

Planning Board Meeting Minutes – March 8, 2023

A special meeting of the Town of Yorktown Planning Board was held on **Monday, March 8, 2023, at 7:00 p.m.** in the Town Hall Boardroom.

Chairman Fon called the meeting to order at 7:00 p.m. with the following Planning Board members present:

- Aaron Bock
- Rob Garrigan
- Bill LaScala
- Bob Phelan
- Bob Waterhouse, Alternate

Also present were:

- John Tegeder, Planning Director
- Robyn Steinberg, Town Planner
- Nancy Calicchia, Secretary
- James Glatthaar, Esq.
- Adam Rodriguez, Esq.

Town Board:

- Supervisor Tom Diana
- Councilman Ed Lachterman
- Councilman Sergio Esposito
- Councilwoman Mary Capoccia

Town Clerk:

- Town Clerk Diana Quast
- Deputy Town Clerk Maura Weissleder

Parks & Recreation Department

- James Martorano, Parks & Recreation Superintendent

Advisory Boards:

- Conservation Board / Speaker - Minnie Dineen-Carey
- Heritage Preservation Commission / Speaker - Lynn Briggs
- Parks & Recreation Commission / Speaker - Patrick Cumiskey
- Affordable Housing Committee / Speaker - Ken Belfer

Underhill Farm

Discussion: Special Meeting with Town Board, Conservation Board, Heritage Preservation Commission and Parks and Recreation Commission

Location: 48.06-1-30; 370 Underhill Avenue

Contact: Site Design Consultants

Description: Proposed mixed use development of 148 residential units, 11,000 SF commercial space, and recreational amenities proposed on a 13.78 acre parcel in the R1-40 with Planned Design District Overlay Zone authorization from the Town Board. Original main structure to remain and be reused.

Comments:

Mark Blanchard, Esq., Joseph Riina, P.E. of Site Design Consultants; Steve Marino, Wetland Scientist of Tim Miller Associates; and Paul Guillaro, property owner were present. Chairman Fon stated that the meeting this evening is to act as an informative work session between the applicant and the advisory boards. He noted that correspondence was received just today from Ken Belfer of the Affordable Housing Committee and asked Mr. Belfer to join the work session.

Mr. Glatthaar, Esq. gave a brief description on the status of the project. The application was filed in 2022 with a long form EAF. The Planning Board did some initial review and scheduled a Public Informational Hearing for June 13, 2022. At that meeting, many issues were raised both by members of the Planning Board and public. The Planning Board spent some time sifting through the comments and compiled a list of issues for the applicant to address. The applicant submitted

additional documents in January 2023 identifying potentially significant impacts and how they propose to mitigate them that included a traffic study, archaeological and historical resources study, and some wetland and infrastructure studies. At this point, the Planning Board has not decided as to whether a Draft Environmental Impact Statement is needed. The applicant still has work to do and the Planning Board will ultimately hold a Public Hearing.

Supervisor Diana thanked all for attending and reiterated that the meeting this evening is informational between the Planning Board, Advisory Boards and the public to obtain information and to dispel any incorrect information.

Conservation Board - Minnie Dineen-Carey

Ms. Carey read a statement on behalf of the Conservation Board. The Conservation Board's comments are predicated on information received at the last meeting with the applicant on June 1, 2022. No new plans or information have been shared since their memo of June 3, 2022. The applicant presented plans and described the wetlands on the site and their function and flow, along with preliminary mitigation for filling in wetlands and improving the pond. They established that the project would entail cutting approximately 520 trees to allow for the proposed development. The Conservation Board's memo had the following concerns:

1. The conservation board is concerned about the amount of water that currently is held in these town wetlands, and how the additional flow from the removal of trees and altering the stream course will affect the pond.
2. Wetlands A and B being intermittent could potentially be vernal pools that fill up over the winter and dry up in the summer, supporting species of amphibians that do not utilize marshlands or ponds. The Conservation Board advises that the Town Environmental Consultants review this concern.
3. The applicant should investigate a meandering approach of the stream into the pond to slow the water flow as it comes down the slope.
4. The applicant to provide a mitigation plan showing the location of the wetland buffers where it passes through the proposed housing.
5. An alternate site plan with no housing units in the wetland buffers should be developed.
6. A tree mitigation plan should be submitted.
7. Detailed drawing showing footpath interior to the site to access crossings to the northern part of the town should be shown.
8. Electric charging stations for use by residents and retail customers should be included with the plans.

The Underhill Farm property provides a feeling of open space and a green invitation into Yorktown's commercial center. The plan for Underhill Farms as presented adds many buildings removing the park like feel of the space. Beyond the memo dated June 3, 2022, the Conservation Board emphasizes the following comments:

1. The applicant should explore, evaluate, and clarify the function and extent of wetlands A, B and C identified in the report by Tim Miller Associates dated April 18, 2022. The Conservation Board is concerned that not all the wetlands on the site were properly identified and flagged.
2. The combination of extensive tree removal, increased impervious surfaces from the proposed units, parking areas and paved roadways, some of which fall within the wetland buffer, raises concern that the proposed mitigation will be inadequate to handle the potential impacts of this additional load. With much surface water flowing over the area what is the impact of groundwater recharge of all the potential development.
3. In addition, the proposed walls and channeling of the stream raised concerns that heavy rainfall events will cause erosion and carry a heavy load of sediment and pollutants into the pond. The Conservation Board would like to see a mitigation plan with the stream following a meandering path which would slow down the water flow and allow for capture of sediment before entering the pond.
4. The Conservation Board would like the units proposed within the wetland buffer to be eliminated and alternate plans for the area surrounding the pond and buffer area to be submitted. They feel that the plan does not adequately address the environmental impacts and could cause additional concerns.

Chairman Fon asked Mr. Tegeder about the wetlands re-delineation. Mr. Tegeder stated that the town's consultant reviewed the original wetland flagging and did not agree with it and had a subsequent meeting with the applicant's environmental consultant. At the site meeting, they agreed to the amended flagging which he believes is now on the map they recently received.

Mr. Marino, wetlands consultant of Tim Miller Associates, stated that he met with the town's consultant at the site and one of the smaller wetlands (wetland A) was expanded due to standing water in that area on the day of the site visit. From a functional standpoint, he believes that what they submitted to this point is still accurate and understands the Conservation Board's concerns about a functional analysis. They will provide additional detail in terms of the functions of the existing wetlands on site. Regarding the question of meandering the stream, he noted that the earlier plan that the Conservation Board saw in June, showed their intention to move the stream and create a new stream channel. Since that time, the plans have changed and the original stream channel as it exists now will remain due to relocation of some of the buildings. An expanded draft EAF was submitted in January with more information regarding trees, wetlands and mitigation. Mr. Tegeder noted that the draft EAF was submitted and the Planning Board will deem whether or not it needs additional information or amendments. Once this takes place, it will then be finalized and circulated to all involved agencies.

Mr. Bock asked when the consultant reviewed the wetland delineations. Mr. Marino didn't remember the exact date but noted it was in the last few weeks. The town's consultant went out originally had some questions and then met with him at the site to review the delineation. Mr. Bock asked if they received the consultant report as yet. Mr. Tegeder noted that the report will be forthcoming now that the wetland delineation is final.

Heritage Preservation Commission – Lynn Briggs, Chair

Ms. Briggs introduced her fellow members to all and thanked the Board for agreeing to an on call historical consultant to address the issues that they identified over the last year. She stated that they are an official town commission under Chapter 198 Heritage Preservation of the Town Code. Their role is to identify, authenticate, preserve or save historic buildings. They do not seek to save every building in town but want to create awareness to their robust heritage resources. Their role is also to collaborate with municipal leaders, the community, and the development community to identify practical, reasonable, cost-effective solutions to their preservation challenges and feel the Underhill Farm project is one. She distinguished the difference between their commission and the Yorktown Historical Society with whom they occasionally collaborate.

They are here this evening to discuss the historic Underhill Farm property. The 13.8-acre site is among the last major historically significant parcels within the community. It is the former estate of one of the founding families of Yorktown - the Underhills. The entire property has been deemed eligible for listing on the state and national register of historic places by the State Preservation Office and the property meets four out of her five local landmarking criteria. The farmhouse and the Italianate mansion, outbuildings, parkland, stone walls, pond, trees and vegetation collectively retain period integrity to the property's past agricultural history and are surviving architectural and landscape anchors. She feels that the property contributes to community character and stands as a scenic gateway to the Yorktown Heights Hamlet as a visual and aesthetic treasure.

They have submitted numerous memos to the Planning Board over the last year detailing issues about the inadequacies of the developer's studies and grateful that the studies and their comments are being reviewed by an independent third-party historic consultant.

She is also concerned about the density. Unicorn has declared that in order for this development project to be viable, it has to build as many residential units as possible, plus commercial space on the site to maximize the return on its financial investment. As a result, protecting the historic features of the Underhill Farm property has been severely compromised and quoted the July 2021 Unicorn study titled Alternatives Analysis - "Reducing the overall scale of the project would significantly reduce the financial viability of the project and would prevent the community improvements from taking place. If the project were scaled down, it could not be completed."

Ms. Briggs noted examples of how Unicorn has failed to respect and preserve the property's historical significance as follows:

1. The developer has failed to resolve evidence that a potential significant Revolutionary War event in Yorktown may have involved the presence of French General Rochambeau and several 1,000 French army troops in camping on the property and leaving a potential archaeological signature, as well as failed to resolve whether potential underground railroad activity occurred at the site. There are many documented genealogical and biological connections between the Underhills and the abolitionists and when you consider the size of the estate, the railroad connection and proximity, period of time in history, existence of outbuildings, harboring freedom seekers could have occurred on the property. She feels that these potential occurrences need to be ruled in or out before disturbing the property.
2. Unicorn has stated that none of the outbuildings was structurally viable nor could they be adaptively reused and needed to be demolished but failed to provide the hard look evidence to support these assertions. Instead, Unicorn solicited letters of endorsement to demolish all of the outbuildings from several town officials, and others who did not have qualifying technical assessment skills.
3. The developer failed to address the state's adverse effect finding determination. The criteria for an adverse effect finding are intensity of construction, altering the setting and feeling of the property and planned demolition of the outbuildings. Unicorn declared that there were no scenarios that would be consistent with the project goals to retain the existing outbuildings.
4. Unicorn failed to acknowledge the significance of the Underhill Farm as a cultural landscape and has not presented an integrated master plan that addresses the state's eligibility designation for the entire property. That is the farmhouse, the mansion, outbuildings, park like lawns, stone walls, entry gate, pond, flora and fauna.
5. The developer continues to change its plan for the main mansion. Initially it was a private public partnership and many things in between. Now it is 100% commercial with no proposed public use.
6. Unicorn has failed to clarify how the architectural focal point, the main mansion, will be respected when surrounded by the intensity of a 40-foot high 11,000SF mixed use commercial and residential structure next to it.
7. Unicorn has failed to present a single alternative plan that does not severely compromise the property's historical significance.

She noted that it was indicated during the review process that the traffic, wetlands, historical and density were the focus of the Board's review and feels it is not too late to address the historical aspect and density.

Their commission understands that this is private property and the developer must make money but it is also shared history and, given that the Town's motto is "Progress with Preservation," she thinks if they put their collective minds together, they can achieve both – economics and history. She feels that the Planning Board should require the developer to submit alternate development plans reducing the density, eliminating the commercial use, relocating the residing structures or even lowering heights of building profiles.

Chairman Fon asked Mr. Tegeder where they stood with the town's historic consultant. Mr. Tegeder responded that the historic consultant is under contract with the Town. A proposal has been submitted and authorized by the Town Board to proceed for review and they should be receiving a report shortly.

Recreation Commission – Patrick Cumiskey, Chair

Mr. Cumiskey introduced the members of the Commission to all. He read one section of a memo that the Commission sent to the Town Board on May 10, 2021, as it relates to the Planned Design District Overlay Law and is important to note as follows – *“while Section 300-251.d is clear that it states that the recreation requirements as set forth within this chapter in the Town of Yorktown town code shall remain applicable to the provisions of this article.”* He feels that there is still a level of uncertainty introduced elsewhere in this legislation. To be more specific, Section 300-255.H and 300-256.H for both Yorktown Heights and the Lake Osceola development overlay zone state *“the required recreation for multifamily units built within the mixed-use development project shall be as required in the R-3 zone except that the planning board may modify this requirement due to special circumstances of a particular site and the proximity of the site to a nearby public recreation.”* It is this latter wording of this section that is troublesome as it could

eventually result in a potential waiver of the recreational requirements that were thought to be clarified in Section 300-251.D. He noted that nothing was passed in that legislation. It is his understanding that the recreational requirement for 148 units at \$4,000 a unit would equate to \$592,000 of potential recreational fees and is a value they would expect. The Recreation Commission right now is in dire straits for funds to repair the parks. The town has a lot of park property that is just that – property. They also have facilities that need to be inspected and repaired, if not flagged for being unsafe as the equipment inside these facilities are very old. The Commission is willing to work with the developer and Planning Board but would expect the \$592,000 of value due.

Mr. Bock stated that the plans have always included a concept of public recreation on site around the pond area and questioned if that idea is exclusive of an additional recreation fee that was just mentioned or is it in addition to it? Mr. Blanchard, Esq. responded that they are expecting to offer the park with the public access in lieu of or replacement of the fee requirement in the code.

Chairman Fon asked about the proposed parking for the adjacent site. Mr. Blanchard stated that a senior center is proposed to be constructed on the adjacent property (Beaver Ridge), however, there is no room on that parcel for parking to support the center. The applicant has offered to make parking available on their own site, so that that senior center is viable. He noted that they are not involved with the construction of that facility and are only providing the parking.

Community Housing Board – Ken Belfer, Chair

Mr. Belfer stated that he understands the developer is seeking the best return for his investment but it is their task to do what is best for the town. He feels that the term “senior friendly” is a confusing concept and asked for clarification. As far as they know, they are not talking about age restricted housing that would be dedicated to seniors. He noted that there is a need for all demographics in the town – seniors, families, young adults, empty nesters and downsizers, etc. It has been recognized in the whole Westchester area that there is a demographic of young families that are leaving due to housing costs. In terms of what meets some of those needs, it's not luxury housing all the time although there is a demand for that. Less expensive housing is what the majority of people can afford. He questioned the size of the proposed units, not only in square footage including the number of bedrooms. If the housing is for single people, studio apartments are a type of housing that can be very important as an affordable type of housing unit. He thinks the demographics for the housing need in Yorktown, both age and income level, need to be considered. He thinks there are communities in the County of Westchester that require a certain number of units to be set aside as affordable but not in Yorktown. There is no town legislative requirement that mandates that, but he believes that the Planning Board has the authority to require this.

Chairman Fon stated that the Governor is making all kinds of possible changes to the law and questioned where the town stands with affordable housing. Mr. Belfer responded that he wasn't prepared to give particular numbers tonight but noted that the overlay zone as a concept is basically complying with the spirit of the housing policy. There is no housing legislation currently regarding the Governor's plans, there is no mandate. There has been pushback on the issue of home rule and what happens within our community. Some of the concepts that are being discussed in the Governor's proposal is the concept of putting density near major transportation areas and we don't have a train station in Yorktown. The concept of having more diversity of housing types in the commercial hamlet centers is a principal that's part of what the Governor is looking for and has always been something encouraged by the County and comprehensive plan. In terms of affordable housing, there is no specific requirement. The County commissioned a housing needs study a couple of years ago and as part of that study they did a housing needs report for the Town of Yorktown. The report recommended a substantial number of affordable housing units to be built in every community of Westchester, however, this is no mandate.

Chairman Fon stated that the recommendation that the town increase the number of affordable housing units is just that – there are no numbers. Mr. Belfer responded that there is a number in the housing needs assessment and can send it to the Board but noted that it is a recommendation not a requirement.

Mr. Garrigan asked Mr. Belfer if he had other recommendations as to what else should be added to this property as there are already townhomes, condos, and apartments for rent. He noted that it is a fairly diversified property in terms of the opportunities for people to own or rent? Mr. Belfer agreed that the project brings housing diversity. He feels that the unit sizes and mix should be looked at. From a housing point of view, their board would love to see a percent of units be mandated as affordable, such as 10% that could be under the Town or County program to best serve the interests of the community.

Mr. Phelan asked Mr. Belfer to clarify his statement with respect to the Board setting certain numbers or requirements for affordable housing as he has a different version of what they can and cannot do at this point. Mr. Belfer said he read a legal opinion about this but suggested that the Board seek their own legal opinion. He continued that if you go back historically in the town starting in 1988, it became the policy of the Town of Yorktown to encourage the inclusion of affordable housing in developments or in lieu of that pay a fee into an Affordable Housing trust fund. This encouragement happened by both the Town Board in zoning decisions and by the Planning Board with their site plan approvals. Chairman Fon asked if it was his understanding that they still have the ability to do that? Mr. Belfer responded that as far as he knew, nothing has changed in the law. He noted that John Nolan, from the Pace Land Use Law Center had published a guide on the legal background for mandating affordable housing as part of housing developments. Mr. Bock asked Mr. Belfer if the record before them sufficiently addresses the impacts of this project on the housing stock in Yorktown, either positively or negatively, in light of what he just said? Mr. Belfer responded that he didn't think it addressed it at all.

Mr. Garrigan stated that affordable housing is a term that means many things to many people and asked Mr. Belfer to describe what that would mean in a development like this? Mr. Belfer discussed the definition, requirements and restrictions of affordable housing. He said that affordable housing is official and is generally something that comes with deed restrictions, sets what the maximum rents or sale prices can be, and sets what the maximum income eligibility would be for a renter or owner. Typically, what is used is 60% of the area median income as the income eligibility and 80% of the area median income as the eligibility for sale units. Yorktown just passed revisions to Section 300-39, the town's affordable housing law, that specifies in detail what affordable housing is under Yorktown's program.

Chairman Fon asked if someone from the applicant's side would like to talk about the "senior friendly" term. Mr. Blanchard, Esq. stated that the concept for "senior affordable" is a blend of the current market need with design and marketing. He said they are not asking the Town for any legislation to designate this project specifically under the zoning code as "senior designated." They are sensitive to state or federal housing requirements when putting a property for sale; these requirements will be met. The size of the units would make them attractive to the market that is downsizing and will include certain amenities (the ability to add an elevator to a unit), etc. He said their plan is to set aside at least 55 units, in compliance with federal and state law, that would be marketed to senior-focused housing. They believe with the existing housing stock and existing marketing need; these units are desirable. Mr. Blanchard noted that he has a different opinion of the Town Code relating to the Planning Board's jurisdiction to impose a housing number; affordable housing set aside is normally adopted through the legislative process.

Open Discussion

Density

Chairman Fon raised the density issue. Mr. Blanchard stated that they looked at three projects that are going on in the area and their project is at or less in density than the others. Chairman Fon asked how the applicant's project compares to these other projects. Mr. Blanchard said as part of the EAF submission, a surrounding density map was included. They do not exceed anyone around them. It was done on a unit per acre calculation and they are not exceeding the surrounding projects that have been developed/constructed. The density numbers for the surrounding projects were reviewed. (to the north of them is 20 units per acre; Beaver Ridge – 19 units per acre; Rochambeau – 9.6 units per acre). Their density number is 10.7 units per acre. As part of the SEQRA process, they look at the existing neighborhood conditions and whether or not they are changing those conditions or character. They feel that they fit in with the existing density and are not exceeding the surrounding projects.

Historical

Chairman Fon stated that the Board conducted a site visit this past weekend and toured the main building and noted that it was impressive. At this point, the main structure and streetscape will remain intact. There was a question as to what the interior of the house would be used for.

Mr. Blanchard stated that what remains unchanged from the beginning of the process is that the house will be preserved. The use of the house remains open as they are going through concepts (restaurant, offices) for the adaptive reuse. They have been transparent about this from the beginning and this has not changed. Chairman Fon asked if the structure itself is going to be renovated to its historic integrity. Mr. Blanchard responded that this was correct and added that the stone walls and gate will remain. Chairman Fon questioned if the view shed will remain the same. Mr. Blanchard responded that it would and noted that they are sensitive to their position as a gateway into the downtown.

Mr. Phelan questioned where they were with respect to the historical status and the state's review. Mr. Tegeder responded that the state review was essentially completed close to a year ago. They reviewed the property's eligibility for landmarking, which they confirmed, and then worked with the applicant on their Alternatives Analysis and accepted the applicant's proposal. A draft Letter of Resolution was produced with a number of requirements that the State would like to see in order for the project to move forward. That Letter of Resolution is yet to be executed by either the State or the Town. He noted that it has been essentially resolved by the State in terms of where this project should go and what should be preserved on the site relative to the application and is awaiting the conclusion of the public input as part of this process for that Letter of Resolution to be executed. Mr. Phelan asked if the resolution is to be adopted on both sides and if there were any requirements that the Planning Board needs to be aware of as they move forward. Mr. Tegeder responded that the LOR and the requirements should be part of the Planning Board's resolution in terms of conditions which is essentially preserving the main house and maintaining to the greatest extent practicable, some of the landscaping that lends to the historic feeling such as the open area around the pond as some of the highlights. He noted that it is not detailed specific but broader specific. Mr. Blanchard stated that the current plan submitted is supported by the EAF and is fully compliant with the state's Letter of Resolution. Mr. Phelan stated that they will need to come to a conclusion for the building renovation as there are conflicting styles of architecture. Mr. Blanchard thought that the town took a positive step when they hired a third-party consultant to review their report. Chairman Fon stated that many of the outbuildings on the property seem to be renovated and assumes that the town's historic consultant will review this. Mr. Tegeder responded that their first task is to review the record of the application to date.

Chairman Fon questioned if the other concerns will be looked into such as the possibility of an underground railroad or revolutionary encampment. Mr. Tegeder responded that if they request it, they will. Mr. Bock questioned how they would propose to handle this issue if the property was the site of an encampment or underground railroad and asked the Heritage Commission what they would like to see done. Ms. Briggs responded that a deed search could be done to determine if there was an encampment on the site. She said that they begin with the current owner and peel back the deeds over time to determine how many acres Abraham Underhill had. They would use the maps that are the definitive resource for maps during the Revolutionary War and using GIS coordinates, they could determine whether or not the encampment was on the property. She said it involves working with an archaeologist and doing a deed search. Ms. Briggs said that encampments were identified by Rochambeau's mapmaker and they would use those maps for GIS coordinates to figure out where they are. According to their research, Abraham Underhill owned about 330 acres and based on what they know it strongly suggests that there was an encampment there during the Revolutionary War. An expert would be required for the underground railroad verification.

Mr. Garrigan asked if it was possible that there was an encampment on the Beaver Ridge property that could have been owned by the Underhills and Ms. Briggs responded that it was. Mr. Bock asked if this would be the same approach taken for the underground railroad and Ms. Briggs responded no and noted that it would require an expert and would and visual inspections because most of the freedom seekers were hidden in outbuildings and not the main house. Mr. Bock noted that at this point this is just speculation. Ms. Briggs said that their Commission has connected the Underhills to a number of abolitionists.

Mr. Marino stated that the current draft EAF includes information on the likelihood of the Rochambeau encampment and the underground railroad concept. He added that their Historical Cultural Resource Specialist, Beth Selig, will be present to review this further at their next meeting and there may be additional information. He added that almost 200 test holes were dug on the property all within the limits of the proposed disturbance and nothing has been found relative to the encampments. Ms. Briggs stated that based on their review of the study, only 45% of those holes were dug and only 3 were dug in the northwest corner which is the area of concern. Mr. Marino said 240 were proposed and 65 were not done because they were under impervious surfaces (asphalt).

Ms. Briggs stated that the letter of resolution was developed by the developer and created before the application became approved under the design district overlay law. She feels that the LOR needs more clarity to include architectural standards, defining features of what's in and out, etc. In her mind, based on her discussions with the State, it's still open.

Mr. Blanchard stated that the letter of resolution was developed in conjunction with the state representatives and was developed with their narrative. The state has signed off on it but procedurally, under the SEQRA process, it has to wait until the proper time to be executed. He noted that there is no additional review at this point needed from the State.

Wetlands

Chairman Fon noted that during their site visit there was discussion about the emergency access road, culvert and the wetlands. He asked Mr. Marino how much of an impact did he think the access road had when it was done by another development on this site. He also asked about the functionality of the wetland. Mr. Bock added that there were two small wetlands that were identified in this application as small, non-connected ponds of water and noted that during the site visit they were connected and the whole area in between was wet. The Conservation Board has identified the possible inadequacies of the wetland delineation. Additionally, the stream coming down from the Glen Rock Street side of the property and flowing down on Route 118 (south side) is shown as only one channel on the map, and he noted that that he saw at least two that were coming in from different directions and meeting just west of one of the ponds and noted that there are phragmites in there. He also questioned how much water they are dealing with on the site.

Mr. Marino said that what Mr. Bock stated is true. He noted that they don't flag wetlands in February or early March as it is the wettest time of the year and is not an indication of the hydrology and vegetation needed to determine if an area is a regulated wetland or not. He walked the site with the Town's environmental consultant and they did add a small area of wetland to one of the already flagged areas. The map will show an accurate representation of the regulated wetlands currently on site. Mr. Bock noted a second channel, a run-off swale, that comes from the corner of Glen Rock and Underhill a little onto the site not exactly at the corner. Mr. Marino stated that with regards to the wetlands and the function of the wetlands, it is his analysis and conclusion that the wetlands on the west side of the access road to Beaver Ridge were essentially created when that road was created. Soils were excavated to create a level road through the property and onto the Beaver Ridge property and by doing that they excavated to a soil depth where the soil was compacted and held water. There is no topsoil because it has all been stripped and all that is left is a hard pan underneath that holds water and occasionally drains off in the summertime. It is not a naturally occurring wetland and doesn't have naturally occurring wetland soils in that area. Those two wetlands, A and B, fall into this category. The third wetland is essentially what comes from a drainage pipe in the corner of Glen Rock and Underhill; it drains under Glen Rock onto the property, heads north for a bit, and then makes a hard right down the hill eventually ending up in the pond. When that access road was installed, there was a culvert put under there to capture that flow into the pond. The lack of maintenance over the years has caused clogging and blockage in the uphill side of that culvert. As a result, the water no longer flows properly and now sits on the west side of the road and pools there. This is where the phragmites are that Mr. Bock spoke of earlier. The intention is to see if that existing culvert could be cleared along with routine maintenance to see what that would do. It involves a small area just to the west of the road that they would drain; anything further to the west from there is a deepened size channel that goes up to Glen Rock and head south to where the culvert enters the property. In his opinion, none of this is a naturally occurring wetland. It is their belief that the pond was excavated sometime in the early 1900s from an existing wetland that was on the property. Early US GIS mapping from the 1890s shows that there was no pond on the property. The pond shows up on the 1936 mapping. Mr. Bock pointed

out the areas of phragmites, standing water and running water off where the northern most four buildings are proposed and feels that this is an issue that their expert needs to resolve. Mr. Marino said his expectation is that the town's consultant has been to the site as well. He noted that phragmites aren't always an indication of a regulated wetland – they will grow anywhere where there's a lot of disturbance. The area closest to Glen Rock Road as you go further north gets direct run-off from the road that can contribute to phragmites growth.

Mr. Bock stated that another issue is that there are little wetlands and the town code requires them to consider 100-foot buffer from those areas which would encompass a large part of the lower left-hand corner of the property and this needs to be considered. The Conservation Board pointed out that there is a lot of water coming down through there and this needs to be handled correctly so it does not flood.

Mr. Garrigan thought that if the water was managed correctly initially, those wetlands wouldn't even be there.

Chairman Fon asked Mr. Riina about the plans from the Beaver Ridge development that was proposed in the late 1970s. Mr. Riina said that he believed on the side of that development that borders Route 118, there is a stormwater basin that may be overgrown. Chairman Fon thought that the original intent should be reviewed if possible. Mr. Riina stated that this project will be required to comply with the New York State DEC general permit for stormwater discharge which is overseen by the Town of Yorktown. Additionally, they will require permits from the New York City watershed. They have already done quite a bit of work towards this; they have done testing, preliminary designs and will be required to do a run-off reduction, green infrastructure, and standard practices to deal with the stormwater. A significant amount of the stormwater is going to be recharged through infiltrators. Chairman Fon asked if this would work with wet areas. Mr. Riina stated that the wet area is isolated because it is on the west side of the access road; all the infiltration is taking place on the east side of the site where there are terrific soils and conditions to handle the stormwater.

Mrs. Bock, Conservation Board member, stated that they have not seen the current plans. She pointed out that everything they were looking at is with the stormwater basin to the edge of the pond which is now in front of the pond along Underhill. Mr. Riina responded that this was correct and it is going to be a pocket wetland. Mrs. Bock noted that it totally changes the look of that area – it will no longer be a lawn but a planted basin. Mr. Riina replied that was correct and noted that once it grows in it will be a natural looking feature and noted that it is in a small area just between the pond and Underhill.

Recreation Commission

Chairman Fon stated that with respect to the fees, the attorneys will look at the code and would address this at a later time. Mr. Cumiskey, Recreation Commission, stated that he disagrees with the applicant. The code, and overlay legislation, stated that it is the recreation requirements as per the R-3. According to his reading of the code section 300-21 (c) (3) (a) (2) subparagraphs f & g – *“(f) at least 400SF of usable space is provided on the site for each dwelling unit for play area and outdoor living uses. The developer shall provide a suitable improved playground area play area; each such playground/play area shall have a minimum of 1,200SFT and a maximum distance of 1,000 feet.”* This would equate to 1.38 acres that is supposed to be for playground/recreational area by the code. He stated that in the second paragraph, in addition to that 400SF, *“the developer shall also set aside 10% of the site for the provision of a park and/or recreational facilities. If the provision of such facilities is impractical because of the particular layout of the development, or for other reasons, a recreational fee of \$4,000 per unit shall be submitted prior to the approval of the application.”* Mr. Cumiskey stated that what he has seen so far is a walking path around the pond as far as the recreational amenities that are being added for this development. He added that he was confused with the response to Mr. Phelan's question when Mr. Tegeder said that, according to the state, they also have to do part of the state historic requirements to restore the ponds and is not sure how that would fall into the recreational requirement piece. Lastly, he quoted from the code that *“the Planning Board may modify this requirement due to special circumstances of a particular site.”* He interprets this as allowing the Planning Board to modify the recreational requirements for a particular site. He noted that this additional development will cause additional strain on already strained park resources. The assets that the town has requires the fees for upkeep. He asked the Planning Board to take this into consideration.

Density

Ms. Briggs, Heritage Commission, raised the issue of density and asked the applicant what the opportunities are to reduce the density at that site so they can accommodate more of the historic features. She noted that she was in touch with a prominent restoration architect in Westchester County and showed him the plan. She also spoke to the Westchester County Land Trust for the possibility of a conservation easement but they said that there was no room on the property for an easement. Chairman Fon stated that he did not expect the applicant's team to answer this evening but noted that this is something they should prepare for.

Housing

Mr. Belfer stated that he would provide the numbers and data to the Planning Board at a later date.

Traffic

A member of the public asked about the traffic. Chairman Fon stated that there is a robust plan in place and the traffic engineer provided a study that will be discussed further on in the process.

Mr. Bock added that the reason they didn't address the traffic this evening was because it has been extensively studied and it appears to have satisfactorily addressed the impacts of the traffic on the site. There is a report with many improvements that the Planning Board believes will change the intersection for the better. Chairman Fon added that there were three levels of improvements with that intersection study. With the overlay district there are now opportunities for other developments to come into the town so this has to be looked at holistically. They want to ensure that whatever is done for that intersection works, not just for the development, but for everyone. The proposal that is being looked at will make a tremendous difference.

Mr. Bock stated that if members of the public should have any comments, they can write to the Planning Board and added that there will be a public hearing for public comment.

Councilman Esposito stated that this intersection has been an issue for years. The Town Board has also been concerned about this intersection and this project will help to resolve the issue.

Meeting Closed

Chairman Fon thanked all for attending and closed the meeting. Meeting closed at 8:30PM.