planning Board reviews. The Applicant needs to at least address them in the EIS because they are source plan documents of the Town. It is not wise for the Planning Board to give this Applicant a pass on what every other EIS has to comply with.

Mr. Stach asked, where do these impact our project or potentially impact our project?

Mr. Golden responded that they may not, but the Applicant needs to address it. To say that the Applicant does not need to address them is wrong. The Planning Board needs to be doing that on all of its plans. These are source documents for the entire Town – not to look at these is not taking a hard look.

Mr. Stach stated that the Applicant would put that together. Will we need to provide cross sections? Mr. Golden asked how the Applicant was measuring the visual impact of this project, and Mr. Stach responded that the Applicant is presuming that single-family homes in that area are with the character of the town. Mr. Golden stated that it does not take much to do a measurement of typical homes in different locations. Ms. Naughton commented that the Applicant would need to do cross-sections to comply with § 97-41(F). Mr. Golden stated that for visual impact, the Applicant would need to do something to show that that the Applicant does not have a visual impact that needs to be mitigated.

Mr. Stach stated that there were several consultant comments that dealt with the level of technical detail, and it is the Applicant's position that most of that information should be included in the technical report and not be included in the text.

Mr. Hoffman stated that there was no technical report to refer to. What the scope was looking for was an engineer's report that would typically be submitted to the DOH. Mr. Hoffman requested the hydraulic connections and to see the fire flows, those sorts of things.

Mr. Canning asked whether the Planning Board wants the intersection of Old Chester Road and Route 17M included. It was included in the old scope, but was not studied. It is Mr. Canning's opinion that it is so far away from the site that it does need to be studied.

Mr. Dropkin stated that the size of the project has been so reduced, and the intersection is so distant from the project.

Mr. Canning commented that there was a statement in the DEIS that a sidewalk was to be provided along one side of all the roads, and he did not see it in the plans and did not see it connecting to Salesian Park. Mr. Bergus stated that there was something in the EIS stating that it was not feasible to have the sidewalk between the residential neighborhoods.

Mr. Stach asked who was going to maintain that sidewalk when it is built? It adds to impervious surface counts, and the Applicant is proposing a path from the end of the stub road instead. There is a solid fence there. Work would need to be done on the other side of the fence in Salesian Park. Mr. Hoffman stated that the Applicant said that a sidewalk there would be provided but the plan does not show one.

Mr. Bergus commented that there were issues with the well yields throughout the report. Also, it says items are "being dedicated"; it should be revised to say "offered for dedication".

Mr. Golden stated that the ball is back in the Applicant's court. The Applicant should coordinate with the consultants as to what in the memos should be included in the scope and DEIS, and what comments are not completeness comments, and the Applicant should reverse-engineer the scope. The Applicant should clean up the EIS so that it is simpler and follows the project. Then the Applicant can return to the Planning Board, and it can approve a revised scope and the DEIS as adequate for public review.