

MINUTES  
TOWN OF GORHAM PLANNING BOARD  
February 28, 2022

PRESENT: Chairman Harvey            Mr. Dailey  
          Mr. Farmer                    Mr. Kestler  
          Mrs. Harris                   Mrs. Rasmussen  
          Mr. Hoover                    Mr. Perry-Alternate

Chairman Harvey called the meeting to order at 7:30 PM. Mr. Dailey made a motion to approve the January 31, 2022, minutes as submitted. Mr. Perry seconded the motion, which carried unanimously.

PUBLIC HEARINGS:

Application #29-2021, Brian Mastrosimone, owner of property at 3792 State Rt. 247, requests a renewal of his Special Use Permit with site plan modifications for outdoor event operations.

The public hearing was re-opened and the notice as it appeared in the official newspaper of the town was read.

The application was referred to the Ontario County Planning Board for their review.

Brian Mastrosimone was present and presented his application to the board.

Mr. Mastrosimone stated that they did give Kevin Olvaney their new proposal of what they are proposing for the new parking lot and second egress.

Evan Gefell, Engineer stated that they did meet with Kevin and went through the comments that were presented at the last meeting. He stated that they can meet all of the recommendations. They talked about adjusting the classification of the soils in the wooded area. They have worked with Brian and the staff to look at the drainage up top with the two existing ponds. They are delineating any potential wetlands in the area that is being proposed for the parking lot. At this time they cannot delineate with all the snow and ice.

Mr. Mastrosimone stated that for the 2022 season they are not doing anything different than they did in 2021 where they are going to need this parking lot for this season. He was told to give the Planning Board a plan of what he would like to do for the next 7 to 10 years. Lincoln Hill Farms plans on operating exactly how it did last year. Currently they have the infrastructure in place to sustain up to 3000 people. They do not plan on having that many this year. Their events will hold

at a max capacity this year up to 1500. They are going to try to do a one day event of up to 3000 people.

Chairman Harvey asked where they would park people at the 3000 event without the additional parking lot.

Mr. Mastrosimone stated that this past July 4 they had a big mishap.

Chairman Harvey stated that they were parking people where the board did not approve the parking.

Mr. Mastrosimone stated that they can park along the driveways as well as the parking lots and the grass areas. July 4<sup>th</sup> was a big mistake and that is why they are proposing the second entrance.

Mr. Mastrosimone stated that this year they are also implementing a parking fee.

Mr. Mastrosimone stated that they have on paper around 700 to 800 parking spaces and can squeeze in a few more if they had too.

Chairman Harvey stated that at CMAC they average 2.8 people per vehicle. "For 3000 you would have to have parking for over 1000 cars. So 3000 is kind of pushing the limit and I think is beyond the limit. On paper if you can show us that you got six or seven hundred cars than ok than 2.8 times that maybe one event see how it goes."

Chairman Harvey asked if he knew how many events he was going to have this year.

Mr. Mastrosimone stated that "this year we are forecasting between 12 and 15 events at 1500, around 10 events at 1000, between 25 and 30 events between 500 and 750. And then our Halloween show varies anywhere from 300 to 600 people. And we're hoping Thursday, Friday and Saturday no longer on Sunday."

Mrs. Harris asked what the hours would be.

Mr. Mastrosimone stated "No change on that. Sunday through Thursday we will be closing before 10:00 and Friday and Saturday before 11:00."

Mr. Dailey asked if he was going to duplicate what would have happened before Covid. "That would be what the season looks like?"

Mr. Mastrosimone stated that the season will look very similar to last year.

Mr. Mastrosimone stated that the events don't include weddings. His wedding tent is open Friday, Saturday, and Sunday. They average about 150 to 180 people per wedding.

Mr. Dailey stated that some of the neighbors had concerns with drainage and with noise.

Mr. Mastrosimone stated that he will tackle some of those complaints. "So the drainage in 2017 Lincoln Hill Farms had its first event in October. All my drainage for any parking lots or

roadways they all go into a pond. In June of 2017 we had a washout in that same area where I'm getting most of the complaints. So I'm not sure how Lincoln Hill Farms with all the drainage going into ponds that are not overflowing has any effect on what's happening on County Road 18 down from us. One of the biggest complaints and I've talked to Joe. Is Joe and he has some issues in water and I have letters from Kevin Olvaney as well as the Town of Gorham who advised him not to build his house there, but he still did because he had an engineer report that allowed him to do that. So I say the water has really no effect of what's been happening with Lincoln Hill Farms. Just because we had issues prior to Lincoln Hill Farms being open and I don't think I'm causing any extra."

Chairman Harvey stated that all the drainage that was put in is draining towards the ponds on site. As he recalls there is no discharge point.

Mr. Mastrosimone stated "correct."

Chairman Harvey stated that "So far even with the wettest times you haven't seen out flow from the pond and again that's the existing conditions as we are today. It does not describe what's going to happen or what may happen over the next 5, 7, 10 years with the expanded parking area."

Mrs. Rasmussen stated, "we as a board have to remember that the water that comes down 18 starts at Mumby Road."

Mr. Mastrosimone stated "as for the noise I own the closes house and stay at the closes house in the summertime. Can I hear the music? Yes I can if I'm outside and I'm around the pool or something like that. If I'm inside and I have my TV on I can't hear the music. I have to really try to listen to the music. I own a wedding venue that's 150 yards away from the stage. I've had zero complaints about the sound from the wedding venue and that's like a direct shot to the sound. I had 67 weddings last year. I won Finger Lakes Wedding Venue of the year. So the noise and the weddings you'd think there'd be a big problem if there was some noise. I've never went over by one minute I promise you that."

Chairman Harvey asked over the last couple of years. "I know there was a problem the first year or the second year."

Mr. Mastrosimone stated "First year that we were open the house that I'm talking about that I own. I bought it from that person who complained. He complained very often. The cops would show up and they would say there is nothing here. So I just think he didn't like what was happening. Many complaints from that but zero action nothing happened there false complaints."

Mr. Mastrosimone stated "It's a community farm. I live on the farm during the times we're open. So I'm a person that's there an owner that's part of the business. I had no idea when I first started this that it would be as successful as it is. I know with that comes responsibility. Like I said it is a community farm. We do fundraisers for the sheriffs, for the cops, for veterans. This year we are going to do a 911 fundraiser for first responders. I just think we are trying to do everything to please not only our neighbors but the community. Our first round of hires are Marcus Whitman School teachers, Canandaigua School teachers. I just think the farm itself is a big part of the community and I'm not some guy out there trying to cut corners and make as much money as possible it's really to enjoy a place where I can work and enjoy the community."

Chairman Harvey asked if there were any comments from the public.

Tim Vaughan-"I mentioned last month talked about your town code and I don't hold anything against Brian trying to develop and make a fantastic destination venue for a lot of different things, concerts and weddings and what not. The code I was referencing last month is the Article 9 Special Use Permit Procedures. And I mentioned that there are conditions in there, and this was last updated what I had downloaded in 2017 before he started this. I think overtime he's expanded it. The approvals have not kept up with what was in the code and I think the board needs to address that. And if you're going to approve stuff beyond what's in the code I think you owe it to the residents and the people that live around there what your rational is for doing that. Let us know."

Chairman Harvey asked if he had a specific code.

Mr. Vaughan-"31.9.14 paragraph A especially number 8 The facility shall be designed and intended for use by less than 500 persons at any given time. 31.9.14 is outdoor recreation facilities, including golf courses, riding academies, hunting and fishing clubs and open air theaters. Since it doesn't mention amphitheater or outdoor music venues I would think that would kind of fall into that category. Again I think he's been moving forward trying to grow his business and I'm not sure the board has kept up with the code and it sounds like he's willing to do whatever it takes to comply with what the board wants him to do I'm just not sure, I hate to say it that you guys have kept up with what's in the code."

Joe Benge-"I just want to be clear. I'm not accusing Brian of flooding me in anyway shape or form. I'm concerned for the future that when I invest money in my property to fix the water situations that it doesn't occur again. And for his letters I

sat at this very board and got approvals from this very board, from the Code Enforcer that he's saying has a letter. No one said anything to me. My engineer advised me not to build a basement in the ground so we built on grade. It was the only advisement that I got. And Kevin Olvany I never talked to him till this year. So I wanted to clarify that. Brian have you ever had a music event play music past 10PM?"

Mr. Mastrosimone stated on a Friday and Saturday yes.

Mr. Bengé—"There's a statement in the minutes that you stated yourself that no music will play beyond 10PM."

Mr. Mastrosimone stated that the code says that Friday and Saturdays he has till 11:00PM.

Mr. Bengé—"The code or are we basing it off of are you basing it off of Ontario County noise ordinance or are you basing it off the things that were said in the minutes?"

Mr. Mastrosimone—"I'm basing it off of what I was told that I can and can't do. And I was told that I can play music till 11:00 on Fridays and Saturdays. Now most of the time I would say we finish before 10:00 but not all the time. We get a big act in there we usually play close to 11:00, but if we get mostly our smaller bands play till 10:00. Yes Friday and Saturday I play past 10:00 never past 11:00. Sunday through Thursday never play past 10:00. Most of the time those are cut short to between 9:30 and 10:00."

Mr. Bengé—"I just go off what I find in the minutes that's the only reference I have to go off of. And my only concern is with the number of events that you're proposing now. My only concern with that is school nights. Because I know what you say you can hear and can't hear in your house. It's my word your word. Well I know what I can hear inside my house and my children's bedrooms is against the backside of the house which is closer to Lincoln Hill and we do hear it. So my only concern is the school nights."

Chairman Harvey asked what was appropriate on a school night.

Mr. Bengé stated 9:00.

Chairman Harvey explained that one of the reasons the Planning Board approved a renewable Special Use Permit is that they wanted to see what was going on and what the impacts were. If changes needed to be made the board had the ability to do that.

James Morse, Town Code Enforcement Officer stated that when Brian came in for the glamping that's when the hours were established so those minutes could be reviewed.

Mr. Bengé stated that he did see those times in the minutes for the glamping. "Is that to go with the same aspect as the glamping and the theater than?"

Chairman Harvey stated that at that time it was a modification of the Special Use Permit.

Kathy Baxter- "I expressed concern over the traffic the last time. How long is the Special Use Permit for? This approval that we're talking about right now."

Chairman Harvey stated that the term hasn't really been decided yet. "It is up to the board. We can make it a year. We can make it two years."

Ms. Baxter-"But you've asked him for what he's going to do in the next 5 to 7. That's why I'm a little bit confused."

Chairman Harvey stated that the board was concerned with the growing scale of the operation. "We asked Brian when he came in for his renewal to say what is your ultimate plan. Because we might as well deal with it now and make sure that ultimately we're all comfortable with where it's going. Right now he's looking for a renewal of his existing operation and we're not considering the expansion."

Ms. Baxter-"You're not considering the parking lot."

Chairman Harvey stated no.

Ms. Baxter -"So he will have to come back for that?"

Chairman Harvey stated yes.

James Morse stated "Brian's property is located in two zoning districts. It's in our Farming Preferred District as well as our Planned Development District. So there's two different Special Use Permit procedures that are listed there. So I just wanted to clarify. There is a section of the code where you talk about the outdoor activities. You have to read both of them." He told Tim Vaughan that he would be glad to meet with him and go over this with him.

Mr. Dailey asked Mr. Mastrosimone what he would specifically like to see changed if the board was to approve a one year renewal from what he has at the present.

Mr. Mastrosimone stated that there is no physical major changes. "We will operate at the same capacity that we operated last year with the numbers I just gave you."

Chairman Harvey asked Mr. Mastrosimone what he considers his venue season.

Mr. Mastrosimone stated that it is May 15 to October 30.

Mr. Farmer asked Mr. Mastrosimone if it goes crazy and people are lined up on 247 is he prepared to turn people away.

Mr. Mastrosimone stated yes. "We presale tickets if the tickets are sold out it's a sold out show don't come. There is walkup if it's not sold out."

Mr. Farmer asked if he has experienced a sell out and any problems with people.

Mr. Mastrosimone stated no. "I don't have the bathroom space, the bar space, the food space, I don't have all the

infrastructure to do more than 1500 people. So I have not. The only problem we had the entire time was the 4<sup>th</sup> of July. It was a nightmare. I'll be the first one to admit it. Canandaigua cancelled their fireworks show and put out there the Chamber put out there that 4<sup>th</sup> of July act at Lincoln Hill Farms. Geneva cancelled their 4<sup>th</sup> of July show and put on their site go to Lincoln Hill Farms. It was an absolute disaster. And I was in the middle of the road trying to direct traffic. I almost got hit by cars. I did whatever it took to clear out people. That is one of the reasons why we said in order for us to get to the capacity that we've gotten we would have to have more parking. We would have to have a second egress a different road. That's why we're proposing a second entrance. That second entrance would not be utilized this year. We would like to start it at the end of the year, October, November. So it would be up in May. That was the only issue we had in five years."

Mr. Farmer questioned if people could park on 247 and just walk in.

Mr. Mastrosimone stated that they can't just walk in randomly. They must come through the entrance. He doesn't want people parking on 247.

Chairman Harvey stated "I think I am very much in favor of issuing you a renewal for a year with not ... your ability to come back and continue to engage the board about whatever the expansion plan is. So if you want to build a second egress yes we are going to have a public hearing. We are going to do that as a modification to the Special Use Permit. The renewal you gave us some numbers as long as it continues to work it's fine. The maximum size without improving the parking area I will say this in defense of the town and the Planning Board we asked you for a site plan years ago and we got one and I forget exactly but it like 72 car parking lot and then parking along the entry drive. Nowhere on that did it show parking in the lawn in the grass areas and everywhere else. So that's something that you are going to have to come back and show the board where you're parking is and how it's going to work and we're going to set that maximum number. None of us wants July 4<sup>th</sup> to happen again. So that kind of open book go here uninvited unticketed situation can't happen again. I like that you set the number you have a number of tickets and that's it. Whatever happens on the site is additive not cumulative. What I mean by that wherever we land with a maximum number it's no oh I also have 300 guests for the wedding venue. This is what is the maximum on site. I'm kind of interested in exploring also the, all of our existing conditions will stand but with the exception I guess I'm really looking at I really think we need to discuss what happens

between May 15 opening date and the end of the normal school year."

Mr. Mastrosimone "School nights while there's school. So May through end of June and then September. September through October won't be that much. Will 9:30 be acceptable on those nights?"

Mrs. Rasmussen stated, "As a mom and a grandma I would go 9:00 on a school night."

Chairman Harvey asked if there was anyone online that would like to make a comment on the application.

Ann Marie St George-" As business owners in the community Chuck and I both feel that given them a permit definitely adds a lot to our community. It's an asset. It brings a lot of business into our community. We've been fortunate enough to receive extra business because of the farm and we're very grateful that they're there."

Chairman Harvey closed the public hearing at this time.

Chairman Harvey asked Mr. Mastrosimone if he posts things on his website such as when they are sold out.

Mr. Mastrosimone stated that when they go online they would see that they could not buy tickets. They also put it on all the social media.

Mr. Mastrosimone stated that charging a parking fee is going to entice people to carpool.

Mr. Dailey asked if he would post the parking fee online so that people know in advance.

Mr. Mastrosimone stated yes, they are just waiting to get the permit then they will get the information out to the public. They will not have a parking fee on Sunday because it is Family Fun Day.

Mrs. Rasmussen stated, "I would like to propose, make a motion. I know we've talked about a one year extension, but in looking at the potential for putting in this second egress and the parking lot, which he'll have to come back for anyway to make that modification, I would like to propose a two year extension and that way the parking lot and the egress we can see the result of that. That would be in place within that second year so that we could see what effect it has and if there needs to be any modifications to that as well. So I am making a motion for a two year extension with the conditions of the modification of music time during the school year from May 15 to June 21 that it be reduced to 9:00PM instead of 10:00PM. Then also September 6, which is usually the first day of school till October 30."

Mr. Dailey stated, "So I'm understanding what's happening with the parking lot is that going to be happening now is that the plan?"



Mr. Mastrosimone stated "No. We can't do the engineering on it with the snow. I'm not going to start building during the season."

Mr. Dailey stated, "So you'll be back before the board when you're ready to talk about that."

Mr. Mastrosimone stated, "My hope is to have everything engineered and then be able to start that in November."

Mr. Dailey seconded the motion.

Chairman Harvey stated, "Motion is made and seconded. I think the other thing that I would suggest be addressed in the motion is talk about submission of a parking plan, showing the maximum number of cars and where they are going to be parked. I'm going to say this very carefully but very deliberately. I don't want to see parking spaces in areas you plow up and plant flowers and other things in because..."

Mr. Mastrosimone stated, "that will never happen but yes your right I won't do that I promise."

Chairman Harvey stated, "the wedding venues the smaller venues I don't have any problem with that it's those numbers count towards the total. Obviously, you talked about 12 to 15 maximum capacity another 10, if you can have 1000 you show it to us that's fine. The number between 500 and 750 be at 25 to 30 at a three day Halloween event. Those are the venues that you're talking about. If you want to go beyond that in 2022 you got to come back and talk to us."

Mr. Dailey stated, "and on the parking I think you mentioned that you would put that online that there's a fee encouraging people to carpool."

Mr. Mastrosimone stated, "yes 100%."

Chairman Harvey stated, "the original motion talked about hours May 15 through June 21 and from September 6 to October 30 being during the school nights being limited to 9:00PM."

Mrs. Rasmussen stated that it actually would be only to October 27.

Mr. Mastrosimone asked, "What if there is no music?"

Mrs. Rasmussen stated that just the music is till 9:00PM.

Chairman Harvey stated, "Parking plan you got to submit show your maximum parking. We are going to cut off the occupancy at 2.8 times the parking spaces. Keep track of that frankly because if you want to come back and talk about amending it in the future if you got data that shows that you got something else. You're going to establish a parking rate on a per car charge. On your website, your social media you're going to establish a maximum number of tickets and show when you got a sellout."

Chairman Harvey asked Mrs. Rasmussen if she would like to amend her motion to include all those conditions.

Mrs. Rasmussen stated so amended.

Chairman Harvey asked all those in favor of the amendment to the motion. All voted AYE.

Chairman Harvey asked all those in favor of the amended motion to approve the extension of the existing Special Use Permit with the new conditions for a period of two years. All voted AYE.

Chairman Harvey opened the public hearing on the draft scope for the DEIS for the Scenic Ridge Rise Subdivision and the notice as it appeared in the official newspaper of the town was read.

Chairman Harvey explained to the public and stated, "This is part of the review process for this subdivision. The Planning Board is not going to take any action tonight on it other than to hear your comments on the draft scope. If you care to speak or give comments on the draft scope please be aware the board already adopted the Environmental Assessment Form part 1,2,&3. Your comments should be aimed at explaining what should be included in the scope pertained to what were identified as potentially significant large impacts in the draft environmental assessment form. This is not a forum. Because if a lot of people want to talk where I'm not going to allow a lot of digression about the character of the development and what you think of the application that's not the purpose of this public hearing. You'll have ample opportunity to do that once the draft environmental impact statement is deemed complete and we have a public hearing on the actual subdivision and it's design itself. So please limit your comments to the scope of draft of the environmental impact statement because that's what this public hearing is about and you're here to convince the board to require certain changes to the draft scope. After we close this public hearing tonight as the notice explained we'll take written comments, including from anybody that spoke if you want to give them to the Town Planning and Zoning Office by the 13<sup>th</sup> of March. The board will convene probably at its regular meeting at the end of March, which would be March 28th. It's our obligation at that point in time to finalize the scope and inform the applicant of what's got to be covered in his environmental impact statement. So with that who wants to speak first."

Neil Atkins-"I'm representing the Canandaigua Lake Watershed Association. The association would like to offer comments for the purpose of Scenic Ridge Development. CLWA is a nonprofit organization whose mission is to inspire the entire watershed community to become stewards of Canandaigua Lake through education, scientific research, and advocating sound

public policy. We support responsible design, review and development but oppose development which affects the water quality of Canandaigua Lake. Upon review of the proposal, we have highlighted some concerns we believe should be added to the scope of the Planning Board's review and approval of this project. Open Space. The application claims to provide 23 acres of open space, more than the required 30% open space. However, in reviewing the subdivision layout we can see only about 4.6 acres compatible with the zoning ordinance definition of Permanent Open Space (section 31.2.2) as "land dedicated to the Town of Gorham or set aside by easement or other manner in a form acceptable to the Town of Gorham for use as a park, wildlife preserve, forest area or other use deemed acceptable by the Town of Gorham." The Code provides further that"

Chairman Harvey interrupted Mr. Atkins and asked him to address the scope of the DEIS with his remaining comments because the first comment is about the character of the subdivision and not about the scope of the impact statement.

Mr. Atkins presented a copy of the letter from the Canandaigua Lake Watershed Association to the secretary, which will be reviewed by the board and kept in the file.

Jim Farrell-"This discussion tonight is about the scope of the environmental impact statement."

Chairman Harvey stated that is exactly what he said.

Jim Farrell-"Does that mean then what should be included in it?"

Chairman Harvey-"Correct. What should be considered? What are the topics that need to have further explanation? The draft document has been online, on file with the town and the purpose of this public hearing is solely, is this complete? What's the public's opinion? What things need to be added or deleted from draft that the applicant prepared? We have not as a board, have not endorsed this or said it's adequate or inadequate. That's what we will do after public comments. The way the process works is the applicant provides what he believes the scope of the document should be. And we elected to hold a public hearing. We have 60 days after receipt of this to finalize the scope."

Jim Farrell-"So we're not here to discuss the issues that are already in that scope?"

Chairman Harvey-"That's correct. You can say I'm glad that those are in there. I'm not going to stop you from saying that topic really needs to be discussed or I think a fair comment would be it doesn't go far enough in terms of discussing this particular topic or issue."

Jim Farrell-" So a review of the environmental impact per say will be conducted later."

Chairman Harvey-"Yes."

Jim Farrell-"In the context of some of the things that the scope of the environmental impact statement calls for."

Chairman Harvey-"Yes. Tonight is about the scope and then the applicant is obligated to go back home once in March this board finalizes the scope. Again the other thing that we're waiting on is comments from every other involved and interested agency. They all have a chance to submit their written comments or make oral ones it doesn't matter. And then it's the boards job to take all that input and finalize what's the scope of the environmental impact statement and then finalize it and give it to the applicant. And then they have to go back and prepare the document. And then once the document is prepared submit it to the board we get to review it. We may go back and forth with modifications. And then the board certifies it at some point as being ready for public review. And then it gets released to the public. It gets released to all involved and interested agencies. There's a public hearing that considers the environmental review and the preliminary subdivision application at the same time. And then from there the board holds a public hearing and we take comments and then the applicant has to after back and forth with the board finalize the environmental impact statement and bring that back to the board. The board has to accept it and then have a minimum 10 day public comment period after they accept the final environmental impact statement before we as a board can issue findings and make any kind of decision on the subdivision application."

Richard Warren-"A few months ago when this developer had a meeting here we got a personal letter as an adjoining property to his subdivision. And then we didn't get anything on this one. So are we supposed to get a letter as neighboring property?"

Chairman Harvey-"You're suppose to get one as part of the subdivision process, which is govern by the Town's Subdivision Regulations. This process is govern by New York State Environmental Quality Review Act and it's implementing regulations which are found at 6 New York code of rules and regulations part 617."

Richard Warren-"So do we look online for future meetings to make sure we can show up if we want to?"

Chairman Harvey-"This particular hearing has no requirement for notifying adjacent property owners. When we get to the point where the draft environmental impact statement is prepared and finalized for example a public hearing will be scheduled for that along with the preliminary subdivision application review and that will be a public hearing notice as well. So the best

thing to do is check the Town's website or contact the town office."

Brett Johnson-"Does parking have to do with this? This pavilion on that that's 24 height 48 x 61 in the drawing there's no parking on this. At some point is parking for usage of the pavilion or off street parking incorporated anywhere in this or am I off base asking this?"

Chairman Harvey-"If you feel that parking is something that should be added to the scope of the project in the environmental review. That's a comment to make. Why is it important? Why do you think it needs to be addressed? I will tell you the subdivision regs he'll have to address and meet the requirements for off street parking for the residences. The common areas like the pavilion he's going to have to have a discussion with the board about whether it's a homeowner association operated and maintained facility as currently proposed. So is he intending it just for people to walk there. What's really the plan? Again when we did the draft environmental assessment form when we went through that process and looked at his submission and then completed part 2 and part 3 the board did not flag that as being particularly significant. It's a small facility and we were going deal with it again we didn't think it was a significant impact in this particular project because there is enough rules in place already."

Sally Napolitano-"I'm interested and a little confused as to Mr. Atkins was talking about zoning under the"

Chairman Harvey-"No he was talking about how the particulars of the open space either met the code or did not."

Sally Napolitano-"Well within the rezoning that the applicant is using. Right? He's using a subdivision rezoning from R-1, which has a requirement for so much open space."

Chairman Harvey-"He's not rezoning the property. No mam. There's no rezoning proposed for this property."

Sally Napolitano-"I thought this was an R-1 property."

Chairman Harvey-"It is. It's not a rezoning."

Sally Napolitano-"To use this cluster subdivision."

Chairman Harvey-"Correct."

Sally Napolitano-"But within using the cluster subdivision there is an open space requirement."

Chairman Harvey-"There's an open space requirement without the cluster zoning."

Sally Napolitano-"Has it been determined already by the board that he is meeting the open space requirement?"

Chairman Harvey-"No."

Sally Napolitano-"And where does that come along in the process?"

Chairman Harvey-"When he gets to the point of the review of the preliminary subdivision. So you'll get ample comments and we will go through that when we get to that point with the public."

Sally Napolitano-"I believe my understanding when this property was looked at several years ago that there were"

Chairman Harvey-"There was actually a final approval several years ago."

Sally Napolitano-"Springs and other things that might require somebody walking the property to even identify I mean is that the type of thing that would be appropriate to ask for?"

Chairman Harvey-"That particular issue is already been flagged as a potentially significant impact. I'm not going to offer whether or not I think the scope reflects that, not at this point in time. But it certainly was identified when the board completed part 2 and part 3 of the environmental assessment form. We thought that was a potentially significant impact."

Sally Napolitano-"And how about a requirement of an independent engineer to evaluate traffic studies, and I just don't know how this works. Are you ok that, is it typical that the applicant hires his own engineer to do the traffic study?"

Chairman Harvey-"It's pretty typical. In this case if it were a town road we would probably hire a town traffic engineer to evaluate it. At this point his submission to New York State DOT goes under their rules. So DOT is going to be the one that decides whether or not they accept their traffic engineering report."

Jim Farrell-"In terms of the issue with traffic, which is cited, in the preliminary environmental impact statement. Would it be appropriate to, well I guess I'm going to make a comment anyway. I would like to comment that there are changes under the auspicious of different authorities other than the state that I think have some impact on the traffic relative to this specific development. That is, for example one would be the Ontario Park is undergoing some transformation and that hasn't been completed in this phasing at this point. And my understanding is that that incorporates some major changes in parking for that facility and also removal of fences that delineate that parking area from the highway. And my suggestion is that I guess I'm concerned that that be what ever that plan is that its whether it had impact or not on traffic bearing on this project should be examined."

Chairman Harvey-"That's a very good point. I guess I'll summarize it this way. You want to insure that the scope includes the concept plans that have been developed for the Ontario County Park and how this development may impact those."

Jim Farrell-"My other comment is this. Do we have code that regulates the distance that would separate two subdivisions exclusive access and egress to their division?"

Chairman Harvey-"The town does have an Access Management Plan as an addendum to their existing Comprehensive Plan they also have an Access Management Local Law. So he has to either meet those requirements or the board has to decide why there are good reasons to waive them."

Jim Farrell-"Then my suggestion or recommendation would be that in the environmental impact having one subdivision close to another proposed subdivision, given whatever those distances are, which they are somewhere in the neighborhood of a couple hundred yards, that whatever impact the proposed access and egress to the Springhill proposed subdivision should be considered in light of the traffic issues concerning access and egress of traffic to Angela Way."

Neil Atkins-"I think we learned a little bit when we did Angela Way. And what I'd like to talk about is drainage swales and I'd like to read what I have. "When swales are used as part of a stormwater management plan, we believe it essential to ensure those swales will continue to function when the development is constructed and inhabited. It is unclear from the subdivision plan how much setback from these drainage swales there will be for any primary or accessory structures or amenities on the lots. We suggest the Planning Board review a site plan with all structures located to determine if the setbacks will be adequate to allow the residences adequate rear yards without infringing of the drainage swales and interfering with their function. In the alternative, the Planning Board could require some actual physical barrier and a legal restriction requiring proper maintenance and protection of the drainage swale areas to ensure their permanent function. We also ask the Planning Board to consider the timing of construction to ensure drainage facilities including drainage swales located adjacent to residential lots are constructed, stabilized and well planted before land is disturbed for the construction of residences or other infrastructure." And as we remember with Angela Way the developer was out there in his suit and new shoes spreading grass seed and straw from the trunk of his car during a rainstorm. And we also remember that 364 had a lot of mud in it that required a snowplow. The other thing I'd like to talk about is."

Chairman Harvey-"There are quite a lot of things again Neil I'm seeing these things already in the scope."

Neil Atkins-"On the lot coverage, well I guess what I have here is in the scope."

Chairman Harvey-"Again all good comments I think when we get to preliminary subdivision review."

Neil Atkins-"These are in a document in letter form."

Chairman Harvey asked if anyone that was present virtually wanted to comment.

Chairman Harvey asked if anyone that was present in the public wanted to make a comment.

Lynn Klotz-"I did have a question. Does the draft scoping address, I see on the copy I was just looking at number 7 impact on plants and animals and it's checked no, and I can't imagine how that's the case."

Chairman Harvey-"Well you got to go back to the original plan and part 1 of the environmental assessment form and part 2 it's the way the questions if you go back to the workbook that DEC publishes to guide how you make out part 2 and part 3 they're looking from a point of view are there endangered species on the property. Are there significant wildlife preserves or indigenous populations that are on the site of plants or infauna. And those answers are no."

Lynn Klotz-"Well I might suggest that because that parcel hasn't been walked by an independent consultant that we don't know if those things exist. That might be accurate for what the DEC says but that's my opinion."

Neil Atkins-"In following extensively the Canandaigua Shores public hearings for a time, there was great concern about the traffic. And not necessarily the egress and ingress to that development but the effect that would happen on Lake Shore Drive and 364. And the tie up there where witnesses appear and indicate 10 to 15 minutes at certain times. So that might be something that you might want to look at. As not the impact in the local area of the development but what's happening downstream."

Kathy Baxter-"County Road 18 was discussed in that too. Huge waits to get out of County Road 18. If you put two more developments on 364 you're never going to get out of there. You're going to need a light there. And people are coming down that hill at 55 MPH."

Neil Atkins-"The new design is that they're going to be separate. You're going to have a minimum number going onto 364 and 15 additional houses going up on County Road 18."

Chairman Harvey-"I'm not prejudicing the process it's fair to say the Town of Gorham has worked with Hopewell and Canandaigua in the past and there is an Access Management Plan for that whole corridor because everybody realizes that you can't just keep shoving more traffic on an existing road and expect it to perform."



"Kathy Baxter-"I have a question along those lines. When you're dealing with the existing infrastructure and you're trying to cram so much more into it, whether it's water, sewer, traffic, at some point it's got to be improved. Who pays for that? Why are the developers not paying special assessments to deal with"

Chairman Harvey-"Let me address that. And I will apologize for prolonging the public hearing. But it's something that's in New York State the only impact fees that are legally legal in the State of New York are ones that have to do with recreation. Town's can establish those. There have been a few instances where the State has actually proposed and approved a transportation improvement district. They are few and far between. And the State, as you've probably heard the redirect come out of Albany the problem with New York State is all these different taxing jurisdictions. So the likelihood of the State Legislature permitting a new transportation impact district is pretty negligible. If you go to other places I'll give Michigan as an example. They would charge an impact fee for the school district, the water district, the sewer district, the lighting district and in New York State none of that is legal. So the answer to your question is the developer is usually mandated to fund the infrastructure necessary to support his development and the only way a town or county can turn down a development is if there isn't sufficient capacity and the developer doesn't have sufficient funds to assist in building that capacity. And then sooner or later all the taxpayers will end up paying for increase capacity. And the state balances that off because they're nice to you by allowing or providing in many cases grants for some of these projects."

Sally Napolitano-"So this really doesn't I know this is not appropriate to the scoping but I just since you're on the County Planning Board as well."

Chairman Harvey-"No I am not. I work for the County Planning Department."

Sally Napolitano-"So between the active transport corridor of 364 and the things that they have planned there, which I think sounds great, to have bike lanes and walking lanes or sidewalks for pedestrians. It seems to me that the County and the Towns aren't talking to each other. Because this all can't happen successfully in my opinion."

Chairman Harvey asked if anyone else would like to make a comment.

Chairman Harvey explained that everyone has till March 13, 2022, to get comments back to the Zoning and Planning Office on the Environmental Assessment form and the draft scope document. "Personally, I'm going to have a lot of comments on this draft

and I'm going to see you concentrate more heavily on the things that the Planning Board identified as being significant impacts for Part 3 of the environmental assessment form, which we took a great deal of time to write up and address what we thought was significant. I close the public hearing at this time. The board's got a lot of work to do. Take the comments we heard tonight and what ever we get in writing. Please feel free to submit more written comments to Sue or Jim in the Zoning and Planning Office of the town of those things that are really important so that we make sure that the environmental impact statement actually addresses the potentially significant impacts that have been identified so far with this project."

Mrs. Rasmussen made a motion to adjourn the meeting at 9:05PM. Mr. Hoover seconded the motion, which carried unanimously.

---

Thomas P. Harvey, Chairman

---

Sue Yarger, Secretary