

The Deerpark Planning Board met for a special workshop on Wednesday, May 19, 2010 at 7:00 p.m at Building #2, Huguenot, N.Y. The following were present:

#### BOARD MEMBERS

Willard (Skip) Wilson, Chairman  
Derek Wilson  
Mike Breitenfeld

Dan Loeb  
Theresa Santiago  
Mike Hunter, alternate member

#### OTHERS

Mr. Glen Plotsky, Town Attorney  
Mr. Dave Dean, Town Board Liaison

Mr. Alfred A. Fusco, Town Engineer  
Mr. Damian Brady, Esq.

#### THE PLEDGE OF ALLEGIANCE

Al Fusco said that there are basically two main open issues in the FEIS of this project, that is, the culvert, and the widening of Wilson Road.

Al Fusco and the Board reviewed Planning Board member Noel Malsbergs' comments, as he was unable to attend this evenings' meeting. He read from the FEIS, "Impact of Change in Land Use - I-53. The retail service complex planned for the site, will primarily service the Deerpark Village residents and will not substantially change the land use character of the area." He read Noel Malsbergs comment: "The retail complex changes the proximity of the nearest store for all residents on Wilson Road and Route 42, to create 50,000 square feet of stores on a rural road, which presently has zero square feet. It does indicate a dramatic change in traffic patterns in land use."

Derek Wilson read from the FIES, page 153, first paragraph: "... the building coverage height and traffic impacts, would be far less than the impact generated by a single family... In so much as all residential uses will be for senior citizens, the building coverage in height will be far less than the equal number of single family homes occupied by..." He asked if this was for the commercial?

Al Fusco answered that it is a comparison, that is, senior housing versus single family homes. He continued to read from page 153: "Retail services, complex plan for the site will primarily service the residents and not substantially change the land characteristics of the area."

The Board agreed that this former sentence, the word "not substantially" should be deleted.

Derek Wilson expressed his opinion that the retail should be centrally located on the site.

Al Fusco said that he will change the wording to: "Retail services complex planned for the site, will primarily service the Deerpark Village residents, and will change the land use characteristics of the area."

Derek Wilson asked that the following sentence be added to the FEIS: "The Planning Board wants the commercial area re-located internally, to reduce its impact on surrounding existing land uses." He said that the Deerpark Zoning Law specifically states that the commercial area is solely for the use of the residents and their guests. The other Board members agreed.

Al Fusco read from the FEIS: "...however, the applicant has agreed to perform follow up traffic surveys, prior to each stage of the development, for which site plan approval will be required. So the survey will find on Wilson Road will experience traffic generation, by substantially greater levels than projected in this EIS, and subsequent Town Board or Planning Board determination finds that Wilson Road should therefore be repaved or widened. The applicant has proposed, that at the time of the approval of the site plan for 500 or more units, he will pay for the construction costs, in accordance with the formula and process described in detail on page 241. It's noted that subsequent to the preparation of the draft, this FEIS, the highway superintendent verbally informed the Planning Boards' review consultant, that he believes the road should be widened and upgraded now, for safety considerations, to a 22' width, reclaimed and resurfaced. A 900 unit alternative, would reduce the desired width to 20'. It is not known if the Town owns the required right-of-way."

Al Fusco read Noel Malsbergs' suggestion on this former FEIS wording: "I agree with the highway superintendent recommendation for reclaiming and resurfacing Wilson Road, considering a projected 20% increase in the Towns' population, 900 units on this one road. I do not favor widening, due to the problems associated with right-of-way, which have been stated as not known, the use of pull-offs as an alternative to widening."

Al Fusco said that the Towns' position is the same as the highway superintendents. He said that the applicants' suggestion is that at 500 units or more, they will pay for construction costs, in accordance with a formula detailed on page 241.

Al Fusco said that because several of the Board members had previously indicated that they were not in favor of the widening, he said that he's been trying to get the developer to reclaim and re-pave Wilson Road, without widening it. He said that the Town Highway Superintendent is in charge of the road, however, should it be required to widen it, and should additional right-of-way be required, he would have to go before the Town Board to acquire that property. He said that the Highway Superintendent could go out and get an easement to fix a culvert, without Town Board approval, but acquiring property would take a signature of the Town Supervisor.

Derek Wilson said that a bonding requirement should be done at the first phase, and then give the Highway Superintendent the flexibility to make the improvements, so as not to conflict with the construction traffic, during the different stages of the building process.

Al Fusco read from the FEIS, page 160; "The extensive traffic analysis conducted to date, where traffic to be generated by Deerpark Village and other non-project traffic for the build year, year of complete development, indicate Wilson Road at its present width, has sufficient capacity to accommodate the projected traffic." He said that since several Board members don't want Wilson Road widened, then Board members agree with this sentence.

Mr. Plotsky said that the above sentence is specifically about width.

Al Fusco asked the Board members, if they want additional surveys at each additional stage of the development, or is the Board comfortable at this point to just say that the road should be reclaimed and re-surfaced.

Mr. Plotsky said that he thought that the surveys had to do with the traffic signals, rather than the paving and reclaiming. He expressed his opinion that Wilson Road should be reclaimed and re-paved, whenever that should be. He said that traffic surveys should be conducted at whatever frequency, with regard to the traffic control issues. He said that it's almost two different issues, that is "traffic control" and "road condition."

Al Fusco said that he will delete the section from "Projected traffic... it is noted that subsequent to the preparation of the draft of this FEIS, the Highway Superintendent verbally informed the Town Engineer that he believes that the road should be widened and upgraded now for safety considerations, at 900 units at 20', it is now known whether the Town owns the required right-of-way." Al Fusco said that he will add the following verbage: "The Planning Board, based upon the Highway Superintendents' comments, believes that Wilson Road should be reclaimed and re-paved in its' entirety at the developers expense. The developer shall post a bond acceptable to the Town officials, after site plan approval of the first stage, and before issuance of a building permit."

Dan Loeb referred to the "Missions Statement" located on page 3. He read: "The FEIS includes consideration of an alternate plan, requested by the Planning Board, which reduces the scope of the development from 1,518 units to 900 dwelling units. Both the SDEIS plan and the alternate plan includes a 1,500 square foot retail shopping center." He said that the Planning Board has now accepted the fact that the applicant is going to present the Board with the 900 unit alternative, but only based on the information that they gave the Board.

Skip Wilson said that when this Board gets into the site plan review, and it doesn't work with 900 units, then this Board can say no.

Mr. Plotsky said that right now, this Board is looking strictly at environmental impacts, and potentials for mitigation of those impacts. He said that if, for example, if the developer drills, and cannot produce water reports, which

would support the water necessary to create the package plant that is part of this application, then they will only be able to build a lesser amount of units.

Mr. Plotsky said that concerning the wetlands, if there was a determination between the various authorities that review the wetlands, and those determinations, essentially precluded the people who live in the 900 units to evacuate safely, then the number of units built, would have to be less than 900.

Mr. Plotsky said that these two examples, of the water supply and the wetlands, could be potential issues that would keep the applicant from going forward.

Derek Wilson said that the Planning Board has requested other number of units, rather than the 900 units that the applicant has stated, is the amount that they would have to build to be economically feasible, and since the Planning Board has, as an alternative requested other numbers, then that information should be included in this "Missions Statement."

Mr. Plotsky read from the FEIS; "The consideration of an alternate plan requested by the Planning Board which reduces the scope of the development from 1,518 to 900 dwelling units..." Mr. Plotsky said that at this point in the wording, the following should be inserted; "...The Planning Board also requested the alternative of less than 900 units (750, 500, 350), however the applicant indicated that they would not be economically feasible."

Derek Wilson said that on page 259, under "Alternatives", the above language should be inserted also.

Dan Loeb said that on page I-81, the above language should also be inserted.

Al Fusco then read from the FEIS, GGW-17; "If the individual well is determined to be affected by Deerpark Village water supply wells, the possible remedies would be pursued and paid for by the developer, lowering the homeowners pump, deepening the well, re-developing the well, drilling a new well, connecting residents to Deerpark Village water supply system. If this alternate is chosen by the developer, the homeowner would be given one year of free water, and would thereafter, pay for metered water. The connection would eliminate the homeowners cost related to the maintenance of the wells and pumps, in exchange for metered service."

Al Fusco then read Planning Board member Noel Malsbergs' comment on the above: "I appreciate the applicants' offers of remediation, should that be affected. I do not agree that the homeowner should have to pay for metered water ever. Short of this, I ask the applicant to consider a longer grace period, the hardship would be created by the applicant. The cost of metered water would not be equal to the maintenance of the private well."

Al Fusco referred to page 2-103, concerning Noel Malsbergs' comment. He said that as long as the homeowner owns the house he will not pay for the water, and then if he sells it, the new homeowner would then have to start paying for the water.

Theresa Santiago stated that no one will want to buy that house, knowing that they will have to pay for the water, if they buy it.

Dan Loeb said, concerning the well monitoring and testing, what is the State requirement, regarding surrounding wells, that is, the wells that are within so many feet, they must be monitored?

Al Fusco answered that at each stage of the water system expansion, i.e., 100 units, 150 units, 200 units, etc., the applicant must submit separate applications to the NYSDOH, and the NYSDOH will re-look at everything, and in many cases they will require additional re-testing of the wells, to see if they are holding up. He continued to say that yes, there is a standard, that is, no wells within 500' of the main wells, can be impacted. He said that generally the perimeter dwellings are monitored by the applicant, with the permission of the property owner, and then that information is submitted to the NYSDOH, at each stage.

Al Fusco referred to the FEIS, page 164 and said that this is concerning the culvert, and that the applicant has agreed to pay for 90%, and Al Fusco's position is that they should pay 100%.

Mr. Plotsky said that Noel Malsberg appears to agree with the applicants' position.

Al Fusco agreed that the applicant will only have to pay for 90%, and said that he will make the wording in the FEIS to state that position.

Dan Loeb referred to page I-62, "... because this is a community where all heads of households will be 55 years of age or over, it is not expected that it would generate children for the public school system." He said that the word "expected" has been added, because before, it basically stated that "it will not generate any children."

Al Fusco said that he does not want anyone to be misled, especially the Board of Education, that there's not supposed to be any children, but then circumstances change, and a grandchild moves in with his grandparents.

Mr. Plotsky suggested wording such as, "... it is not expected that it will generate a significant numbers of children." The Board and Al Fusco agreed, and Mr. Fusco said that he will basically add this language.

Dave Dean said that the initial decision by the court decree was that this would be a retirement community and no children are expected to reside there.

Derek Wilson read from page I-6, third paragraph, third sentence; "...it is established that these reviews would be accompanied by a SEQRA review as necessary..." He suggested that each phase needs to be accompanied by a SEQRA review.

The Board and Al Fusco agreed, and he said that he will take out the words "as necessary."

Derek Wilson read from page I-7, #18; "... each site plan submission will, among other data..." He suggested that the following wording be added at the end of that paragraph: "The evaluation of the actual impacts of the prior stages." He said that after each phase, the impacts should be added up. The Board members agreed.

Derek Wilson read page I-10, the last paragraph; "... the jurisdictional determination of whether the Army Corp of Engineers or the NYSDEC has control over the wetlands. occurring both on site and in the adjacent off site drainage areas, will be pursued when the site plan for the first phase is submitted."

Al Fusco agreed and wrote the following: "Detailed data relating to the wetland disturbance permits, that may be required from any government agency, will be included as part of the permit approval process at various stages, as they are submitted for site plan approval in each stage. If permits are not issued, alternate access and site plan changes are required for site plan approval." He said that the NYSDEC will have jurisdiction over these wetlands.

Derek Wilson said that their wording also recurs again on page II-114.

Derek Wilson said that concerning traffic, page I-21, third paragraph, it says that the new traffic count at the intersection of Route 42 and Route 97 was made on a Wednesday. He said that the summer time traffic is peak traffic, that is, driving north on Friday and coming south on Sunday, and that Wednesday is not indicative of a peak traffic time.

Al Fusco answered that traffic engineers never do their counts on Fridays and weekends, because it is not typical.

Derek Wilson commented on the percentage chart on traffic, at the build and no-build stages.

Al Fusco answered that it is percentages by stages. He said that it is percentages on 1,500 units, then 900, then 700, then 500, etc.

Dan Loeb interjected and said that those percentage charts are on page II-141. He said that the number of vehicles, the information taken there is convoluted.

Al Fusco corrected him, by saying that the information was extrapolated.

Dan Loeb continued to say that the numbers given here are traffic interactions at a particular intersection. He said that what makes it difficult, is trying to find out how many cars are just coming off of Wilson Road. He said that the applicant had stated that there was a 30% reduction in traffic in the a.m. period, and a 19% reduction in the p.m. period, if you go from 1,518 units to 900 units. He said that when you look at the applicants' figures, it represents this totality of the interaction at Route 42, and said cars are really, totally irrelevant. He said that when he checked the applicants' calculations, he only concerned himself with cars that turned in on Wilson Road at peak hours, and how many cars went onto Route 42 making lefts and rights, and he said that he really didn't concern himself with cars that were just driving by on Route 42. He said that he tried to determine what kind of pounding Wilson Road will be subject to, that is, how much more traffic will there be, and he said that he came up with a vehicle coming down Wilson Road, one every 20 seconds, for five hours a day.

The Board and Al Fusco agreed that there is no question, there is going to be quite a bit more traffic.

Derek Wilson said, concerning the inground, discharge of the septic effluent, that at 1,200 units, the applicants are looking to put approximately 10% of the water back into the ground. He said that a study should be done, and language should be added, stating that the inground discharge needs to be studied by a professional.

Al Fusco answered by saying that his office had looked at approximately 10% for additional recharge, because at 1,518 units, the recharge on the water was close. He said that at the 900 unit alternative scenario, the recharge is not close, and they will be below the threshold.

Derek Wilson read from page I-59; "Impact and generation of sewage.... the Planning Board will require a study to determine if inground discharge is the best way to mitigate impacts on John Woods Brook in the Delaware River eco-system from treated septic..."

Derek Wilson said that there is a reference to Cochection Turnpike in the FEIS, saying that it is a second entrance. He referred to section II-111 "Response to Orange County Planning review..." He said that it references a seven page memo that the county sent with their concerns, and the applicants response to these concerns, is basically, that they don't have to answer them. He referred to EE-2, appendix 13, where the memo is located. He said that there should be wording put into this document, that the applicants have to answer the county's concerns.

Al Fusco responded by saying that this project does not meet the criteria of 239-M, that is, the project is not near a County road, it's not near a State road or a State park, and therefore, the County referral is just advisory, and it's not required.

Derek Wilson answered, the applicants are supposed to respond to all comments, both from the public, in a public hearing, and the county.

Al Fusco said that he did receive detailed information on accidents on the Hawks Nest portion of Route 97 from the Sparrowbush Fire Department. He said that he approximates that the road is closed 48 hours a year, due to vehicular accidents.

Mr. Plotsky said that the Board has 30 days to get their changes back to the applicant, and it is his understanding that the clock started on April 28, 2010, which gives the Board until May 28, 2010. He said that Mr. Brady will convey that information to Mr. Sachs.

#### MOTION

Theresa Santiago made a motion Derek Wilson second. Roll call vote: Santiago, aye; Loeb, aye; Breitenfeld, aye; D. Wilson, aye, W. Wilson, aye.. Motion carried.

The secretary was instructed to put the discussion of this application on the May 26, 2010 agenda.

#### ADJOURNMENT

Theresa Santiago made a motion to adjourn. Derek Wilson second. Roll call vote: Santiago, aye; Loeb, aye; Breitenfeld, aye; D. Wilson, aye, W. Wilson, aye.. Motion carried.

Meeting adjourned at 9:30 p.m.

Respectfully submitted,

Barbara Brollier, Secretary