

June 15, 2016

A MEETING OF THE PLANNING BOARD of the Town of Ossining was held in the Joseph G. Caputo, Ossining Community Center, 95 Broadway, Ossining, New York, on the 15th day of June 2016. There were present the following members of the Planning Board:

Greg McWilliams, Acting Chair  
Gareth Hougham, Member  
Jim Bossinas, Member  
Marc Hoeflich, Member

Absent: Ingrid Richards, Chair

Also Present: Katherine Zalantis, Attorney, Silverberg, Zalantis LLP  
David Stolman, AICP, PP, Frederick P. Clark Associates, Inc.  
Daniel Ciarcia, PE, Consulting Town Engineer  
Stephen Coleman, Environmental Consultant  
Sandy Anelli, Secretary

**Artis Senior Living, LLC, 553 North State Road, Memory Care Assisted Living Facility, Site Plan - Public Hearing Continuation**

Mr. Max Ferintinos, Artis Senior Living, Mr. Peter Wise, DelBello, Donnellan, Weingarten, Wise & Wiederkehr, LLP, Mr. Brian Hildenbrand, Kellard Sessions Consulting were in attendance. Mr. McWilliams asked Mr. Coleman, the Town's Environmental Consultant, to review his report with the Board and the audience. Mr. Coleman submitted and reviewed a report dated June 15, 2016 as follows:

**Wetland Delineation and Consistency with Chapter 105:-**

- The wetland delineation previously completed by Kellard Sessions identified the outer boundary of the off-site wetland in closest proximity to the subject parcel. I confirmed by field review that the wetland boundary that is closest to the Artis property accurately represents the extent of the outer limit of the wetlands and is in compliance with the standards and criteria outlined in Chapter 105. *(Note in my experience it is not customary to require an applicant to flag wetlands that are off-site and on private property. In this case, permission was eventually granted by the homeowner to allow the wetland consultant to flag the outer limit/boundary that is closest to the subject property. Based on field review with the applicant, the boundary was modified and is now in compliance).*
- As per Chapter 105-3, the applicant's wetlands consultant should provide a follow up wetland delineation report with data sheets provided. The USACOE routine wetland determination forms would be considered acceptable.
- The Planning Board has asked the applicant to show as much as practicable the full extent of adjacent wetland and watercourse features. A map has been submitted that is based upon Westchester County GIS mapping resources. I am in agreement that the map resources provide an adequate representation of off-site wetland and watercourse features. Irrespective of the characteristics of the wetland and watercourse resources that are present immediately off-site, the map depicts the type of wetland class features that are present. It is important to note for determining the wetland buffer, it is based upon the wetland boundary that is closest to the subject property. This boundary as noted above is accurately represented and the wetland buffer accurately calculated.
- The purpose of Chapter 105, of the Code of the Town of Ossining's "Freshwater Wetlands, Watercourses and Water Body Protection Law" ("Wetland Code") is to regulate the dredging, filling, deposition or removal of materials; diversion or obstruction of water flow; and placement of structures and other uses in wetland areas in order to protect the functional benefits that wetlands provide to the public welfare. With the exception of certain prohibited acts set forth in Wetland Code § 105-5(C) (such as depositing chemical waste), the Wetland Code is not a prohibited ordinance, but a permitting ordinance that is subject to certain standards and guidelines.

**Artis Senior Living - Continued**

- The Wetland Code sets forth certain allowable activities not requiring a permit (Wetland Code § 105-5(A)) and distinguishes between certain acts that require a permit from only the Building Inspector (Wetland Code § 105-6(D), as opposed to those acts that require a permit from the “approval authority“ (Wetland Code § 105-5(B)). Included in the regulated acts requiring a permit from the approval authority (see Wetland Code § 105-5(B)) is doing any of the following activities in a buffer area:
  - (1) Placement or construction of any structure.
  - (2) Any form of draining, dredging, excavation or removal of material, or any dumping, filling or depositing of material, either directly or indirectly.
  - (3) Installation of any service lines or cable conduits
  - (5) Alteration or modification of natural features or contours.
  - (6) Alteration or modification of natural drainage patterns or watercourses
  - (9) Installation of any pipes, wells or utility lines.
  - (10) Within the same one-acre area, the cutting of more than three trees which are over six inches in diameter at a point four feet from ground level within an eighteen-month period.
- One of the policies of the Wetland Code is to provide a reasonable balance between the rights of the individual property owners, and the public interest, in preserving the valuable functions of wetlands.

**Proposed Wetland Buffer Impacts and Proposed Wetland Buffer Mitigation Measures:**

- The Artis property requires a wetland permit from the Planning Board due to encroachment within the 100 foot wetland buffer from an off-site wetland. No direct wetland disturbance will occur. A total of 24,773 square feet of wetland buffer extends onto the subject parcel. Of this total, 31% of the buffer will be permanently converted to building and impervious area, and approximately 69% will be vegetated and or covered with pervious surface materials.
- The applicant has demonstrated that loss to the wetland buffer is unavoidable. As per Chapter 105-10, a wetland mitigation plan is required to offset planned impacts to the wetland buffer.
- The overall mitigation strategy that is designed to offset wetland buffer impacts must take into consideration the existing condition of the wetland buffer; it’s location in context of the adjacent wetland; and the value that it provides in maintaining wetland buffer functions.
- The juxtaposition of the subject parcel in relation to the wetland and the prior land use has compromised significantly the functional value of the existing wetland buffer. The natural drainage from the off-site wetland has been historically directed into a culvert pipe that travels through the property. Existing wetland and wetland buffer area that may have previously existed on the Artis property is absent, and no viable wetland buffer exists to service the piped culvert as it travels under the parcel. The rear of the property that is closest to the off-site wetland does have the opportunity to provide some surface habitat and water quality benefit.
- The applicant has submitted a wetland mitigation plan that will restore 10,790 square feet, or approximately 43% of the wetland buffer area. The overall mitigation strategy includes an invasive species removal plan; expansion of new native plantings within remaining buffer areas, along both the rear and sides of the property; stabilization of the intermittent watercourse channel (along the rear property line); and conversion of walkways and paths to permeable pavement materials to allow natural infiltration and less impervious surfaces within the buffer.
- It is my recommendation that the proposed mitigation measures will improve the limited functions that are currently provided by the existing buffer area, and that given the current condition of the existing buffer, these measures once successfully implemented, will result in a net improvement to overall wetland buffer functions. No additional mitigation is required.

**Artis Senior Living – Continued**

**Stormwater Management:**

The applicant has provided an extensive stormwater management plan that is in compliance with NYSDEC standards and protocols. I would defer to the Town Engineering Consultant regarding the details of the stormwater management plans.

As a supplement to the stormwater management plan, I had previously recommended to the applicant to install a “Downstream Defender” structure in an effort to provide some additional water quality benefits in treating the water that flows through the property in the existing culvert. Surface water that travels within the culvert is currently untreated and drains directly downstream via under North State Road and into the Pocantico River Watershed system. My reasoning was an attempt to improve water quality as it leaves the site to benefit the broader Pocantico River Watershed. In my experience, surface water in urban areas is often a source of a significant amount of non-point pollutant sources. The “downstream defender” system is a proven practice that would eliminate potential sources of phosphorus and other known contaminants that are likely present within the water system. This includes petrochemicals, fertilizers, metals, etc. I have required these retrofits in many areas with positive results.

A concern was raised that the “downstream defender” may impact movement of potential fish species that travel within the culvert from upstream areas during higher flow events. The system could be designed to minimize this potential impact. However, if the Planning Board feels that this would result in an unnecessary impact, the applicant could be directed to remove this from their stormwater plans. The “downstream defender” is not a necessary component of the stormwater management plan.

It is my understanding that the applicant had previously discussed designing the new culvert system to comply with NYSDEC guidelines for stream crossings and that the new culvert would consist of a non-perched system to prevent any restrictions to the natural flow of water through the culvert system. This would allow for adequate fish passage and migration of aquatic organisms. The site plan should provide details on the culvert inlets and outlets, and reference that the design will follow recommended NYSDEC guidelines and best management practices.

**Wetland Buffer Mitigation and Monitoring Plan:**

I have requested that the applicant submit a five (5) year wetland buffer maintenance and monitoring plan for the proposed mitigation plan. The 5 year monitoring plan will closely evaluate the mitigation measures and have built in enforcement strategies for providing corrective actions to guarantee that design parameters will be satisfactorily met. This will include performance and maintenance bonds that are established by the applicant.

**Summary**

As noted previously, it is my recommendation that the proposed development plan as presented represents a reasonable and responsible use of a commercial property that will provide appropriate mitigation of wetland buffer area. The applicant has provided to the maximum extent feasible on-site mitigation strategies that will improve the limited functions currently provided by the existing wetland buffer. Planned mitigation measures will work towards reducing the spread of invasive species to off-site wetland resources, improve habitat value, and promote improved water quality leaving the site. Consequently, this Board should consider issuing an amended negative declaration.

Mr. Ciarcia submitted and reviewed his memo, dated June 15, 2016 with the Board:

We have completed our review of the nine (9) sheet set of plans for Artis Senior Living prepared by Kellard Sessions Consulting dated April 6, 2016. We have also reviewed a progress print of a revised Grading and Utility Plan (Sheet 3). The following comments are based upon a review of these plans:

**Artis Senior Living - Continued**

1. Provide a profile of the drainage line that conveys the offsite runoff.
2. Provide a profile of the drain line and Infiltrators from Drain Inlet #9 through Drain Manhole #2'
3. The plan shows a Downstream Defender propriety stormwater practice. Since compliance with the NYSDEC general permit for stormwater discharges does not require this device in the location shown, I have no objection to the practice being eliminated.
4. Include the revised Drain Inlet #3 detail which provides an emergency overflow in the plan set.
5. A small area located in the northwest portion of the property has a small area of moderately steep slopes that will be regraded to facilitate the proposed project. Although the area appears to be below the threshold for regulation under the Town's Steep Slopes Protection law (§ 167 A (1)), disturbance by slope category should be tabulated to confirm.
6. Provide an addendum to the SWPPP that reflects the modifications to the drainage system discussed with the engineer.

**Mr. James West**, Sleepy Hollow. I want to speak on behalf of a resident, I work with River Keeper doing water quality testing and I work with Town of Mt. Pleasant doing a natural resource inventory. I have an opinion on wetlands and protecting the environment. This project is too big for this site. It is going to impact the environment around it. It is encroaching on the wetlands and I think you as a Board should represent this town and comply to the code that this building, the structure is within the boundaries of code for wetland buffers. I strongly ask you to enforce that code and if this proceeds, as Gareth had pointed out, I would think about the habitat that is upstream and downstream. There's connectivity that we have with habitat and I don't think the right angles that are shown on the plan work for habitat. They should be more natural, straighter and friendlier, and it should address the pipe, it should support habitat. I know a lot of fill is going into the site changing the profile. That is going to have an impact for the properties around it. Design of the facility that impacts the neighbors around it might be considered. Could you design something that blends into the environment, colors things like that. Again, I think there's a code on the books that speak to this structure and where its being built. There's a reason for the code. Also, in the code it speaks of LWRP, has anybody considered that in doing the EIS then, and how is it impacting the properties around it? Thank you very much.

**Ms. Mitzi Elkes**, Chairperson, Town of Ossining Environmental Advisory Committee read the following letter dated May 25, 2016 to the board:

RE: 553 North State Road ·Wetlands, Watercourses and Wetland Buffers

Dear Chairperson Richards:

On behalf of the Town of Ossining Environmental Advisory Committee (EAC), this committee has reviewed the submitted environmental documents as prepared by Kellard Sessions Consulting, and the Town's Wetlands Consultant, Mr. Stephen Coleman, for the following application before the Planning Board:

The submitted application for development at 553 North State Road, on one and a half acres, is a proposed 34,000 (THIRTY-FOUR THOUSAND) square feet, multi-story facility, with a circular driveway and 32 (THIRTY-TWO) parking spaces situated in the front, to replace a 2,100 (TWO THOUSAND ONE HUNDRED) square feet home and driveway.

**Artis Senior Living - Continued**

The problem with this proposed development is that there are watercourses and wetlands located on and around this parcel. If this facility is built as proposed, nearly 75% (SEVENTY-FIVE PERCENT) of the wetlands buffer that should be protected under our wetlands regulations will be disturbed and destroyed, *reference Chapter 105 Freshwater Wetlands, Watercourses and Water Body Protection, <http://www.ecode360.com/8408695>, specifically, §105.3, B.(1) and (2), "Rules for Establishing and Interpreting Wetland and Buffer Area Boundaries."* As Sade and Nick cited, our new wetlands regulation, adopted in December, 2015, is intended to raise the level of protection of these very types of wetlands and their buffers, i.e. multi-functioning, valuable, ecological resources, and elevate the ability and obligation of the Planning Board to do just that and protect them.

[See maps below.]

As you can see on the maps and as confirmed on our recent site walk, there is an abundance of wetlands and watercourses on and around this property. This information was documented and confirmed in the reports of the applicants, our Town's Wetlands Consultant, Mr. Coleman, and the EAC. Furthermore, it was documented by Mr. Coleman that the potentially disturbed wetland buffers have value.

These maps also illustrate that this site is located in the headlands of the Pocantico River watershed. Particularly noteworthy, is that this watershed has had a history of severe flooding, multiple times over the last 15 (FIFTEEN) years. The aforementioned regulation was amended to protect this very type of vulnerable area, and prevent additional flooding and loss of wetlands and their buffers. Building this proposed development could jeopardize the Pocantico River Watershed and instigate further flooding.

We ask the Planning Board to fulfill their duty to not only our community, but also to generations to come, and protect the wetlands buffer extending 100 (ONE HUNDRED) feet away from the identified wetland at the rear of this property. We rely on the Planning Board to abide and stand by the Town environmental regulations.

Now is the time for the Planning Board to strike the balance between smart development and the protection of our natural resources. A memory care facility would be a wonderful addition to our community either at a different site or at this current proposed site as a smaller facility.

We sincerely thank you for this opportunity

**Mr. Ken Kamber**, 84 Morningside Drive: At the last planning board meeting I asked a bunch of questions just procedurally, I'd like to know when we get a reply to those questions. As an adjacent property owner, I would think that it would be addressed at some point in this process. Over the past 2 years maybe 3 years, we have asked a number of questions and we've never gotten answers to any of our questions so that would be nice.

One key question, because they're adding 6 feet of material to the current site, that's going to create a steep slope, I believe if I calculated it right, based on the current maps, that's a 30 foot slope they are creating onto our property, or that's going to leech onto our property and I would like to know if that assumption is correct and does a map show what that slope would be? Because I don't believe that exists. That will be the entire perimeter because they are filling in that entire space 6 feet short of where the house is because that is already 6 feet high and I would like to know what that slope is and if that is in accordance with the Town Code?

**Artis Senior Living – Continued**

I am for the project, but not at that size. I'm really concerned about the Town of Ossining, and the Town Board administers the code that's on the books and I'm sure you're doing the same. So Artis' concern about their profit and loss is really not my concern nor is it your concern. I think the project is too big for the size for that property and they can look for an adjacent property, if they can't make that property work for their P and L that's all I have to say.

**Ms. Donna Sharrett, 84 Morningside Drive:** My primary objection to review of the Artis Senior Living proposal remains as it has since November 2013, that the wetland and stream on my property are protected. I ask that no decisions be rendered tonight and that the public hearing remain open. There's a lot of questions that have not been answered and I think it would be unconscionable to close the public hearing when we haven't gotten answers to very serious questions.

Many of the other town residents that have been impacted by other proposals had a long series of public hearings and I think we should be allowed that until everyone has all the answers clearly. Sensible development is possible development which allows the property owner's right to build with the need to protect our natural resources as is the intent of our Comprehensive Plan and our Town Code. Regarding our wetlands buffers, the Kellard Sessions letter dated April 18, 2016 states that there is no reduction in the size of the building that would entirely eliminate buffer area loss but would also yield the project financially viable and that would meet the applicant's investment based requirements. The Planning Board should require a reduction in the size of the building to lessen the wetland loss. Planning decisions for our Town should never be made based on an applicant's investment based expectations. Adequate buffers for our Town's few remaining wetlands should be required as is the intent of the law.

Regarding existing conditions as determination for buffer, Mr. Coleman's memo dated April 19, 2016 states "the condition of the existing buffer area has been severely altered" and sites this as reason to recommend the applicant permanently destroy the wetland buffers. To use the argument that degraded existing conditions warrant the permanent destruction of wetland buffers avoids the fact that the purposed of the buffers are to protect the wetland and watercourse and rewards those responsible for the property's degradation. The responsible party should be held accountable, not rewarded by permitting a site plan that necessitates destruction of wetland buffers. This wetland is unique, surrounding a highly suburbanized manicured landscape and a business district and is one of last vestiges of connectivity in the North State Road area increasing its importance and necessity to protect it. The Planning Board should require an increased buffer area.

Ms. Sharrett submitted the following notes:

**1. RE: Wetland buffers**

The Kellard Sessions letter dated April 18, 2016 states: "*there is no reduction in the size of the building that would entirely eliminate buffer area loss but would also yield a project financially viable, and that would meet the Applicant's investment based expectations*"

**The Planning Board should require a reduction in the size of the structure to lessen the wetland buffer loss. Planning decisions for our town should never be made based on an applicant's investment based expectations.** Adequate buffers for our town's few remaining wetlands should be required as is the intent of the law.

**2. Re: existing conditions as determination for buffer**

Mr. Coleman, in his Memo dated April 19, 2016, states that "*the condition of existing buffer area has been severely altered*" and cites this as reason to recommend the applicant permanently destroy the wetland buffers.

To use the argument that degraded existing conditions warrant the permanent destruction of wetland buffers avoids the fact that the purpose of the buffers is to protect the wetland and watercourse and rewards those responsible for the property's degradation. The responsible parties should be held accountable, not rewarded by permitting a site plan that necessitates the destruction of wetland buffers.

**Artis Senior Living – Continued**

This wetland is unique within the surrounding highly suburbanized and manicured landscape, and a business district, and is one of the last vestiges of connectivity in the NSR area – increasing its importance and the necessity to protect it.

**The Planning Board should require an increased wetland buffer area.**

**3. Re: Mitigation**

The requirements to mitigate tree loss, mitigate wetland buffer loss and to adequately screen GB development from residential properties are three separate requirements under Town Code.

**The Planning Board should require a tree inventory of the existing trees. The replacement plant materials should include the same or similar species as those removed, and should be a comparable amount of biomass to that which will be lost.**

**The Planning Board should require that the applicant provide a separate mitigation calculation for the wetland buffer loss and a separate calculation for the zoning requirement for screening. As per code #105-10.B (3) “mitigation intrusion into the buffer areas shall be such as to preserve the ecological characteristics and functions of the associated wetlands.”**

**The Planning Board should consider the proposal to use porous pavers as part of the applicant’s SWPPP, not as compensation for the wetland buffer loss.**

**4. Re: fill/excavation: (*topo diagrams*)**

The DelBello, Donnellan, Weingarten, Wise & Wiederkehr letter of May, 31, 2016 states on Page 5: “The proposed site plan requires import of approximately 5,875 cubic yards of fill, which will be accompanied by manifest documents to ensure that it is clean and suitable for its intended use”, and that,

“The maximum depth of fill is 6’, in a small area in front of the south-west corner of the building, outside the on-site buffer area” and that,

“Cut and fill slopes will not be steeper than a gradient of 1V:2H”

We request that the applicant provide the following information:

1. an analysis of the proposed creation of steep slopes indicating the specific slope percentages and the specific amount of area for each of the varying proposed slopes, so to determine the overall slope type by Town Code # 167-2.A.
2. an analysis of all the slopes directed towards the wetland and Pocantico River tributary, providing the specific slope percentages for each of these varying proposed slopes.
3. an explanation as to how the proposed slopes will meet the Town code requirement #167-5.B (5): All regrading shall blend in with the natural contours of the land.
4. an explanation as to how stormwater will not flow down the created slopes which end at the wetland and tributary, in opposition to the rules of gravity.

The re-grading will change the existing inward slope of the property to a grade with a center elevation that slopes to all 4 sides, and with the creation of a 28% slope directed towards a portion of the PRT. This has every potential for negative impacts, particularly with the inability of gutters or newly created sloped planting areas to handle storm water during large rain events, as examples.

**The Planning Board should require the applicant to propose reduced re-grading elevations and require that re-grading blend in with the natural contours of the land, as required by law.**

**The Planning Board should require that imported fill be subject to approval by the Approval Authority PRIOR to the soil arriving onsite, based on soil analysis for pH, the percent of organic matter, nutrients and heavy metals, and the specs for organic matter content.**

**5. Re: watercourse relocation:**

The culverted watercourse should be relocated to the north side of the 553 NSR property. An ACOE permit for the proposed work on the watercourse is required. The watercourse should be at least partially daylighted in this northerly location, increasing its habit and eco-benefits.

**Artis Senior Living - Continued**

**The PB should require the applicant to prove the feasibility of the culverted stream relocation to the north, and the partially daylighted stream option.**

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This portion was not read as the Planning board addressed this issue prior to the start of the Public Hearing:

*We request that the following information about the Downstream Defender be provided to both the Planning Board and to the public:*

1. *Specific examples of other installations of this device on tributaries to navigable waters*
2. *Specific product information for the proposed grate to be installed on the Downstream Defender, to include the mesh opening size*
3. *Specific examples/studies that show the effectiveness of the proposed grate's ability to allow aquatic organisms to bypass the Downstream Defender.*
4. *Details and schedule for the recommended maintenance of the Downstream Defender, and how this will be monitored.*
5. *The monitoring and maintenance schedule for the upkeep of the proposed grate*
6. *Explanation as to why the Downstream Defender is proposed to filter a tributary to navigable waters but not the impervious roofs and parking lot of the proposed action, as is the intended use of this device.*

*The Planning Board should not permit the use of the "Downstream Defender" on stream waters.*

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**6. Re: Demolition:**

**As permitted by town code # 105-7.A (2)(a)[6] The Planning Board should require the applicant to identify the location of all wells and depths thereof, and all sewage disposal systems.**

**Additionally, I request that the Planning Board also require that all potential contamination hazards be determined and that a risk mitigation plan be submitted prior to demolition. I expect to be informed of the specific plans for the demolition and the specific date of the demolition.**

**7. Re: Accurate and complete application materials**

Re: Mr. Stolman's stated the SEQRA Neg Dec memo would be amended.

This document should be made available to the public prior to any PB vote to approve it. Note: The original SEQRA Neg Dec was not made available to the public prior to the PB vote.

All the inaccuracies and omissions should be corrected in this amended document, to include:

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This portion was not read at the Public Hearing but referenced as previously discussed:

1. *that the entire property which includes wetlands, Pocantico River tributary and a 24,773 ft wetland buffer will be disturbed*
2. *pesticide usage*
3. *inadequate mitigation for tree loss and wetland buffer, loss of all but 2 trees*
4. *that a tributary will be rerouted and existing stream bed disturbed*
5. *5,875 cubic yards of fill will be used to raise the property up to 6 ft above existing grade*
6. *steep slopes will be created that slope towards the wetland and PRT*
7. *there is no risk mitigation plan for potential contaminants from the demolition of a pre-1946 structure within the wetland buffer and approximately 3ft from a wetland and PRT.*

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The applicant originally proposed the project to take 18 months. The latest revised application now claims that the project will take 1 year.

**The PB should require the applicant to verify the duration of the project and should hold the applicant accountable to the proposed timeline.**

**RE: Buffer Area Calculations:**

The Kellard Sessions off-site map dated May, 9, 2016 shows that the watercourse exists on our property. The location as they have indicated is inaccurate and illogical as the stream flow responds to the existing topography.

**Artis Senior Living – Continued**

ASL states in several documents the amounts of buffer area on the 553 NSR property based on the current and prior Town Code.

The outer limits of the watercourse location on 84 MSD property was never delineated or surveyed. All reference to the amount of prior watercourse buffer area is unsubstantiated and therefore should not be considered during the review of this proposed project.

Note: The ASL consultant's original wetland delineation (November 19, 2013) did not include the watercourse. The existence of the watercourse was finally recognized but its location was inaccurately determined by the Town and ASL's consultants during their "in the field" confirmation of the wetland delineation on May 27, 2015. The Kellard Session "Off-Site Map" dated May 9, 2016 indicates the existence of the watercourse on 84 MSD but inaccurately depicts and greatly under represents the watercourse's outer limits.

By Town Code, the 553 NSR property includes 24,773 sq. ft. of wetland buffer.

**Re: 553 NSR wetlands and PRT:**

**The applicant's representatives state emphatically that no wetlands exist on the 553 NSR property.**

Please note the Wetland Flags (WLF) numbers 5, 6, 7, 8 and the watercourse on the 553 North State Road property on the applicant's "Existing Conditions Plan" dated August 1, 2015. The watercourse location on the 84 Morningside Drive property is omitted on this site plan.

**The PB should require that all the final site plans include the accurate location of the PRT, that all reference to previous buffer amounts not be considered, that the applicant acknowledge the existence of wetlands and PRT on 553 NSR, and that the required wetland delineation data sheets for the 553 North State Road property be submitted as required by Town Code 105-3A.**

**8. Re: Performance bonds:**

**The Planning Board should require substantial performance bonds for the possibility of unanticipated damages due to the repositioning of the watercourse culvert, pesticides usage, fill, and demolition – all in the vicinity of a wetland and watercourse.**

**9. Re: Agreements:**

**The Planning Board should require that all agreements made by the applicant and their consultants in writing or during public or private meetings must be included on the final site plans, and that these final plans are closely scrutinized prior to approval, using the problems which arose with the 558 NSR and Hawkes Crossing developments as examples as to the necessity of this. These final sites plans should be made available to the public prior to PB approval.**

**10. Re: Determinations**

Re: Stephen Coleman's memorandum to the Planning Board dated April 19, 2016:

Page 3, 4<sup>th</sup> bullet: *"It is my understanding that the Planning Board has determined that there is no reasonable on-site alternative to the proposed activity and that the proposed development layout has been vetted and went through a series of design changes to reduce overall impact."*

Determinations should only be made after the review of this proposed action has been completed.

**In Conclusion:**

The applicant has submitted a proposal which meets the requirements for a GB property that doesn't have wetlands, watercourses or wetland buffers. 553 NSR has wetlands, a PRT and 24,773 sq. ft. of wetland buffers. The PB should require the applicant to resubmit a proposal that includes both a reasonable reduction of the size of the structure and wetland buffers.

We have a responsibility to protect our natural resources. Thank you for considering my remarks.

**Artis Senior Living – Continued**

**Ms. Wendy Masserman**, Morningside Ct.: At the last meeting, the Chair of the Environmental Advisory Committee, Mitzi Elkes spoke and provided some very important information. She discussed the wetlands downstream and how the connectivity of the streams which run through this property flow into the Pocantico Reservoir.

She also stressed the fact that the drainage pipe that has been described by the applicant and consultants is actually a culverted stream running diagonally through the property. Mitzi also expressed her concerns that 75% of the buffer will be disturbed and destroyed.

In a letter dated May 31, 2016 from the Artis lawyers, they stated that they...respectively submit that the vast majority of the hearing testimony is best described as unsubstantiated opinions and conclusions by persons who are not qualified experts with respect to matters about which they testified." I find this to be very offensive. You have not heard unsubstantiated opinions.

Speakers have sited town codes, wetland maps and other pertinent information. Mitzi Elkes has many years as an environmental activist and as the EAC chairperson reviewing environment impacts of many proposed actions. In fact 20 years ago, when I went before the Planning Board as an applicant for our Child Care Center, Mitzi actually sat at the table with members of the board and its consultants. The material she presented last week was verified on maps. How could this possibly be considered "unsubstantiated opinion or conclusion?"

The same letter quoted the Town code which states that mitigation "shall be permitted as compensation only for unavoidable wetland, watercourse, water body and buffer losses", and that such "losses are necessary and unavoidable only if there are no reasonable on-site alternative to the proposed activity, including a reasonable reduction in density or a revision of road, building, utilities and/or lot layout." Section I05-10.A of Town Code.

It then goes on to say that Mr. Hoeflich's suggestion is "technically feasible". This sounds like there is a reasonable on-site alternative to disturbance of the buffer. Another option of course is reducing the size of the structure.

The Town of Ossining recently revised its environmental codes to improve protection of wetlands and watercourses. I join with the EAC in asking the Board to require wetland buffers as is the code, and the intent of the code and our Town's Comprehensive Plan.

**Mr. Luciano Velardo**: President of Land Development, Inc. This is a nice piece of property and they are trying to say that it is wetlands. It is impossible, I can't believe it myself. Every one of you can go walk there, if you see a drop of water, a drop of water, you won't see anything. It is a little stream that comes from on top of the roof. You don't make a wetland from a little stream that comes down, it's a different story. You are trying to say that my piece of property is not worth anything because it is a wetland. I don't see a drop of water on my property. This is one thing that is good for North State Road and the Town of Ossining, it's a good investment. No school children involved, it is big money for the tax roll for the Town. Thank you for your time.

**Dr. Hougham**: I would like to make a few comments regarding the downstream defender that Steve Coleman spoke about. If there is a way to use the downstream defender only for runoff of the parking lot of Artis, I think that would be a good thing. It would not be a good thing to have it in line with the existing stream for reasons that Mr. Coleman mentioned, in that it would block aquatic organism migration. If the downstream defender cannot be used in that way, solely for the filtering of the parking lot then I would advocate getting rid of it all together which I think Mr. Coleman and Mr. Ciarcia both said they would be okay with. So I just want to state my preference, that it be kept if it can be used only for the parking lot otherwise eliminate it. Also, to the comments Mr. Coleman made to the perched apurtenances, I notice on the site plan you submitted last august, there are two details showing a catch basin and another culvert connection of some kind that both show the input pipe at a higher elevation than the output pipe, that's what's called a perched connection.

**Artis Senior Living – Continued**

Such connections are incompatible with migration of fish and other aquatic organisms and do not comply with NYS DEC guidelines for that kind of migration, so I just wanted to point out as per Steven Coleman's recommendations those be changed in addition to any others that are perched or incompatible with DEC regulations or guidelines.

I would still like to hear the percentage of the buffer that is going to be vegetated. I've heard some composite values that are interesting but not really what I'm hoping to find. I've heard that 60% will be either unchanged from its current vegetative status or will have permeable pavers but I don't know the percentages that will be actually vegetated which is where it becomes useful for animal habitat. I don't think I've heard it yet. I am looking for just the vegetative.

**Mr. Hildenbrand:** On the chart here on the mitigation plan we have the square footage of the plantings. Mitigation planning is 6,690 square feet in combination with invasive species removal provided with onsite mitigation removal it's 10,850 square feet.

**Dr. Hougham:** The 10,850 includes the 6,690?

**Mr. Hildenbrand:** Correct.

**Dr. Hougham:** So its 10,850 out of the 22,700.

**Mr. Hildenbrand:** Yes.

**Dr. Hougham:** Another question regarding something I requested some time ago which may also have been taken care of but I haven't seen. Is the stream indicated in your current site plan as a Pocantico River tributary by name, as I think you've agreed to do.

**Mr. Hildenbrand:** The offsite planning may have been indicated at the last meeting.

**Dr. Hougham:** If you could point that out to me.

**Mr. Hildenbrand:** It's called out as a conveyance.

**Dr. Hougham:** I believe you agreed to change that as called out as a tributary to the Pocantico River. I would like to see that on the site plans and any other written document as well, rather than using the general terminology as water conveyance, I would like to see it referred to as a tributary to the Pocantico River and I think in the past you have agreed to do that.

**Mr. Wise:** Yes, there is no reason not to.

**Dr. Hougham:** So you've agreed to do that?

**Mr. Wise:** Yes.

**Dr. Hougham:** That's what I like to hear, thank you.

I would like to make a comment about the May 31, 2016 letter from DelBello, Donnellan, Weingarten, Wise & Weiderkehr, LLP and Peter Wise is here, that the letter makes some derogatory remarks about many of the public statements that have been made referring to them as inaccurate. I would like to point out an inaccuracy in this memo. That is on page 4, Item B. Off-Site Wetland and On-Site Wetland Buffer: In bold letters "There is no wetland on the site" that is in direct contradiction to your own site plan. It shows it very clearly having been delineated by your own consultant and our own consultant as being on the site. Encroaching on the site by at least 2 and maybe 3 feet and that may seem small to you but it is an important matter of fact for the record.

**Mr. Wise:** I agree. It's important.

**Dr. Hougham:** I can show you the plan. We have it here on page 5 of 9 August 1, 2015 site plan. It states limits of the wetland flagged by Kellard Sessions, it shows that line going over about 2 1/2 feet and then in addition it shows the limits of the wetlands confirmed by our Town Consultant and that also goes over the line by a couple of feet.

**Mr. Sessions:** I am looking at sheet 5 of 9 the wetland boundary does encroach what looks like a couple of feet within the applicants property and I believe that is at the base of the existing berm it is at the offsite, the northern part of the site, several feet below the

**Artis Senior Living - Continued**

disturbance area. In fact it does encroach a few feet onto the property for about what looks like to be 20 to 30 feet.

**Dr. Hougham:** Thank you.

**Mr. Hoeflich:** First, I want to say that I took my dog, and I mentioned this at a few other planning board meetings, that I went on my way to go get a bagel at the bagel place. I walked from the streams near my house all the way through to your property and on that same Sunday morning, Donna happened to be out, it was about 7:00 a.m. and I said "there's Donna" she was doing her gardening and stuff like that, next thing I know, I have a dog that is completely covered, completely wet, muddy, great now I have to go home and spend an hour or so washing my dog. I then turned around and saw all the applicant's little drawings dealing with wetlands and streams and everything like that and I created this drawing which I presented at the meeting not last month but the month prior. On this little map your property is right here and the property line to where the building is to where it was wet at that time was ten feet from the actual line of where that building would be. So Mr. Coleman's report, I don't necessarily agree with everything that's in it because I actually physically saw it.

I have also lived in this neighborhood, in this part of Ossining for 18 plus years and I've been through a few storms. I've been through Floyd, Sandy and a few others and I have seen what damage it has done to my neighbors properties over there and I am real concerned where they build a house down from Donna and they split a piece of property years ago and put two houses and they took what was an open stream and they put a 12 inch pipe in there connecting from the Hare's stream heading towards Donna's property. I've seen in two storms the water overflowing that 12 inch pipe and backing up to increasing water levels of these ponds that are up stream of it. Downstream of your property I don't know where it goes and I haven't had time to investigate that. I also agree that water doesn't go on a 90 degree or a 180 degree it flows naturally.

A few other things, I also went on line and saw a website on the Downstream Defender, I was a little disturbed when I saw what they were and listening to that and doing a little bit of research, I'm real concerned about fish going up and down and I really think the Downstream Defender is really something not needed on that property except for maybe for runoff from the parking lot, but not anything related to the stream that runs into the Pocantico watercourse. The pipe, the culvert you are installing, whether it's 12 inch, 24 inch, you need two or three 24 inch pipes side by side for a 100 year storm running underneath that and wherever underneath that where there is no building I think you need metal, or grating over top so wild life can go in and out for a frog, or a fish or whatever it might be.

As a member of the Architectural Review Board and as a member of the Planning Board, I expressed prior, I am very concerned about the footprint of the building, the design of the building being out of character with what's in our Town in that neighborhood. I've expressed in the past that I think you should take the building and move it forward. I've said that two times so far and I haven't seen anyone come up with a sketch. I am asking for a sketch. I showed you one of your other buildings that did have something like that. When I look at the overall footprint and the parking lot, this drawing and the last drawing you put up with the little trees, the buffer, I really see a piece of property that has an it'sy bitsy little house right now with this monstrous building and the 32 spots, I don't see any nature being left, but you have a right to build things there, fine. Continuing on, I listened to what Mitzi said, Ken, Donna, and Wendy said at this meeting and last meeting and I've read a lot of the stuff that Sandy has been giving us over the past few weeks and I also would like answers to some of the questions, I really have concerns.

I'm very concerned about the Pocantico River watershed, I don't want this hearing closed and I also take offense that you said there are no wetlands on the site. I'm talking as a member of the Planning Board, I don't care if I am politically correct or right or wrong, I'm just saying I have concerns and I think it is too big for the site. A memory care facility is something that is needed there I think it's just a little too big.

**Artis Senior Living – Continued**

**Ms. Elkes:** Regarding the letter on page 4, you cited in your letter May 31<sup>st</sup> where there's discussion about the allowable square footage in the zoning. In recognition that there are wetlands on this site, and in recognition that there are buffer areas, the percentage is up for debate but there are wetland buffers on this site that are not buildable. Would therefore the calculation not sustain a 1.5 acre property, it would not include non-buildable land.

**Mr. Wise:** Not under your laws, no, that is not the case.

**Ms. Elkes:** I've been in contact with the head of the Zoning Board and you might want to, I just don't know. Common sense would rule that non-buildable land could not be calculated into the amount of square footage.

**Mr. Stolman:** There was an amendment at the end of last year. That was intended for new subdivisions where there were deductions and you have to have a certain amount of land that was unconstrained and that does not apply. I think Peter is saying that this property is three times the size required, so you don't do any deductions in this situation.

**Mr. McWilliams:** In terms of the comments made this evening and also the memos by our consultants, particularly the summary of Mr. Steve Coleman, it seems we should amend the negative declaration. We have to authorize David to amend the negative declaration.

**Mr. Stolman:** The primary reason for the amendment is the wetland mitigation plan has changed since the date of adoption.

**Mr. Hoeflich:** Katherine, can you just explain what a Negative Declaration is?

**Ms. Zalantis:** As part of the SEQRA process, the Board as lead agency, has to make a determination of significance so it previously issued a negative declaration, that there would be no potential, significant, adverse environmental impact on the environment, but the plans have changed and the applicant is proposing different mitigation and it would be something that this Board can consider at its next meeting if it directs its consultant to prepare an amended negative declaration that you could then discuss and adopt at the next meeting for the Board's consideration.

**Mr. Hoeflich:** I would also like to ask the applicant to answer peoples all fifty questions in detail and I don't know, I am asking you if I am allowed to do that. I've asked for things and I feel like its groundhog day, going over and over, and over! No new drawings, nothing from the last time.

**Mr. Wise:** I appreciate your concerns, we take them seriously. There are probably, between the last hearing and now, Donna's comments, probably 100, 150 maybe 200 comments. We as an applicant can't be asked to respond to every single question or comment of every member of the public raises. We respond to you as a Board. If you as a Board, not even as an individual member, respectfully, if you submit to us what you would like to respond to we will respond to it but it must be from you as a Board, otherwise you're right we are never going to get done here.

**Mr. Hoeflich:** Then Kathy, someone write up all of Donna's questions, Mitzi's, and my questions and other peoples.

**Ms. Zalantis:** It has to be from the Board. It has to be a consensus of the Board.

**Mr. Wise:** And that should be done your Town Consultants because not every question that is asked merits a response and that happens to be just the fact.

**Mr. Hoeflich:** I disagree with that. Again, I am not politically correct I don't know all the terminologies. I am concerned and I really would like some of these code issues that Donna brought up.....

**Artis Senior Living – Continued**

**Ms. Zalantis:** Some of your questions were answered by your consultant. For example there were discussions about the ability to develop a wetland buffer area your consultant prepared a detailed memo that spoke about this Board's authority to issue a permit to allow construction in a wetland buffer area that is not prohibited and what mitigation has to occur and your consultant's made certain recommendations and outlined the code provisions.

**Mr. Hoeflich:** I have a question for you then, and Donna brought it up again earlier, and my little drawing showed it. I've heard codes that state you can't build within 100 feet of a watercourse. I don't know whether that is legally correct or not. They are building within 10 feet of a watercourse.

**Ms. Zalantis:** Your code as set forth in Steve Coleman's memo, allows construction in a wetland memo. You need to get a permit from this Board as an approving authority provided that the applicant meets the standards that the code established you can construct in a wetland buffer area or a wetland and that is what your code states. So it is inaccurate to state that it is prohibited to construct in a wetland buffer area. That's not what the code says. The code balances protection of the wetland area with development and your consultant weighed in on whether what the applicant's proposing is an accurate mitigation measure and preserves the wetland and he can speak better to that issue but that's what your consultant discussed here tonight. There is no prohibition against construction in a wetland buffer area. There are only certain activities like depositing chemicals, that's prohibited. All the others are allowed provided certain standards or provisions are met and your consultant has been retained to advise you as to whether those standards and conditions are met.

**Mr. Hoeflich:** There were also a bunch of other codes mentioned tonight and last month.

**Ms. Zalantis:** Yes, the steep slopes code and your consulting engineer spoke to that. If you have additional questions or issues, you can certainly ask the applicant and your consultant to weigh in on that. That was a new issue that was raised that we heard more of tonight.

**Mr. Wise:** I will tell you in response to that issue, we did in fact tabulate slopes both existing conditions and the proposed condition and based on your ordinance it is unregulated in the existing condition and the proposed condition and we will send that tabulation.

**Dr. Hougham:** I have a question for you as well. So construction within a wetland buffer is permitted if the planning board issues a permit.

**Ms. Zalantis:** Yes and there are certain actions that the building inspector can issue a permit for and there are certain actions that Steve outlined that require a permit from the Planning Board as the approving agency.

**Dr. Hougham:** Hypothetically, could the planning board deny the permit for building within a buffer and have that not constitute a legal taking of the property.

**Ms. Zalantis:** I don't think you want to get to that level of legal analysis but obviously you have discretionary authority to issue a grant a permit and you have discretionary authority to deny a permit but the conditions are met and you have retained consultants to advise you on that your authority would be limited to deny a permit. If the conditions are met.

**Dr. Hougham:** If conditions are met.

**Ms. Zalantis:** There are standards and conditions in the code to grant a permit and Steve went through that in his memo tonight. There has to be a mitigation plan and if those conditions are met....

**Dr. Hougham:** Hypothetically again, I am not making any judgment about this case, just for education. If the Board disagreed with a consultants view of what constitutes a necessary reasonable mitigation to a reasonable encroachment on a buffer.....

**Artis Senior Living Continued**

**Ms. Zalantis:** I would like to request that we go into executive session, so we can talk about this further. So if you want to do that now we can do that now and then continue.

**Mr. Hoeflich:** That's not fair to the other people that are here.

**Ms. Zalantis:** Well, it may impact how this Board wants to proceed going forward so if that is something you desire to do now, we can do that now. It's up to the Board.

**Mr. Stolman:** I suppose it would be what you would learn in executive session based on the question Greg asked and that is whether there's any objection to just putting together an amended neg. dec. for your perusal next week.

**Dr. Hougham:** I think a procedural discussion might have value on the question Greg asked because for anyone who's on the fence about whether to vote for an amended negative declaration would be important for them to know whether it is comfortably within their rights to deny an application on the basis of the plan encroaching on a wetland buffer.

**Mr. McWilliams:** David, in the course of you roughing out a draft negative declaration is there leeway in that consideration of things? Is it a general thing that in light of new data and everything else we are expressing in a negative declaration, it's no form of approval or anything like that, it's really a procedural?

**Mr. Stolman:** It is a conclusion with a rationale as to why you are making the finding that there will be no significant adverse impact on the environment. So that is the conclusion. Then the neg. dec. explains why the conclusion is reached with respect to about eighteen different matters.

**Ms. Zalantis:** You are not issuing the neg. dec. tonight. All you are doing is asking your consultant to draft a document at the next meeting for your consideration. It's a draft.

**Mr. McWilliams:** I think we should do that, you can proceed with that.

**Mr. Stolman:** Okay.

**Dr. Hougham:** For the record I would make the same suggestion I made last time which is that a draft of a positive declaration also be made in case the Board wanted to decide in that direction.

**Mr. Wise:** I mentioned this to you, and your counsel will tell you the same thing, you have made a negative declaration of environmental significance once already. If you rescind that negative declaration and make a positive declaration at this point in time, this Board has to have a rational basis for that determination in the record and it has to be based upon changed facts or circumstances in the record. I just put that out for you because that's the law. I will also tell you that if this Board takes a positive declaration, this project is over. If the Town wants it to be over then close the hearing, bring it to decision and vote no and then we will do whatever we think is appropriate, that is not a threat, that is just a fact.

**Dr. Hougham:** and my suggestion last time and this time for drafting both is to not presume how the Board is going to vote. I think it is common practice at least in Town and Village Boards to draft both versions so either version is ready at the time of voting otherwise you're voting by just having one document.

**Mr. Wise:** I respectfully disagree because these determinations reflect a basis and fact. Either there are significant environmental impacts or there are not. If there are not, as you have already determined, you do a negative declaration of environmental significance, if there are you a positive declaration. It is not an "either / or" situation.

**Dr. Hougham:** May I remind you that the wetland regulations have changed which had the effect of changing the square footage and the percent of wetland buffer and that is a changed circumstance.

**Artis Senior Living – Continued**

**Mr. Wise:** I agree that it is a changed circumstance and I will point to your professional wetland scientist and consultant who has concluded that it is of no significance in the record.

**Dr. Hougham:** It's not a matter of fact that's a matter of expert opinion.

**Mr. Wise:** Correct.

**Dr. Hougham:** I grant you that but it is not a matter of fact.

**Mr. Hoeflich:** and whether or not it was approved negative or positive a year ago, two years ago or when you first started, when some of us were not on the Board, again you said earlier that there were no wetlands on the site and then tonight you did admit that there were wetlands on the site.

**Mr. Wise:** Absolutely correct. I did admit it.

**Mr. Hoeflich:** So technically when you guys voted on a negative declaration a couple of years ago back then the Board was given at that time inaccurate information.

**Mr. Wise:** It was 6 months ago.

**Ms. Zalantis:** Does the Board want a draft amended negative declaration?

**Mr. McWilliams:** I agree on that because that is going to point out stuff that we have to vote on then, if it goes to the next step we decide on it then. I think the amended negative dec. is the first step.

**Mr. Stolman:** Okay, so I will prepare amended draft, draft, draft amended neg. dec.

**Mr. Wise:** Just to go back to a few minutes ago regarding comments and responses. If the Board does have issues it would like to see us respond to, we really do want to respond to them because we really do want to bring this to closure. I don't who will be charged with preparing that memo, if it is David, if that's the case please authorize him to do so and try to get it to us as soon as possible so we can get you answers in advance of the next meeting.

**Mr. Bossinas:** One of the neighbors has a concern about the quantity of fill and its effect on possible steep slopes. If you can address that issue so we can put that issue to bed.

**Mr. Wise:** Yes. Sure.

**Mr. McWilliams:** I was going to mention that for the next meeting if your engineer could possibly do a site section on three sides showing each condition with a berm and the hill.

**Mr. Wise:** Yes, we can do that.

**Mr. McWilliams:** Could you address the comments of Steve Coleman and Dan Ciarcia and that you can have at the next meeting? David, can you prepare a rough outline kind of condensing the pertinent things in these various letters as mentioned earlier not everything can be answered in letter form but there are some things that possibly we can put to them as a laundry list of things.

**Mr. Stolman:** Sure, I compile this as a draft.

**Mr. Wise:** That would be appreciated.

**Mr. McWilliams:** The public hearing will remain open to July 20, 2016. Meeting adjourned.

**Joanne Schneider, 74 Hawkes Avenue, Minor Subdivision - PUBLIC HEARING**

Mr. McWilliams opened the public hearing at 8:33 p.m. Posting of legal notice and affidavit were on file. Mr. David Sessions, Kellard Sessions Consulting were in attendance. Plans titled Subdivision for Joanne Schneider prepared by Kellard Sessions Consulting P.C. dated May 29, 2016 were on file. Mr. Sessions gave an overview of the project to the Board and the public. The applicant is proposing a two-lot subdivision of an existing property. A 2 ½ story dwelling and associated site improvements are proposed for a newly created lot. No changes to the existing frame dwelling on the property are proposed.

Mr. Stolman submitted and reviewed a memo dated June 15, 2016 titled Schneider Minor Subdivision which offers analysis and recommendations.

For the purposes of the State Environmental Quality Review Act (SEQRA), the Planning Board circulated its Notice of Intent to be lead agency on May 20, 2016. As the 30-day period for the submission of objections has not concluded, the Planning Board may not yet declare itself lead agency.

Mr. Ciarcia submitted and reviewed his comments dated June 15, 2016. He noted that the Town enacted the new steep slopes legislation, so the zoning table should be updated to reflect compliance with the new square footage requirements of created lots to ensure the line is in the right place. It is unclear as to how the existing house is being served with water. The plat will have to show the water and sewer connections. We will need a plat to review. Because we are deferring the stormwater, this applicant is not building the house, we should have a note on the plat stating that they will return to the Planning Board for site plan approval so we can deal with the actual house when and if it is ever constructed as well as any stormwater regulations are in play whenever that applicant comes in for approval.

Mr. Sessions agreed to address all of Mr. Stolman's and Mr. Ciarcia's comments and recommendations. Mr. McWilliams asked the public for comment.

**Mr. Keith Gordon, 78 Gordon Avenue:** The property next door. I can tell you that Joanne did hook up sewer when the sewer line was put along here for the Zappi property. I can't tell you exactly where. It does go directly through the new lot. I'm not sure where her water is but my house was on well and now I am on public water. The driveway does cross the property line as well as a shed. Mr. Gordon pointed out on the map. He said the shed has been there for more than ten years and that driveway has been maintained and used by him for more than ten years along with this whole well of trees here which are on her side of the line but she has never maintained. Three of those trees have died and I am the one that took them down so I would submit that there is a substantial arguable adverse possession issue on the strip of land where the trees are the driveway is and certainly where the shed is. I am not trying to make problems but the reality is for ten years I have been using that driveway. The shed was offered by the seller to me as what they were selling including the land it is on. Joanne for ten years has never made any claim to that land where the trees are. She mows her lot a few feet from the trees over and lets poison ivy grow wild under the trees, I spend every year trying to cut back the poison ivy. When the trees died all her concern was that I, cutting down her dead trees, didn't leave any branches in her yard for her lawn mowing service to run across. Never once acknowledging that they were her dead trees not mine.

**Mr. Bossinas:** How large is the shed?

**Mr. Gordon:** It's about 20 feet long and about 4 feet deep.

**Mr. Bossinas:** Foundation?

**Mr. Gordon:** No. The driveway was recently re-done. I added four inches of asphalt to it so it's a nice smooth driveway. It was about a 10,000 investment about three or four years ago. My main reason for speaking is the status of this application is bazaar. They are asking you to approve a design for house that nobody's building. When somebody buys this house they can propose a completely different building, completely different drainage, completely different everything. So you're being asked to approve a hypothetical subdivision for a hypothetical development that's a

pure fiction and makes no sense. I don't see any point in addressing this fiction, that is no more than ink on paper because it's not a house that's going in. I may or may not like the house location that's going in. If you grant this, someone could buy the lot and say "I'm going to put the house wherever I dam well please" so what's the point of taking public opinion, particularly the opinion of the affected neighbors on a hypothetical pile of smoke?

**Mr. Sessions:** I can address that. In order to subdivide a piece of property we need to prove out that the property is A. sub-dividable, and B. can a reasonable house fit on the proposed lot respecting the front side and rear setback. There is adequate area to treat stormwater. There is adequate area to treat septic or sewer and water hookup. We basically have to prove the viability of a building lot. Can a house sit on this lot, although it may not be the exact house that will be built on this lot and may not be in the right area but does it comply with setbacks, does it comply with engineering regulations and planning regulations? It is unique and it is a little odd because the person that buys this lot may do a little house, a bigger house, closer to the road, but that is why Dan very correctly put that caveat in that say the house has to come back to the planning board ultimately to be approved. If it is closer to your house, or a lot larger, the Planning Board has the right to request that it be smaller or moved. We are charged with creating a lot and making sure that a house can fit on that lot legally from a zoning standpoint, from an engineering standpoint, from planning, septic, storm. So that is what we are doing we are trying to create the lot.

**Mr. Stolman:** And we will have another public hearing at that point in time. The site plan approval has been sought for someone who actually wants to build a home at that point in time. We have another public hearing at that time and get your input we are sort of deferring that. I agree with David Sessions that you have to prove out a viable building lot.

**Mr. Gordon:** Does the approval of this as a subdivision approvable by your setback requirements without the land from the trees over?

**Mr. Sessions:** Yes, it's in the R15 Zone there's more than 17,000 square feet in the lot. It complies with all of the land use regulations, impervious surfaces, building coverage.

**Mr. Gordon:** What would the square footage be without the area that she doesn't maintain, and hasn't maintained for more than ten years? Take out everything from the trees over.

**Mr. Session:** For ten years?

**Mr. Gordon:** I think the definition of that is adverse possession.

**Ms. Zalantis:** I want to make it clear for the record. This Board doesn't determine property rights, a claim, or judgment. You may have a claim, but I haven't seen a judgment by a court that you have title by adverse possession. It is not within this Board's purview to determine property rights, that's between two individual property owners.

**Mr. Gordon:** I fully agree. I am not saying that I have established my rights yet. I am asking that the Board be aware of the possibility that the lot will not be.....

**Ms. Zalantis:** Well, you heard that it is an oversized lot. 15,000 is the minimum and it is over 17,000, so you have requirements for the minimum.

**Mr. McWilliams:** I would ask the applicant, in addition to the comments that David made and also Dan's comments, those are things you are going to add to the drawing? Could you accurately depict this shed and whatever landscaping that exists along that property line. Could you put that on the site plan?

Mr. Sessions agreed to put vegetation on the plan.

Mr. McWilliams asked if there were other comments from anyone in the audience.

**Mr. Jim Picciano:** 70 Hawkes Avenue, Ossining. I been there for 38 years. One of things about Hawkes Avenue and the people that are on it, the only houses that existed was yours, and Herbie Olmstead and then there was nothing. Noack had a big piece of property, there was a sheep farm, there was a horse farm behind me. Then we started watching major subdivisions come in. I mean

major. I was at every meeting. Everything from expansion of the cemetery for C & D waste that came in from the Bronx, we don't know what was in the dirt, the condominiums that were built to the cluster housing on the corner. Behind me it used to be an 11 acre horse farm, sheep farm down the road, major, major subdivisions. I feel for those people that just had to listen to presentation for two hours, but you should feel for me because I had to sit through it. I feel for you and I see what's going on here, but this, as far as I am concerned, this is a breath of fresh air in the Town. This is one house. I know Joanne very well, this is a minor subdivision. I am sure and you've been friends with Joanne for years, you can work out that little problem with the encroachment or whatever. This to me is minor and it doesn't even come close to what I just sat through for 2 hours. I felt like yelling out AFLAC. This is two houses, residential, we are all in R15, that's beautiful but that other thing that I had to sit through, you've got to be kidding me, but this is a good thing and I don't see anything wrong with it and to take the normal taxpayer. This is the type of thing we like to see in the Town. This is the way the Town was set up. It wasn't set up for high rises and big cluster housing, it was set up for something like this. Let's try to leave it at that work out the differences if you can and I think we will all be happy. One other thing, all of us on Hawkes Avenue, when the Town wanted that sewer extended, originally there was a pumping station on Croton Dam Road, it was a problem, Jim Zappi wanted to put the cluster housing in, it was a problem. The problem was the State as you know, bureaucracy, bureaucracy, getting that sewer line on a state road. We, the people on Hawkes Avenue came together and gave easements for that sewer line, the Town was happy you lost the pumping station, the sewer came through, I gave 5,000 square feet of my land and Joanne gave up land and everybody gave up land and that's how we came together. As far as concern for this, it's got my blessing and I am only a lot away from it.

Mr. McWilliams adjourned the public hearing to the next meeting of the Planning Board scheduled for July 20, 2016 and authorized preparation of a draft resolution of approval.

**Parth Knolls, LLC, Residential Project, 87 Hawkes Avenue – Site Plan PUBLIC HEARING CONTINUATION**

Mr. Beldotti, Applicant, Mr. Venditti, Attorney, Mr. Hernandez, Architect, Mr. James Garofalo, Traffic Engineer, Tim Miller Associates were in attendance. Revised plans by Site Design Consultants with latest revision May 23, 2016 and revised architectural plans dated May 23, 2016 by ARQ.HT, LLC were on file. Memos from Mr. Hamilton, Building Inspector, dated May 18, 2016 and June 8, 2016 were on file and submitted to the Board. Mr. Venditti said Mr. Beldotti met with representatives of Deerfield, Fox Hill and the Woods to sit with them and provide in-depth information about the project. Attached is a copy of a letter to the Planning Board from Parth Knolls, LLC, dated June 15, 2016 that Mr. Venditti read to the Board that responds to Ms. Nahas' letter. A copy of Ms. Lillian Nahas' letter dated June 7, 2016 was on file and submitted to the Board:

The Applicant, Parth Knolls, LLC, would like to respond to Ms. Nahas' letter of June 7, 2016 to the Town of Ossining Planning Board and Town of Ossining Architectural Review Board.

1. The Applicant did make a presentation on June 1, 2016 to a small group of interested parties who purported to represent Deerfield Condominiums, a section of the Woods, Fox Hill Condominiums, and a home owner in the area. A copy of the June 1, 2016 meeting Sign-In Sheet is attached.

It was the Applicant's intent to give a more personal presentation and afford the local residents an opportunity to ask questions or voice their concerns in a more congenial atmosphere. The Applicant reviewed the particulars of the project including: density and coverage, the Property's zoning classification, number of apartment units planned, parking being provided, and size of the buildings and apartments. In addition, addressed at the meeting was the attendees' concerns about what "affordable housing" means. The requirement was explained, based on Article IV, Affordable Housing, of the Town of Ossining Zoning Code, and that only six of the 53 units would fall into that category.

The Applicant presented at the meeting the most recent Site Plan and Fire Access Plan, dated May 23, 2016, reviewed by the Building Department, and previously

**Parth Knolls – Continued**

submitted a tree plan a tree plan and rendering of the building.

At the end of the session, the audience was asked for questions, which were responded to by Anthony P. Beldotti, the Applicant, Steve Marino, the Project’s Environmental Consultant, and Jorge B. Hernandez, the Project’s Architect.

2. Applicant’s responses to comments and concerns stated in Ms Nahas’ Letter of June 7, 2016:

a) Density: The density of the development as proposed, of 53 apartments, conforms to the Properties’ Zoning classification, MF-I, Multifamily Inn Residence District, including the required Lot and Building coverage, which is very favorable for the proposed use and the site.

1.	Lot Coverage.	29.68%	[71,456 sf/240,751 sf]
2.	Building Coverage.	13.61%	[32,767sf/240,751sf]
3.	Open Area	70.32%	[100.00% less 29.68%]
4.	Open area in acres.	3.880 acres.	[5.527 acres x 70.29%]
5.	Lot coverage in acres.	1.647 acres	[5.527 acres less 3.880 acres]

b) Drainage: Ms. Nahas states that the Deerfield complex has been flooded three times due to “water runoff from Hawkes Avenue and consequently overflow of the pond”. As the developer for Deerfield, I am acquainted with the design of the retention pond. I believe that part of the flooding problem is attributable to the lack of proper maintenance of the retention pond, and the discharge basin, rather than excessive runoff. If the retention pond is not dredged to its designed specifications, and the surrounding areas, including the discharge basin, are not maintained to permit the proper designed retention and discharge, then the likelihood that the retention pond will not sufficiently retain the volume of water required and its discharge, resulting in the rapid overflow of water and flooding, is quite probable. It is a responsibility of Deerfield to perform scheduled periodic preventive maintenance of the retention pond by removing silt that has built up over the past years to prevent the blockage of the overflow basin in accordance with the design standards. Apparently, there has been a lapse in routine maintenance.

Drainage was discussed at the meeting. Steve Marino explained to the attendees that the design standards for the project would be such that there would be no additional discharge of water into the stream from the project, due to the planned retention on-site by the use of subsurface infiltration and rain water chambers. Refer to Utility drawing no. C-104.

c) Pollution/Wildlife: While some of the existing trees on the Parth Knolls site will be removed as indicated on the Tree Plan, other trees, as indicated on the Landscaping Plan for the development, will be added and planted elsewhere within the development. In fact, Mr. Stolman had suggested at the April 20, 2016 meeting that those trees that are in poor condition and/or dangerous, and/or in bad health should be removed, if they are a safety concern or are susceptible to falling and causing damage to property, utility lines and access roads. I would point out that with any purchaser, there is no guarantee that the new owner would not alter the landscaping by removing existing trees and shrubbery to accommodate a landscape plan of their choosing, and neighbors would not have the right to challenge that decision. The Applicant has made every attempt to keep a bucolic setting where possible and showed the meeting attendees that 70% of the site, almost 4 acres, will be open area, which is far greater than a condominium development, such as neighboring Deerfield, would afford. I would like to state that Ms. Nahas miscategorizes the surrounding residential area as semi-rural which would be categorized as an area near farms, where there are few buildings or businesses, and where people do not live near one another. This hardly categorizes Hawkes Avenue and the surrounding area which has several condominium complexes, is located adjacent to major thoroughfares such as 9A and Route 134, and is within a drive of several minutes to multiple shopping plazas and the Village of Ossining, Croton-on-Hudson, and Briarcliff Manor. This multi-family residential area cannot be considered “semi-rural.”

**Parth Knolls - Continued**

d) Traffic: Ms. Nahas puts the word experts in quotes, “experts”, apparently because the traffic studies and opinions by consultants to the Applicant and Town of Ossining do not share her viewpoint. The Applicant’s Traffic Engineer, James Garofalo has 30 years of experience in the fields of transportation planning, traffic engineering, and civil engineering. He has done studies for residential and commercial developments including government complexes and school expansions, parking studies, traffic reviews of site developments or traffic studies on municipal projects for the City of Yonkers, City of Port Jervis, Town of Phillipstown, Town of Clarkstown, Village of Washingtonville, and Village of Irvington, etc. The consultants, Mr. Stolman and Mr. Galante of the firm of Frederick P. Clark Associates, representing the Town of Ossining Planning Board, unanimously agree, as stated at the Public Hearing of May 18, 2016, that the Traffic Studies prepared by the Applicant are of acceptable standards. Disagreement is fine, disparagement is not.

As far as the comments made about the intersection of 9A/Kitchawan Rd./Hawkes Avenue being congested during peak hours of the day, that is not a basis for challenging this development that is zoned for the proposed use. If there is an issue, then the Town of Ossining must make the State of New York Department of Transformation aware of it, as they have total control of the intersection, as previously stated by the Applicant’s consultant and others.

e) Parking: The number of parking spaces required is determined by the Town of Ossining Zoning Code, Section 200.29, Parking and Loading, under the sub-title Dwelling, Multifamily. The number of apartments is 53, 40 one (1) bedroom apartments and 13 two (2) bedroom apartments. Therefore, based on the section of the zoning code referred to herein above, the required number of parking spaces required is 106 parking spaces. [2 parking spaces per apartment.] The number provided is 112 parking spaces, which exceeds the requirement by 6 spaces. The parking tabulation was recently reviewed and was confirmed by the Town of Ossining Building Inspector’s review of the Site Plan and Title Sheet T-2, dated May 23, 2016, and Mr. Hamilton’s Memorandum to the Planning Board, dated June 8, 2016.

Again, the consultants, Mr. Stolman and Mr. Galante of the firm of Frederick P. Clark Associates, representing the Town of Ossining Planning Board, unanimously agree, as stated at the Public Hearing of May 18, 2016, that the number of Parking spaces of 112, as being provided by the Applicant complies with the Zoning Code requirements, are in excess of the required number by 6 spaces, and are of acceptable standards.

3. Entrance: The Applicant’s Traffic Engineer and the Town’s consultants, Mr. Stolman and Mr. Galante, representing the Town of Ossining Planning Board, all recommended, based on their engineering studies, that the main entrance to the development be located as shown on the Site Plan.

Changing the entrance based on observation and using the existing entrance based on previous use as stated by Ms Nahas (“The Town has already designated the existing entrance to be safe by virtue of its existence”), is not, as Ms. Nahas claims, in conformance with current engineering and design standards. Pre-existing conditions do not imply the best conditions. Further, if the entrance to the development is clearly marked, it is unclear as to what “confusion and sudden stopping” Ms. Nahas is referring.

Again, the Town’s consultants all agree, as stated at the Public Hearing of May 18, 2016, that the main entrance is to be located as shown on the Site Plan, as proposed by the Applicant.

In addition, based on the Town of Ossining Building Inspector’s review of the Site Plan, dated May 23, 2016, Mr. Hamilton stated in his Memorandum to the Planning Board, dated June 8, 2016, that the existing entrance, as proposed as an emergency access entrance, should be considered and is necessary for the safety of the project and for fire and emergency vehicle access.

**Parth Knolls – Continued**

4. Residential Experience: Anthony P. Beldotti has experience with more than one residential rental complex. The most recent is Audubon Manor on Wolden Road. The property was sold in July 2012 to The Solomon Organization which marketed the complex as “ a boutique apartment community in downtown Ossining, which the company bought in July and will continue to manage....Audubon Manor is our fifth apartment development in the Hudson Valley,” said Marshall Rosen, managing director at Solomon. “We like the area and know our established management team for the region will be able to provide the tenant support that those living here deserve.”  
<http://realestate.lohudblogs.com/2012/10/03/upgrades-begin-at-ossinings-audubon-manor/>.  
Attached are pictures of the Audubon Manor Garden Apartments development prior to the sale to the Solomon Group. These pictures reflect the true condition of the development during the many years of Mr. Beldotti’s management and handled leasing for the project.

The fact that the management of the property may have declined four (4) years after it was purchased is not a reflection on the Applicant’s interest and ability to maintain premier residential and commercial properties. It was sold to a major owner of garden style apartments, who has the experience, management team and finances to manage the property, “as a boutique apartment community”. If Ms. Nahas or a neighbor were to sell their Deerfield unit tomorrow, there is no guarantee that the Purchaser will maintain the unit as the seller, or other residents of the development, would desire. Once Parth Knolls is completed, the Applicant plans to retain ownership and manage the development for the foreseeable future.

In her final paragraph, Ms. Nahas refers to a Town of Ossining Board Member who says this was never the intended use when the zoning was changed. The Town allows development and zoning changes in the way that the Town Board believes will benefit the entire Town, such as complying with the Affordable Housing Mandate by the County of Westchester. Further, any Board Member approving zoning changes should be well aware of the entire spectrum allowed by the zoning that they pass.

Also, Ms. Nahas’ reference to the impervious pavers installed at the Mahopac Public Library is irrelevant to this project, as Mr. Beldotti has no interest, relationship, or management of said facility.

Mr. Venditti asked the Board to close the public hearing. He stated that at this time, he has asked the Board a number of times if there is anything else that needs to be addressed as far as the plan. He has not heard anything new. Mr. Venditti introduced Mr. Tom Kerrigan to go over changes to the plan. Parking in the front yard has been removed and made up in the back of the two buildings. They have added vestibules in front of the two buildings. Parking remains at 112 spaces and has been moved further away from Hawkes Avenue.

Mr. Hernandez showed the Board the vestibule additions to the fronts on the buildings. Color renderings were shown. Mr. Beldotti said these will be presented for Architectural Review. Mr. Stolman recommended they call out colors and materials for that.

Mr. Stolman submitted and reviewed with the Board, a memo dated June 15, 2016 titled Parth Knolls, LLC Residential Project which offers analysis and recommendations

Mr. Ciarcia said we have received the stormwater prevention plan and is in agreement with the plan for upgrading the sewer pumping station.

Mr. McWilliams opened the meeting for public comment.

**Ms. Helen Young**, 72 Deerfield Lane, said that her major concern was loss of habitat for animals, birds. In Deerfield they are fortunate to have a variety of birds and turtles nesting in the back yard and deer eating a variety of plants. It is a beautifully neighborhood and a beautiful road and the bucolic setting that the meeting with Mr. Beldotti was held in was the setting that now exists at 87 Hawkes Avenue which is not built upon yet but has one house.

**Parth Knolls - Continued**

Ms. Young read a letter from Eric Blaha from the firm of LaRocca, Hornik, Rosen, Greenburg, & Blaha LLP dated June 14, 2016 as follows:

Numerous violations of due process occurred at the Town Board level in 2011, depriving residents and neighbors from notice and opportunity to raise concerns over matters before the Town Board at that time. The recent proposed development of the premises at 87 Hawkes Avenue has brought to light notice deficiencies that were not and could not have reasonably been discovered at the time of the violations or any time up to the present.

**a. Lack of Proper Advance Notice Deprived the Public of an Opportunity to be heard at the March 22, 2011 Public Hearing on proposed Comprehensive Plan Revisions.**

**i. There is NO proof of proper notice of the public hearing to CREATE the Multifamily-Inn District.**

On March 22, 2011, the Town Board conducted a defective and unlawful public hearing concerning proposed revisions to the then-existing Comprehensive Plan for the Town of Ossining.

Had residents of Deerfield Condominium been given proper advance notice of the public hearing to “CREATE” a brand new zoning district known as “MF-I” which stands for Multifamily-Inn District, the residents of Deerfield would have attended and addressed creation of the proposed new district.

However, residents and neighbors in the vicinity of Hawkes Avenue were not given proper advance notice of the March 22, 2011 public hearing in violation of the law. Not surprisingly, not a single resident appeared at the March 22, 2011 “public” hearing to address creation of the new MF-I district.

Indeed, the Town’s response to a recent FOIL request for proof of notice of the March 22, 2011 public hearing revealed that the Town *could not find* proof of notice. In addition to the fact that residents and neighbors received no notice of the public hearing, the absence of proper proof of public notice supports the presumption that due process was violated and Town residents were unlawfully deprived of the opportunity to be heard with respect to the resolution to CREATE the new Multifamily Inn zoning district (MF-I).

Based upon the foregoing, the creation of zoning district MF-I in violation of due process should be declared a nullity.

**ii. There was likewise inadequate notice of the public hearing to AMEND the particular zoning of “a certain parcel” from O-RM to MF-I.**

On March 22, 2011, in the very same legislative session that the Town conducted a public hearing to create new zoning district MF-I as part of its revision of the Comprehensive Plan, the Town also and virtually simultaneously allegedly conducted a public hearing to amend the zoning of one particular parcel, namely 87 Hawkes Avenue, from its then-existing designation of O-RM to the new designation as MF-I. Despite that these legislative sessions were conducted virtually simultaneously, they constitute separate legislative acts that have independent legal significance as discussed in greater detail in the sections below.

To the extent the Town failed to provide advance notice of the public hearing to CREATE the new zoning district (as indicated in Section 1.a.i., above), the Town likewise failed to provide advance notice of the public hearing to AMEND the zoning of the parcel at 87 Hawkes Avenue from O-RM to MF-I. Again, the lack of proper advance public notice is reflected by the Town’s recent response to the FOIL request indicating the Town could not find proof of service of advance notice of the March 22, 2011 public hearing.

**Parth Knolls - Continued**

In response to Ms. Young, Ms. Zalantis clarified that the Planning Board has no jurisdiction, no purview to consider whether the Town Board made a violation of due process or made an error in adopting a zoning that occurred five years ago. Mr. Zalantis said Ms. Young is welcome to make those statements but the Planning Board has no jurisdiction to consider the statements noted. The Planning Board has asked the applicant to provide more information so the public hearing may remain open, but the Planning Board has no authority to weigh in on those contentions.

**Mr. Mike Vaughn** spoke about the private meeting with Mr. Beldotti and his dissatisfaction. He expressed his concern with the density of units on the project. Mr. Vaughn was in agreement that he is in favor of the traffic study area of Route 9A & Croton Dam Road mentioned in Mr. Stolman's memo. Also, Mr. Vaughn pointed out that the plan still says the words "banked for potential use" in the parking plan chart. Mr. Beldotti said the banked parking has been removed. Mr. Vaughn said there are contradictions with the plan, why hasn't that language been removed from the plan? Mr. Vaughn said they were promised in the "off the record" meeting of June 1, 2016 with Mr. Beldotti that there would be a graphic prepared that compared this project with Deerfield and the Woods. Mr. Vaughn asked the Board not to close the public hearing.

**Ms. Veronica Mandel**, Fox Hill. Ms. Mandel stated that she did not like the tone of Mr. Venditti and said this is our home, a semi-rural area, no sidewalks and many people work in New York City. People have moved to this area because they wanted to live in this area and not have an apartment building. Ms. Mandel expressed disappointment with the fact that this issue started at 10:00 p.m. It is outrageous and inconsiderate of how all of this came out so late.

**Mr. Steve Jenny** of 92 Deerfield Lane also attended the private meeting on June 1, 2016. He spoke about the stone structure on site. Mr. Jenny also expressed the late hour of the meeting and his dissatisfaction with Mr. Venditti's tone. He said he would like to hear some responses back from the Board. The public wants to be heard and it's the Planning Board's job to listen, not to grant anything without listening and studying the concerns of the public.

**Resident Fox Hill:** I believe 112 cars in that little space there is going to greatly impact everyone in the area.

**Mr. Keith Gordon**, 78 Hawkes Avenue: Croton Dam Road up until Kitchawan Road is not a state highway. The state highway is 134 comes across 9A, Kitchawan turns right to Hawkes, turns left and goes down to Dale. The rest, Croton Dam Road, is a Town Road. Those of us who live on Hawkes and need to get on 9A South find it extremely difficult to make the left turn onto Croton Dam Road because the traffic coming up the hill from the River Knoll area backs up from the light past Kitchawan. One thing the Town could do, I realize this is not the Planning Board's authority, but you are part of the Town Government, is put a stop sign on Croton Dam Road at the intersection of Kitchawan going towards 9A so that, that traffic has to let the traffic out of Kitchawan. Left, right, left, right so everybody can flow.

**Resident of Deerfield:** I want to respond to the comment about the lack of maintenance at Deerfield. We have hired and retained contractors that stick cameras into drains and look for problems and we have maintained our property. We are not trying to get flooded, we have maintained it. The people that got flooded are on a part of the property was built on what was wetlands when it was built. So the expectation that it's going to suddenly turn into something else is ludicrous but we all live there and we have to maintain it. We are required to, to live there.

**Mr. Bossinas** asked Mr. Beldotti if when he met with the residents, did they have any conversations about the size of the buildings and how they determined the square footage of the apartments and how one affects the other.

**Mr. Beldotti** noted that they stayed within the required building size limits. They talked about the number of apartments and the designation of affordable units. A resident asked if the buildings can be downsized.

**Parth Knolls Continued**

**Mr. Bossinas** said that the Board is hearing over and over that the size of the buildings are out of character with the area. The square footage of the apartments; can they could be shaved down slightly?

**Mr. Beldotti** said there are a number of amenities for the residents that will live in the buildings, open space, very important, a pool, very important, the trail. The size of the apartments are based pm what we think is appropriate for the area. We have a lot space within the buildings that we used for community rooms and so forth. We didn't overcrowd the interior of the buildings. The underground parking, yes it is there. There's enough underground parking so every apartment gets one space, we put elevators in the building which is very important in a 2 ½ story building. The more amenities we put in the building, uses a formula that we fit in the zoning code. Each apartment needs a certain amount of open area. We stayed with a lot of one-bedrooms, 40 and there are only 13 two-bedroom units.

**Mr. Bossinas** asked the applicant to see where they can scale down the size of the apartments which may be helpful in finding common ground between the residents that are here opposing the project.

**Mr. Beldotti** urged that they are following what is required by code. Mr. Beldotti stated that the building coverage is far below what the building coverage is allowed by the code. We are saving and generating almost four acres of open space that is not going to be disturbed. The only thing we are going back there for is to put some nice trails in with wood chips. Instead of the metal and concrete bridges we were going to build, we turned them into wood to make it more in with the character with the area. There is a point in every job where you have to give the end consumer what they want.

**Mr. Hoeflich** asked the applicant to consider downsizing the project. In his opinion, it is out of architectural character with what is next door. Mr. Hoeflich urged that the apartment size looks larger than what is required. Neighbors stated the size of their units 1,200 and 1,800 square feet. Mr. Beldotti noted that the average one-bedroom is 1,038 square feet and a two bedroom is usually 1,200 square feet. This precipitated a lengthy discussion.

**Mr. McWilliams** asked if the applicant when they do their graphics if they could include scale drawings showing the typical size units of Deerfield in height and also see what the relative height of the Woods unit is relative to the road and the grade and this development, a streetscape comparing the proposed buildings to what is existing on Hawkes Avenue. Also, Mr. McWilliams asked the applicant to consider the things the Board has asked and things outlined in Mr. Stolman memo.

Mr. McWilliams adjourned the public hearing to July 20, 2016.

**Bethany Arts Community, 40 Somerstown Road, Site Plan - PUBLIC HEARING**

Mr. David Lyons, Applicant, Mr. Zak Shusterman, Attorney and Mr. JB Hernandez, Architect, were in attendance. A narrative document and revised plans dated May 5, 2016 titled New Arts Center, Bethany Arts Community, prepared by ARQ.HT, LLC, Design & Construction Management Consultants were on file. A revised submission was received June 14, 2016 which showed additional planting information, a school bus zone and concerns in reference to light glare due to headlights. Mr. Hernandez went over these items with Board.

Mr. Stolman asked for clarification on the future parking and event parking. Mr. Hernandez agreed to revise that on the plan. Mr. Ciarcia discussed issues related to their stormwater protection plan. He also noted that there needs to be clarification with regard to existing paved areas and proposed. Mr. McWilliams reported that a memo dated June 14, 2016 from John Hamilton, Building Inspector, was submitted to the Board. The memo states that Mr. Hamilton has reviewed the submitted plans and found them to be in compliance with the Town Zoning Code. Additionally, the parking spaces, as proposed are in compliance with the code.

**Bethany Arts - Continued**

**Ms. Anne Merla**, 21 Stonegate Road: Ms. Merla expressed concern with the walking path and potentially having people walking around in the area at the rear of the property where it connects with her property. Her concerns are privacy and whether or not if the walking path within the required setback. Also, Ms. Merla asked for more information about the project. Mr. Shusterman told Ms. Merla that there is a narrative available online. Mr. Hernandez clarified that the setback of the path will be 100 feet from Bethany's property line and no trees are going to be removed. Ms. Merla also stated that the Board should consider a nicer meeting room for this type of thing.

**Ms. Beth Cohen**, 6 Tavano Road: I want to address water issues and I know you are addressing that but it is near the event parking it is very mushy and gushy.

**Mr. Stolman** clarified what the future parking will be and the event parking is something different. Mr. Hernandez explained that this area would appear as grass but a sub-base is installed to support parking of cars if needed.

**Ms. Sondra Peimer**, 10 Tavano Road: Ms. Peimer expressed concern with the placement of one of the benches which looks like it is directly behind her home, she asked if they would move that bench. Also, headlights coming through the trees at night. She also discussed the water issues and stated that her property gets very saturated. Mr. Hernandez said he will move that bench and will plant additional trees and shrubs in that area to respect her privacy. Also, the applicants will be providing a stormwater protection plan.

**Mr. Dave Berger**, 37 Somerstown Road: Mr. Berger described some of the drainage existing in the area of Route 133. He lives right across from where there is a rock wall and it looks like some is coming down. Mr. Hernandez said they are preparing a stormwater protection plan and a system that will take care of everything from the parking lot.

**Ms. Birney Kubica**, 12 Tavano Road: Ms. Kubica also expressed concern with the walking path and people walking around in that area. She asked the applicant to show her where the path is going to be in reference to her property not only on the plan but by her feet and that distance.

**Ms. Lisa Berger**, 37 Somerstown Road: Ms. Berger noted that Route 133 is a State Road so when it comes to the drainage it's not always the Town; you have to deal with the State. It does overflow in that area. Another concern is security. Is that something that will be maintained on site, a check in and check out on site. Mr. Shusterman said there are groundskeepers that are going to be onsite at all times. Also, he said that no one is going to be living there. There are artists that will be coming in a few weeks at a time. In terms of children arriving, there will be some instructional programs during the day, after school and there will be qualified staff there receiving them and ensuring that they are safely and properly placed.

**Mr. Keith Gordon**, 78 Hawkes Avenue: I am a member of the Ossining Arts Council and a Trustee of the Ossining Arts Council. I want to speak in favor of this proposal. I would encourage the Board to work with the developers, meet the needs of the neighbors but also to do what the Town needs as well.

**Mr. Bossinas**: On the planting plan for blocking headlights in the parking areas, the vegetation needs to be planted in a more natural way which might require a few more plantings but esthetically will be a plus.

**Dr. Hougham** asked the applicant if they could show all of the neighboring properties by name and the lot numbers on the plan. He also stated that he is all for this project, it is a great idea to have an arts center in Ossining. One concern in arts facilities is that often times solvents are dumped down drains and if there are any special plumbing fixtures that could alleviate that problem. Mr. Shusterman said there are things that can be done to neutralize it before it goes into the sewer system using things like marble chips. Dr. Hougham and Mr. Shusterman spoke about a type of separation tank for this and Dr. Hougham asked him to provide a detail on this. Dr. Hougham asked if there are any facilities for Dance. Mr. Shusterman said yes, there is a space going to be designed for that.

**Bethany Arts – Continued**

Again, Ms. Peimer expressed that her property floods and would like to know what is going to be done to prevent that from getting worse. In response to Ms. Peimer, Mr. Ciarcia stated that the applicant has shown some improvements to address that issue but we need more to make sure the increase in stormwater is managed properly and we will take a look at your particular problem to see if there's anything they to relieve that existing problem.

Mr. Hoeflich asked about the Orchard proposal and restoration. Mr. Lyons said the trees that are there are on their last legs, but to restore it would be a nice thing. Mr. Hernandez pointed out that there will be a deer fence provided around the area for this but it is temporary protective fence.

Mr. Stolman said traffic information and stormwater protection information is still needed. Thirty days have passed since circulation of the May 12, 2016 notice of intent to be lead agency so the Planning Board can declare its intent to be lead agency. Mr. McWilliams announced the Planning Board to be lead agency for this project and adjourned the public hearing to July 20, 2016.

**Butler Subdivision, 2 Hillcrest Drive, 3 Lot Subdivision**

Mr. William Butler, Mr. Dennis Butler and Mr. Jim Vanoli, Engineer, representing the applicant. Mr. Vanoli submitted a sketch that shows the Hillcrest Drive using the 50 feet Town Standard. Ms. Zalantis submitted and reviewed a memo with the Board dated April 14, 2016, which concludes that the applicant has the right to use Hillcrest Drive. The easement for this is on a filed map and allows for access from all of the lots on Hillcrest Drive. It appears from the evidence the applicant has presented, the applicant has the right to use Hillcrest Drive to access the proposed lots. The issue at the Zoning Board is whether it has to be developed to full Town width standards of 50 feet or whether the Zoning Board thinks it's better to grant a variance to allow it have frontage on a road that is not developed to 50 feet wide or developed to Town Standards.

Mr. Ciarcia submitted a memo dated June 15, 2016 as follows:

1. A profile and grading plan should be required to evaluate the disturbance associated with this alternative.
2. It is recommended that the applicant prepare a table which compares the disturbance associated with the common drive and town road alternatives. The overall disturbance, slope disturbance by slope category, wetlands disturbance and wetlands buffer disturbance should be compared in a table.
3. The NYSDEC Environmental Mapper indicated that a portion of the State wetlands O-14 may be located on the property. The entire property is within the wetlands check zone; therefore, the wetlands needs to be flagged and confirmed by the NYSDEC to determine the extent of the property regulated under NYSDEC and Town regulations.
4. Provide a revised slope analysis plan to confirm that all the proposed lots conform to the latest revisions to the Town Code.

Mr. McWilliams announced that this is **not** the Public Hearing for this project. Mr. Vanoli wanted to clarify that he is in agreement with providing tables but it would not make a lot of sense to create a 50 foot road because of the level of disturbance. A full size road would be larger than any in the area. Most of the streets in the neighborhood are 18 feet wide.

Mr. Ciarcia urged that the applicant provide the information needed on the slopes to be in line with new slope regulations. Also the mapper has identified that the properties are in the DEC check zone as noted in the memo.

Dr. Hougham asked the applicant for an opportunity for a site walk. Dr. Hougham noted that there is a wetland in the area and would like to get a better idea of where it is. Mr. Hoeflich also would like to arrange a site visit.

Residents were in attendance expressing their opinions and opposition to the plan. This was not a public hearing, however, due to the late hour, residents asked Mr. Vanoli questions and viewed the map.

Mr. McWilliams set the public hearing for July 20, 2016.

**Minutes**

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A draft of May 18, 2016 Planning Board Meeting minutes was submitted to the Board by email, a hard copy was not available and were held over to the next meeting.

**Adjournment**

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There being no further business to come before the Planning Board of the Town of Ossining, Mr. Hoeflich made a motion, seconded by Mr. Bossinas that the meeting be adjourned to June 22, 2016.

Time noted 12:30 p.m.

Respectfully submitted,

*Sandra Anelli*

Sandra Anelli, Secretary  
Town of Ossining Planning Board

**APPROVED: July 20, 2016**