

TOWN OF NEW WINDSOR

PLANNING BOARD

September 9, 2015

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
HENRY VAN LEEUWEN
DANIEL GALLAGHER
HOWARD BROWN
DAVID SHERMAN

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

JOAN QUINN, ESQ.
PLANNING BOARD ATTORNEY

JENNIFER GALLAGHER
BUILDING INSPECTOR

STEPHANIE RODRIGUEZ
PLANNING BOARD SECRETARY

ABSENT: HARRY FERGUSON

MEETING AGENDA:

1. Walter's Mobile Home Village
2. Weikfield Windsor Development
3. Number One Shed
4. 5 Corners Site Plan
5. Zafar Produce
6. Ray's Transportation
7. Benedict Pond approval extension
8. USAI request for demo permit & site grading

REGULAR MEETING:

MR. ARGENIO: Okay, welcome everybody to the regular meeting of the Town of New Windsor Planning Board for September 9, 2015. Would everybody please stand for the Pledge of Allegiance?

(Whereupon, the Pledge of Allegiance was

recited.)

APPROVAL OF MINUTES DATED 8/12/15

MR. ARGENIO: Okay, the first item on tonight's agenda, we'll get right down to business is approval of minutes dated 8/12/15 and e-mailed out on 8/26 of 2015.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

ROLL CALL

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

MR. ARGENIO: Did we get a call from Mr. Ferguson?

MRS. GALLAGHER: He was supposed to be here, he must be running late.

MR. ARGENIO: If he doesn't show up in the next few minutes, I'd like you to come up please.

MR. SHERMAN: Yes.

ANNUAL MOBILE HOME PARK REVIEWS:

WALTER'S MOBILE HOME VILLAGE

MR. ARGENIO: Next item on our agenda is Walter's Mobile Home Park. Somebody here for this? Your name?

MR. DANTAS: Alan Dantas.

MR. ARGENIO: Mr. Dantas, how many units do you have?

MR. DANTAS: Eighty-seven is the total but only have occupied 83.

MR. ARGENIO: Where is this park?

MR. DANTAS: 207 here, Little Britain Road.

MR. ARGENIO: Where is it?

MR. VAN LEEUWEN: Right near--

MRS. GALLAGHER: Across the street from Dragon City.

MR. ARGENIO: Has somebody from your office been out to have a visit?

MRS. GALLAGHER: Yes, we have, no problems at all with Walter's Mobile Home Park.

MR. ARGENIO: Well maintained, thank you for that, sir. That said, somebody like to make a motion for one year extension?

MR. VAN LEEUWEN: I will.

MR. GALLAGHER: Second it.

MR. ARGENIO: As long as you brought a check for the benefit of the town in the amount of \$520, as long as you brought a check?

MR. DANTAS: Yes.

MR. ARGENIO: Gotta have the money. We have a motion and a second.

ROLL CALL

MR. BROWN AYE

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MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. DANTAS: Thank you.

MR. ARGENIO: David, come on up if you would be so kind. Harry knows when we start.

(Whereupon, Mr. Sherman joined the board for the remainder of the meeting.)

PUBLIC HEARINGS:

WEIKFIELD WINDSOR DEVELOPMENT (15-01)

MR. ARGENIO: The next item on tonight's agenda is Weikfield Windsor Development major subdivision public hearing. This application proposes subdivision of the 80.7 acre parcel into 25 single family residential lots. This application was previously reviewed at the 25 February 2015 and 22 July 2015 planning board meetings. The application is before the board tonight for a public hearing, along with our ongoing review. So for members of the public who are not familiar how this works, the board is going to review it for any changes, alterations, that move the project forward and then we'll open it up to the public for commentary and then it will come back to the board for review. So that said, what's your name, sir?

MR. MARSHALL: Larry Marshall from Mercurio, Norton, Tarolli & Marshall.

MR. ARGENIO: Tell us where we're at with this subdivision, Mr. Marshall, and what changes you've made since the last time you were here.

MR. MARSHALL: We have revised the plans to address the July 22 and July 29 comment letters from McGoey, Hauser & Edsall, we have not received any subsequent letters.

MR. ARGENIO: Do you have Mark's comments from this evening?

MR. MARSHALL: No, I do not.

MR. EDSALL: They're short.

MR. MARSHALL: Thank you, Mark.

MR. ARGENIO: Go ahead, Mr. Marshall.

MR. MARSHALL: Regarding the alterations and modification we've provided to Mark the details of the potential future connection to the Rakowiecki subdivision, including grading and any necessary alterations to their plans.

MR. ARGENIO: You supplied that to Mark?

MR. MARSHALL: Yes, we did.

MR. ARGENIO: Is it fair to say that connection can be accomplished?

MR. EDSALL: Yes. The application, I appreciate their efforts to gather all the information and it's a workable grade and the adjoining subdivision does not lose any lots and consistent with a prior request from the town to that developer to reserve a strip at this point the connection could be incorporated into both plans.

MR. ARGENIO: You okay with that?

MR. MARSHALL: Yes, we are.

MR. ARGENIO: I would hope you would be. Please continue.

MR. MARSHALL: Yes, the regarding any of the detailing we have revised the plans as far as the details for the storm water as well as the Storm Water Pollution Prevention Plan that's been submitted to Mr. Edsall's office and we have been working with John Szarowski from his office to resolve those any outstanding items. Regarding the proposed crossing of the New York State DEC wetlands with proposed Road B, we have reached out and had discussions, preliminary discussions with the DEC regarding that crossing. We actually requested a meeting with them. They came back to us after preliminary review of the plans and so no meeting is necessary, when you're ready, please make the application. We feel your location is the best possible to locate that area of upland. So those are basically--

MR. ARGENIO: Where we at, Mark or Mr. Marshall, where we at with the culvert crossing on Station Road? I know I expressed some concern over that, that area is prone to flooding, has Anthony commented?

MR. EDSALL: He's not, that's under comment five, part of the very short list of items still to be addressed as the discussion you had at the last meeting for those two culverts that were your concern. I have not heard back from Anthony on that.

MR. ARGENIO: What else do you have?

MR. MARSHALL: That pretty much provides the changes

that we've made to the plan since the last meeting. Obviously, we have designed the septic, completed all the testing that was all done previously.

MR. ARGENIO: How were the perc's?

MR. MARSHALL: They were good, some very good, some 10, 11 minutes, some much slower, 45 minutes.

MR. ARGENIO: Any failing perc's?

MR. MARSHALL: No.

MR. ARGENIO: Why does that happen, it's only after you have the homeowner moves in they fail.

MR. EDSALL: They seem to move on if they get a bad perc. This is going to the Orange County Department of Health, they'll do the field review, we don't double dip on those reviews.

MR. MARSHALL: We'll make that application.

MR. ARGENIO: Your next step would be preliminary approval which will allow you to go out and seek those.

MR. MARSHALL: Yes, we would seek the approval from the Department of Health as well as DEC.

MR. ARGENIO: Members, anything that you want to speak about before we open it up to the public? Danny, any other thoughts?

MR. GALLAGHER: Not at this time.

MR. BROWN: No, nothing.

MR. ARGENIO: On the 19th day of August 2015, either Jennifer or Stephanie, I think Stephanie cause she signed the letter, compared 37 addressed envelopes containing notice of public hearing pertinent to this case that were sent to the residents within 500 feet, Mark, is that correct?

MR. EDSALL: I'm not sure if it's 500 for a subdivision is it?

MR. ARGENIO: That list was supplied to her by the assessor. That said, I'd like to open the public hearing. If anybody would like to comment on this

application, please raise your hand, be recognized, come forward, speak in a clear, intelligible voice. Vicky, is that you out there? It is you, my eyesight is terrible anymore. Yes, sir please come forward. Could you sign that sign-in sheet right there? What's your name, sir?

MR. RAKOWIECKI: Joe Rakowiecki, used to farm this property. I have my own farm on Station Road. And I'm not really that familiar but little bit, I want to address some issues that I've got.

MR. ARGENIO: Please.

MR. RAKOWIECKI: The road frontage on Station Road right around the turn there, the sight distance and I don't know how much road frontage is on Station Road but I don't know how you're going to get--

MR. ARGENIO: Let me just interrupt you, you're referring to road frontage or sight distance, they're two different things?

MR. RAKOWIECKI: Both.

MR. ARGENIO: Why don't you address them one at a time?

MR. RAKOWIECKI: Okay, it's on a nasty turn and quite a few of the cars in the wintertime go sailing over to, well, used to be my uncle's but Louie's driveway, Nowicki. He owns it now then they come a hooting around that turn to the right towards 207, you got pretty good sight distance down towards 94 but the other sight distance it's questionable. That's about all I have to say.

MR. ARGENIO: What about the frontage?

MR. RAKOWIECKI: The road frontage, there's nothing there, I mean--

MR. ARGENIO: What does that mean?

MR. RAKOWIECKI: There's nothing there, I don't know, you got the map, you got Gary Roberts' property here, my aunt's property here.

MR. ARGENIO: Mr. Rakowiecki, show us what you mean when you say there's nothing there, point to the map.

MR. RAKOWIECKI: Well, there's adequate but for a 25 lot development to get in and out of there, there's not enough right here, this is the part in question. I don't know how wide that is, I have to put my glasses on, probably can't see, but how wide is this right here?

MR. MARSHALL: The existing?

MR. VAN LEEUWEN: It's 43.2 feet.

MR. MARSHALL: That's the remaining lands and there's 96.25 additional, there's two sections of road frontage.

MR. VAN LEEUWEN: You're right.

MR. MARSHALL: It's difficult to see.

MR. VAN LEEUWEN: Sorry.

MR. MARSHALL: So approximately 139.45 feet.

MR. RAKOWIECKI: A hundred fifty feet, I think that's a stretch. That's my own opinion, I mean, I've lived there all my life and I know where, about where the stuff goes and then my aunt's or uncle's or whatever that's wet right in through here.

MR. ARGENIO: Very wet.

MR. RAKOWIECKI: Yeah, that's wet and, I mean, you got the DEC, it's state wetlands back through here on either side of the ridge, I'm getting away from the road frontage issue, but as I understood it's, this the only entrance and exit?

MR. ARGENIO: No.

MR. RAKOWIECKI: You're going to hook into the development up here?

MR. MARSHALL: Yes.

MR. RAKOWIECKI: How come I wasn't allowed to hook in when I did it? You've got a double set of standards.

MR. ARGENIO: Slow down, Mr. Rakowiecki, to answer your question, I can't answer that, I'm not familiar with your subdivision.

MR. RAKOWIECKI: I didn't have a subdivision but--

MR. ARGENIO: How can you make the--

MR. RAKOWIECKI: Well, I had the property for sale and they had--

MR. ARGENIO: You never applied for an application to subdivide and said I want to look into this back then?

MR. RAKOWIECKI: I never applied but was told I couldn't do it.

MR. ARGENIO: I'm not the one that told you that.

MR. RAKOWIECKI: The people that did that had to have bought property on Lake Road, had to have bought the house, knocked it down so they can get access off of Lake Road to their property that I used to own so that's another issue. The 500 foot buffer zones from DEC on each side of the wetlands, is there something like that?

MR. MARSHALL: Yes.

MR. ARGENIO: What else?

MR. RAKOWIECKI: There's a culvert going across to the hill up here, Louie wasn't allowed to put a culvert from the DEC, I'm just saying what I've heard and what are, how come these guys can put, go across that wetlands and put a culvert in? It doesn't seem, you know, I'm not opposed to houses but are these individual lots coming in?

MR. MARSHALL: Yes.

MR. RAKOWIECKI: Then you've got an issue with water. When I sold the property adjoining, the Seaman Farm, I sold it in 2001 in August, they had the plans before the planning board in Blooming Grove, September 2001 and there's nothing there yet, I know, okay, but--

MR. ARGENIO: There's things that we can address, there's things that I'm happy to discuss and we're happy to listen, that's the purpose of the public hearing. But I want to stay focused on this application, so continue.

MR. RAKOWIECKI: The aquifer and water situation going back to that where the property that I had there's always a problem with Windsor Hills ever since they put it in back there, I don't know how many years, I'd be willing to bet the ranch there's some houses that's got water problems already, if he's got individual wells, the tests that were done on my property were pulling down, this is Blooming Grove, I had New Windsor and Blooming Grove, I had 186 acre farm there and the tests that were done in Blooming Grove were pulling down the neighbors' wells. So I don't know if they ever resolved that problem but Windsor Hills has always had, and I think it's pretty much the same aquifer so that's--

MR. ARGENIO: Where do you live? Do you live in the big white house?

MR. RAKOWIECKI: No, I got the old stone house built in 1745.

MR. ARGENIO: Left side up on the hill?

MR. RAKOWIECKI: Yup.

MR. ARGENIO: I know where you live. I raised my kids out there, I've been there for a while, seems like a lifetime.

MR. RAKOWIECKI: You're a newcomer.

MR. ARGENIO: Twenty years.

MR. RAKOWIECKI: I've been there 70 so that's about it.

MR. ARGENIO: Thank you, Mr. Rakowiecki.

MR. RAKOWIECKI: Okay.

MR. ARGENIO: Anybody else on a different issue? Yes, sir, please come forward, give us your name and address, sign in if you would.

MR. SPARTA: Sal Sparta, 168 Station Road.

MR. ARGENIO: Off the record.

(Discussion was held off the record. Whereupon,

following which, these further proceedings

transpired.)

MR. ARGENIO: What do you have, Mr. Sparta?

MR. SPARTA: I'm at 168 Station Road, I guess these are behind us. My only concern is like with the well, I don't know, I'm not quite sure how far away it is from our property.

MR. MARSHALL: Where is 168, if you don't mind me asking?

MR. SPARTA: This is it.

MR. MARSHALL: This would be the driveway that serves the old farmhouse.

MR. SPARTA: This is Station Road.

MR. MARSHALL: This is Station Road, I'm sorry.

MR. ARGENIO: I know where your house is, I think your house is further towards my house than this is.

MR. SPARTA: We're right across the street from Joe so I guess this would be--

MR. RAKOWIECKI: Up near the top of the picture.

MR. MARSHALL: You're up in here.

MR. SPARTA: I'm not quite sure where.

MR. ARGENIO: He's somewhere down in here, here's where he is, somewhere right over here somewhere.

MR. MARSHALL: One of the new houses?

MR. SPARTA: Yes, I'm right here.

MR. ARGENIO: He's on the hill. What's your concern, Mr. Sparta, tell us specifically?

MR. SPARTA: Just, you know, right now we've got a nice back yard with no houses which is a nice thing. I'm not opposed to the houses and just concerned with, you know, with the well with all these houses there and I know that's, so this is the farm here, right?

MR. MARSHALL: Yes.

MR. SPARTA: So you're going to go there?

MR. MARSHALL: This is lot one, we don't show the bounds of that partial but no, well, no, this is lot one of the Nowicki subdivision, that's one of the ones that you're in, so this is all part of lot one, this is the old farmhouse here and then--

MR. SPARTA: The road's going to come in here?

MR. MARSHALL: Correct, so do you see the pond?

MR. SPARTA: Yes.

MR. MARSHALL: So the nearest home to that pond is 150 feet passed the far edge of the pond.

MR. SPARTA: That should be alright with us. Nothing else, thank you.

MR. ARGENIO: Thank you. Anybody else?

MR. BROWN: Make a motion we close.

MR. VAN LEEUWEN: Second it.

MR. ARGENIO: Motion made and seconded that the planning board close the public hearing for the Weikfield subdivision. Roll call.

ROLL CALL

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

MR. ARGENIO: Let me hit these things, couple things, Mark, I'd like you to talk just a little bit about the wells. I certainly have seen subdivisions substantially more dense than this, substantially more dense with wells and we've not had a problem. But what do we, what do we say as a board and what do you say as an engineer to people who may have concerns over any impact that this project may or way not have on their wells, other than too bad?

MR. EDSALL: I wouldn't say that.

MR. ARGENIO: I would hope not.

MR. EDSALL: The difficulty is that the property owner has a right to drill a well under their own property. And we don't in the last, well, I've been sitting here since 1985, have never heard of a good answer to tell someone that if someone exercises their right to drill a well 1,000 feet away and it affects their well that that person violated some law that comes with part of property ownership. However, this will go to the Orange County Health Department, the Orange County Health Department will ensure that there's adequate supply to serve each of the lots. Normally, if there's that low a capacity in the aquifer, it will reflect itself in the County Health Department's review. If it cannot support the number of lots, they will not permit this number of lots.

MR. ARGENIO: Somebody bigger than us looking at this from a domestic water perspective.

MR. EDSALL: There is a property right issue which I'm sure counsel could expand on much more succinctly than I can but there's no good answer to it, other than people have property rights, including those people that want to build a house. But as far as capacity, that's something that the Orange County Department of Health will look at. And if this property cannot support this number of lots, they'll advise the applicant that this property cannot properly serve each lot with adequate well capacity to serve that lot and it will get cut back but we don't have any control at that location.

MR. ARGENIO: Even in the most dry days of a drought, I live up the road a bit, I know I've never had a problem with my well ever once, it's a 200 foot well, so that's good to know that the Orange County Department of Health will be looking at that. There's a requirement for a buffer I believe on DEC wetlands, I believe there is no requirement on Army Corps wetlands, can you expand on that a little bit, Mr. Marshall?

MR. MARSHALL: Yes.

MR. ARGENIO: What the requirement is and how you're meeting it?

MR. MARSHALL: Sure. To the DEC wetlands, there's a minimum buffer of 100 feet. We have provided that shown on the plans and avoided that disturbance within that buffer area to the maximum extent possible for this subdivision. As I stated earlier, we have located the proposed intrusions into the buffer area as well as the wetland area itself at the narrowest points possible to achieve access to the rear or to the western portion of the site for lots seven through 13.

MR. ARGENIO: Which I believe you're allowed to do under the auspices of the DEC, is that correct?

MR. MARSHALL: Yes.

MR. ARGENIO: They'll tell you how and where you can do that type of thing.

MR. MARSHALL: Yes, they will, they will have full jurisdiction over whether or not we can construct proposed Road B as we show it and all the other crossings that we may have, I think that's the only intrusion that we have into the wetland buffer and wetland on this site. Regarding the federal wetland or United States Army Corps of Engineers wetlands there's no buffer area.

MR. ARGENIO: Do you have Army Corps wetlands?

MR. MARSHALL: Yes, as Mr. Rakowiecki stated, the wet area that's in front of Lou Nowicki's house, that area is all designated as federal wetland, not state wetland, it's only under the jurisdiction of the Army Corps.

MR. ARGENIO: It's interesting how we can have wetlands which are wetlands for a reason because of the plants and animals that live in them but somehow somebody has determined that one type of wetland requires a buffer and another one doesn't just because of the label associated with it, be it Army Corps or DEC, I've never been able to reconcile that in my mind, government's invasion or attempt to regulate nature in some fashion or another but that's a discussion for another day, I suppose. Yeah, this board can't speak to what other folks were allowed and not allowed to do, he-said, she-said, but I believe those were Mr. Rakowiecki's concerns with the--

MR. EDSALL: Mr. Argenio, two other concerns that were

noted--

MR. ARGENIO: -- were the, let me finish the thought, were buffer of the wetlands and the aquifer, go ahead.

MR. EDSALL: -- were frontage and sight distance.

MR. ARGENIO: You're right, can you address that?

MR. EDSALL: The frontage on Station becomes irrelevant when you develop a town road because to develop a town road to provide the necessary frontage on each of the lots you really only need 50 feet for the 50 foot town right-of-way, so anything over 50 foot just becomes balance land frontage.

MR. ARGENIO: I'm going to tell you this and this is opinion more than fact, and this is for you, Mr. Marshall, that exit onto Station Road, if that left and right-hand turn is a visually impaired turn, meaning that your vision is hampered when you look left or look right by brush and such, I think we're going to expect you to clean that up.

MR. MARSHALL: Absolutely.

MR. ARGENIO: To maximize the sight distance cause I think there's, only my opinion, I think there's merit to Mr. Rakowiecki's point on that note and he's right, people do come ripping down that road.

MR. EDSALL: That's the second half of the whole. One is a zoning issue, the first time it was a zoning issue so if a developer happens to reserve a very small area and that area doesn't work, that could ruin the potential for a subdivision. But from a zoning standpoint, you only need 50 feet. From a sight distance standpoint, applicant's drawing number five they provided sight distance table, I'll ask that the applicant while they're working on their finalization of the plans just verify those sight distances. But if the sight distance numbers that are indicated in the sight table are correct, they do exceed both the town's minimum standards under 252.28 subsection 4 and they also exceed the ITE requirements.

MR. ARGENIO: Mark, just hold that thought, please, I don't have five here, if--okay, enough. Members, any other thoughts on this? In Mark's comments review of reported drainage flooding problem at the end of the

proposed road looks like they're proposing two 24 inch culverts, is that right?

MR. EDSALL: Those were the two that you said were existing or had capacity problems, we just need to look at that before final.

MR. MARSHALL: Sure.

MR. EDSALL: Might have to meet the highway superintendent out there.

MR. ARGENIO: What size culverts do you have proposed for that road?

MR. MARSHALL: Underneath Station Road?

MR. ARGENIO: Underneath your road.

MR. MARSHALL: Our road primarily heads up the--

MR. ARGENIO: At Station Road, at the intersection of Station Road and your road?

MR. MARSHALL: It's a, bear with me, we have a 15 inch culvert that transfers the water across our roadway back to the 24 inch culvert.

MR. ARGENIO: You're not even close, man, Larry, you're not even close.

MR. MARSHALL: We don't, the road actually doesn't receive much, our proposed road does not receive much water.

MR. ARGENIO: What I'm referring to, to be clear, is the ditch alongside Station Road carries a substantial amount of water, your road is going to intersect with Station Road, as such, you're going to need a culvert underneath your proposed road, what size is that culvert?

MR. MARSHALL: We don't have a culvert there, we'll review that with the--

MR. ARGENIO: That's a problem, right, Mark?

MR. EDSALL: Yeah.

MR. MARSHALL: There's a culvert immediately north of

our proposed entrance that crosses Station Road so we'll review that with highway.

MR. ARGENIO: How does the water get underneath your road?

MR. MARSHALL: We don't receive any water that goes underneath the road.

MR. ARGENIO: I don't want to go round and round, Mark, you have to look at that with Anthony.

MR. EDSALL: Yes.

MR. ARGENIO: You understand what I'm talking about, yes?

MR. EDSALL: I do.

MR. ARGENIO: That was simple enough. So that link can be built into the Biagini subdivision, that's good to hear.

MR. EDSALL: That would eliminate the first bullet under five if there would be no waiver required with the cross connection.

MR. ARGENIO: Good, good, I think we're all in favor of that, are we not? David, Howard, Henry, Danny? Yes, we're all on the same sheet of music. What else do I need to do procedurally here, Mark or Joan?

MS. QUINN: Yes, it's Joan. One item that I would like to bring to the board's attention is just with respect to the life estate that's noted on note number five of drawing sheet one recites that the property is subject to a life estate.

MR. ARGENIO: Subject to what?

MS. QUINN: A live estate is when somebody conveys property but retains for themselves the right to basically enjoy the property for the rest of their life. And in this instance, unless the applicant can give us some additional information, provide a copy of the deed or proof that the life tenant is conveying their interest or is no longer alive any purchase of this property would be subject to this life estate from an unknown life tenant.

MR. ARGENIO: Any comment on that?

MR. MARSHALL: That was actually a comment by you, Mark, I believe.

MR. EDSALL: We pointed it out to the attorneys.

MR. MARSHALL: We looked into that, into the deed itself and then we also very crudely researched the gentleman that was the recipient of the life estate. We believe that we found his, we were able to locate his obituary in, you know, from our archives of the Times Herald Record and we believe that he is deceased and his life rights are--

MR. ARGENIO: Is that transferable?

MS. QUINN: It's not, upon the death of the life tenant it ceases by operation of law.

MR. ARGENIO: Get a copy of that to counsel.

MR. MARSHALL: Obit or death certificate?

MS. QUINN: I'd like to see a copy of the deed, death certificate and the obituary, please.

MR. MARSHALL: That won't be a problem.

MS. QUINN: Thank you.

MR. ARGENIO: Okay, Mark, anything else here?

MR. EDSALL: Just as an update, the SWPPP has been resubmitted and we have no problems with the resubmitted version. I think you have two things potentially before you is to consider a negative dec and consider preliminary approval and that way it would release them to the outside agencies.

MR. ARGENIO: There is no reason we can't consider a negative dec, right?

MR. EDSALL: There is no--

MR. VAN LEEUWEN: Make a motion.

MR. EDSALL: No information that I've seen that leads us to believe there are.

MR. ARGENIO: Henry is making a motion we declare negative dec.

MR. SHERMAN: Second it.

MR. ARGENIO: Motion made and seconded that we declare negative declaration under the SEQRA process for Weikfield Windsor Development major subdivision.

ROLL CALL

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

MR. ARGENIO: So just to refresh the board's memory, the procedure on a residential subdivision like this because we have not seen a lot of residential lately is that we, if we see fit we offer them preliminary approval.

MR. VAN LEEUWEN: So moved.

MR. ARGENIO: And then they have the obligation to go out and get their outside agency approvals then come back here. I have a motion, do I have a second?

MR. SHERMAN: Second it.

MR. ARGENIO: Motion made and David has seconded that we offer preliminary final approval to Weikfield subdivision which will allow them to second their outside agency approvals.

ROLL CALL

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

MR. ARGENIO: Okay, Mr. Marshall, thank you, please work with Mark on that culvert thing, get that buttoned up because we don't need that flooding, that will be very helpful.

MR. MARSHALL: Absolutely.

REGULAR ITEMS:

NUMBER ONE SHED, INC. (14-01)

MR. ARGENIO: Number One Shed site plan amendment. This application proposes a conversion of the existing retail shed sales and display area, manufacturing, granite work, I'm sure the applicant will explain to us what that is. Application was previously reviewed at the 26 February 2014 planning board meeting. What's your name, sir?

MR. DILLON: James Dillon, I prepared the site plan.

MR. ARGENIO: Okay, Mr. Dillon, what do you have here?

MR. DILLON: I prepared a site plan for the Number One Shed, Inc. which is located on Route 94, it's located in the NC zone. The facility has existed for several years and it's come a time that the owner of the property would like to rent some of the property out, there's an existing building on it. And we have gone to a work session. And what we wanted to do was qualify exactly what we're intending to do and let the board look at what we're doing with the different uses we have. It's the applicant's opinion that everything she has there is just storage, just using it for storage. I do have non-conforming use regulations on the top which is when Number One Shed used to manufacture some of their sheds in the building and they still do, they put them together and that was granted because it was a lumberyard years ago and they put together certain products as part of the lumberyard, doors or windows and that's been granted to them and I don't think that's going to be an issue at all. They do minor manufacturing where they just put some sheds together, I believe. So I don't think that's become an issue. I put down the conforming use regulations within this zone and I put the existing uses of what we're using right now and what we'd like to use. The first one is bounce house, bounce house they rent inflatables and they rent different things for kids' activities and they only use the building for storage and I have identified that as A and that's the use that they're using. They're just using it for storage. There's a landscaping company, a contractor and he has some outside storage and that's identified as B, that's where he parks his trucks and equipment in that general area where I've been outside, he doesn't work there at all, he just comes and gets his equipment

and leaves and stores the equipment at night and has no real office there, he just uses outside storage. Then we have C, which was a proposed, and that doesn't exist today, it was an electrical contractor who wanted to store some of his equipment in the back of the building. At one time, there was a manufacturing facility that was there which was a bone of contention and they've left, the space now is vacant and what we're considering is maybe renting it to the electrical contractor where he can store just some of his equipment there, pick it up and go do his electrical jobs.

MR. ARGENIO: Equipment or supplies?

MR. DILLON: Supplies, supplies.

MR. ARGENIO: Indoor storage or outdoor storage?

MR. DILLON: Just indoor, just C I have identified with those letters and then we have D which is then the final is the excavating company which is D and he uses large part of the inside to store his equipment that he uses and he uses that back behind the building. There's a fence, that fenced-in area that's where he stores his equipment. And then naturally we have the Mr. Shed.

MR. ARGENIO: Just let me stop you, there's two Ds shown, one indoor, one outdoor?

MR. DILLON: Yes.

MR. ARGENIO: Is there maintenance going on indoors?

MR. DILLON: I don't know, honestly I don't know, it wouldn't be major, there's always repairs, obviously, I can't say there isn't but I mean that could be a condition, I don't think there would be.

MR. ARGENIO: Just a question, Bud, there's no right or wrong answer, just a question.

MR. DILLON: I don't believe they are.

MR. ARGENIO: Go ahead.

MR. DILLON: Then we have the existing operation of Mr. Shed which has the display area in the front and has a large parking area in the middle, it has its own small

office building which it runs its business from.

MR. ARGENIO: Yes.

MS. VALIENDO: I'm Diane Valiendio, I'm the owner.

MR. ARGENIO: You can speak.

MR. VAN LEEUWEN: What do you mean by maintenance?

MR. ARGENIO: Maintenance, repairs of motorized vehicles?

MS. VALIENDO: Okay, he has compressors, he has excavators, he has trucks, yes, if something has to be fixed, he does do that, okay.

MR. ARGENIO: Go ahead, Mr. Dillon. Stay here, Mrs. Valiendio in case something else comes up, you don't have to go up and down.

MR. DILLON: I've covered all uses.

MR. ARGENIO: You have a cornucopia of uses, do you not?

MR. DILLON: We're not going to be putting up any signs, no signs, we're not advertising that we have anybody back there, not really, just using these places for storage. We have also indicated I believe a six foot fence where a four foot fence is required and we're asking the board to look at--

MR. ARGENIO: There's two locations where there's a six foot fence.

MR. EDSALL: Actually, there's four.

MR. DILLON: That would be right in front of the building where you come into the yard.

MR. ARGENIO: We have one there, we have one in the back left, we have another one forward on the right and we have another one up the page at the top of the rectangular area.

MR. DILLON: Yes.

MR. ARGENIO: Let's not get sidetracked, continue, Mr. Dillon, I want you to get it all out.

MR. DILLON: And I believe that's the extent, we're not building any buildings.

MS. VALIENDO: As far as the fence, there was a fence all the way around, when the subdivision for Suburban Court came, we were told we had to take down the fence until we were done. I went to put it back up and I spoke with Jen, it came to my attention that I could not put the six foot fence back up because of the road, now the Suburban Court road being there, there's quite a bit of difference in elevation, that six foot fence is maybe three foot, if you went straight across from the new road cause they built that up.

MR. ARGENIO: Mrs. Valiendo, there's not a law that prevents you from having fences, that's okay.

MS. VALIENDO: I was told I needed approval to put the six foot and it's really like a screening.

MR. ARGENIO: Okay, I'm going to, I'm sure somebody in this room has more insight on this than me and I'm sure that their name is either Mark or Jennifer or maybe Stephanie, it seems to me there's a whole lot going on here, whole lot of stuff, do you actually have tenants?

MS. VALIENDO: They're not, none of them are.

MR. ARGENIO: They're there now?

MS. VALIENDO: Yes, they have been there, the bouncy house guy has been there almost as long as I have and I've been there 20 years, he comes, basically his business is from the spring and summer, he's there maybe twice to three times a week during those months, he comes in in the morning, loads up his truck and leaves, comes back at night or maybe not even that night, it could be the following, could be Monday morning to bring the stuff back, okay. The landscaper, it's Deyo Landscaping, he comes in in the morning, parks his regular truck.

MR. ARGENIO: White trucks with the orange letters.

MS. VALIENDO: Yes, and the pink plows, yes.

MR. ARGENIO: He parks on my road when he maintains everybody's property in the neighborhood.

MS. VALIENDO: Well, he comes in in the morning, drops off his personal vehicle, hops in his truck and leaves. In the wintertime, he leaves his trailer there with the lawn mowing equipment and then just puts his, has trucks with his plows on, right now, the plows are there at night, the plows are there and the trailer with the lawn stuff.

MR. ARGENIO: Mark, can you speak to this a bit? Again, my initial thought is that there's a whole lot going on here which does not necessarily mean that it's a bad application, just means its busy, I mean there's use issues and I don't want to create issues, just seems to me to be there's a lot of mixed things going on here from the landscaper to the bouncy house man to the excavator guy who's maintaining his stuff. So can you help us understand a little bit how it meets, how it falls into our code? We certainly don't want to do anything that's against the law.

MR. EDSALL: New Windsor Code allows you to have mixed uses on sites, I'd say very rarely do you run into a site this size that has this many uses but they've outlined all what they propose. Clearly what existed 15, 20 years ago is different than their demand for the Mr. Shed or the Number One Shed use now. So they're trying to fill the space with rentals. And fortunately or unfortunately instead of having one tenant they've got multiple tenants. Could it create a problem, absolutely, here you're going to be juggling five balls in the air with five tenants versus having one to control. So there's the potential given the fact this abuts residential properties of having problems. You know, and the difficulty is from a zoning standpoint as they're proposing them they're telling us that they want the board to accept the landscape contractor, the electrical contractor and the excavating contractor as storage service establishments, as long as the law classifies it as such, they're uses by right which restricts you from what you would normally do if it was a special permit use and saying look, we'll give you a two year permit and hopefully we won't get a deluge of complaints. If not, we'll tune it up in a year or two. Here they want to have them all accepted as uses by right as service establishments. So I don't know that I have many answers for you because this could still be the nicest site in the world two years from now or you could have 100 complaints over the next two years.

MR. ARGENIO: Jen, any additional commentary?

MRS. GALLAGHER: I don't.

MR. ARGENIO: Do you agree with what Mark said?

MRS. GALLAGHER: Yes.

MR. EDSALL: As far as the fence goes Diane's absolutely correct, the reason that they're here for the six foot fence is because the code doesn't let you have a six foot fence in a front yard, unless it's part of a site plan approval. So they've incorporated that into their plan and she's correct that the elevations are quite different between the road, they're losing several feet because they sit below the road level.

MR. ARGENIO: I have a letter from William and Michele Smith, I don't know how we got it but Jennifer has it in the file, I'm going to paraphrase a little bit because I hate reading word for word. We have lived at 20 Suburban Court for the past six years. During that time we have enjoyed a great deal of peace and privacy and the letter is obviously to Mr. Shed, within this past year we have had our tranquil residential lives abruptly interrupted by you subletting your property to four additional businesses, the granite company and bouncy company have little or no impact on us, mostly because they store their vehicles and machines inside. Over the past two months, the lawn maintenance and excavator guy have been not only unsightly but they're generating a great deal of noise in the early morning hours, storing dangerous pipes and materials in view. We have also made direct observation of their employees urinating on the property. Everybody has to pee from time to time, right?

MS. VALIENDO: I do you have a rebuttal for that when you're done.

MR. ARGENIO: As neighbors, our objective is to peacefully coexist. We purchased a home next to a quiet shed business that's transformed into a noisy eyesore. I don't like to be in a position that we as a planning board the five of us are like mediators and I really, really dislike that. There's other things I enjoy much more about this, what's essentially a volunteer position for all of us. I'm sure the other members would substantially agree with that statement. But Mrs. Valiendio, you want to say a couple words about the letter?

MS. VALIENDO: I do.

MR. ARGENIO: I will allow you just a moment if you want to just share with us.

MS. VALIENDO: Okay, he wrote that letter, I did not get that letter until he came to me, I was coming in from a delivery, it was late at night, I had a gentleman who was helping me cause my husband's disabled so I'm running the whole show, okay, so a gentleman was helping me and Mr. Smith came over and threatened me and he told me he was going to put me out of business.

MR. ARGENIO: As I just said, you're putting us in the middle of what could be or maybe is currently a feud and--

MS. VALIENDO: I wanted so you can see I called the police cause he did threaten me.

MR. ARGENIO: Take it up with the police, don't bring it here.

MS. VALIENDO: Just want you to understand where this letter is coming from, okay, so that was the one complaint that he came and he said that and then he came and he threatened me before that we never had a problem, he never once came over.

MR. ARGENIO: He says that in the letter.

MS. VALIENDO: But he's never come over and talked or anything even when he sent this letter.

MR. ARGENIO: Let's not go round and round about this.

MR. VAN LEEUWEN: That's not the way we do things around here.

MS. VALIENDO: Right, yeah, but I'm--

MR. VAN LEEUWEN: We talk to people.

MS. VALIENDO: Exactly, we would like to talk to people but since then--

MR. ARGENIO: Excuse me, we all have to coexist in this town and you know this is a similar situation as to

members if you recall as to what we had on Silver Stream Road, do you remember Chet Palazzo used to live over there and that's right on the AP and what zone?

MRS. GALLAGHER: Residential, isn't it?

MR. ARGENIO: Maybe it's residential, PI, so somebody's got to live on the zone line, that's the way it is and people get mad because I live on the zone line and this guy's cutting steel in the morning at 7:00 a.m. with demo saws which he has the right to do and wakes my kid up, I'm sorry, but everybody's working within the bounds of the law and we have to deal with it so where this probably should go and Jennifer or Mark if you guys have any suggestions for the members we'd be happy to, the board would be happy to hear it but my sense is there's a lot going on here, that's my sense. Mark, is there any way that if moving this forward it can be under a special permit type use?

MR. EDSALL: Well, the board's going to have to determine how to classify those uses, maybe you want to not force yourselves into that determination tonight, speak with the zoning officer and see what we can do to understand best how to classify them.

MR. ARGENIO: I agree, I think that's the most critical issue but what I'd like to do I think the best thing for the Town of New Windsor is to have a similar type of situation as we have with the special use permit where the applicant comes back in annually and we get a chance to address any possible complaints that may have happened. Now this doesn't mean that these folks can't do what they want but, you know, maybe there's screening, maybe there's bushes that can be planted.

MS. VALIENDO: Can I say something?

MR. ARGENIO: You can say something in a minute. Maybe something along those lines because my predecessor always used to say, you know, the planning board, it's not really ours to say you can or you can't but we can certainly say how you can do it. Go ahead, Mark.

MR. EDSALL: That would be worthwhile taking a step back making sure we've done the correct thing on that. The other thing is you should decide in fairness to the applicant if it's the board's desire to have a public hearing.

MR. ARGENIO: How do we not?

MR. EDSALL: If you want to tell them you're going to have one it would make sense to go ahead and authorize the public hearing, next stop in they can have it.

MS. VALIENDO: I have two questions, okay, I want to know what a public hearing is but you didn't let me finish, when he threatened me, he said to make this all go away put a fence up. Okay, so basically, it's either going to put me out of business or blackmail me and I went into Jen and I said maybe I'm spiting the nose on my face and she says nobody can make you put a fence up, Diane.

MR. ARGENIO: Planning board can, I promise you.

MS. VALIENDO: But I'm just saying that I'm not doing any--

MR. VAN LEEUWEN: We're not threatening.

MR. ARGENIO: Just let me speak for a minute. I can't tell you how many times I've been sitting here for a few years and as I said, we don't like to get into feuds but it's our goal to make us, to have us all coexist in this town, realizing that everybody has different agendas, certain person may be developing a piece of property for profit, guy next door may be saying you're going to impact my quality of life, I don't care about your property, both of them have the right to quality of life and the other guy does have a right to his business for profit. Many, many times we have said this owner or that owner you need to put up some screening, put up some arbor vitae, put up a fence with some privacy slats in it, it's all good, there's answers to these issues. And I don't want you to think that this board or any planning board in the State of New York for that matter will take a position or has the right to take the position the neighbor came in, says he doesn't like what you're doing, as such, we vote no, that would be unlawful, okay. So there's an answer, I don't know what it is here tonight but my thought is to have a public hearing. Do the members agree?

MR. VAN LEEUWEN: Yeah, I'll make a motion to--

MR. ARGENIO: Motion made--

MR. BROWN: Second it.

MR. ARGENIO: -- that we schedule a public hearing for this application.

ROLL CALL

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

MR. VAN LEEUWEN: That's for your protection.

MS. VALIENDO: What's a public hearing?

MR. ARGENIO: Contact Stephanie, Miss Rodriguez and you'll get with her and you'll have to pay some money, some fee to get some letters sent out and they'll go to certain folks and I think it's everybody within 500 feet will get a letter and they'll come in and they'll say whatever they want to say. You were here for the public hearing earlier this evening that was a public hearing Weikfield, it was quick, easy, fairly painless, but we have to follow the law and that's what we do, we try very hard to get it right, we don't get it right 100 percent of the time but I like to think we do a pretty good job.

MS. VALIENDO: Well, I've been trying to do it right, I really have and it's been going on for two years as I told Jen this afternoon, I just want it over, I'm done, I'm exhausted.

MR. ARGENIO: Mark, were you going to make a comment?

MR. EDSALL: No, I'm all set.

MR. ARGENIO: Does this have to go to county?

MR. EDSALL: It does. In my comments I said I hesitate to send it to county until we figure out how we're going to classify the uses. I'll work with Jim and with Jennifer, we'll resolve that and send it to the county.

MR. ARGENIO: Okay, let's get the public hearing scheduled, the plans are fine, let's get it done and we'll get you guys moved forward, best thing could

happen you get yourself squared away and you go on collecting your rent or whatever it is you do and it's all good.

MS. VALIENDO: It would be nice.

MR. VAN LEEUWEN: I think we should have to find out how high that fence should be.

MR. ARGENIO: Reasonable request, do you have topo?

MR. DILLON: I could really get some.

MR. ARGENIO: Put some on there.

MR. DILLON: It's three or four feet.

MR. VAN LEEUWEN: Because that way we can see where the water's going to go, not only that but see how high the fence has to be because you said the road is a little higher already.

MS. VALIENDO: It's four foot higher. I planted Christmas trees and he said nothing so--

MR. ARGENIO: That's what this board is for, we'll make some sort of a determination, we don't always make everybody happy but we try hard.

MS. VALIENDO: But as of today, like that six foot gate is a screening gate, that really was the issue, the side pieces weren't an issue with the fence, right, because it's not the front part.

MR. ARGENIO: I don't know, this is the first I've seen it, I'm sure the members will take a ride over there to just drive by just so we can understand better next time knowing that it's such a hot button issue, I know I will.

MS. VALIENDO: I wanted to try to expedite things but to put the side fence up to appease him it kills me but I will.

MR. ARGENIO: Go through the process. Why don't you speak up and I'll comment.

MRS. GALLAGHER: If you want to put up the six foot fence behind the building there you're welcome to, if you get a proper permit, but I would suggest that you

wait until the board looks at everything and then gives you the okay to put up whatever type fence they decide.

MR. ARGENIO: Okay.

MS. VALIENDO: Is there a timeframe, not that it goes on another eight, nine months?

MR. ARGENIO: We meet every two weeks, get your ducks in a row, we'll put you on the agenda.

MS. VALIENDO: Stephanie, I'm going to call you and you're going to schedule a public hearing?

MR. ARGENIO: Yes.

MS. VALIENDO: Thank you.

MR. DILLON: Thank you.

FIVE CORNERS SITE PLAN (15-08)

MR. ARGENIO: Sorry for the tease before, Joe Pfau, you're up, New Windsor Five Corners LLC site plan. This application proposes development of the two tax lots adjacent to Route 32. The plan was previously reviewed at the 22 July 2015 planning board meeting. I see Joe Pfau and Ray Yannone here. So Joe or Ray, one of the two of you tell us what progress you've made since we met last and Joe, do you have a copy of Mark's comments?

MR. PFAU: These ones, now I do.

MR. VAN LEEUWEN: Joe, you've been here enough that you know you have to get Mark's comments.

MR. PFAU: The first time we were here our first time here we had a more of a conceptual map showing layout of the parking and buildings to remain. We have since put a complete site plan set together which has basically the site plan.

MR. ARGENIO: Joe, I thought you were closing two entrances?

MR. PFAU: No, no, proposing to close one and the other entrance I want to discuss with the board a little bit really about the access in and out. But no, we're proposing to keep the most southerly and easterly entrance open, just close off the center entrance. As we, so we have developed full plans including an existing conditions plan, landscaping plan, we did receive earlier comments from Mark, we have with the existing florist building there's an, it's a two story building, there's a loft apartment, we've indicated that, modified the parking table, we have also had a flag pole, a landscaping plan, we've added two proposed islands at both entranceways for landscaping purposes.

MR. ARGENIO: Plantings.

MR. PFAU: Storage shed and shifted the dumpster a little bit further to the north and we modified that detail to show a masonry enclosure.

MR. ARGENIO: What's the genesis of this jog if the property line, what's going on with that, is there some kind of fixture, signal pole or something?

MR. YANNONE: No.

MR. PFAU: No, there's nothing there.

MR. ARGENIO: Why is that there?

MR. YANNONE: No idea, there's nothing there.

MR. PFAU: You see that a lot, especially with state right-of-ways, a lot of jogs.

MR. VAN LEEUWEN: Looks like a flag pole to me.

MR. ARGENIO: It's parking, I think.

MR. EDSALL: They planned ahead for the flag pole.

MR. YANNONE: Flag pole's right there.

MR. ARGENIO: How wide is the sidewalk in front of the building?

MR. PFAU: It's five foot.

MR. ARGENIO: Mark, is that enough?

MR. EDSALL: Which one's that?

MR. ARGENIO: The sidewalk in front of the building.

MR. EDSALL: I commented that acknowledging that the space on this site is very limited, we may want to have wheel stops along the sidewalk so that the overhang doesn't obstruct the sidewalk, I don't know that they have room to make it bigger.

MR. ARGENIO: If you have wheel stops, it's the same effect, is it not?

MR. EDSALL: You're wasting sidewalk at that point so yeah, if they want to do it by wheel stop or want to do it by sidewalk the point is if they keep the minimum sidewalk we should keep cars from pulling up.

MR. ARGENIO: Here's the point, Joe or Ray, where you have the pull-in parking five foot is typically not enough.

MR. YANNONE: Is six enough?

MR. EDSALL: Yes, that works.

MR. PFAU: I think we can make it work with six.

MR. ARGENIO: In all fairness, where you don't have the front bumper hanging over you can probably go to five foot if you want to keep parking area.

MR. EDSALL: Mr. Chairman, in the past, what we have done when you have a site that's being reconstructed is that we have them build a six foot but we allow them to measure the 19 foot space including the sidewalk overhang.

MR. ARGENIO: That's reasonable.

MR. EDSALL: So they don't block their aisle so--

MR. ARGENIO: That's reasonable.

MR. EDSALL: We can't make--

MR. ARGENIO: Sounds like a Jimmy Petro thing, something Jimmy would think of.

MR. EDSALL: We practice those things, the building's not going to move and Route 32 is not going to move so we're stuck with the dimension.

MR. ARGENIO: What about the note from the firemen, for the benefit of the members, it says that they're looking for 30 foot lane widths here.

MR. YANNONE: We went to the board with the preliminary plan and requested a variance for 25 feet, I met with Barney after we developed it, what's now a complete set of plans and Jen we're going to have a vote on?

MRS. GALLAGHER: The 16th.

MR. YANNONE: He said he couldn't vote without a final plan so the final vote is going to be on the 16th.

MR. ARGENIO: I would think that--

MRS. GALLAGHER: It was favorable.

MR. ARGENIO: Just going to say I think that they would look favorably, you're less than a quarter a mile away from the firehouse, you're improving this site.

MR. YANNONE: Probably doubling the existing lane widths.

MR. ARGENIO: Yeah, it would seem to me that it makes sense. You guys agree, David?

MR. SHERMAN: Yes.

MR. VAN LEEUWEN: Yes.

MRS. GALLAGHER: When he came in front of us at the board, he had a concept plan so we couldn't approve anything with his concept plan because he didn't know which building was coming, what he was doing, so we couldn't approve anything when he came in front of the fire board the first time. So when came back in front of Inspector Bedetti, we just set him up, doesn't even have to come on the 16th now that we have the true plan.

MR. ARGENIO: Are you on that board?

MRS. GALLAGHER: Yes, I am.

MR. ARGENIO: What about the public hearing, members? Typically, we have public hearings whenever we have something in this area but I could go either way and I'm going to tell you why. Monroe Muffler is on one side and Hannafords is on the other.

MR. GALLAGHER: I was looking at that, who's there?

MR. VAN LEEUWEN: He's cleaning up the site.

MR. ARGENIO: There's nobody there.

MR. VAN LEEUWEN: I don't think it's necessary to have a public hearing.

MR. EDSALL: The key thing to remember is that you've got two lots being made to one coordinated lot and four buildings that they're tearing down two, so if anything, they're making it simpler, less congested and less of an eyesore so we should be thanking them more than--

MR. VAN LEEUWEN: I agree.

MR. ARGENIO: You guys agree?

MR. VAN LEEUWEN: I make a motion to waive the public hearing.

MR. GALLAGHER: Second it.

MR. ARGENIO: That we waive the public hearing. Roll call.

ROLL CALL

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

MR. ARGENIO: You're making friends all over the place here tonight, my friend.

MR. SHERMAN: What kind of restaurant is what I want to know.

MR. YANNONE: We don't know yet.

MR. PFAU: Basically, Mark's comment number three discussion of the exit out of the southerly entrance.

MR. VAN LEEUWEN: Can we make that one way in one way out?

MR. GALLAGHER: That's pretty dangerous to cross over and take a left.

MR. ARGENIO: That's going to hurt you, isn't it?

MR. YANNONE: Just makes it harder and harder because at 8:00 and 5:00 in the evening and other times it's pretty quiet there, you know.

MR. PFAU: Can we wait to see how the DOT--

MR. ARGENIO: You know what, I was going to suggest to the members when I saw that I just said to Henry a couple minutes ago I saw the note on the other drive, it said no left turn and I said to Henry, this should be no left turn as well and then I see Mark commented on it and then I get thinking if you have no left turn on the one entrance and no left turn on the other entrance you have to go left what do you do?

MR. EDSALL: You go through Hannafords.

MR. ARGENIO: They're going to do a U-turn in Hannafords, which is another set of problems. So I think it makes sense what Joe is saying members that let's wait for DOT and I understand why you want it and I respect it and maybe you need it to make this parcel work right but let's leave it with those guys. Full SWPPP is not required for this site redevelopment. The final plan should include erosion control, I don't know what that could possibly be anything more than just silt protection around the catch basins.

MR. EDSALL: Typical detail and perimeter, that's about it.

MR. ARGENIO: We don't have planning yet, Jen?

MRS. GALLAGHER: No.

MR. PFAU: Has the 30 days been over for planning?

MR. EDSALL: No.

MR. VAN LEEUWEN: What about negative dec?

MR. EDSALL: Wait for county.

MS. QUINN: And DOT.

MR. EDSALL: You can take lead agency.

MR. ARGENIO: I'll accept a motion we declare ourselves lead agency.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion made and seconded that the Town of New Windsor Planning Board declare itself lead agency.

ROLL CALL

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

MR. EDSALL: Until you hear from DOT and county, there's not a lot you can do.

MR. ARGENIO: Yeah, Ray, you see where this is going, man, everybody's--

MR. YANNONE: I actually reviewed the plan with the DOT, went over everything with Sibby so she said--

MR. ARGENIO: That was probably helpful.

MR. YANNONE: She said she'd try to get a letter to you quickly.

MR. ARGENIO: When we get that letter, Raymond, and we get to hear from county, we'll put you on the agenda. But I think that this redevelopment should happen sooner rather than later.

MR. VAN LEEUWEN: I'd like to see it go.

MR. YANNONE: Thank you.

MR. ARGENIO: Anything else?

MR. PFAU: Thank you.

MR. ARGENIO: Thank you.

ZAFAR PRODUCE AMENDED SITE PLAN (15-05)

MR. ARGENIO: Next is Zafar Produce. This application proposes a 925 square foot loading dock addition to the existing building/facility, a second floor office over the addition is proposed. Plan was previously reviewed at the 22 July 2015 planning board meeting. So Eric, do you have plans with you?

MR. MASON: I do not.

MR. ARGENIO: You're decisively unprepared.

MR. MASON: I didn't realize that I would need them, sir.

MR. ARGENIO: Tell us what we're doing.

MR. MASON: Pretty simple, we're basically extending the side of the building out where the loading dock currently is to give him three more additional bays.

MR. ARGENIO: Put that thing up, I don't understand what are we doing? So is it just that X'd area, Eric?

MR. MASON: This area right here, yes, I believe it's 46 feet in length, 20 feet deep.

MR. ARGENIO: So it's a building two stories?

MR. MASON: Yes, he's trying to get a second level for some office area.

MR. GALLAGHER: Slab and used as a loading dock?

MR. MASON: No, we're going to add a loading dock and four more additional doors in the front.

MR. GALLAGHER: As of right now, it's just outside parking.

MR. MASON: This is currently where they back the tractor trailer up to the loading dock.

MR. GALLAGHER: Swing the doors to this side.

MR. MASON: We're basically losing one bay to add three more for the smaller trucks that he uses for local transport to give more room for the tractor trailers to bring more produce in.

MR. VAN LEEUWEN: Does a hell of a business.

MR. MASON: Well, I've been here several times, he's been expanding for many years so--

MR. VAN LEEUWEN: I know him, he's always working. He's never home.

MR. ARGENIO: Why isn't he here tonight, Eric?

MR. MASON: I believe he's out of town, he travels quite a bit.

MR. VAN LEEUWEN: He's a mover and a shaker.

MR. ARGENIO: What about the public hearing?

MR. VAN LEEUWEN: I don't see that it's necessary.

MR. ARGENIO: I don't see it.

MR. VAN LEEUWEN: I'll make a motion to waive the public hearing.

MR. ARGENIO: It's required?

MR. VAN LEEUWEN: It is?

MR. EDSALL: Why?

MR. ARGENIO: No, no, no, it's discretionary.

MR. MASON: We've had several opportunities prior to and nobody's ever showed up, I would say at least three times.

MR. ARGENIO: Motion made we waive the public hearing.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion made and seconded that we waive the public hearing.

ROLL CALL

MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. SHERMAN	AYE

MR. ARGENIO AYE

MR. ARGENIO: So the public hearing has been waived.

MR. ARGENIO: Mark, this is real simple, is there a man behind the curtain here?

MR. EDSALL: No, we've sent it to county, you heard back local determination so we're done with that, there are no other agencies involved.

MR. ARGENIO: You have some very minor cleanup.

MR. EDSALL: He's got some clean-up issues.

MR. ARGENIO: Parking dimension clarifications, Eric, anything you get tonight on behalf of your client.

MR. MASON: What do you mean? I'm sorry, I don't understand.

MR. EDSALL: From SEQRA standpoint, you could declare yourself lead agency and under comment six I'm suggesting that you declare it unlisted and adopt negative dec.

MR. ARGENIO: Motion for lead agency.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion made and seconded. Roll call.

ROLL CALL

MR. BROWN AYE

MR. GALLAGHER AYE

MR. VAN LEEUWEN AYE

MR. SHERMAN AYE

MR. ARGENIO AYE

MR. ARGENIO: That's for lead agency. I'll accept a negative dec under the SEQRA process.

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion made and seconded we declare

negative dec for Zafar Produce.

ROLL CALL

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

MR. ARGENIO: Anybody have anything else on this? This is really, really almost just like a building inspector issue quite frankly. Almost, but not quite. Subject to Mark's comments, do you have them, Eric?

MR. MASON: Yes.

MR. GALLAGHER: Motion for final approval subject to.

MR. ARGENIO: Subject to Mark's comments.

MR. VAN LEEUWEN: Second it.

MR. ARGENIO: Motion for final approval.

ROLL CALL

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

MR. ARGENIO: Eric, thank you for coming in, I wish you the best of luck, you and your client.

RAY'S TRANSPORTATION (14-09)

MR. ARGENIO: Mark, do you have some commentary on Ray's Transportation? I see the Stackhouse boys are here, Joe Pfau. Ray Stackhouse from Ray's Transportation is in front of the board this evening for reapproval of the site plan with I'm sure some nuances. So that said, Ray Stackhouse is in front of us as is Joe Pfau. Can you guys share what you want to do here?

MR. PFAU: Yeah, simply the site plan, we got an original approval, we're modifying the proposed building that was originally a proposed 100 by 100 and we're proposing 120 by 80, actually a little bit smaller and also we want to be able to--

MR. ARGENIO: What's the new size?

MR. PFAU: Eighty by 120.

MR. ARGENIO: What's the old size?

MR. PFAU: A hundred by 100.

MR. ARGENIO: So you're still 10,000 feet, right, is that right? Go ahead, Joe.

MR. PFAU: And the other part of the application we're proposing overhead garage doors opposite of Route 32 which was a concern at the workshop meeting for any potential visibility issues and the--

MR. ARGENIO: It's smaller, it's not the same, it's smaller.

MR. PFAU: Yes.

MR. EDSALL: It's 9,600.

MR. ARGENIO: Not 10,000, you guys are yes men here tonight. Go ahead, Joe.

MR. EDSALL: He said it was smaller.

MR. PFAU: The final plan for this building we want to be able to load and unload C & D material with the rail and that is the modifications to the plans. We have also added note nine which was discussed at the workshop, I'll just read, no outdoor storage of any C &

D material, all C & D material will be processed in and/or stored inside the proposed building.

MR. ARGENIO: That's note nine?

MR. PFAU: Yes.

MR. ARGENIO: Where is that on the plan I'm looking at?

MR. PFAU: That was--

MR. EDSALL: Proposed note nine, I haven't seen that yet either but they're aware of my concern.

MR. PFAU: I added that note on the drawing because that was a concern of the board I wanted to notate it.

MR. ARGENIO: You can't do this again, we've talked about this before you and I and that is having one set of plans up here and you having something else out here.

MR. PFAU: I apologize, that's the only difference.

MR. ARGENIO: That's a problem, bring that plan up here, Joe. Which plan did you see?

MR. EDSALL: I did not see that plan yet.

MR. ARGENIO: No, I believe that no outdoor storage of C & D material was one of the requirements of the original approval.

MR. EDSALL: C & D was not part of the original approval, that's one of the changes they're proposing for this proposed.

MR. ARGENIO: What were you handling or processing last time?

MR. STACKHOUSE: There's a building size change and the use for us is to be able to handle C & D inside the building to load rail cars.

MR. ARGENIO: Your application that you have in hand what were you processing at that point? I seem to remember something that needed to be inside the building.

MR. STACKHOUSE: My railroad material.

MR. ARGENIO: Come in covered railroad cars or enclosed railroad cars?

MR. STACKHOUSE: We were in talks with Wilabrator (phonetic) in Peekskill to transload their ash from the burn plant and--

MR. ARGENIO: That's right, ash.

MR. STACKHOUSE: Since that time, Wilabrator has been sold, so we have not been in contact with the new owners, not sure if they're interested in doing that. So I've looked at transloading C & D to supplement our railroad tie business so that's the only changes the building size and the C & D which would be totally indoors.

MR. ARGENIO: So it comes in by truck?

MR. STACKHOUSE: Comes in by truck.

MR. ARGENIO: Truck goes inside the building?

MR. STACKHOUSE: Gets dumped right into a rail car.

MR. ARGENIO: Is the truck that it comes in on enclosed?

MR. STACKHOUSE: Yes, tarped.

MR. ARGENIO: So it's not, it's a box without a top.

MR. STACKHOUSE: It will be tarped so it's three sides.

MR. ARGENIO: Alright, the record should reflect as well that my business is next door to Ray's but this in no way shape or form will influence any decision I do or do not make. I may refrain from voting just because it's not a bad idea. Okay, go ahead.

MR. VAN LEEUWEN: Actually, what we have to consider is the building.

MR. ARGENIO: Well, the building I don't think is an issue and I'm going to tell you why, I shouldn't say that, I don't think it's our issue, I think it's Jennifer's issue because I think they've got a variance for the property line offset last time you guys came in, okay, Jennifer's pointing here area variance for

building height, that was it, right, so they got a variance for that. So then a smaller building so Jennifer's going to have to deal with the property line offsets, make sure they meet the appropriate variances, this exercise is happening inside the building. Do you have the appropriate DEC permitting?

MR. STACKHOUSE: No, that's my next step was get preliminary approval from the town, then I go to the DEC to modify my existing Part 360 permit and they'll in turn check with the town to make sure I've gone this far so no.

MR. ARGENIO: Do you take exception to that?

MR. EDSALL: No, they've got an existing 360 permit, they need to incorporate it into the site, chicken or the egg I guess which is first.

MR. ARGENIO: Guys have any issues? The big thing last time if you guys remember when he was talking about the ash was that everything he does needed to be done inside the building, we were worried about being unsightly smelling, whatever odors, et cetera, but he still has the same thing, he's doing it inside the building but that doesn't mean that if it becomes a problem we're not going to call him in and say hey, bud, there's a problem. Does it smell?

MR. STACKHOUSE: No, it's construction debris, it's not municipal waste.

MR. ARGENIO: Here's what I want to do, I want Stephanie to send Joe a letter tomorrow that says make sure in the future we have the same plans that he brings to the meeting and puts them on the dais, Joe, don't mean to be a stiff about it but it's an issue, it's an issue. And the problem is it creates confusion and, you know, Jennifer doesn't know what was approved and we don't know what was approved so we have to avoid that. It's very important. However, that said, are there any other changes, Joe, other than note nine?

MR. PFAU: No, sir.

MR. ARGENIO: I agree with note nine, it makes sense to me, it should be there, we need to follow that process cause when we deviate from it it becomes a problem. You guys have any other questions?

MR. VAN LEEUWEN: Make a motion for preliminary approval.

MR. GALLAGHER: Second it.

MR. ARGENIO: Hold on one second. Mark or counsel, Joe, is there anything else we need to cover here?

MS. QUINN: No, the only note that the record needs to reflect is that the approval note is just with respect to the changes and all eight items under the original approval remain the same.

MR. ARGENIO: You agree?

MR. PFAU: Yes.

MR. STACKHOUSE: Yes.

MR. EDSALL: From a SEQRA standpoint, you had considered transporting materials in the past, the addition of the C & D material within the contained building I see as having no impact on your prior SEQRA determination so I see no problem with you reapproving it with these two minor changes.

MR. ARGENIO: Okay, does the board agree with what Mark just said relative to SEQRA? I'll just poll everybody.

MR. GALLAGHER: Yes.

MR. VAN LEEUWEN: Yes, yes.

MR. SHERMAN: Yes.

MR. ARGENIO: So anybody want to make a motion?

MR. VAN LEEUWEN: I made a motion for preliminary.

MR. GALLAGHER: Second it.

MR. ARGENIO: For final approval.

MR. VAN LEEUWEN: Final or preliminary?

MR. ARGENIO: For final approval. Motion made and seconded.

ROLL CALL

MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. SHERMAN	AYE
MR. ARGENIO	ABSTAIN

MR. ARGENIO: Thank you.

MR. STACKHOUSE: Thank you.

MR. PFAU: Thank you very much.

DISCUSSION

BENEDICT POND (13-03)

MR. ARGENIO: Discussion, Benedict Pond. Mark, do you have something?

MR. EDSALL: Benedict Pond site plan is seeking an extension of approval. John is here, he's here for you. My suggestion is that you grant them, Benedict Pond, a full extension available, which would be 180 plus the two 90s for a total of 360.

MR. ARGENIO: That's for Benedict Pond on behalf of Michele Babcock for their site plan?

MR. EDSALL: Application 13-03.

MR. ARGENIO: I'll accept a motion.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that we offer Benedict Pond 180 plus two 90s for a total of 360.

ROLL CALL

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

USAI REQUEST FOR DEMO PERMIT AND SITE GRADING (15-11)

MR. ARGENIO: Next is USAI request for demo permit and site grading. Mr. John Cappello is here, how are you tonight?

MR. CAPPELLO: Good, how you doing?

MR. ARGENIO: What do you have for us?

MR. CAPPELLO: Really what we're here tonight for we submitted the note, the applicants went to the meeting last month, we received a comment letter from your engineer, we met at the workshop, we recently submitted a response to all those comments. We understand that you may not be having a meeting in two weeks so really what we're looking for is authorization to go forward. There are two outbuildings on the parcel farthest to the south that need to be demolished, we'd demolish whether we got site plan or not, they were part of the parcel that's going to be combined with the main facility where the parking will occur. But we need to go while the weather's still good and demolish those buildings. So we would ask for authorization if we can.

MR. ARGENIO: John, can you point to that?

MR. CAPPELLO: These are the two buildings they bought from--

MR. VAN LEEUWEN: From the oil guy.

MR. ARGENIO: Help me with this application, Mark, what is their status right now currently?

MR. EDSALL: They're still before the board, it's been circulated for lead agency, it's been sent to the DOT for the access to River Road so and they're also cleaning up some final corrections to the plan so it is active. The timing of their desire to demolish the buildings and begin some remediation work is such they'd like to get that started on this southerly portion of the parcel possibly before they can get final site plan approval.

MR. ARGENIO: So they're working through the process now so John with specificity and for the record what work is it that you want to proceed with?

MR. CAPPELLO: Well, the, initially we just want to demolish those two buildings identified on the southerly most parcel. We have already done asbestos remediation, they're not part of the site plan so, you know, it would be removed regardless of whether the site plan was approved or not.

MR. ARGENIO: What else?

MR. CAPPELLO: The other work is the, we have, and we should be receiving an approval hopefully any day from the DEC on the Brownfield Remediation which will be beginning the cleaning up of the soils and contamination on the property will be pursuant to a remedial action work plan approved by the DEC.

MR. ARGENIO: That's actually something we would have very little to do with anyway, Jennifer, is that right?

MRS. GALLAGHER: Correct.

MR. ARGENIO: Is that removing soil from the site or is that removing and stockpiling it on site?

MR. CAPPELLO: Removing some that's contaminated, some will be covered once the property is blacktopped there's a full remediation program that is, like I said, it is being reviewed and approved by the DEC, they've signed off on it, just waiting, they need to forward it to the health department for review. We have been bugging them the DEC folks, the Brownfield Remediation are some of the best folks at the DEC, they have been actually reaching out to the health department because they want to see this done and for reasons, you know, I don't necessarily want to get into too much detail, you know, it's cheaper to actually take it off the site than it is so far based on that's what we have.

MR. ARGENIO: You want to take the building down and you want to start the remediation?

MR. CAPPELLO: Yes.

MR. ARGENIO: Are we going to have the problem with the line between remediation and site plan development being blurred?

MR. CAPPELLO: Well, we have to complete the remediation so, I mean, when you say blurred, there

will be some grading done that will be what we're showing on the site plan but really what we'll be doing because we anticipate and hopefully by October getting site plan approval.

MR. ARGENIO: How close is the application behind this request you're making this evening?

MR. CAPPELLO: Frankly, we would only be asking to demolish the buildings if you were having a meeting two weeks from now because we think we can probably make it two weeks from now but so as to not put everybody under pressure.

MR. ARGENIO: We don't know that the meeting two weeks from now is going to be canceled, we just don't have a lot on the agenda that evening.

MR. CAPPELLO: So we're very comfortable that by the October meeting we should definitely be ready but--

MR. ARGENIO: Let's not beat the horse.

MR. CAPPELLO: If we wait until October, we start getting very close.

MR. ARGENIO: Any issue?

MRS. GALLAGHER: No, just as long as they get the proper permits.

MR. ARGENIO: You have to get your proper permits.

MR. CAPPELLO: Yes.

MR. ARGENIO: Whatever else, demo permits. So I'm going to, let's not go wild, let's poll the board, Mr. Cappello is asking for the demolition of those two buildings and the, to be able to begin Brownfield Remediation with the expectation that they will continue to pursue the application that's in front of this board and hopefully bring it to fruition in the next couple months. Fair enough?

MR. CAPPELLO: Yes, absolutely.

MR. EDSALL: Just I would make sure the record is clear that they would, until they get the writeoff from DEC only do the demolition work and secondly that while they're doing the--

MR. ARGENIO: They certainly wouldn't want to run afoul of the DEC.

MR. EDSALL: When they do begin the remediation that site work and disturbance be consistent with the SWPPP.

MR. ARGENIO: You agree?

MR. CAPPELLO: Yes.

MR. ARGENIO: Anybody take exception?

MR. SHERMAN: No.

MR. BROWN: No.

MR. GALLAGHER: No.

MR. VAN LEEUWEN: It's fine.

MR. ARGENIO: I don't take exception, so good luck to you.

CONKLIN/TPS

MR. EDSALL: Veronica, and I apologize for the meeting that I missed, but the discussion occurred when I was not here for the Deep Green Ira D. Conklin/TPS site. Veronica asked that I add into the minutes just for clarification the approval that was granted back I believe in '94, '95 for that site was not a special permit approval, that plan received approval as a site plan as permitted use number 15 in the PI zone. The hour restrictions that were imposed on the site were as a result of the noise analysis that was performed as part of SEQRA. So your amendment of the hours was just an amendment of that site plan restriction which was a SEQRA restriction, it was not a special permit.

MR. ARGENIO: Special permit or no special permit, if we get an uproar from the folks down on River Road, they'll be back in this room.

MR. EDSALL: Absolutely, just saying.

MR. ARGENIO: I want to be clear on that special permit or no.

MR. EDSALL: Just so the record is clear how the restriction evolved so Veronica asked that I put that in the minutes, that's it.

MR. ARGENIO: Thank you.

MR. VAN LEEUWEN: Motion to adjourn.

MR. BROWN: Second it.

ROLL CALL

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

Respectfully Submitted By:

Frances Roth
Stenographer