

TOWN OF NEW WINDSOR

PLANNING BOARD

November 9, 2011

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN  
HENRY VAN LEEUWEN  
DANIEL GALLAGHER  
HOWARD BROWN  
HARRY FERGUSON

ALSO PRESENT: DOMINIC CORDISCO, ESQ.  
PLANNING BOARD CHAIRMAN

MARK EDSALL, P.E.  
PLANNING BOARD ENGINEER

JENNIFER GALLAGHER  
BUILDING INSPECTOR

NICOLE PELESHUCK  
PLANNING BOARD SECRETARY

AGENDA:

1. HILL & DALE PARK
2. BRITTANY TERRACE S.P. AMENDMENT
3. ALIYA-ZAFAR PRODUCE
4. MEADOWBROOK ESTATES
5. TEMPLE HILL APARTMENTS S.P.

**REGULAR MEETING:**

MR. ARGENIO: I'd like to call to order the November 9, 2011 meeting of the New Windsor Planning Board. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

MR. ARGENIO: MR. GALLAGHER: Welcome everybody, we have a full board and almost a full house so we'll get right down to business.

APPROVAL OF MINUTES DATED 8/10/11 & 9/14/11

MR. ARGENIO: First item on tonight's agenda is approval of the minutes dated August 10, 2011, September 14, 2011 sent out via e-mail on October 14, 2011.

MR. VAN LEEUWEN: So moved.

MR. ARGENIO: Accept them as written.

MR. FERGUSON: Second it.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

ANNUAL MOBILE HOME PARK REVIEW:

HILL & DALE PARK

MR. ARGENIO: Annual mobile home park review is the first item on tonight's agenda, first regular item. Hill & Dale Mobile Home Park, somebody here to represent this? What's your name, sir?

MR. HERSHEL: Joe Hershel.

MR. ARGENIO: Jennifer, has somebody from your office been to the park?

MS. GALLAGHER: Yes.

MR. ARGENIO: What say you? It's in good shape?

MS. GALLAGHER: Yes, it is.

MR. ARGENIO: Do you have a check for \$250?

MR. HERSHEL: I do.

MR. ARGENIO: Glad you keep a nice place. I'll accept a motion for one year extension.

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: That's it, Mr. Hershel, we'll see you in a year. Hope we didn't hold you up, did we?

MR. HERSHEL: No.

PUBLIC HEARINGS:

BRITTANY TERRACE SITE PLAN AMENDMENT (01-53)

MR. ARGENIO: Next item on tonight's agenda is Brittany Terrace site plan amendment on Station Road. The project previously received approval for an expansion and is before the board with a record plan for acceptance by the planning board. The plan indicates an additional 96 units. The matter was previously reviewed at the 12 September, 2001, 12 June, 2002, 26 January, 2001 and 12 October, 2011 planning board meetings. The applicant is before the board for a public hearing tonight. Do we have a plan on this, Henry?

MRS. PELESHUCK: There are two plans, that one is the regular one and the next one is just Phase one.

MR. ARGENIO: Just so everybody knows how this works, how the process works, what we're going to do is the engineer is here for Brittany Terrace, they're going to give us, the engineer will give us a little background on what he's done since the last time they were here. When he's done, the board will review it and then we'll open it up to the public, at which time in an orderly fashion if you raise your hand you'll be recognized, I'd like you to come forward please to this area here, give your name to the stenographer. Is there a sign-in sheet? Sign your name on the yellow pad and you can ask your question to the board, to the board. And there's a lot of people here and everybody deserves the opportunity to speak so please be concise and specific and if an issue has previously been addressed, I just don't want to go through the same thing time and time again but we certainly want to give everybody a chance to speak. So be concise with your question and your comment and we'll keep it moving. Everybody will have a chance to speak. All that said, Mr. Torro, can you tell us where you're at here?

MR. TORRO: Yes, good evening. Okay, presently we, when we were before you last we discussed we're breaking it down total buildout of 96 units in three phases, Phase one consisting of 10 units, Phase two consisting of 38 and Phase three of 48. At that time we spoke about the new on-site treatment plant the 10,000 gallons a day was under construction. Presently we're working on getting it totally online, it's not up to a hundred percent unfortunately with the storm we

ran into some issues with Central Hudson getting the proper power there. Right now it's slightly operating and it won't be online fully until we can get the full service in there. We're told it's going to be tomorrow, with any luck without another storm.

MR. ARGENIO: That treatment, that facility is not operating at capacity?

MR. TORRO: That, between that and the sand filter, sand filter hasn't come off a hundred percent and this hasn't come on a hundred percent.

MR. ARGENIO: Sand filter is the old system?

MR. TORRO: Old system, correct.

MR. VAN LEEUWEN: Right now you're still operating under the old system?

MR. TORRO: Combination, in order to cut down the problems we were having with the sand filter, we can use this in some capacity. So Phase one basically will be handled with the existing facilities. Now I just want to clarify when I spoke about Phase two in my correspondence in August I had referenced on a full buildout of Phase two we would have to increase the size of our plant. At some point once the plant is up and running we would have and the DEC has confirmed that we have enough capacity for the 10 units. At some point, there may be additional capacity in the existing facility to accommodate several units in phase two before we have to go to the expansion. But that cannot be determined today because one, the plant isn't on line, DEC, we don't have any records for them to review to make any determination like that and obviously, three would be something we'd have to come back and talk to the board about because right now the application beyond the overall concept is just for approval of Phase one so and then Phase three definitely would have to be in the future after two and the plant is expanded.

MR. ARGENIO: Okay.

MR. TORRO: And as far as the on-site there's an on-site water system that's capacity more than sufficient for the full buildout of the project that was approved in 2005 by the health department. So there's enough capacity to put any one of these phases

online, it's just the treatment facility. That's it.

MR. ARGENIO: Let me be clear and concise so that there's no ambiguity. I'm going to read from the minutes from October 12, Mr. Torro, that's you, what this shows is three phases ultimately of the project, Phase one on the northerly side here consisting of 10 units basically built off an existing road pattern in this area. You'll be able to see it better in the larger plans and Phase two in the center portion of the site consists of 38 homes then Phase three to the south of 48 homes. Presently, Phase one will feed into the existing treatment facility, the new facility and can accommodate all of Phase one. As we get into Phases two and three prior to any type of construction for those we need to go back to the DEC and get the SPEDES permit expanded upon basically doubled so at some point to go to Phases two and three we have to go back to get a SPEDES permit expanded on basically double 20,000 gallons a day in a facility that was put in, was picked and it's in a situation where we'll basically mirror another 10,000 gallons. So you're telling me now that that's not the case now, let me just qualify this. We're not going to chase a moving target, Larry, now let me finish, that's not going to happen, not here, it's not going to happen. So if you want to amend your plan to adjust your phasing, you should do that, you should leave, go amend the plan to whatever the phasing is that you should have and then come back and that's okay. But I want to be very clear, the plan that's in front of this board has three phases, Phase one consisting of X, Phase two consisting of Y and Phase three consisting of Z, that's what we're looking at. I'm not going to entertain these miscellaneous units in Phase two that you may have capacity for, if you want to revise the plan and include two units or seven units or 12 units you should do that before tonight but for right now for tonight and from last meeting we have three phases?

MR. TORRO: Correct.

MR. ARGENIO: From where this board is sitting and if anybody disagrees I want you to speak up, board members, not the public, not yet at least, anybody disagrees with me speak up. What we discussed at the last meeting was three phases, one can go online when your existing treatment facility is at a hundred percent operation. That's according to the DEC. We have a map that reflects that, that's the premise we're

working off of. If there's any other premise, anything else you need to leave and revise the map.

MR. TORRO: No, that's fine.

MR. ARGENIO: Okay, Mark, is there any ambiguity in what I just said?

MR. EDSALL: No, and I appreciate the direction you're heading because it makes it very difficult for Jennifer and I to work with this in the field.

MR. ARGENIO: Makes it difficult for the applicant.

MR. EDSALL: If we don't know which phase the units are in and where they're being approved so it would help us.

MR. ARGENIO: So that's behind us, we don't have to worry about that potential gray area. If anybody has any questions, you guys, just ask, I want to go through Mark's comments. We talked about the phasing, tell me about the outside agencies, Larry.

MR. TORRO: As far as the outside agencies?

MR. ARGENIO: Water for all three phases.

MR. TORRO: Water for all three phases was approved in 2005, the expansion to the existing facility obviously that's the overall system however for Phase one we have submitted plans to the Health Department for improvements that have to be done within the distribution system.

MR. ARGENIO: So you don't have water as of yet for Phase one?

MR. TORRO: We have on-site water, we don't have approval for the mains that have to be built to service these homes.

MR. ARGENIO: But you would need that to erect those units?

MR. EDSALL: So you have source approval but not distribution so they've got only part of what they need.

MR. TORRO: Right.

MR. ARGENIO: But you need those pipes.

MR. EDSALL: Yes, they need the source approval and the distribution, so until they have distribution approval they don't have all the approvals.

MR. ARGENIO: Educate us a little bit, how does a mobile, I want to use the right term, mobile home park.

MR. TORRO: Manufactured.

MR. ARGENIO: How does it work? Do you have one or 10 or 50 wells?

MR. TORRO: Depends, this facility has two wells.

MR. ARGENIO: Then you distribute the water from those two wells?

MR. TORRO: The system's approved for what your best well out of service can still handle.

MR. ARGENIO: Do they alternate?

MR. TORRO: I suspect they do.

MR. VAN LEEUWEN: Can you tell me how deep those wells are and how many gallons is produced?

MR. TORRO: Each of them are roughly around 35 gallons per minute they're capable of. The depth--

MR. VAN LEEUWEN: How big are the storage tanks?

MR. TORRO: They're 54,000 gallon tank above ground.

MR. ARGENIO: So we know about water for Phase one, what about two or three, Larry?

MR. TORRO: It's the same thing, the source is approved, the distribution is not.

MR. ARGENIO: So, Mark, from an engineering point of view, does that mean that and help me with this technical stuff, does that mean that the DEC says they have adequate capacity for those other phases of these wells, is that what that means?

MR. EDSALL: If they granted, the Health Department

granted approval for the source based on the total number of units then they have written off on those number of units being handled by that supply system.

MR. ARGENIO: So I have capacity.

MR. EDSALL: And I'm sure knowing Orange County Health Department when they get applications for the distribution and the layouts they're going to be doublechecking.

MR. TORRO: At the time it was approved in '05 it was for a total buildout of 275 units.

MR. ARGENIO: Howard or Harry, do you have anything else before we open it up to the public?

MR. BROWN: I'd like to hear the public.

MR. GALLAGHER: Nothing.

MR. VAN LEEUWEN: I'd like to know how deep the two wells are.

MR. TORRO: I'll get that to you, somewhere around 2 or 300.

MR. ARGENIO: There's good water out that way.

MR. VAN LEEUWEN: I live out that way so--

MR. ARGENIO: On the 25th day of October, Nicole sitting to my right compared 68 addressed envelopes containing the notice of public hearing for the application that she received from Mr. Wiley of the Town Assessor's office. These notices went out advertising the public hearing this evening for this application. If anybody is here that would like to speak for or against or just comment on this application, please raise your hand, please be recognized, come forward, sign the log-in sheet and we'd love to get a little feedback. Yes, sir? Tell Mr. Van Leeuwen where you live so he knows.

MR. BELLINGER: 467 Station Road.

MR. VAN LEEUWEN: You don't live near the park.

MR. BELLINGER: I can throw a flat rock and hit it. Ivan, I-V-A-N Bellinger, B-E-L-L-I-N-G-E-R. And my

question is pertaining to the sewer plant, the night after the storm I noticed the smell when the power was out. He addressed that the power is not a hundred percent or the plant is not a hundred percent. My question is if we had an extended power outage, is there an on-site generator to run this plant?

MR. ARGENIO: I think that's a great question, Larry.

MR. TORRO: Yes, there will be, unfortunately that's why we can't run at full capacity between the storms the generators we expected it will be on site but they can't get their hands on it as of yet, there will be a backup generator.

MR. ARGENIO: Let's talk about this for a minute. When will the new treatment facility be online a hundred percent and then the sand filter can be abandoned?

MR. TORRO: I'd like to say if Central Hudson is out there tomorrow and puts in the facilities, the three phases that they need they can run it and start getting it primed and I would think within a month tops it would be a hundred percent.

MR. ARGENIO: Four weeks, that would be a fair statement?

MR. TORRO: Fair statement.

MR. ARGENIO: Second thing, well, you tell me will there be an emergency generator associated with this? When will that emergency generator be installed?

MR. TORRO: That information I would have to get for, you know, they looked at it and trying to track one down.

MR. ARGENIO: I have to tell you this, I've heard all this 100 times, this is not for your benefit but for everybody in the audience, one of the things we have talked about and talked about and talked about is the odor that comes in the rain. And I don't know if anybody knows me out there but I live right down the road, I have the little sign with Elmo on it on Sesame Street, I smell it too so believe me I know what's going on out there and Neil who also was a member of this planning board for many years he lives there too, he's a good friend of mine and we have a great place out there and the biggest thing we're trying to achieve

here is to address this odoriferous smell that runs through the Babcock property in the event of a storm. Mrs. Babcock years ago she called me plenty of times about this when we had a good rain so I would like to, I think it would be good Larry if you could speak to your client and see if you can do something about that generator thing. I can tell you that I have a, I want to say a 500 KW generator right now that's been on order for the Dutchess County Airport for eight weeks and we're not going to get it for another six and I think the problem is that with these storms and stuff that we have been having I think that everybody's either upgrading or installing a generator where they didn't have one and that was, we ordered that from Penpower well over two months ago and it was supposed to be a six week build and it's turning into 26 or 16, it's just insane. So I'm questioning you, try to get out in front of that, probably be a good idea. Anything else?

MR. BELLINGER: I'd just like to say more about the generator thing that maybe we should be asking the question will the system function without power and for how long?

MR. ARGENIO: You just asked it.

MR. BELLINGER: Is there going to be a road built out there?

MR. ARGENIO: One at a time, let's address that first issue.

MR. TORRO: It needs the power in order to run properly.

MR. ARGENIO: So I would think you need a generator.

MR. TORRO: No question about it.

MR. CORDISCO: Mr. Chairman, if I can suggest if and when the board gets to a point where you want to conditionally approve this project, one of the conditions would be that before any additional units are brought out there that the generator be in place and be online.

MR. ARGENIO: That's behind us. What's your next question?

MR. BELLINGER: Road, is there going to be a road built out to Toleman Road?

MR. ARGENIO: Right there.

MR. BELLINGER: Will it be a private or public road?

MR. TORRO: It will be part of the facility private, yes.

MR. BELLINGER: Cause I'm concerned about the traffic also on Station Road that could alleviate a few cars.

MR. ARGENIO: That's a good question, let's probe that a bit. Is it going to be a common thoroughfare that's used every day or like an emergency thing?

MR. TORRO: No, it's a common, it's a second access point for the residents.

MR. ARGENIO: Good, excellent, I had the same concern you have.

MR. BELLINGER: Thank you, sir.

MR. ARGENIO: Yes, Mr. Schlesinger, can I have your name please for the stenographer?

MR. SCHLESINGER: My name is Neil Schlesinger and I live at 420 Station Road which is directly across from Brittany Terrace.

MR. ARGENIO: He never dressed that nice when he sat on the planning board. Go ahead.

MR. SCHLESINGER: And I just want to reiterate that I was a member of the planning board for the last six or something years and in essence I feel like I'm an IRS agent representing the taxpayers. There's a lot of people in the audience that are my neighbors and that are my friends that are showing a little concern about this project and I'm going to try to speak for them for two purposes, to show the board what our concerns are and at the same time maybe we could avoid some people reiterating different things that the board doesn't want to hear.

MR. ARGENIO: Go ahead.

MR. SCHLESINGER: The first thing I wanted to say being

that we're already addressing it about the generator and the water. If you check the minutes and I was here during the last meeting they said it was up and running with the generator. And you're telling me now that it wasn't up and running with the generator so there's a little discrepancy there.

MR. ARGENIO: Neil, we're on that, I don't--

MR. SCHLESINGER: They said it was up and running and it's not up and running. So let's just get it straight, okay. I'm confused about something and I read the minutes over and over again and I'd like some sort of clarity going back to 19, prior to 1967 or 1968 what existed at Brittany Terrace?

MR. ARGENIO: What are you getting at?

MR. SCHLESINGER: Was there anything there at all? I'm talking about the number of units. If you read the minutes it's very misleading. Did they get an approval for 275 units? Did they get an approval for additional?

MR. ARGENIO: Hold your breath for one second, one second.

MR. VAN LEEUWEN: Neil, there was an approval for 55 units.

MR. ARGENIO: I'm going to read because I think this may answer some of the questions you're going to ask. I have this with me, I wasn't going to get into it but I think it's going to help streamline this thing. I have in my hand a letter written by the attorney for the Town of New Windsor on July 18 of 2000. The attorney was Mr. Phil Crotty, I'm sure everybody, a lot of people in this room know Phil Crotty. This letter was written to Mr. Brian Gilmartin, Esq. who I believe was counsel for Brittany Terrace, Mr. Peter Kean and I'm going to read the letter cause as I said there may be some things in there. Dear Brian: I reviewed the November 14, 1968 ZBA decision granting conditional use permit following a public hearing on October 7, 1968. I have also reviewed planning board minutes from September 13, 1967, January 24, 1968, April 9, 1969, May 28, 1969 February 23, 1972 as well as transcribed minutes from a current board meeting held May 10, 2000. The November 14, 1968 ZBA decision is most interesting. It followed a contested public hearing which followed a

Supreme Court decision on this matter. The applicant was represented by the attorney and an engineer. The objectors were also represented by counsel as was the ZBA. The lengthy decision was obviously drafted by the ZBA attorney. The ZBA decision in 1968 grants the project now commonly referred to as Brittany Terrace a conditional use permit to install 275 mobile homes on 5,000 square foot parcels subject to sewer and water requirements. The roads were required to be 20 to 30 feet wide so the present planning board may require 30 foot wide roads if it so desires. The 1968 ZBA decision makes several references to a plan and a layout which were reviewed at the ZBA hearing. The same map was undoubtedly used at the planning board hearing. The fact that a plan or map does not exist more than 30 years later is not and is not available for the planning board meeting on May 10, 2000 does not, does not operate to void the 1968 municipal action. Everybody get that? Ironically, no, I'm sorry, incidentally, I have inquired into the possible whereabouts of the 1968 town copy of the plan. It was likely stored in the office of the then town engineer, Mr. Kartiganer, who reportedly got rid of a lot of old records when he retired and went out of business. The applicant Kean cannot find his copy either which is a similarly unfortunate but not fatal in light of the ZBA decision. I am of the opinion that the project received a vested right to a conditional use approval for 275 units in 1968. The something--

MR. EDSALL: Site.

MR. ARGENIO: -- site has been in continuous operation as a mobile home park since then and the 1968 public hearing talked in terms of a 10 to 20 year buildout. That does not mean that the project can be allowed to go forward without a map, that does not mean the project can be allowed to go forward without a map. Therefore, the applicant must recreate a map professionally prepared showing the conditional use permit data, necessary Department of Health approvals regarding sewer, locations, sizes, widths, notes and other requirements that were stated in the 1968 ZBA and planning board decisions. Then the planning board may review and approve the recreated map nunc pro tunc, which means after the fact according to learned counsel. The matter of the permit fees, hookup fees, recreation fees and other fees is different. If the applicant did not lock in his payment of fees back in 1968, and I see no evidence that he did, then the

presently existing fees will apply. So I don't know if that helps you, Neil, quickly on the count 275 units are approved currently, let me finish, there are 75 or 77 there now, depends on how, Phase one on this map that's in front of us has 10 units, Phase two on this map has 38 units, Phase three on this map has 48 units. So in my mind that's 96 units so we're talking about 75 original units approved or 75 units built plus another 96, end of story. It's about 160 units as opposed to 275. I hope I have been helpful, Mr. Schlesinger.

MR. SCHLESINGER: You have but based upon what you just said, it's my interpretation that it's up to the applicant to reproduce as close as possible the original plans that were approved. There is no doubt in my mind that the plan that's in front of this board is not a reproduction of what was originally approved.

MR. ARGENIO: I'm sure it wasn't.

MR. SCHLESINGER: Okay, that's point number one.

MR. ARGENIO: How could it be, the original plan was 275 units, this is 150.

MR. SCHLESINGER: I understand that but that is not what they originally were approved on. My second question is, I'm sorry, my second question is I'm not so sure and I don't mean to be naive but I'm not so sure, I don't know how to do this, I'm not so sure being that they were given an approval over the past 45 years why are they here?

MR. ARGENIO: They want to continue their buildout.

MR. SCHLESINGER: Okay, but it was already approved.

MR. VAN LEEUWEN: It's approved by the state, the federal judge I believe, okay, they took us to court and they won their case in court and the judge said--

MR. SCHLESINGER: In the minutes you didn't agree with that but that's another issue.

MR. ARGENIO: Neil, the answer to your question I'm going to look to Mark for a little assistance on this because I'm not positive of the outside agency procedures but my suspicion is that the answer to your question, Mark correct me if I misspeak, is that they were probably close or at capacity on their sewer and

the treatment plant that was there probably couldn't handle anymore units. Now they're looking to continue the build with the new sewer plant, upgraded sewer plant that can handle capacity. Mark, do you have anything to add to that if I have misspoken or is that close?

MR. EDSALL: It's a tough one to verify because a lot of this long predates my involvement, I was around when Phil did this memo and I have actually got the original copies of memos between Phil and myself and Mike Babcock and the letter but when you go back to the Zoning Board decisions and the court decisions, I was someplace in grade school so I wasn't here for that discussion.

MR. ARGENIO: As I said, Neil, I don't know the answer but I suspect that's probably--

MR. EDSALL: It's clear from 2000 when Phil went through the full file that the vested right for the number of units came as an outgrowth of whatever actions were taken with the court and the ZBA.

MR. CORDISCO: And if I can add to that what they're doing here, what they're attempting to do here is to re-create a map that is lost, I mean what Phil's analysis concluded and I think it was the proper conclusion is that there was a grant of an approval and there was a reliance on that approval, they actually built the first phase at that time of mobile homes at that site, they have relied on it and they have kept it in operation during this entire period of time. So the fact that you have a record that clearly shows that there is a zoning board of appeals approval for a special use permit there is a planning board approval for a site plan and there's also a court decision that upheld those approvals that can't be disputed, it's unfortunate as Phil said in his memo that everyone's lost the map but one of the benefits though of that is that you're faced with a map today that has over 100 units less than what was previously approved and could have been grandfathered--

MR. ARGENIO: Back in '68.

MR. CORDISCO: Correct, could have been grandfathered had the map not been lost but by the virtue of recreating the map today they have to meet current storm water requirements, they have to meet current

fire safety requirements and they also have to meet current sewer requirements in connection with the DEC and the Department of Health for their facility.

MR. ARGENIO: Go ahead.

MR. SCHLESINGER: Before I get into the meat of my discussion what about SEQRA?

MR. CORDISCO: In connection with SEQRA, state law provides that any action that was approved or commenced prior to November 1 of 1978 is exempt from SEQRA. So this is an action that was approved and commenced prior to November 1st of 1978, that's when SEQRA went into effect.

MR. SCHLESINGER: For the benefit of the people that are in the audience that may not have any idea what we're talking about as far as what SEQRA is, just want to read something. SEQRA requires all state and local government agencies--

MR. ARGENIO: Let me say this to you, you can read that but I'm not going to go on and on, I want to give people--

MR. SCHLESINGER: I'm trying to cover bases, let me finish, Jerry.

MR. ARGENIO: I want to give other people a chance to speak.

MR. SCHLESINGER: I'm trying to avoid 10 people getting up and saying everything that I'm saying. I'm trying to move this along and I haven't even gotten into the meat of my things because the people in the audience don't have the foundation and I think it's important for them to understand what SEQRA's all about, okay. SEQRA requires all state and local government agencies to consider if environmental impacts equally with social and economic factors during discretionary decision making, SEQRA requires the sponsoring or approving governmental body to identify and mitigate the significant environmental impacts of the activity it is proposing to permit. Okay, with that, I'm going to go on. I bought my house in 1982, I live directly across from Brittany Terrace, I know Mr. Kean, he runs a beautiful park, it's always been kept clean, there's been no disturbances and I have nothing to complain about, with the exception of the odor which we

addressed. And I don't want to elaborate on that, okay, and hopefully that will be cured. I turned around to a neighbor of mine the other day and I asked him whether he was going to be at the planning board meeting and he said yeah, I got a notice of that, he says I'm against it. I'm against it too so is probably everybody in the room here against it. I did a subdivision, I had the option to put in 15 homes where I live, I decided to put in five cause I didn't want to be surrounded by 15 homes but yet I have 100 going in across the street from me. And when I did my five home subdivision, I had to turn around to my neighbors, Ken and Steven, Paul Babcock and I had to turn around to them, tell them I'm putting in some homes, when he looks out his kitchen, he may not be looking at deer anymore, he may be looking at another home. I felt bad, listen, this is life, we go on and we've got to do what we have to do.

MR. ARGENIO: You did that in a lawful fashion in accordance with the law.

MR. SCHLESINGER: Absolutely a hundred percent and I'm getting to that. However, if any applicant comes before the board and follows the correct procedures, conforms to all codes, zoning laws, socio-economic factors, then they have the right to proceed and do what they want to do. And I stand behind the Brittany Terrace application and if they follow all the procedures and they get approval, God bless them, even though I don't like it. That's what the board is here for. If Ken Babcock, Steve Babcock and Paul Babcock turned around to me next week and they said Neil, I sold 50 acres and sold it to a developer, I'd be here saying the same thing, the shoe would be on the same foot. I'm going to go to the minutes of the last meeting and I'm trying to make this quick and concise, and Mark, the difficulty came in that as the applicant was seeking to move forward regulatory changes came about such as storm water. Can you elaborate on that? In other words, I'm assuming that new regulations came in, new regulations came in and they had to update or abide by the new regulations?

MR. ARGENIO: They had to craft their plan that you see here in accordance with the latest storm water regulations.

MR. SCHLESINGER: Is that an environmental issue?

MR. CORDISCO: It's a regulatory issue.

MR. EDSALL: It's a permitting issue.

MR. SCHLESINGER: So what about all the other issues, the other environmental issues?

MR. ARGENIO: What other issues?

MR. SCHLESINGER: The other environmental issues that this board discusses when any applicant comes before the board, such as traffic, such as storm water runoff, what about all those issues, they don't have to be addressed?

MR. EDSALL: Mr. Chairman, can I answer that only because I asked for the storm water report? The trigger that required that Larry actually started with the former engineer and then carried through with Larry to design the site layout in compliance with the new storm water regulations wasn't SEQRA, it was the permitting requirement. There's a permit that applies, they're required to get that permit to get that permit and approval from the town is the SASTMS-4 agency covering this area, they would have to have a storm water pollution prevention plan in place, it wasn't a SEQRA issue, it was a permitting issue.

MR. ARGENIO: I don't know why we keep going back to the SEQRA thing.

MR. EDSALL: Just so the record is clear.

MR. ARGENIO: This project is exempt from SEQRA because of the timing.

MR. CORDISCO: If I could, I mean, the purpose for SEQRA just so everyone is clear is so that when you're faced with a new application for something that is not yet built, not yet commenced for the board to be able to evaluate the environmental significant adverse environmental impacts of that application compared to the benefits that the application may pose. That's not the situation that we're in, we're here recreating a map that was lost for a project that is partially built.

MR. SCHLESINGER: Disregarding the SEQRA process?

MR. CORDISCO: They're exempt from SEQRA.

MR. SCHLESINGER: Under the requirements of the Uniform Procedure Act, applications for DEC permits cannot be considered complete unless a completed environmental assessment form as required by SEQRA has been received.

MR. CORDISCO: If they're subject to SEQRA.

MR. ARGENIO: Neil, we can't keep going back to this, I'm not going to continue to allow this, this is not fair and it's not reasonable. I certainly want to hear your questions. I'm as concerned as you. I did a subdivision too, my lots are two and four acres, I could have done eight lots, I didn't, we have to get passed the SEQRA thing. Counsel has advised us on it.

MR. SCHLESINGER: You owe this, I and everybody on this board owes this community, owes this town, owes every member to review every environmental issue, whether it's SEQRA or whether it's not SEQRA. And I'm going to go to my end of my discussion so you know where I'm going with it. This application should be reviewed as a new application, okay, and you owe it to each other to do that. And I don't care what the law says and listen to what I'm saying when I get to the end and you'll see where I'm going to, okay. When I bought my house in 1982, I used to jog down the block, okay, hi Mrs. D., how are you, Al Hein (phonetic), how are you, hi Mr. Rackawiecki, how are you? Can't jog down Station Road anymore.

MR. ARGENIO: Not safe.

MR. SCHLESINGER: Let me call to your attention that Orleans, a project that this board approved I think was approved for 38 units, correct me if I'm wrong, of which probably eight are built, we haven't even addressed or heard or seen or felt the impact of that development, okay, the Fox Farm which this board approved for how many units, I don't know, a lot more than 38 and I think that there's probably less than eight there. We haven't even felt the impact of that project. Yet, we want to approve 100 more units. And what happens if Paul Babcock turns around to me and says I sold it and I got, you know, to a developer as I said before what happens if he did that in 1967 and what happens if Joe Rackawiecki does the same thing?

MR. ARGENIO: Look this is unfair to continue.

MR. SCHLESINGER: I don't think it's unfair because it's environmental issues.

MR. ARGENIO: It's not fair to go around, he said what if the Babcock's this, I want to talk about this application, let me finish, if you have a comment on this application, I'd like to hear it. If not, I'd like to give somebody else the chance to speak. You have been up there for 20 minutes by the clock behind you, 20 minutes.

MR. SCHLESINGER: I think you don't want to hear it.

MR. ARGENIO: You sat here for six years.

MR. SCHLESINGER: I'm trying to avoid that, what I said before, because I think that you don't want to hear the issues that I'm saying because I think they're very relevant, okay, listen. Every week this board sits here, I'm getting done, every other week this board sits here and addresses applicants much like this applicant. And they address all the environmental issues. The board is the lead agency and they address SEQRA, okay, including all the other issues, storm water, fire, traffic, septic, lighting, garbage and all else. As far as zoning is concerned and I don't know whether that changed during the last four or five years or not, I have no idea but back when, 45 years we were talking about mobile homes, is this a modular home, a pre-manufactured home? I don't know. I never heard it discussed in front of the board. I don't know whether it meets zoning, okay. This application needs to be reviewed as an applicant as any other applicant that comes before the board. This board has a great reputation for acting swiftly, fairly and accurately, after 45 years, I don't think that four days or 45 days is going to make a difference. You know, and everybody knows that this application will get an approval, we all know that. The only thing that I'm asking for is that every environmental issue be discussed in a fair and equitable manner, including SEQRA issues. You can call it SEQRA or call it whatever you want, okay, I have a great regard for Mark and Dominic and if you feel that the law says in your opinion that SEQRA does not have to apply to this, I don't agree with you and if the applicant feels that it's unfair or unjust or illegal then they should get a judge to tell you differently. I don't think anybody wants to go through the hundred thousand dollar expense of getting a judge in here or do they want to take the time. This plan is

going to get reviewed but review it appropriately and that's all I ask. And you people all know that and you deal with it every day of the week and you should be able to look in the mirror when this is approved and know that you addressed every issue.

MR. ARGENIO: Thank you. Anybody else? Steve, come on up.

MR. S. BABCOCK: Steve Babcock, 30 Tall Oaks. I know you have already addressed the traffic issue but it's big to me. I ride my bike on that road all the time, it's hard, you know, it's a terrible road, too much traffic already.

MR. VAN LEEUWEN: I live on Beattie Road, we've got the same problem.

MR. ARGENIO: My kids ride to your brother's house on their bike all the time and it can be treacherous, certainly understand.

MR. S. BABCOCK: You talked about Toleman Road was another access but it's still going to be accessible from Station Road also?

MR. ARGENIO: Yes.

MR. S. BABCOCK: So, I mean, it's going to, I don't know, are we going to be able to handle that road? That road is terrible, it's just a small crowned road with no sidewalk, they don't even mow it until midsummer, grass gets this high.

MR. VAN LEEUWEN: It's a country road.

MR. S. BABCOCK: All of a sudden a car comes, you've got nowhere to go, people walking on the road, your wife walks on that road.

MR. ARGENIO: All the time.

MR. S. BABCOCK: I know you already addressed it but I just wanted to say.

MR. ARGENIO: Anybody else? Gentleman with the glasses on and the coat?

MR. GAYSON: George Gayson, 456 Station Road. My only question is Al Heins who's been dead five, six, seven

years one time came to me with a piece of paper about the smell, I signed it, I have no idea what he did, if he took it home or brought it to the board or what. I'm just saying it's been 10 years, 15 years, the smell's been there and they say ah-ha, we fixed the smell a week before, let's get some more houses in here. If these things go bad and it's a nice park, it really is, but if these things come in and five years down the road we get the smell again, do we have to wait another 20 years? What do we do if it doesn't work? Tell you what, we'll wait until we need another hundred houses and we'll fix it?

MR. VAN LEEUWEN: We're concerned just as much as you are cause I'll tell you I've smelled that.

MR. GAYSON: And it gets fixed the week that we apply for more houses, just seems like a coincidence.

MR. ARGENIO: Thank you, Mr. Gayson. The man in the back with the gray shirt.

MR. BOWMAN: My name is Ken Bowman, 434 Station Road. We've been talking about a mobile home park here, I'm aware and I have knowledge of modular homes, stick built homes going in there, have they been given approval for that?

MR. ARGENIO: Jen, can you elaborate just a little bit for the benefit of Neil and this gentleman about the distinction between a mobile home and a modular home?

MS. GALLAGHER: What they get permits for is a manufactured home, what they bring in, its not a mobile home anymore, it's considered a manufactured home, it's not a stick built.

MR. ARGENIO: What's the threshold, is there a size threshold, can't be over X square feet?

MS. GALLAGHER: They're doublewides or whatever but--

MR. BOWMAN: A trailer has a permanent.

MS. GALLAGHER: Slab.

MR. ARGENIO: These are trailers.

MS. GALLAGHER: Manufactured homes, yes, trailers.

MR. ARGENIO: Modular homes are being built in there.

MR. BOWMAN: Yes, in fact, the show house that they use is a modular home.

MR. ARGENIO: Are you aware?

MS. GALLAGHER: What they have built they have permits for so--

MR. ARGENIO: And it's in conformance with what's allowed in that zone?

MS. GALLAGHER: Yes.

MR. BOWMAN: If somebody wants to build a modular home, do they need two acres of land outside the park?

MS. GALLAGHER: It's 80,000 square feet.

MR. BOWMAN: But they can have a modular home in the park.

MS. GALLAGHER: From what I'm aware of they have manufactured homes in there.

MR. BOWMAN: There's a difference.

MR. ARGENIO: I'm just going to say the, I'm sure the definition is quite succinct and precise in the Town Code, I mean, I don't want to sit here, get into a debate about the Town Code tonight. You can certainly come and see Jennifer during the week, you can go over it with her and she can share but I'm confident before she issues a building permit for anything that goes in there it's thoroughly reviewed by her and/or her staff to make sure that it fits in that zone, that mobile home park.

MR. BOWMAN: Okay, all right.

MR. ARGENIO: Anybody else? Gentleman here on the aisle?

MR. MCADON: Vince McAdon, I live at 8 Beach Acres Drive. Now have they been issued a permit to start on the road already? I'm just curious.

MS. GALLAGHER: No.

MR. MCADON: That's been started, worked on over a year.

MR. ARGENIO: That's a different discussion that we're going to get into a little later, I have some very distinct thoughts on that.

MR. MCADON: Just curious why there's no gate going across, is it being used as dumping?

MR. ARGENIO: We're going to talk about that too, funny you should ask that. Okay, thank you. Anybody else? Mrs. Ferigno, please come up.

MRS. FERIGNO: Maria Ferigno, 31 Sesame Street. I just have one question and maybe it was addressed already but everyone is saying it's a beautiful park right now and which is all well and good. I just want to know are there deed restrictions and/or different things in keeping it in line with being a beautiful place and not becoming just a trashy trailer park type of thing like what's keeping it from--

MR. ARGENIO: Jen, can you explain our procedures to Mrs. Ferigno what we do with mobile home parks?

MS. GALLAGHER: What we do with them, we inspect them every year, that's why they come, like I don't know if you were here for the beginning of the meeting but they come every year to the planning board. One of other fire inspectors goes out, inspects the park, makes sure that it's kept up and we tell the chairman if it's not.

MR. ARGENIO: They have to get special permit renewed every year. If they come to renew that and I say have your guys been out there, what kind of shape is it in and I have four or five reports that say it's broken down, it's this, it's that, we won't renew the permit. And actually one park in the town nowhere near where this one is it was in an older section of the town we were within I think a few days of going to court with them shutting them down. But the real answer to your question at the end of the day I don't think anybody can zone in bad taste, so if somebody's really determined not to take care of their place it's going to look like you know what that is, the reality of it, Maria.

MRS. FERIGNO: Just wanted to make sure, not just them going in, getting everything done and then getting out

and just leaving it.

MR. ARGENIO: As a town it's something we try to keep an eye on, if somebody really doesn't want to fix it up and they want to keep a crummy place it's going to be a crummy place. That's the reality. Thank you.

MRS. FERIGNO: Thank you.

MR. ARGENIO: Who else?

MRS. MENKENS: Deborah Menkens, 1 Sean Court, Rock Tavern, New York. I'm within 500 feet as a matter of fact I'm 450 feet along the old railroad bed and I never received a legal notice the town sent out, I had to find out from a neighbor so I was never notified of this meeting.

MR. ARGENIO: We're glad you're here.

MRS. MENKENS: I know you guys mentioned the SEQRA but I'd really like to talk about the road that's being built.

MR. ARGENIO: Sure. Do you have a question about it?

MRS. MENKENS: I have quite a bit of questions. There was never a DEC permit to dump on that property.

MR. ARGENIO: That's a different discussion, we're going to get into that when the public hearing is done, I have some commentary on that.

MRS. MENKENS: Well, my property is right next to that.

MR. ARGENIO: Are they dumping on your property?

MRS. MENKENS: He's destroyed my property.

MR. ARGENIO: Well, that's an issue.

MRS. MENKENS: That's a big issue because they have raised the level of the dirt, my storm water no longer runs off my property.

MR. ARGENIO: What's your address?

MRS. MENKENS: 1 Sean Court, Rock Tavern.

MR. VAN LEEUWEN: Ma'am, I own property right alongside

of you.

MR. ARGENIO: Are you Lawrence E. Menkens and Menkens Deborah A., 1 Sean Court, Rock Tavern, New York 12557?

MRS. MENKENS: Yes, but there's no more Lawrence.

MR. ARGENIO: It was in fact mailed out but you're here and that's the important thing.

MRS. MENKENS: These pictures were taken in 2006.

MR. ARGENIO: Okay.

MRS. MENKENS: That's when they started dumping their material. These are photographs of Orange County, New York flood plains, the red line that you're looking at is the railroad bed. He has dumped on the railroad beds and dumped on wetlands. I took a walk this week, there's blacktop everywhere, there are stumps everywhere, there's polluted water everywhere, the water is backed up, I now have two inches of water.

MR. ARGENIO: Do you have any test reports on the polluted water?

MRS. MENKENS: I have been in contact with DEC, I have been in contact with the state attorney's office, garbage, more garbage and more garbage.

MR. ARGENIO: What about the test reports?

MRS. MENKENS: I haven't gotten them because I just found out about this meeting.

MR. ARGENIO: You'll give them to Jennifer when you get them?

MRS. MENKENS: I sure will. This is my site plan of my home.

MR. ARGENIO: You should -- I'll let you finish.

MRS. MENKENS: This is my survey of my property, I have a barn here, there is now an existing--

MR. ARGENIO: Where is your home?

MRS. MENKENS: My house is here, this is the railroad bed here, this was dry at one point, it's now a pond,

this is existing wetlands with a pond that I built here, now this is also wetlands, the water is now congregating to the point where I'm going to lose the barn, here's some photographs of my property with the water damage.

MR. ARGENIO: Can we just slow down, that's enough photographs, I'm not, we're not going to solve this with photographs. I get the message, I'm sure these guys get the message.

MRS. MENKENS: He never got a permit, I called in 2006 he was fined for filling, he's continued to fill, this is my french drains that have failed in front of my house, this is two inches of water I'm constantly fighting every day, and I'm not the only one in the neighborhood who has flooding. He also does not have a permit or permission from AT&T to fill in over their easement and this white truck has worked sunrise to sunset.

MR. ARGENIO: Okay, I don't mean to cut you off but I get the message, I do in fact as does everybody else up here get the message. Go ahead.

MRS. MENKENS: Do you want to, there's no DEC permits, there's no New York State permits, there's no, this is asphalt, there's stumps, there's no Orange County permits, there's no New York State AG permits cause we're an AG district, there's no permission from AT&T, I guess the Environmental Impact Statement long form doesn't count, there's no neighborhood impact report, there's no Orange County Soil and Water Conservation District report, there's no reports about water from the DEC, there should be a saturation and the surrounding homes should be tested for water saturation, there's no engineering reports. The quality of my life has deteriorated because of the damage that's been done from this railroad bed being built without permission. And it has continued, it's disgusting, it's dirty, it's noisy. It has been going on since 2006.

MR. ARGENIO: Let me ask you this question.

MR. VAN LEEUWEN: You're right.

MR. ARGENIO: I'm sure she is. Have you ever called the building inspector about this?

MRS. MENKENS: 2006 I made a complaint, they were heavily fined for it.

MR. ARGENIO: Really?

MRS. MENKENS: Yes.

MR. ARGENIO: What else do you have? I've got the message on all that.

MRS. MENKENS: I'm an art teacher so I'm very visual, 1970 toothbrush, we're going to use a 1970 toothbrush for a 2011.

MR. ARGENIO: Thank you for the analogy.

MRS. MENKENS: Would you like my toothbrushes?

MR. ARGENIO: No, I get the message, that was very clever.

MRS. MENKENS: I contacted the New York State Attorney Generals' office and I filed violations, I contacted DEC and I filed violations, if I'm pushed into a corner I'll file civil suit.

MR. ARGENIO: You have every right to do that.

MRS. MENKENS: Because this has been ongoing, it's been a battle and since 2006 it's been a losing battle for me so pretty much I had given up, that's pretty much all I have to say.

MR. ARGENIO: Thank you. Anybody else? Come on up, ma'am.

MS. ALPHONSE: Margaret Alphonse, 429 Station Road. We just bought our house a year ago, we're directly in front of Brittany Terrace and I have the same complaints.

MR. ARGENIO: Are you the house?

MS. ALPHONSE: Yellow house with the red shutters.

MR. ARGENIO: With the pool?

MS. ALPHONSE: I have the same complaints and concerns as what have already been mentioned but I have a question. One of our concerns before we bought the

property was having a trailer park in back of us but when we rode through we were happy with it and we were also content with knowing that it was 55 and over. Is that going to stay that way?

MR. ARGENIO: I don't know the answer. Do you know the answer to that?

MR. TORRO: Yes.

MR. ARGENIO: The answer is yes?

MR. TORRO: Yes.

MS. ALPHONSE: She said it's not, okay.

MR. ARGENIO: I don't know what she knows but I asked, I don't know that it's a Town Code. Is it a Town Code. Jen?

MS. GALLAGHER: No, it's not.

MR. ARGENIO: Something they imposed on their residents just like my answer to Mrs. Ferigno before there's certain things that certain owners do and Mrs. Ferigno was a hundred percent right, people can do things a certain way for many, many years because they impose that standard upon themselves. Suddenly they sell their property maybe the next guy doesn't do it quite the same way, certainly possible.

MS. ALPHONSE: Thank you.

MR. ARGENIO: Anybody else? Yes, ma'am.

MS. DEDONNO: My name is Rose DeDonno and I live at 2 Sean Court right next to Deborah Menkens and ever since this started last year I continuously get water in my basement. I have been here for four years, the two years that I have been here before that I never ever, ever had a water problem. Ever since this started last year in the summer I have water. I could show you this pipe, this is what the water running out from my sump pump that was taken today on a sunny day.

MR. ARGENIO: Hasn't rained in a few days.

MS. ALPHONSE: My sump pump goes off every 30 minutes seven days a week 24 hours a day.

MR. ARGENIO: You feel it's because of the re-shaping that's been done of the land around you?

MS. ALPHONSE: Yes, I do.

MR. ARGENIO: Do you have her address?

MS. ALPHONSE: 2 Sean Court. And of course I have to deal with all the mold from the flooding of the basement because I have constant moisture because the sump pump is going. I don't know if you want to--

MR. ARGENIO: No, actually, you know what, if you want to give them to Jennifer, Mrs. Menkens, if you want to give those photos that you have to Nicole.

MRS. MENKENS: You've got them all.

MR. ARGENIO: Okay.

MS. GALLAGHER: Mr. Chairman, we have a complaint form in our office which she's welcome to come in, sign and we have someone from Mark's office go out and see if this is caused by what Brittany Terrace has done.

MR. ARGENIO: I'm going to address that though in one fell swoop when that's done. Yes, sir?

MR. ONOFER: Paul Onofer, I live on Lisa Lane off Toleman, I back up to Phase three I suppose from this plan. They came in and leveled the land last year I guess before they took the trees down they came in and there was a drainage ditch, it was cut through the rock wall, the water drained, they came in and filled it in, didn't say anything just, did it. And they came in and cleared the land of trees, it's a swamp land.

MR. ARGENIO: You're flooded?

MR. ONOFER: Right.

MR. ARGENIO: I didn't mean to minimize it, I certainly don't mean to minimize it but this is the third person that's come in with this.

MR. ONOFER: It's a problem, yes, and then I would ask if this was approved in 1968 or whenever it was, were there as many people living in the community as many homes as there are now?

MR. ARGENIO: Probably not.

MR. ONOFER: Then why isn't it considered a, will my well still work when he drills his?

MR. ARGENIO: He's not drilling a well, he has capacity now but I don't want to get into the legal machinations of it, I don't know if you were here when I read the letter.

MR. ONOFER: I was.

MR. ARGENIO: I'm not an attorney, I can only go by counsel and what they give the board.

MR. ONOFER: I would ask about the traffic patterns coming out of that street which should of never been started that he's cut in there coming out on Toleman Road, there's a lot of traffic trying to make the turn on 208, it's dangerous coming down towards Washingtonville, you have a one lane trestle and you're going to add 200 cars. Are you going to wait until somebody dies there? It's a mistake.

MR. ARGENIO: Thank you. Anybody else? In the back, ma'am you can go next, the blond, you can go next.

MR. CAROLS: Hi, my name is Jeff Carols, I live at 4 Sean Court. My property is right behind Rosie's and diagonally from Deb's. In the back we have a pretty considerable wet spot that's pretty, it can get as deep as this, it's stagnant, not moving. This winter in January I took water below zero temperatures in my basement, I spent \$12,000 to rectify the problem, keep my basement dry. Obviously, I'm concerned with any water buildup and so on and so forth and obviously the money I spent to keep my basement dry because I was getting up at 4:00 o'clock in the morning to Shop Vac six or seven hours.

MR. ARGENIO: I had a house like that many, many years ago, it's an awful thing a wet house.

MRS. BEAL: Robin Beal, right now I live at 360 Toleman Road, our property borders the road, the illegal road and then the first phase of the 10 units, because our property goes back the first thing I'd like to ask if this gets approved we'd like a buffer for the first phase of the 10 units against our property line if there's a possible--

MR. ARGENIO: Can you point to your property?

MRS. BEAL: It actually is right here.

MR. ARGENIO: Got it, okay.

MRS. BEAL: We go up into Toleman Road.

MR. ARGENIO: How many acres do you have?

MRS. BEAL: Twenty-six. So that's the first question, I'd like to make sure that that gets in the minutes. The second is that the road again I know that you've been talking about dumping I hope that you address that.

MR. ARGENIO: We have not addressed but we have been talking about it.

MRS. BEAL: The back part of our property is now flooded, you've heard that 100 times before, we used to not have flooding, it was dry. And the third is I just have a question with regards to environmental and statute of limitations and I know we don't want to get into the legal aspects of this but are there a statute of limitations when an approval happens or is that in perpetuity? Just out of curiosity.

MR. CORDISCO: The approval, you know, it happened and it has been relied upon since they built it, you know, they had 77 units or 75 units there, they have maintained it, they have never abandoned it and there's a lengthy body of case law in New York State that says that when you start an approval that's built out over time by virtue of starting it you vest your rights in the remaining action of the approval.

MR. ARGENIO: As long as you continue to work on it.

MR. CORDISCO: Right, right, if this was a different scenario, a wholly different scenario where the approval happened in 1968, they had never built it and then came in today saying that they should be allowed to use 275 units out there it would not be exempt from SEQRA, it would not, the approval would have lapsed, we would not, this is a very unique situation that we're in, this is not like any other application that's ever been before this board.

MRS. BEAL: Okay, the third and last question on Phase three there's a bioretention pond and I have a question about bioretention ponds and its affect on table water. Does it have an affect, where does it go, is there a possibility for flooding and what is it in terms of our, you know, our potential? We all share a water table so what does that mean? Because my understanding of the bioretention ponds it's an offshoot and there are potential problems.

MR. ARGENIO: Mark, can you speak to that?

MR. EDSALL: I'm not wholly familiar with their design cause John reviewed the SWPPP.

MR. TORRO: Bioretention facility was carved out in the existing soil, in this particular case, it's going to have four feet of peat with a foot of gravel underneath that will have a collection system. So initially the first flush drainage comes through that floods that but as it's collected in the base then it goes back into one of the facilities.

MR. ARGENIO: Is that bioretention for storm water?

MR. TORRO: Yes.

MR. ARGENIO: Not sewage?

MR. TORRO: Oh, I'm sorry, storm water.

MR. ARGENIO: But it makes you think it is.

MR. TORRO: Strictly storm water.

MRS. BEAL: If there's no drainage you end up with stagnant water which is one of the biggest problems we're having.

MR. TORRO: That's why there's a collection system underneath.

MR. ARGENIO: Thank you.

MR. KINKEL: My name is Peter Kinkel, I'm also on Sean Court number three.

MR. ARGENIO: Go ahead, Mr. Kinkel.

MR. KINKEL: Just a reiteration of what everybody else

said, I bought my house, I have five acres adjacent to the new road that he's putting up and since I've been there the road has been filling in. And when I first moved into the house, my kids and I used to be able to hike in the woods and everything no matter what the weather and it wasn't too bad. Now even if we have a dry spell I can't even.

MR. ARGENIO: Now the filling has caused you to be flooded?

MR. KINKEL: Yes, and the sump pump was installed right before I bought the house because he had a lot of problems and a couple months after I moved in the sump pump was working but the flow was so heavy that sump pump I had to get a super heavy duty one and it's still going pretty constantly. So something's different in the last three years, I don't know why, I have no proof of it but I really can't have it that way.

MR. ARGENIO: We thank you very much. The issue of the flooding and the changing of the grade has really been sent home, I would, I understand and we're going to address that. Yes, sir?

MR. BEAL: My name is Artye Beal, I'm the other half of the farm on Toleman Road. I have already signed in, I know that they're doing in a three phase now that they're going for a Phase one approval or what they're working on now from what your were talking about they may be trying to change two and three to address it at a later date. Would that still have an affect to being part of the environmental looking at it?

MR. ARGENIO: They're here for approval of the entire package, Phase one, two and three but the only section they can build right now is Phase one.

MR. BEAL: My next question, I'm not going to go into the water and stuff like that.

MR. ARGENIO: Do you have the same issues?

MR. BEAL: I'm the farm that borders them and we have the water that's backing up now that they have been filling everything in besides the fact that he hasn't done property markings and they're taking trees down. My other question is the generator, I don't know, they don't have one yet, they're going to get one so the night we have a rainstorm and power outage where does

all there waste go?

MR. TORRO: Where it has gone previously without the power was the sand filter, we're using both at this time.

MR. ARGENIO: Cause the sand filter doesn't require power because it runs off gravity.

MR. BEAL: What's the capacity of a sand filter, do they have capacity?

MR. TORRO: It was 10,000 gallons a day when it was originally designed.

MR. BEAL: What's the flow now? What is the development you have now?

MR. TORRO: Around 8,000.

MR. BEAL: So you have a 2,000 gallon.

MR. ARGENIO: Cushion, which is not a lot.

MR. BEAL: Then they're going to put the generator in and they're going to go through the generator system that requires power to operate it. What happens when we have a blackout and the generator goes out?

MR. ARGENIO: Generator requires fuel, not power.

MR. BEAL: What I'm saying, but the waste system itself requires power to operate, what happens if the generator's broken, what happens if the generator goes out, where does the waste go from that?

MR. ARGENIO: Interesting question but I don't know how far we can go.

MR. BEAL: In New York State they pump into the Hudson River. What are you going to do, pump it into everybody's water supply?

MR. ARGENIO: It's a little bit of a stretch.

MR. BEAL: I work for the police department and generators in the buildings don't work half the time and that's the police department. This is going to be a--

MR. TORRO: At this point, there's a 5,000 gallon holding septic tank so we have that if the generator, if we run into that situation first the power goes out then the second thing the generator goes out they're well aware of that, they'll have to bring in trucks and pump out the holding tank that would be the third fault switch.

MR. ARGENIO: Anything else?

MR. BEAL: Yeah, just on the pumping it out so your capacity it's 8,000 gallons a day and the tank holds 5,000 and that's without the Phase one being put in. Once the Phase one gets put in the capacity will only be 10,000 so you'll have six or 12 hours to start pumping it out?

MR. ARGENIO: Get another generator or do something.

MR. BEAL: I don't see that happening but that's it. Thank you.

MR. ARGENIO: Anybody else? I see you, Neil, I just want to make sure everybody else has spoken.

MR. SCHLESINGER: I just want to clarify something that I think is obvious and everybody is overlooking with the generator thing.

MR. ARGENIO: Stand up, please.

MR. SCHLESINGER: You have to tie, there's no generator, what you're asking them to do is to have a backup generator which we all would like to have a backup generator should one run and propane or gas or something else. There's no generator, we're waiting for Central Hudson to tie in.

MR. ARGENIO: Let's be clear about this, I want to be clear because obviously something is unclear. I want to be clear for Mr. Torro too, relative to the generator what I think we're talking about is the primary power for the sewer plant would be from the telephone pole from Central Hudson, what exists here is a backup generator to make power that would likely run off propane because it's propane or diesel, typically propane if they're that size, that's what we're talking about?

MR. TORRO: Correct.

MR. ARGENIO: Anybody else? Yes?

MR. BARBERO: My name is Matt Barbero, I live at 4 Willows Court right between Babcock and Schlesinger. I have a vested interest in this for two reasons, number one, I live across the street obviously and second is my mother lives there and so does my uncle and so do his in-laws. So I have three relatives living there across the street. Couple things you have a 55 and older community, the big power outage was last winter, right, we had five days out I think it was, I went over there, shoveled my mother out, shoveled my uncle out, shoveled his in-laws out and as I walked around we found three or four other homes that just were filled with senior citizens who had no way of getting out their doors much less get in and out. So you have a facility with how many units right now?

MR. ARGENIO: Seventy-five.

MR. BARBERO: Seventy-five units, proposed to put in 10 more on top of that another 86 on top of that somewhere around 100 more units, eventually what does this facility do for the people living there, you have people living there who--

MR. ARGENIO: Mr. Barbero, with all due respect to you and in all honesty that type of thing is really not a planning board and land use issue. Now that doesn't mean that your thought is insignificant or improper or silly in any fashion but it's just not something that we deal with.

MR. BARBERO: When my mother had a heart attack two months ago and they had to bring an ambulance in they had trouble finding the place, okay, so you want to double, triple the size of that so that when an ambulance is running around trying to find someone who's having a heart attack, good thing I'm an EMT, I came in first, he was just down I started taking care of her, ambulance came in five minutes later whatever it was. Now you're saying that there's no responsibility here by the board, no responsibility by the owners in the units?

MR. ARGENIO: I'm just saying that snow in front of a senior citizen's door in the mobile home community is not an issue. Now the numbering of the units and the labeling of the road network inside the facility is

something that is typically handled by the building department and they'll be cited for a violation if the numbers are not clearly, let me finish please, clearly displayed on the outside of the unit. Is that correct?

MS. GALLAGHER: Correct.

MR. BARBERO: The numbers were on the outside of the units, as far as finding the place, I don't know whatever it was, maybe it wasn't GPS, whatever it might be, I don't know. But the sheer numbers alone if you're taking this facility and one and a half times the size of it again adding onto it, do you really think there's no safety issue involved at this point with the plan that we had 40 years ago? Plus to say 40 years ago we had this plan, the ambulances are bigger, okay, that's just one, okay.

MR. ARGENIO: With all due respect, I don't want to debate this please, if you have a comment on the plan or something like these folks, this lady up here has the soil issue, these are things that the planning board can help with and is willing to help with. But I don't want to have a debate.

MR. BARBERO: It's not a debate. I'm telling you what a facility like this has to offer and the population that presently lives there, it just doesn't work, you can't take safety vehicles, bring them in and out and that's, it's just a fact, whether or not the board addresses that or whether or not it's a zoning issue, I don't think they're set up to have this many elderly people living in a facility like that with the special care that elderly people need. You're saying as far as opening doors, was there anyone there to shovel them out, okay, I mean, I'm one person, I helped out my relatives, I went out, helped out two or three other people and the day was over.

MR. ARGENIO: Thank you for that. I'd like to give everybody a chance. I know your--

MR. BARBERO: I'm addressing the people that are living there, not the people around it, yes, they are our issues but the people living there, this is an unsafe situation.

MR. ARGENIO: Thank you. Kenny Babcock? Guys, we have to get through this so please let's be brief and finish this thing up, a lot of good feedback here and

everybody is tired. Go ahead.

MR. K. BABCOCK: Ken Babcock, 17 Babcock Lane, I'm right across the street. The sewer water, what they're cleaning or whatever I can tell you where it goes right across our property and that's our concern. I mean, what kind of guarantee do they have that that's clean water going through our property? And, you know, is the smell going to be, I know we're saying the same thing again that we have already said but if there's no generator are we going to have polluted water?

MR. ARGENIO: Poop running through your property.

MR. K. BABCOCK: That's my concern.

MR. ARGENIO: Okay, thank you, Kenny. Yes, ma'am?

MS. BONITA: Lisa Bonita, 1 Sean Court, Rock Tavern, New York. My question is when was the last build on this trailer park? When was the last trailer added to this park?

MR. ARGENIO: I don't know if we can answer that.

MS. BONITA: My point that I'm trying to make is that say it was 1978, 1980 we're now in 2010 30 years stretch of time, many changes have happened in the communities in that area in Rock Tavern on Toleman on all the various roads and I think that there's a moral responsibility of this board to look at the affects of the addition of these trailers to the environment, to the water tables, to the homeowners who live there. These are people who have invested and paid taxes.

MR. ARGENIO: Ma'am, I agree with all of that. Do you have a comment?

MS. BONITA: I want it duly noted there's a moral obligation and I want it on record.

MR. ARGENIO: Thank you, ma'am. Hold on one second. Anybody else? Please be brief.

MR. BELLINGER: I just wanted to say in 1966 there were 11 homes on Station Road. Thank you.

MR. ARGENIO: Thank you. Okay, I want to hit a couple things here and I don't want to belabor this because I don't think we're going very far tonight. You guys are

you or you one second, one second, jump in while I'm speaking, if you want to interrupt me on something. This fill thing is an issue and I didn't know how big of an issue it was until tonight, until the folks started speaking about it. Mrs. Kean, I apologize, I didn't see you raise your hand, you'll be the last person to speak, please come forward and speak but Mrs. Kean, let's, I'd like to try to keep moving, please come forward. I apologize, ma'am, I didn't see you raise your hand.

MS. KEAN: Yes, thank you and I will be very brief, Mr. Argenio. My name is April Kean, for the record, one of the owners of Brittany Terrace. First thing Mr. Chairman for the record the egress out onto Toleman Road we do in fact have a SPEDES permit allowing us to fill up to grade, SPEDES permit has been ongoing for I'd say probably about 15 years now, okay, and the fill is actually being brought in by Central Hudson who's a cooperative, through a cooperative effort from different sites that they're working with. It's, I'm not sure how they define it but it's like a concrete type of mixture from different sites that they work with that they come and put it in like where they to utilize it, the machines that are operating down there are Central Hudson equipment where they crush it.

MR. ARGENIO: We got it, go ahead.

MS. KEAN: We're absolutely authorized and everything is deeded and permitted and so everything is totally above board. I do absolutely one hundred percent empathize with everything concerning the smell for the sewer plants. To clarify a couple situations last time that we were here we did say that the sewer plant was up and running.

MR. ARGENIO: You know what, I'm going to interrupt you, Mrs. Kean, I'm going to tell you why. I'm going to interrupt you because you're the applicant. The public hearing, the purpose of the public hearing is for this board to gather information from the public so we can make the most intelligent decision and recommendation that we can on this plan. I think we have done that, we're well down that road with the public. There's been a lot of good commentary about a lot of important things here tonight. And we're going to talk about those things, we're not going to cover it all night, it's going to, let me just please finish, it's going to roll over to another night but you as the

applicant I don't, you don't need to come here to defend yourself in any way, shape or form cause you as the applicant you can stand up here at the easel at any point in time, you've paid your town fees, you've paid your application fees, you can stand here, speak to the board, tell us whatever you'd like to tell us. I don't know that, I think it's very appropriate for the public to have brought forth some what I think are probably pretty good issues and then have you in kind of a debating kind of format respond to it, I don't want to get into that because it's not the purpose of a public hearing. Am I correct?

MR. CORDISCO: The purpose of the public hearing is to raise issues to the board.

MR. ARGENIO: I think we have done that at this point. So if you want to hit a couple of quick highlights then I need to hear from my friends, the board members up here, this needs to continue.

MS. KEAN: If I can just have five minutes, five minutes please?

MR. ARGENIO: You can't have five minutes because we're not--

MS. KEAN: Two minutes, okay.

MR. ARGENIO: But remember that said.

MS. KEAN: May I address the public?

MR. ARGENIO: No, you can't.

MS. KEAN: I just wanted to show them this is the before picture of our sand filter and what you see on top is the water and that's what was stinking, this is the after, the dry, okay. This is, that will soon be going away, the dry, okay. This is the sewer plant, okay, this is the same though but a much smaller version that they have in Iraq, okay.

MR. ARGENIO: You can give them to Nicole and she can keep them in her office and anybody who wants to see them.

MS. KEAN: This is the same thing they have in Iraq, we did have a generator and we do have a propane system in the community and this is--

MR. ARGENIO: Again, you're reducing it to a debate, we're not going to go there, you can come up here at any time and you can speak along with Mr. Torro. What's your last point?

MS. KEAN: We're hoping during Phase two buildout to come before the board to amend the plan to put in a recreation center for our community, thus we realize that traffic flow would be a problem and since we're over 55 residential community to allow our folks to have more activities on site thus alleviating some of the traffic for them to, you know, go out into the community. So we realize and we would also have two entrances, one on station and one on Toleman, have a semi-gated type of community though not up and down gates but have a person here on Station, person here so we would eliminate cutting through type of thing. We do know that traffic is a problem. I also am a neighbor, I live on Beach Acres, it's even right now even before expanding it's the Indy Speedway up there. So we're going to do whatever possible to maintain our standard. My parents have been in the industry for 40 years, you know, we all need to live together and, you know, live there nicely and do whatever we need to do to move forward together.

MR. ARGENIO: Thank you, Mrs. Kean. I'm cutting you off a little bit but it's only because you as the applicant next time you're here you can always be heard.

MS. KEAN: I'll put them up so everyone can see.

MR. ARGENIO: Give them to Nicole. Anybody who wants to see them can see them and Mrs. Kean label them.

MS. KEAN: Yes, I will.

MR. ARGENIO: I want to hit on the fill thing just a little bit. This is a problem, I need you guys to listen to me and Jennifer I'm not going to read the letter as the hour is late but I have a letter from AT&T dated a couple days ago and the sum of the letter is that they think that the applicant is dumping fill on their right-of-way. They have a right-of-way somewhere out there?

MR. VAN LEEUWEN: Yes, they do.

MR. ARGENIO: And they feel that there's a whole bunch of fill on top of their cable and they need to stop. Secondly--

MR. TORRO: Can we get a copy of the letter?

MR. ARGENIO: Absolutely, you can have my copy, how' that, here take this. Second thing is Jennifer I want to talk about the fill thing, this is a problem, is it not, Mark, what about the permitting requirements for dumping of fill? She may have permits, she may not, we're not going to solve that this evening but here's what my goal is out in front on Station Road there's all kinds of digging going on and stump removal and stuff, is that supposed to be happening when they're in front of the board?

MR. EDSALL: Answer to all the questions, I don't know what the permit they have is or if it's valid. As far as activity once you've made an application to the planning board, they should not be performing that work until this planning board approves it.

MR. ARGENIO: I think that's important.

MR. EDSALL: It's important and it's in the law.

MR. ARGENIO: Jen, can you chase that down?

MS. GALLAGHER: Yes.

MR. EDSALL: As far as the activities with fill and such, if those activities are not included in the SWPPP then they need to be treated separately.

MR. ARGENIO: The photos that were here I didn't look at all of them, obviously you guys please jump in, Henry will show you how to do that in case nobody knows how to do that, the burying of blacktop and concrete is not illegal in New York State but what is illegal is burying rusted culvert pipes, I saw rusted culvert pipes and chairs, this is a remnant of the developer who shall remain nameless out in the west end seven or eight years ago, you know who I'm talking about, Mark, what are we going to do with this?

MR. EDSALL: The fill operation is another concern beyond just the grading, we'll need to do a review and I very much doubt that the SWPPP covered this and it may be a violation of the town storm water proceeding

without the proper form, so there's a lot of work Jennifer and I need to follow up on.

MR. ARGENIO: What do you need to do, do you need to file a report?

MS. GALLAGHER: We can use this meeting as--

MR. ARGENIO: This is sufficient notice. You have their names.

MRS. PELESHUCK: I'll try.

MR. EDSALL: I think it's important that anybody who made a comment about concerns about the grading or the drainage issues caused by the grading make sure that you did sign in with an address because it makes it easier for us to follow up.

MR. ARGENIO: If they don't, we have it here, Mark, on the notice of public hearing.

MR. EDSALL: We'll crosscheck the comments with Fran.

MR. ARGENIO: If any of you guys go out and take a look, I'll go out and take a look too, I know if I lived there and had somebody dumping fill I don't know what's going on but if there's a 20 foot berm pushing the water closer to my house like Mrs. Menkens I would be concerned about it.

MR. VAN LEEUWEN: This is all my land in here, not this piece, up here to here.

MR. ARGENIO: So we need to sort through some things, I don't know how far we're going to go, I don't know how far we can go tonight, we need to sort through the fill and dumping issue, the illegal or not on their property or not. I have no idea, no idea but I know we need to sort through it, I believe Jennifer, Miss Building Inspector Extraordinaire that whatever digging and stump removal and construction that's going on there shouldn't be going on there if there's an application here in front of the planning board. And this is not unique, for the benefit of the audience, this is not unique, this application, the code in the Town of New Windsor states that if you're applying to the planning board on site X for whatever you're applying for you can't be over there digging and doing stuff on the site, you just can't do it, that's not the way it

works. So I think you should go out there and take a look.

MS. GALLAGHER: Well--

MR. ARGENIO: Please, the public portion of the meeting is closed. What else did I miss here?

MR. VAN LEEUWEN: The biggest thing we've got is the septic system, we can't approve this, the septic system is not in proper order yet.

MR. GALLAGHER: We need to see it running.

MR. VAN LEEUWEN: It's all got to be done.

MR. CORDISCO: Mr. Chairman, I think based on the number of outstanding significant issues that the board may want to carry this public hearing over so that you can have a report back from the professionals and we can investigate further before taking any further action on this application.

MR. ARGENIO: Yeah, Dominic, I don't see us taking any action tonight with this many outstanding things, there's no way, this is far from buttoned up to have that happen. I'll leave that open, would be a non-action on closing it, yes, just don't close it?

MR. CORDISCO: Yes, I don't know that we can set another date, I think, you know, things need to happen before.

MR. ARGENIO: This needs to get buttoned up. I wrote some things down here while the folks were speaking, I don't know how much we can do with the pedestrian access thing that the gentleman was mentioning, the fill thing is very troubling for me, very troubling, prior to tonight's meeting we made it clear to the applicant that the sewer plant needs to get up and running and operational the generator's a new thing tonight. What else you guys got?

MR. BROWN: Is there work going on right now?

MR. ARGENIO: Yes.

MR. BROWN: On the permit?

MR. ARGENIO: There's work going on on the site, I can

tell you that.

MRS. MENKENS: Six days a week, sunrise to sunset.

MR. ARGENIO: That's a problem, I think Jennifer that's not us, we don't do that. Jennifer's aware of it, she'll address it.

MS. KEAN: Jennifer, it's the same work that we addressed when you came out to the site when you folks came out to the site we already addressed that when they came out to the site.

MR. ARGENIO: Mrs. Kean, please come up here.

MS. KEAN: Mr. Argenio, the work that you're referring to Jennifer's building department folks already came out to the site and it's beyond the scope of anything that's in the plan.

MR. ARGENIO: Is that a fact?

MS. GALLAGHER: It's in the front but from what you're saying you're saying that no work should be done at all on the whole plan.

MS. KEAN: It's out of the compass of anything that's in the territory of the plan that's before you.

MR. ARGENIO: My feeling, Jennifer, is that the existing facility exists with units on it, they need to do work there to maintain and do whatever they're doing with the existing facility, let me finish please, it's the new area that's outlined that we're looking at and specifically any areas that are being filled needs to stop now till Mark has the, until Mark gets a chance.

MS. GALLAGHER: They're aware of that, they were planting new trees, dragging the old ones them back to make it look like they were creating a roadway which they were not and Lou went out there, spoke with Mrs. Kean but we'll go out.

MR. ARGENIO: Just check on the fill, let's see what's being deposited or not deposited, et cetera.

MS. KEAN: The fill you're referring to the roadway by Toleman?

MR. ARGENIO: I saw some photos with some pipes, if

that type of stuff is being dumped there that's a problem.

MS. KEAN: I can assure you no.

MR. ARGENIO: And the other thing that's critically important as Mark said relative to the SWPPP is if you're changing, if you're changing the flow of water out there because of dumping and grading activities how can the SWPPP possibly work, Larry, you're chasing a moving target, you can't interrupt me, please don't interrupt, you're chasing a moving target, Larry, you're chasing a moving target. How the heck do you know what you're doing because I don't know what you had when you started?

MS. KEAN: I can cease and desist any fill coming in.

MR. ARGENIO: Yeah, that needs to happen right away.

MR. VAN LEEUWEN: People are complaining they've got water, it's not fair to them.

MS. KEAN: With all due respect, I had no idea that this was happening and I wish the folks had come a long time ago.

MR. ARGENIO: Folks, please, please, everybody is being respectful to everybody else and it's important, it's important, you wouldn't want to be laughed at, you wouldn't me to stand up here and laugh at you. It's very unfair, so let's be respectful. Mark or Dominic, what else are we going to talk about here?

MR. CORDISCO: One other procedural hurdle which we should address right now is that as it was pointed out the site is within an agricultural district.

MR. ARGENIO: Yeah, I forgot about that.

MR. CORDISCO: And that--

MR. ARGENIO: We have the minutes, ma'am, they'll be reviewed, go ahead.

MR. CORDISCO: And the point of that is that the application should be referred to the Orange County Planning Department for their review. I don't believe that that was done yet in this case.

MR. ARGENIO: It was done, we did that.

MR. CORDISCO: It was sent? Okay, did we get a response from the County Planning department?

MRS. PELESHUCK: No, we sent it on October 21st.

MR. CORDISCO: Good then.

MR. ARGENIO: What else?

MR. CORDISCO: I wasn't aware that it was sent, it was good that it was sent, thank you.

MR. ARGENIO: Let me just say this. Last item on this application and I'm going to be as brief as I can possibly be, Neil Schlesinger made several good points but one of the points I want to highlight is that people have the right to do with their property as they will as long as they follow the law. The same as Kenny Babcock, Ivan, you, ma'am, Maria Ferigno or anybody else in this room, even Leo and his wife, believe it or not, as long as they do it in accordance with the law. That's why we have codes and things of that nature. That's why Neil said I don't want to put words in his mouth, that's why he said as long as they do it in accordance with the law, as long as it's appropriately reviewed I don't agree with it but I understand their right to do it. Everybody has a right to do with their property what they will as long as they follow the law. This planning board has the obligation to review with all due diligence and lawfulness the application of anybody who comes up here, anybody who has a piece of property they're going to subdivide or do whatever they do, if we don't do that properly we put the town in peril, we put the town in peril of a lawsuit and we have done a disservice. So it's our true intent, I've been on this board a long time, Henry's been here a long time, these folks have been here a little bit less, everybody's heart is in the right place here on this board, you don't have to agree with what we do but you need to understand that what we do we're trying to do the best job we can in accordance with the laws of the Town of New Windsor to protect both the town and the applicant. So this said unless you guys have anything else, there's a little bit of homework to do on this application, I want to go on to the next thing, Larry, anything else to add?

MR. TORRO: That's good for tonight.

MR. ARGENIO: We need to do a little homework, Mark, anything else?

MR. EDSALL: No.

MR. ARGENIO: Okay, guys, thank you for coming in. And folks, let me say that, I mean, in all sincerity thank you for being respectful because it's important, I've been in this meeting room at times when people in the audience were not respectful and it's a very bad, bad situation. And I appreciate it. Thank you very much. Okay, next?

REGULAR ITEMS:

ALIYA-ZAFAR PRODUCE (11-13)

MR. ARGENIO: Next is Aliya-Zafar Produce. This application proposes additions to the existing facility for more warehouse cooler expansion, retail area and office expansion. The application was previously discussed at the 14 September, 2001 planning board meetings. Sir, what's your name?

MR. GREEN: Steve Green.

MR. ARGENIO: What do you have there, Mr. Green?

MR. GREEN: As you mentioned, we were here prior at an earlier submission.

MR. ARGENIO: Your owner made substantial changes, did he not?

MR. GREEN: We added on an additional 10,000 square foot building space, 18,580 square feet of building area, there was additional parking that we put in for tractor trailers on the, looking at the map on the left side of the property and approximately 24 spots for local produce trucks which they just get cleaned, loaded and they're gone for the day. We have an additional handicapped parking spot and we have 34 stalls for everybody for just general parking.

MR. ARGENIO: Do you meet the code for parking?

MR. GREEN: Above and beyond. There was a review done by an engineer for the drainage and I believe a letter was sent in and was forwarded.

MR. ARGENIO: I'm going to save you the time but Mark's last page 1, 2, 3, 4, 5, 6, 7 bullet points and they start out with this, as previously requested, blah, blah, blah, blah, blah. Okay, so please get his comments, you need to do these things, sight utilities need to be indicated, the labeling of the road needs to be tuned up, you have to take care of that.

MR. GREEN: Which I didn't get a letter.

MR. ARGENIO: Can you give him a copy of that please?

MS. GALLAGHER: Steven.

MR. ARGENIO: Are you paving this whole lot? My eyes are killing me.

MR. GREEN: He's going to have to believe it or not it's actually paved now, it's bad, it's really bad so he's going to have to--

MR. ARGENIO: Are you proposing to pave this?

MR. GREEN: More than likely on the area of the new pavement yes.

MR. ARGENIO: Let me clean this up for you, I'll be very direct cause it's late, I'd very clearly on the plans notate where you're proposing new pavement and where you're proposing a gravel area and where you're proposing nothing, no treatment at all so we know. Entrance curbed doesn't look like it. What kind of shape is the culvert in crossing the driveway, is it in good shape?

MR. GREEN: I went out there, it's open ended but it's got heavy stone on it but it's draining properly. So I think maybe the engineer may have to go back and give you a full blown plan if that's going to be one of your requirements.

MR. ARGENIO: I didn't say that, I see a culvert crossing a driveway, I know how old the building is, might not be a bad idea to replace the culvert, it's probably metal.

MR. GREEN: We're removing the driveway so it's going to be new, the first entrance coming in is correct is fine, that one they had just replaced, I believe the other one is going to be new entrance.

MR. ARGENIO: Guys, help me, somebody help me. Does anybody object to this going to county, this plan is in a substantial level of fitness, do you agree?

MR. VAN LEEUWEN: I agree.

MR. BROWN: Yes.

MR. ARGENIO: Let's go to Orange County on this. Mark, is there anything we're missing? This looks fairly

straightforward.

MR. EDSALL: There's the proposed contours, a lot of little information, I think the key thing I'd like to hear back from the board is underneath comment number one it outlines the discussion that Jennifer and I had relative to the specific issue of the concept of cash and carry wholesale and the criteria by which Jennifer and I came to the conclusion why cash and carry wholesale is wholly separate and distinct from retail.

MR. ARGENIO: This is like what Hank Scheible used to have.

MR. EDSALL: Exactly.

MR. ARGENIO: What's the problem?

MR. EDSALL: I need the board's concurrence because I need to know there's not a zoning issue.

MR. VAN LEEUWEN: I have no problem.

MR. ARGENIO: You guys remember Hank Scheible's, right, no advertising, no big neon signs, no display area, you come in, you know what you want.

MR. EDSALL: There's no retail sales area, we set the criteria on how we reached our conclusion so that if it happens again we'll know what we decided, that's all.

MR. GREEN: Is there something in writing so I can hand it to the owner and say you cannot do this?

MR. EDSALL: Do you want to make sure we have a couple notes on here?

MR. ARGENIO: What are we talking about? We talked about no display area.

MR. EDSALL: There's no retail display area.

MR. ARGENIO: No conspicuous signage.

MR. EDSALL: I think the business sign is a business sign that's allowed just by code. The whole key is that there's no retail sales display area, it's basically a wholesale where you come in, pick up your order rather than having it delivered.

MR. ARGENIO: Mr. Green, you have not been to Hank Scheible's old Temple Hill Brands, you walk into a room, there was coolers around the room, you walked in, you knew what you wanted, you grabbed it, put it on the counter, paid Hank cash, he put the cash in his pocket and everything was good.

MR. EDSALL: In most cases the wholesale order had already been made.

MR. ARGENIO: You must be Eric Mason?

MR. MASON: May I say one thing?

MR. ARGENIO: You're with the applicant?

MR. MASON: Yes.

MR. GREEN: He's going to be the builder.

MR. MASON: This is mimicked after Scheible's place, the whole concept.

MR. EDSALL: So we're on target?

MR. MASON: Yes.

MR. CORDISCO: A note to that effect on the plan.

MR. ARGENIO: I think if you put in there use the brief comment that Mark made one or two sentences and let's call it a day, less is more in this situation, if there's a problem, Jennifer will contact you up there. There's not a lot of people. Eric, you look great, man, my goodness.

MR. VAN LEEUWEN: How much weight did you lose?

MR. MASON: A hundred and seventy pounds so far.

MR. GALLAGHER: West side of the property says self-contained diesel fuel tank, also says dumpster area access, is there a dumpster right next to a diesel tank?

MR. GREEN: They're moving it.

MR. GALLAGHER: What's getting moved?

MR. GREEN: Dumpster, we're going to move the dumpster

over to the back corner.

MR. EDSALL: Is the new location shown?

MR. GALLAGHER: Where is the dumpster going to be?

MR. GREEN: It's going to be a compactor.

MR. EDSALL: That needs to be on the plan too.

MR. GREEN: It is.

MR. GALLAGHER: Right by tractor trailer delivery.

MR. GREEN: He's got two garages in the back, entrance doors for loading, he's going to eliminate one door and just use it for cardboard box compaction.

MR. ARGENIO: If you intend to put it on the plan show it. If you don't intend to put it to the left, don't show it on the left.

MR. GREEN: That's where it's going.

MR. GALLAGHER: Is there any code against that for the diesel?

MR. ARGENIO: That's going to be the fire inspectors, they'll enforce that.

MR. EDSALL: Steve, give me a call on the dumpster next to the building because there are some requirements for separations and enclosures.

MR. GREEN: Sure.

MR. ARGENIO: What else can we do for you?

MR. GREEN: Let me go home.

MR. ARGENIO: You have direction.

MR. GREEN: Yes, I know how to go.

MR. ARGENIO: Thank you for coming in tonight.

## MEADOWBROOK ESTATES CLUSTER SUBDIVISION (01-42)

MR. ARGENIO: Meadowbrook Estates, I'll read for the minutes the applicant submitted an application to amend their final subdivision approval for a cluster type configuration. The submittal was previously reviewed at the 28 July 2010, 15 September, 2010, 9 February, 2011, 8 March, 2011 and 11 May, 2011 planning board meetings. Dominic, correct me if I'm mistaken here please, this application has since receiving their approval last time they have received the permission from the town board for a cluster development, is that right?

MR. CORDISCO: That's correct, this project actually was originally applied for in 2001 and was ultimately approved in 2009 for 90 homes as a conventional subdivision. It has since changed owners and given the market and the new owners would prefer to do a cluster subdivision which would preserve more open space on the site so that's actually what's been before the board over the past year and a half.

MR. ARGENIO: Plan has not changed, this is the same plan we've been looking at?

MR. CORDISCO: Correct, correct, that's the plan but the board has been reviewing this cluster plan and as a result the board had a previous public hearing in connection with the change for cluster and the board affirmed your negative declaration previously saying that there was going to be no additional environmental impacts associated with the change to a cluster project and the board also sent to the town board this project because in the Town of New Windsor you have to get town board approval in order to modify the bulk area requirements to cluster and preserve open space and that's exactly what they did. So now they're back before you, they also need a number of outside agency approvals in connection with this. I think they had actually obtained some of those outside agency approvals for the prior plan but because they're modifying the plan they have to either amend them or obtain new permits and I'm sure that's what we're here to hear about.

MR. PFAU: Yeah, and for any action we're asking for a six month extension of preliminary approval. We did

receive a preliminary approval from this board in May.

MR. ARGENIO: Is that what you're asking for tonight, six month extension of preliminary approval?

MR. PFAU: Yes.

MR. ARGENIO: Same plan, same everything?

MR. GALLAGHER: I'll make a motion.

MR. PFAU: We have a couple of hangups in the agencies.

MR. VAN LEEUWEN: I'll second it.

MR. GALLAGHER: Motion to extend six month approval.

ROLL CALL

MR. FERGUSON            AYE

MR. BROWN              AYE

MR. GALLAGHER         AYE

MR. VAN LEEUWEN       AYE

MR. ARGENIO            AYE

MR. ARGENIO: Joe, you have your six month approval.

## TEMPLE HILL APARTMENTS SITE PLAN (11-14)

MR. ARGENIO: Last on tonight's agenda Temple Hill Apartments site plan. Again Joe Pfau, Mr. Mandelbaum I see is here. I can tell the other members that there's been some discussions on Mr. Mandelbaum's property with him and myself and Supervisor Green and we talked about the through road and blah, blah, blah. I'll turn it over to Joe and Mr. Mandelbaum, let them tell you why we're here tonight.

MR. PFAU: We were here a few months ago with a layout plan, site plan to show this board and there were some comments and some additional information that the board wanted to see. We have since completed topographic survey, done wetlands delineations and we're wanting to come back in front of this board to show the layout modifications that we have made since our last meeting.

MR. ARGENIO: Can you point to them specifically, Joe, cause I don't have the old plan memorized?

MR. PFAU: The largest issue that the board had was you wanted us to show where the proposed road ending for Patriot Bluff is in relationship to our property and the actual piece of property that was going to be dedicated to the town so you could see how the roadway would connect for a through road.

MR. ARGENIO: So we have that.

MR. PFAU: That's been shown on here. The other really there's really two other main changes we originally had three buildings of work force housing and we're converting them to two buildings with the same number of units. And the final change is we had moved, we have a wetland area in the southern corner of the property where we originally thought of placing a building, we have now shifted that building more to the west, all same number of units, same number of parking, the town road through road has not changed, we have submitted this, we have also met with the fire department on this plan. They made minor comments which we have addressed so we'll be expecting a letter from them and that's pretty much the changes that we have made since the last time.

MR. ARGENIO: Has the count changed?

MR. PFAU: No, absolutely not.

MR. EDSALL: From 260 to 266 from the original plan.

MR. ARGENIO: What about the discussion that we had had about trying to get over to Continental Manor?

MR. MANDELBAUM: We did not talk to Continental Manor but if you want to set up a meeting we'd be happy to. If I was Continental Manor, I wouldn't want a through road going to my private complex but having said that, through discussion it's up to you guys. The thought also came about because I know a lot of complaints from Continental Manor is coming out of their complex so the thought was our entrance here, the thought was to put a traffic light so now once there's a red light here the people in Continental Manor can make a left and get out, right now they have a hard time getting out.

MR. ARGENIO: So what you're saying is Mark follow me on this is that the red light at your facility will create a surge in the traffic and help them to get out of their place?

MR. MANDELBAUM: Absolutely, and I think also it's such a heavy, most people are having a hard time getting out of anywhere and I think but I have no problem providing a traffic light if the board wishes.

MR. GALLAGHER: Your entrance, is it going up the hill that you're proposing or is it before you start to go up the hill?

MR. MANDELBAUM: It's right on the top.

MR. PFAU: Right before Purple Heart, right where the existing driveway for the house is right now it's right in that location which is the best location.

MR. MANDELBAUM: We looked at that location further down but this is the best you see from both directions.

MR. PFAU: The last meeting we were at the board discussed about having the town's traffic consultant take a look at this, you know, in conjunction.

MR. EDSALL: We have retained, we have reserved the town's normal consultant to review your normal submittal.

MR. ARGENIO: What's the process with the intersection with the state and the signal?

MR. EDSALL: Well, obviously they need to have an application, they need to have a design, they need to have a traffic study that would be reviewed both on behalf of the town.

MR. ARGENIO: Phil Greeley would be doing the reviewing portion.

MR. EDSALL: For you it will also go to the DOT, DOT will review it, obviously Phil will share with the DOT desires and input of the town as will I, if in fact the location meets warrants then Jonah indicates he supports and is willing to put in a signal then it's pretty straightforward, the DOT would approve it. If it doesn't meet warrants it becomes a matter of usual situation.

MR. ARGENIO: In my wildest fantasy I can't imagine it.

MR. EDSALL: Especially because this becomes an alternate road to avoid and alleviate some of the traffic on Five Corners so I can't imagine in my wildest dreams with all the roads that are being involved that are being benefited by state roads that the state wouldn't look favorably on those but that will create breaks in the through traffic flow as Jonah indicated to help existing left turns especially.

MR. ARGENIO: Where is Continental Manor up in here?

MR. EDSALL: Down at the bottom.

MR. ARGENIO: I don't know why they can't connect their parking lot road up through RPA unless it's wetlands.

MR. GALLAGHER: It's wetlands.

MR. PFAU: There's on this property my recollection there's a wetlands.

MR. GALLAGHER: That's Washington Green.

MR. MANDELBAUM: I'll be happy to sit with them.

MR. ARGENIO: I'm just trying to make sure we have an opportunity coming together here and I have been seeing

this for 15 years since I've been on this board, Henry's seen it more years than he cares to admit and this thing is where this link is going to happen and I want to make sure that it's done right.

MR. EDSALL: If I can make a suggestion to the applicant, I think the longest lead element you're going to run into on this application is clearly going to be DOT so you really should take the traffic aspect and take it out of sequence, do it first because you've got enough information just because of the configuration of the roads to do it.

MR. ARGENIO: If you're committed Mr. Mandelbaum to the project I don't know what your status is.

MR. MANDELBAUM: Of course I am.

MR. ARGENIO: I can assume it based on your history.

MR. MANDELBAUM: Absolutely.

MR. EDSALL: Land transfer took three years, a land transfer of state DOT unused parking lot property took three years with the supervisor pushing it.

MR. MANDELBAUM: I have to use my gun, Bazooka wasn't big enough.

MR. EDSALL: So get your big guns out and get started is what we're telling you.

MR. ARGENIO: Let's get focused, come on, it's late, it's late. Joe, what are you looking for?

MR. PFAU: We want to get the board's blessing on modifications because we're going to be doing things like the traffic and start our studies.

MR. ARGENIO: Do you need any variances for this plan as it stands?

MR. EDSALL: There's a memo in the Planning Board's file that I requested from the attorney for the town to give the members the essence. One of two things has to happen and the applicant has to decide which way and proceed at their own decision and risk, either they need to go to the zoning board for a variance or they need to hope that as part of the zoning amendments that are currently in process with the town board that more

flexibility will be added to the code. As the plan currently stands, it needs one of those two directions of relief.

MR. MANDELBAUM: Having said that, I will proceed in my own risk, I know there's no commitment for anything here and I will proceed, put on record I will proceed at my own risk.

MR. ARGENIO: Thank you for taking the suggestions of Mark putting the lot in front of this thing, I think it's very important. Do we have, what else do they have to do, do you have anymore?

MR. BROWN: This is not the final plan.

MR. ARGENIO: This is him saying I used my concept, this is my new concept, it's similar to the old one, I still have your link, what do you guys think?

MR. FERGUSON: I was just wondering because I didn't see the dumpster locations.

MR. ARGENIO: No, we're going to get more detail, this is conceptual.

MR. GALLAGHER: Nothing.

MR. MANDELBAUM: We'll start going full blown engineering and really make a living and let him make a living so we can really go to town, get all the consultants started on it right away.

MR. VAN LEEUWEN: I have no problem with it.

MR. ARGENIO: I don't think it's at a level of fitness where it can go to the county but I think that's a concept of something that we're okay with. Motion to adjourn?

MR. VANLEEUVEN: So moved.

MR. BROWN: Second it.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE

November 9, 2011

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MR. VAN LEEUWEN            AYE

MR. ARGENIO                AYE

Respectfully Submitted By:

Frances Roth  
Stenographer