

Town of New Paltz Planning Board

Monday, September 14, 2020

Final Meeting Minutes

This meeting was held via ZOOM Videoconferencing and Teleconferencing with Live Stream to YouTube.

Call to order by Chair Ruger at 7:05pm

Board Member Attendees: Adele Ruger, Amanda Gotto, Amy Cohen, Jane Schanberg, Stana Weisburd, Lyle Nolan

Board Member Absent: Matt DiDonna

Also Attending: PB Attorney Richard Golden, PB Engineer Andy Willingham, PB Engineer Ryan Cornelison, PB Telecommunications Engineer Michael Musso, Town Board member David Brownstein

Chair Ruger noted that the minutes from August 24th will be held for the next meeting.

Chair Ruger noted there was no on the call for public comments.

PB 19-110, 19-111, 19-113, 19-114 Rose Lane (Heppolette)

Amanda Gotto noted that the ENCB had commented that they had reviewed the applicant's proposal, and Andy's comments, sent a letter that suggest that they agree with everything that Andy and the applicant has proposed but they are looking for a more detailed planting schedule that should be done no earlier than September 20th of this year, and stated it shouldn't be an issue now since we are no longer in June when they wrote their letter to install a fabric weed mat around each tree and that the monitoring and maintenance plan include written status reports at no less than quarterly basis documenting the activities undertaken and the condition of the protective fencing and the health of the plantings for no less than five years that should be included in with the plan, but added that they also propose that an annual inspection should be conducted by someone with experience such as the wetland inspector or some other environmentalist, and also submit to the PB, again adding that is the addition to the proposed plan on just the weed mats, a detailed planting schedule and the monitoring plan that should be confirmed annually by a

professional. Amanda Gotto asked Attorney Golden if this needs to be stated in a resolution. John Heppolette spoke up, asking if he could speak about his proposal, which he commented that he had less when Amanda asked him if he had more to add to his plan. Mr. Heppolette noted that he is committed to resolve the situation, and added he has gone above and beyond what they recommended a deer fence or planting, stating he would do both, adding that he has conformed with everything else, adding that he would do the weed mats, noting he is very sensitive at this point and understands there needs to be some consequence for the action but the costs mount up very quickly, and thinks his proposal to have both fencing and plants and weed mats, annual reporting for me, and then a compromise at 5 years you want to send someone in, a paid consultant in, to say have we achieved reasonable objectives here, and he is not proposing paid consultants every year for five years.

Amanda Gotto commented that they are understanding that the deer fence is taking the place of the tree tubes in terms of protecting the tree saplings, noting that's a good way to do it but also noted that they feel it is important to have someone out there confirming the status of the project and the fencing, so that is our recommendation from our advisory board, the ENCB. Amanda added that it is up to this Board if they feel that is important. Chair Ruger asked for any PB members to comment. Lyle Nolan commented he thought the monitoring is a good idea, as there is a lot of turnover in the various Boards, and possibly in the Building Department, or the environmental inspector, that minimum of annually is an important thing for the continuity, as something can go wrong they can all die and we wouldn't know for five years, adding he is an advocate of minimal annual inspection. Chair Ruger asked if he would consider annually for the first five year, and Lyle Nolan said he would consider that the minimum.

Chair Ruger then asked if anyone else on the board, other than the inspection, then asked Mr. Heppolette. Mr. Heppolette noted he didn't think so as he felt he's complied with any additional requests, and noted he feels it is an issue of trust, and the Board saying they don't trust him to provide photos and a write-up every year, and if that is the case, he asked for an estimate for what this is going to cost, as the escrow account gets depleted often. Chair Ruger asked Attorney Golden what generally happens in cases like this one.

Attorney Golden noted that what should have occurred, that this was apparently not done at the owner's behalf but there was clearing and grading that was done without a necessary application, but this whole process is not an issue of an enforcement of a wrongful act, but this Board is there to go ahead and actually issue the clearing and grading permits that should have been issued before the work started, and these are conditions related to that, so the resolution is not a resolution whether or not you should or shouldn't be punished but it is simply a resolution if the Board believes appropriate to grant the clearing and grading applications with the conditions talked about as there are some other issues that are in play, noting that one of the things that the Board is waiting for until you felt that the application was sufficiently complete on the Board's point of view before sending to Ulster County PB so that has to be done, adding that the Board also wanted to wait until it was sufficiently said as far as the plan goes before the Part 2 EAF, as they had typed the action as Unlisted, and assumed lead agency but, the Board hasn't made a determination of significance, suggesting that in addition to the referral being made, that the Board authorizes Pat to send a referral to Ulster County PB, adding that the Board also authorize Andy to go ahead and complete a draft Part 2 of the EAF for the Board's review for the next time, as there is some cleanup work that needs to be done

by the applicant unless he's already done this, but noted that the owner authorizations are still not proper, as the owner has to be the actual record owner, and you have to have authorization from that, noting the record owner as Butternut Bee Farm LLC, so there has to be authorization for this application to go forward. Attorney Golden also noted, which he asked Andy to confirm, that this lot is adjacent to agricultural district 2, and therefore an agricultural data statement is required but will leave that to Andy to confirm, and if it is required he can reach out to the applicant to tell him that he needs an agricultural data statement before the next meeting. Chair Ruger commented that what the Board needs to do is vote to send this to Ulster county PB, and ask Andy to fill out a Part 2 EAF for the next meeting, and the applicant needs to change the application to Butternut Bee Farm LLC. Mr. Heppolette noted that he had filed those forms with Pat months ago, and they should check with Her. Pat noted she will check his folder tomorrow. Mr. Heppolette noted this is the first time he had heard about agricultural data statement, which Attorney Golden noted that there was something on his application that said it wasn't adjacent to an agricultural district. Mr. Heppolette noted that his surveyor might have filled that out, Attorney Golden noted that if it said it wasn't but it is, Andy will

figure out whether or not it actually is and whether or not an agricultural data statement is required.

Mr Heppolette commented that he had hoped to place an order for plants and fencing tomorrow but it sounds like that might be too hopeful. Attorney Golden noted that he certainly wouldn't have an approval in order to do that as to whether or not you are able to order plants and do plantings is really up to the building inspector whether you need this grading clearing permit in order to do that, which Mr. Heppolette noted was interesting. Attorney Golden continued noting that the manner in which the Board would like them planted so that he (Mr. Heppolette) has that knowledge, but also noted he cannot tell him whether or not he is able to do that but noted that he does not have a clearing and grading permit. Mr. Heppolette noted the understands the technicality there now, but noted it was a good question whether he can go ahead and fence and plant.

Chair Ruger noted the Board can take whatever votes needed to be taken tonight and then see what's left as we do need to vote for this to go to Ulster County Planning.

Motion 1 by Amanda Gotto that we send the applicant's proposal for this remediation including the monitoring to Ulster County Planning Board.

Amy Cohen noted she is not seconding, but she doesn't mind seconding but has a friendly amendment and a request she thinks that the Board should be voting on, the checking up on this section of it where we go back and check in with them every year, as she didn't think that they had unanimously voted for that., and noted she didn't think the Board should send it to Ulster County Planning if the Board hasn't vote for it.

Attorney Golden noted that it is not necessary for the Board to have a final finalized plan ready for adoption of a resolution before the Board refers it, as it is normally referred much earlier so that is something that Ulster County PB may weigh in or may not but regardless of whether or not they weigh in on it, as that'll be something for this Board to decide whether or not it ought to, adding to what extend the monitoring ought to be so that is still up in the air that the Board hasn't given him direction as to what to include in the ultimate resolution of approval. Amy Cohen commented then that probably shouldn't be in what we send to the County. Attorney Golden noted that the Board will be sending to the County the information that was provided by the applicant, Andy Willingham's comments, and the ENCB's comments, and then they will look at it all and they will decide what they want to comment on if anything.

Motion 2 by Amy Cohen

All present in favor. Motion carried.

Attorney Golden noted that the application indicated that an agricultural data statement was not need and he is referring to Andy for Andy to determine whether or not it is required, and if it is, he can reach out before the next meeting with the applicant and tell him either that it is or is not required so that it doesn't hold up anything on the application. Andy Willingham noted he can do that, adding that it is not a complicated form at all.

Attorney Golden that the only that the Board might consider is whether or not to authorize him (Attorney Golden) to draft a resolution of approval, that he will simply take his best guess at what the Board might ultimately do with respect to some of these things but it is not meant to obviously bind you in any way.

After a brief discussion on the next PB meeting date (October 13th), Mr. Heppolette asked his remaining question if the PB has an opinion on whether he could plant trees and put up a fence on part of a property that is subject to a violation does not have the permit to cut the trees that were already cut, and replant as a condition precedent to that permit. Chair Ruger responded to Mr. Heppolette that the PB could not speak to that and he would have to speak to the Building Department. Attorney Golden commented that this Board cannot tell him (Mr. Heppolette) to go ahead and start working on an approval that they haven't heard, but referencing from earlier, that it is possible that generally you're allowed to do plantings on your property which may so happen to coincide with the ones that are anticipated in your clearing and grading application that you have here and you may not be prohibited from doing those plantings without an approval; you certainly couldn't do the clearing and grading without the appropriate right. Mr. Heppolette asked it the stop work order allows planting or not. Attorney Golden noted that that is up to Stacy but normally what happened is that if you are doing something that is trying to be remedial with respect to the stop work order, then many times you are permitted to do that if you have whatever authorizations are required so he thinks that if the plantings do not need the authorization and if Stacy considers it remedial she has a discretion but has to find out first whether or not you are able to do the plantings and it may be a different answer.. Andy Willingham also added that there is also some risk on his (Mr. Heppolette's) end to change whatever plantings.

Mr. Heppolette apologized for any part of his role in that delay, as a lot of it is out of his control, but it falls to his responsibility, noting problems with his surveyor's availability, and if he had to hire a whole new surveyor and lose all the data.

Chair Ruger noted that hopefully the October 13th meeting they would hope to see Mr. Heppolette back.

Daniel Schniedewind asked to make a public comment. After a brief discussion, Chair Ruger allowed him to proceed, with 3 minutes to speak. Mr. Schniedewind read a letter that Kitty Brown had written and submitted but not in time for tonight's meeting, which were her comments on Trans-Hudson's request for a waiver that would relieve them of design standard for MSMU for two occupiable stories as per the Building Inspector's interpretation letter that was posted earlier today.

PB 13-15 Trans-Hudson Site Plan

Chair Ruger noted that they had received the letter from Stacy (Building Inspector) and did they have a chance to look at it. Chair Ruger noted that there were three things that were asked of Stacy with whether or not they would qualify for a waiver; one was whether or not they (Trans-Hudson) can put the bike path through the buffer, another is if we could wave the design standard for the second story, and the third was whether we could waive the bulk standard for the second story. Chair Ruger commented to take the easiest one which is the buffer, which Stacy says the buffer is not an issue, and feels that they do not even have to vote on it. Attorney Golden commented that what Stacy is doing is interpreting the code, and interpreting the code in a way that says that have the Empire State Trail within the buffer is not against the code as there is no prohibition on it, there is nothing inconsistent with it from her interpretation of the code. He also noted that they did not need to vote on that at all and it simply befalls to you to determine whether or not the Board thinks that is appropriate in typical site plan jurisdiction that the Board has. Chair Ruger then asked Attorney Golden to describe the design standard as it is her understanding that the Board can waive that design standard if by unanimous vote, then it is waived, but if it is by majority vote, then it would go to the Town (Board) and the Town (Board) votes on it to waive it or if the Town (Board) votes it down then they (Trans-Hudson) would have the opportunity to go the ZBA, which Attorney Golden agreed they could go to the ZBA and ask for a variance from the design standard. Attorney Golden also noted that the

other aspect of this is what Stacy said one of the reasons the Board asked for it is because this requirement was in two places in the code; one the bulk requirements and the other design standard, noting it was always very clear

that the Board has the ability to waive if they wanted to the design standard requirement but the Board has no ability to waive the bulk requirement so it's really asking Stacy what are the differences between these two so we know what to waive and what we can't waive, adding that what Stacy basically discussed in her memo was that the design standard, and she went on to explain it more, but the design standard the Board can waive, and that deals only with the architectural aspects of having two occupiable stories, and regardless of whether or not the Board waives that, a waiver of two occupiable stories from an architectural point of view what it looks like, but if they want to not have two occupiable stories at all, Stacy has essentially said that is the bulk requirement and the Board can't waive that, that would be up to them to get a variance from the ZBA if they want to pursue that. Chair Ruger then noted that basically it is the Board's obligation to proceed with Stacy's interpretation. Attorney Golden agreed and noted that they have to follow Stacy's interpretation and now what's before the Board, noting the trail is no longer before you, whether or not under the bulk table the Board can waive it not before you as the Board has already taken a vote on the drive-thru waiver request, and was passed by a majority but not unanimous, leaving two things left to be done, one being that whether or not the Board wants to waive the two occupiable stories from an architectural point of view as Stacy has described it and the other the Board has to address is, as Stacy sees it as he does not read it this way, that the Board would have to take the additional step of recommending that waiver (due to majority vote) to the Town Board, recommending to the Board that they still have to determine whether or not the Board recommends that the matter on the drive-thru request be sent to the Town Board, and the other one is whether or not you want to consider, and if so, whether to grant the waiver on the two occupiable stories from an architectural only point of view.

Attorney Golden also noted that they need to hear from the applicant because it is their application, contrary to the earlier speaker, the applicant has made a case why they would deserve this under the code and if the Board believes that's enough or not enough but there has been an argument made as to why this waiver shouldn't be granted, and the applicant may want to add some more information to convince the Board to

give the waiver or not. Applicant's Attorney Kathy Zalantis commented that she just wanted to remind the Board that when they were before back in July, the Village had conveyed to them that they are willing to provide water and sewer to the project, and as discussed, this new plan that you already granted the waiver for back in July comes with a significant amenities to the Town, including a municipal parking lot and restroom, and the Empire State trail would be extended throughout the entire property, Attorney Zalantis also noted the new plan largely hits all the requirements of the MSMU Zone's intent, adding it meets the vast majority of the design requirements and they are numerous design requirements in the new code. She added this new plan creates more of a Village type feel; it is a mixed-use development, and added, very importantly, it is melding a private development with retail and commercial with a community or public recreation type development, and as a result the community will benefit from this plan much more than most typical private developments. She also added the Village Board discussed that this concept would be a great welcome to visitors to our community, adding that unlike other developments this plan will actually encourage the use of bicycles and walking because people could come into Town, park their cars, use the restroom, maybe grab something to eat, and then use their bikes to travel through the Village in the Town, or walk so it is providing an amenity to both the outside community and the community of New Paltz. Attorney Zalantis noted as Rick (Golden) mentioned, this Board previously by majority of the Board, granted a waiver for the restaurant drive-thru, the Building Inspector confirmed that our plan conforms to the requirements of the trail so we don't need a waiver for that, but the remaining waiver that we need from this Board is from the second occupiable story, and noted they set this forth in detail in writing in their June 29th letter, but the retail space on two floors is just not practical as the vast majority of retail spaces are only one story and it's certainly not practical when a large amount or a considerable cost in this development is going to develop municipal type uses there's no rate of return for restrooms that the public is going to use or parking lot that will be used by the trail so her client cannot construct a second floor retail that has no chance of being leased, and it is also not conducive to other types of uses as Member Cohen mentioned at the last meeting as this is not a place that you would want to see residential type development because it is so close to the Thruway; it is just not appropriate as that is typically what you would see above some smaller retail spaces but this development with its proximity the Thruway is just not practical to do that, and added that again, the plan meets the purpose of the MSMU

and there is no adverse impacts from this development so we are again requesting that this Board grant the waiver from the second occupiable design standard, also noting that we understand that then we will have to go to the Zoning Board for a variance from the bulk standard but we are requesting tonight, we have to know, as we said back in July, if we have a viable plan here as her clients do not want to spend more money on this process developing detailed site plans if we don't have a viable plan so we are asking that tonight that the waive be granted so we can proceed with the Town Board, and then we understand we have to go to the Zoning Board too.

Attorney Golden noted that he thinks one of the things the Board has to realize, and it is kind of a very narrow question as it has turned out to be for the PB on this waiver, is that the only thing the Board is dealing with is the architectural requirement of making it look like there are two stories in a sense, regardless of whether or not there are physically two stories and noted that Stacy talked about the fact that you may have actually one and half stories if half of a story is part of a basement, but if the Board does not waive this requirement it has to look like you have two occupiable stories from an architectural point of view. Attorney Golden also noted that if the applicant did go before the ZBA, and they get a variance that say no, you don't have to have two occupiable stories unless you waive the design standard, it would have to look like two occupiable stories even though they don't have them, and contrary if they don't get the variance for two occupiable stories but instead suggest something along the lines of what Stacy is saying potentially of really one and a half stories including a basement or some other configuration, then if you waive it, it doesn't have to look like two stories whether or not it is, adding that again this decision came out this afternoon and the Board has to make a decision as to whether or not it is the right time to make that determination, right because if the ZBA says they do not have to have two occupiable stories, it seems to him, it would be odd if you would then make one occupiable story look like two occupiable stories, architecturally that would not make a lot of sense, noting he would argue more in favor that it makes sense for a waiver under all the circumstances and contrary to that if in fact the Bboard denies that and they have to build two stories, and if they decide to go with that option, then it's a little odd that you have waived ahead of time the architecture to make it look like two stories so that it doesn't but yet now it's going to be two stories so it just seems to me that you may want to postpone action on this waiver, adding that it was not what he thought

before he read this late this afternoon, it made sense for the Board to take up the waiver now for the design standard especially that is the only application that is pending on this, but because yours has now been limited to this whether or not it should look like two stories, he thought it makes more sense to wait to see whether or not they are going to have two stories or one and a half stories or one story, and then make that determination whether the Board ought to waive the requirement that it looks like two stories.

Chair Ruger commented if we (the Board) votes to waive the two stories, what does it hurt, does it do anything other than make it easier for the applicant to move forward.

Attorney Golden commented that if the Board waives the two-story architectural element, it means that the applicant doesn't have to make it look like two stories, but they still may go forward with it and decide that architecturally it looks better to have it as two they can still do it even though the Board has given them a waiver. Chair Ruger noted that if they waive that here, that way they will know if they are going to the ZBA for one variance or two.

Attorney Zalantis commented she agreed that it is a good point, because we're not precluded from making it look like two stories down the line, it's not a requirement if the Board grants the waiver, let them deal with the other issues before the zoning board and thinks it gives them a path forward then, they can then go to the Town Board on both waiver requests.

Jane Schanberg commented that the Board didn't want fake windows in the storage facility on Henry Dubois, and she would be very much against any kind of fake story or fake look to a building at the gateway and she has no objection to it being a one story but thinks that if we have a great looking building with one story that's more important than having to have it be two stories but felt they have to give them the option i just don't feel we can tie hands to that degree so she does not want to see anything fake. Chair Ruger commented that she feels it is not the intention of the applicant to put a fake story on the second.

Attorney Zalantis commented her clients do not want to do a second story, adding that the architecture has evolved and how much time spent on these buildings that they are proposing a very attractive one story building, and that's what they want to build, and if they had their way they'd be allowed to proceed with that one story design and they have no desire whatsoever to make it two stories and certainly not a fake second story.

Attorney Golden pointed a point of procedures to the Board, as to whether or not the Board waives this design standard, it does not divest the Board of your normal aesthetic review that you would have for this building so whether you waive it or not waive it, you're not in fact, you do not want something that looks inexpensive and cheesy or whatever with respect to windows or anything else, the Board still retains the right to have the aesthetics of this project approved, similar to what this Board has done back to this project to a great deal already. Jane Schanberg commented that there is an integrity with real architecture, that was her point. Attorney Zalantis noted she would like to remind the Board also that it is their intention once they obtain these waivers to really develop their site plan and come back before this Board with detailed plans but that's a cost to that and she just wants to make sure that they have a development that they could proceed with.

Lyle Nolan commented he agreed with Jane and would hope that the next Board does not require the two stories, and a lot of this stuff was written pre-social distancing pre-virus, and he doesn't think the density is appropriate.

Chair Ruger asked for a motion for the design standard waiver

Motion 1 by Jane Schanberg. Motion 2 by Lyle Nolan.

Discussion: Amanda Gotto noted that she thinks Rick made a good point that they don't know what the Board will look at until after the ZBA makes their decision so she thinks it would make more sense to wait and decide about the design standard once the Board knows whether it is a one story or two stories. After a short discussion, Amanda noted she is confused, as it is very confusing. Attorney Golden noted that is its confusing and the reason it confusing is that they have something called two occupiable stories that can be waived as to architecture and another they have the identical one that's not waivable that deals with bulk and Stacy, he believes, did the best job she could to try to reconcile those because she is not allowed to say they can't mean both so we will just ignore one, as she's not allowed to do that. Adding that she's required by law on how you have to interpret these things, to reconcile them adding he thinks she's done as good a job as you can in reconciling the distinction between the two with one saying architecture and the other saying height so it is confusing.

Amy Cohen commented she was just going to say that this law is becoming very sloppy now that we have to use it, and that's all she was going to say.

Chair Ruger stated all in favor of waving the design standard say I or raise your hand, **4 in favor, 2 opposed. Motion passed.**

Chair Ruger asked for a motion to recommend both of the waivers that we just voted by majority, which are the design standard and the drive-thru, to the Town Board.

Motion 1 by Jane Schanberg. Motion 2 by Amy Cohen. All in favor. Motion passed.

PB 20-08 Homeland Towers

Chair Ruger asked PB Engineer Ryan Cornelison to review the latest cell tower submission.

Ryan Cornelison noted that there's been a quite a bit of action actually since the last meeting, as Vincent (Xavier) submitted on Friday an updated site plan as well as a couple of cover letter explaining the recent additions and revisions. Ryan noted he had submitted a SEQRA memo to help the Board through Part 3, also submitting the habitat impact assessment requested at the last PB meeting. Ryan reviewed the memo from his company's Albany office, prepared by their environmental scientist Corinne Steinmuller, noting high points of the report:

US Fish and Wildlife Services, which reported three federally listed species for the project site, the Indiana Bat, Northern Long-eared Bat, and the Bog Turtle; US Fish and Wildlife Service Migratory Bird Records showed no NYS protected species; Critical Habitat review showed no critical habitat is present in the Town of New Paltz;

New York State Natural Heritage Program responded to request a request from the applicant back in May he thought, that they responded that breeding bald eagles were reported within one mile the project site; the DEC's Natural Nature Explorer showed there was no know records for any rare and significant natural communities reported within the project site or its immediate vicinity. Ryan noted she had also noted the wetlands on the site and concluded that impacts the wetland functions and values are likely to be minimal; and an effect determination for each of the species that was found so for the Indiana and northern long eared bats, since the applicant has put on the plans the DEC's tree cutting window of November 1st to March 31st. Ryan noted that a NYDEC determination of Take Not Likely is recommended for both bath species, and what that means is basically DEC's version of saying they are okay with how the project is presented and moving forward. Ryan noted that the no bog turtle habitat will be

disturbed by the project, so our determination of no effect was recommended for that species, and since the nearest bald eagle nesting site was greater than one mile away and no effect determination was recommended for bald eagles. No questions from the Board.

Amanda Gotto commented that she appreciates the work that was done and she did actually answer half of her questions which was whether there was any impact on significant species, what she didn't address was whether on the SEQRA question about impact of the removal of habitat on the predominant species activities, so that part didn't seem to carry through. Ryan commented when you say those species you're talking about squirrels, chipmunks, which Amanda noted that SEQRA says the predominant species so it is whatever happens to be living there, it could migratory birds, it could be who knows.

Amanda noted that the question was whether the removal of that number of trees would have an impact on the predominant species ability to nest, forage over winter, as there is a list of activities that critters might do in that area so that didn't get addressed.

Attorney Golden noted that he agreed that it didn't get addressed but the actual predominant species are set forth in Part 1.

Chair Ruger noted that this was something they could look at in the Part 2 that they can consider large and make a note of it and then they can look at it in the Part 3.

PB Engineer Mike Musso gave a quick summary of his tech memo to the Board along with the recent submittals that he had received as well, noting that just to backtrack a little bit to the August time frame, Mike noted he did present some information on stealth tree examples so the stealth tree option is something that he had described in the tech memo and the Board has seen it in the application the applicant submittals, adding that he did give a little bit about some real projects that HDR has worked on that was dated August 21st; it was an email with a couple attachments with photos and maps, also noting he had given three other kind of mini memos as you got into the SEQRA Part 2 review so one was on the proposed facility lighting and that stated august 24th, one was on Mohonk preserve and far field views again part of the SEQRA discussion on item 9, and also there was demo on aesthetic resources and visual impacts and for that one of his specialists assisted on that who has worked not only on wireless but other projects in SEQRA in terms of view shed so that information certainly is presented in the larger tech memo that's dated

September 8th and what I just wanted to go through and we could certainly drill down on this so actually quite recently we do believe that the application now could be deemed complete and in accordance with the requirements of the Town's wireless code, and also with the FCC. Mike noted that they do know and described that there is a need for a site in terms of capacity relief and supplemental coverage, noting that they took a hard look at the alternate site analysis and the Town's overlay district and that there are no other tall structures or towers that could be utilized, and the overlay district just does not appear to be feasible in terms of the availability of potential locations that would meet setbacks and other code requirements but also noted he thought more importantly in terms of the service objectives that have been documented by Verizon, who is the co-applicant with Homeland Towers, the location is certainly a reasonable location and that's based on the property's physical characteristics. Mike also noted that HDR believes that they could reduce the height of this monopole and therefore reduce the height of the center line so we base that on the co-location potential, the height of the monopole could be dropped, noting that was one of our significant findings.

Attorney Robert Gaudio of Snyder and Snyder, for the applicant, summarized some of the important changes that were made throughout the process and of the items mentioned by Vincent Xavier before; the monopine was included in their latest plans, the painting of the pole, the antenna branching, the significant density, the significant length of those branches, the socks as they call them which are the antenna needles that would go on the antennas to completely conceal the antennas, adding that they also had previously proposed to minimize the Verizon array, minimize the number of antennas by cutting them in half from 12 to 6, they also worked with the Town Engineer to go out and minimize tree removal, realign the road, although the code only requires that 12-inch of greater trees, we noted trees eight inches or greater and down to four inches or greater uh in some areas and what we did is we worked hard to be able to realign the road in some portions to be able to basically preserve higher quality trees and offset to other types of trees that are less quality or dead. He noted they also increase the size of the no Mow zone from 5400 square feet to 6920 square feet for preserving the wetland buffer,, also they did change the lighting, noting that it would be dark sky compliant, and there would be no lighting on the pole itself with one a small light fixture at the base of pole that would be on a on a timer not on a motion detector and

it would only be used for emergency service visits and again it would be dark sky compliant over 300 feet from the property line and would not provide any spillage off the property

Amanda Gotto asked Mike about the drive data for the gaps in signal strength and data that is on dropped calls in the area (communications received from the neighbors for the Board) or has he looked into that.

Mike Musso noted that has come up and that information on signal propagation map was provided, as it is a modeling that's done where they use an industry standard software that we're familiar with of course and they provide everything under an affidavit, very sophisticated models, and there is a series of those coverage maps with the color blob that he did put into his tech memo, and they also looked at the capacity real data for those neighboring Verizon Micro sites and provided information during the recent months of Covid, and after looking at the coverage propagation modeling and looking at the capacity data that's what we based our judgment in terms of need and some of the other conclusions in the report.

With no further questions or comments, Chair Ruger asked Attorney Golden the next step for them.

Attorney Golden noted that the Board should circulate of notice of intent to be Lead Agency, and there have been no objections, the Board still has to assume Lead Agency status, then the Board can go into what the Board feels are potentially significant adverse environmental impacts

Motion 1 by Amy Cohen to go ahead and assume Lead Agency.

Motion 2 by Stana Weisburd. All in favor. Motion carried.

Chair Ruger noted the next step is to see if there are any items on the Part 2 that they feel are problematic still. Ryan pulled up the Part 2 on the screen for everyone to see. The Board reviewed each question on the Part 2 then voted on each on that had a Moderate to Large Impact.

1. No impact
2. No impact
3. No impact
4. No impact
5. No impact
6. No impact

7. G
8. No impact
9. No impact
10. No impact
11. No impact
12. No impact
13. No impact
14. No impact
15. No impact
16. No impact
17. A, C, D
18. E, F

Advised by Attorney Golden to address each one individually for comments, then vote.

Amanda Gotto noted that for 7 G, she commented that it is whether it would substantially interfere with the activities of the predominant species using the site. She noted she said it was a moderate impact because it is confined to the parcel but would permanently altered in those trees that are removed would not be back and not replanted somewhere, and probably would occur because of the 20 foot wide access road and conduit clearing that will pass through the woods. Adding then the fenced compound for the structure itself is located in a wooded area as opposed to a cleared area, so she feels the number of trees and other vegetation that would be removed or damaged would represent a fairly important impact. Stana Weisburd noted she agreed with Amanda's comments. Attorney Golden noted that for this question, E2m says the predominant wildlife species that occupy or use the project site are birds, deer, small rodents, racoons, skunks and groundhogs, noting that Amanda had asked for an analysis of which she hasn't gotten a response to.

Chair Ruger noted it is time to vote on this one. Attorney Gaudioso noted that they had submitted information.

Motion 1 by Amanda Gotto that 7G rises to the level of significant adverse environmental impact.

Motion 2 by Amy Cohen. 4 votes in favor, 2 opposed. Motion carried.

Vince Xavier commented that is the vote based on both roads as option 1 that has only 15 trees being removed, and if the vote applied to both road options or not. Attorney Golden noted it applied to both options since the Board has not chosen an option yet, so they have to consider the

significance of both. Attorney Gaudioso noted that they had specifically asked for a scope and price for the Habitat Impact Assessment to avoid this, which hadn't been provided been provided to address Amanda's question for more information, and wanted his point on the record.

Jane Schanberg commented on 17a, noting that she felt the impact is large because it is an industrial type project essentially being erected in somebody's backyard and it is unlike anything else in the established residential neighborhood, adding that the duration of it will be long term, 25 years, and the likelihood of impact will occur because it will require construction of a 150 tower and accessory structures, adding that she feels the significance of this is important because this is an industrial type project that is completely inconsistent with the current surrounding residential land use.

Amy Cohen commented on 17 c noting that it is not zoned for this, as this is a residential neighborhood that our zoning doesn't allow for this which is why they had to the ZBA so it is not consistent with

Motion 1 by Jane Schanberg that 17a would be a significant adverse environmental impact, a big an adverse environmental impact based on the contrast to current surrounding land use of our zoning.

Motion 2 by Adele Ruger. All voted in favor. Motion carried.

Chair Ruger read 17 c the proposed action's inconsistent with local land use plans and zoning regulations, and noted that this has to go to the ZBA anyway so obviously it is not consistent; if they get a variance then it is then consistent. Amy Cohen noted she understands what Rick was saying but she stated its very clear to her it is not in zoning, so she feels it is a big impact.

Motion 1 by Amy Cohen that c is the proposed action is inconsistent with the local land use plan or zoning regulations is a larger impact.

Motion 2 by Stana Weisburd. All in favor. Motion Carried.

Chair Ruger read 17 d the proposed action is inconsistent with any County plans or other regional land use plans. Amy Cohen commented that it is not consistent with R1 because this is not permitted use in R1, so we don't see this in residential neighborhoods in our Town or in our County because it is not allowed in the zoning, adding that she feels it is a big impact because it is not allowed.

Attorney Golden noted that this was the argument in c, and noted that d doesn't deal with your (the Town's) zoning as it deals with County plans, regional land use plans, not your Zoning, noting that what they're asking for is something else; do you think it impacts some identified county plan that you're going to see or some regional land use plan, adding there are County plans and there are regional land use plans and that's what they're asking for in this question is whether or not it is inconsistent with those and then you have to identify which ones as your zoning regulations you've already done and you've identified that. Amy Cohen commented that the County is made up of Town and Municipalities, but Attorney Golden noted that this is not what it is asking for, which is the Town's local land use plans, and the Town's zoning regulations, and the second one says whether or not it is inconsistent with some County plan, Ulster County plan, or whether or not it is inconsistent with some regional plan, that might be a multi-County plan, and then the Board has to identify which ones thought to be inconsistent with, adding that they are just asking two different questions, that all, and Amy's point has already been taken in c. Amy Cohen noted that the County has a plan, and within the County's plan we have Towns and we have Villages, and we have professional areas and non-professional areas, and that is part of the County so she does understand that we have zoning in our Town, but added she also knows that in the County we have a plan for all of the different Municipalities and this is not necessarily in that plan. Attorney Golden noted he did not know if it is or isn't, but the Board has to identify how it is inconsistent. Amy noted that we just don't know enough about the County plan. Attorney Golden note he is just trying to help and wanted everybody understand what this particular item means. Chair Ruger asked if Amy made that motion. Amy noted that she can if everybody is on board otherwise she won't waste time because we already made the motion on the other one but noted that she would like to get more information on that as she doesn't really know what the County's plans are for cell towers. Chair Ruger noted it doesn't sound like we can go to a positive vote on that, which Amy agreed.

Jane Schanberg noted she had identified 18 e and read 18 e *the proposed action is inconsistent with the predominant architectural scale and character*. Jane noted she felt that this is a large impact as the tower is out of scale by any means with the one and two story homes, adding that additionally the Town of New Paltz has a three-story, or 40 foot maximum height limit for residential structures so even if it wasn't a two story house

there, or a three story house there, it would still be out of scale in this spot, adding that there is a referendum going on the ballot in November to support farmland open space protection and historic preservation, which again is a different emphasis from the Town to an industrial tower that is 150 foot tall, the tallest structure in an 8 mile radius, that would be tallest structure in the valley, and on the basis of visual scale, she thinks that is a very important and significant impact. Lyle Nolan noted he wanted to correct the last point made that the cell tower right by the Thruway is 180 feet.

Jane Schanberg noted that is not in a residential neighborhood where it's out of character and scale, which Lyle Nolan noted he agrees but he was just correcting

Motion 1 by Jane Schanberg that we vote on 18e and deem it significant and in terms of impact a visual scale on the scale and character of this neighborhood per the SEQRA definition.

Motion 2 by Stana Weisburd. All in favor. Motion carried.

Jane Schanberg noted 18 f is inconsistent with the existing natural landscape, noting again this is for her a visual scale that even if they were to go with the faux tree, the Saratoga Associates has identified the mature trees in the area as 50 to 70 feet high, and the tower would be more than double the height of the most matures trees, and added generally speaking, additionally to visual scale, the balloon tests were done with the standard it showed the balloons were used to show the top and the height of the tower but the balloons did not represent the width of the actual structure which at a minimum at the would be 23 feet across if it was a monopole and 31 if it was a faux tree, adding if there were four arrays, it would be the depth of that would be 38 feet based on the plans, which is roughly equivalent to a three story house, so you have a large structure up there, basically the size of a living room at the top of this tall tower and for her that is also inconsistent with the natural landscape in terms of visual scale double the height of the trees, adding she feels that is a significant impact.

Motion 1 by Jane Schanberg that they vote on number 18 f in the SEQRA Part 2 on the issue of whether or not the tower would be inconsistent with the existing natural landscape and would have a significant impact.

Motion 2 by Amanda Gotto. All in favor. Motion carried.

Moving on, Attorney Golden noted that given the statements in the Board's votes it is not the will of the majority to issue a negative declaration with respect to this application therefore your choices are two: One is to have a vote to say that you want to give this project a positive declaration under SEQRA because there is at least one significant adverse environmental impact that has been identified but noted that the other choice they have is what is known as an expanded EAF Part 3 and what that does is that if the applicant wants to and if the Board is agreeable, you can allow the applicant before voting on that positive declaration to give them an opportunity to modify their plan or submit additional mitigations to try to convince you that they can take away those significant adverse environmental impacts and then if they give you that other information or studies or whatever they want to do or change their plans. and then you find that yes they've convinced you and then you can vote on a negative declaration and if they provide that to you, at that time you say Yes as to No as to other, or No as to all of them, you can then give your positive declaration as to one or more of those, and then if it is a positive declaration we're going down the environmental impact statement route, so it is either vote now for a positive declaration or see if the applicant would like to go ahead and submit any plan revisions or studies that would try to convince you before you take that vote as they have taken care of the impacts, and you should vote in their favor for a negative declaration.

Chair Ruger asked is there anyone on the Board that believes that it's possible for the applicant to come back with a mitigation plan for the items that we talked about with Attorney Golden noting that it is giving an opportunity because the whole environmental impact statement process is essentially the same thing as they're going to go out and study it, they're going to provide either plan changes they're going to provide studies or whatever because you've identified these things and then they will provide whatever mitigations they want and at the end you'll have a finding statement, adding that is the whole EIS process is them submitting additional information plan changes mitigation efforts, that's what the purpose is so it's whether or not you want to give them an informal bite at that apple before you take your formal vote or you want to go straight to the formal vote. Chair Ruger noted her concern is the shot clock, adding if we offer them the opportunity, we are just putting things down the road. Attorney Golden noted that it was an excellent point made, and the shot clock is finite, but it's simply finite on the basis of a presumption that's a reasonable time frame and what the FCC and courts say is that the

applicant has, you know if you can't conquer something and you violate the shot clock and the applicant runs to court which is their right to do it, adding he is not saying they shouldn't if they want to run to court to say they've violated the shot clock it's gone more than 150 days therefore court go ahead and tell them they need to make a decision right away because they've violated the shot clock, adding the municipality have the right to say wait a second it's not reasonable under these circumstances, we gave them an opportunity rather than going through the normal process we gave them an opportunity to present something to us they wanted that and that took three weeks that shouldn't be on us that's their choice to go ahead and try to convince us to short cut the system in a proper and procedural fashion, adding he wouldn't worry about the shot clock with respect to allowing them to have this expanded Part 3 or not.

Chair Ruger noted that a straw vote on that, adding the question is, and we don't know if the applicant wants this opportunity, but the question is do we want to allow the applicant the opportunity to do this

Expanded Part 3. Jane Schanberg asked if it would be out of order or would anybody disagree with asking the applicant whether they would like to try to having been through the vote, and having seen the feeling on board and many of these votes were unanimous whether the applicant feels there is value for them because she wants to be fair in going through something informal or rather it's just better to get into the nitty-gritty of the EIS regardless we may feel differently about it but she would like to know how they feel about it. Attorney Golden noted that it is appropriate.

Attorney Gaudioso noted that quite frankly we're befuddled by the process whether there's an EIS or no EIS and, at the end of the day the Board has to act on the application in accordance with state law 38 and federal law, adding even with an EIS at the end of the day we believe we've met the criteria for the special permit, adding he knows there are questions about where you know the height of surrounding 1 buildings and we're in compliance with the height so he doesn't even know how to answer this question, adding he doesn't know what more we could do inside or outside of an EIS process to reduce the potential impact that's been alleged of the removal of 15 trees on a 44.7 acre property, noting he is concerned that there's nothing that we can do more with respect to an issue like that and we're at the stage here the application needs to be voted upon and SEQRA whether we go through an environmental impact statement whether we try an expanded Part 3, or whether there's some type of other action based on the shot clock at the end of the day the

application needs to be voted on based on the facts and your own consultant has confirmed the need for the facility, adding they've submitted substantial

evidence from our engineer Mr. Crosby, who is on the line, and adding there's nothing in opposition to the need for the facility under federal law we've shown that there's no less intrusive alternative, adding that if the Board were to say to us tonight we think that if you did x y and z that might sway our position, then he thinks that might help them go down the path of an expanded Part 3 but right now the way we're sitting here looking at it, we don't see that opportunity, no seeing any feedback other than we don't want it on this piece of property, adding it is a use that's not permitted in this zone and therefore it's a significant environmental impact we haven't heard anything that we haven't already accomplished that would reduce those impacts so if there's something that the Board felt that we could accomplish to reduce those impacts to a point of insignificance then i would say it's worth the opportunity of trying a Part 3 but short of that it seems like we're at an impasse.

Attorney Golden framed the motion for the Board to read **“the Board would like to make a motion of a SEQRA positive declaration for its determination of significance with respect to EAF Part 2 questions 7g, 17a,, 17c, 18e and 18f. Motion 1 by Stana Weisburd. Motion 2 by Amanda Gotto.** Amanda Gotto noted that she is surprised that the response they got because she thinks that these are some very innovative intelligent people who are working on these projects who often I think probably run into these kinds of things and could come back with what else they could do besides this, adding she hates to see them pass up the chance to come back and tell us what other things might be possible. Attorney Golden noted that they will be required, that they are not really passing a chance to check, they are passing up an opportunity to do something informally that through the EIS process they're required to do formally. Attorney Gaudioso noted that this is not a typical land use application, and that is very important to remember any other typical applicant can come up with different alternatives and whether they are feasible or not is ultimately the debate but this is not an industrial application, or a residential application, this is a public utility facility under state and federal law and there is a different criteria, and there's different standards and there's not necessarily an alternative that we haven't already presented as we've presented everything that's been asked of us as an alternative every single item that's been requested realignment of the road,

reducing the number of trees alternative road alignments with respect to the wetland buffer, alternative designs with respect to the tower, additional details on the on the monopoly design, adding again if he thought that there was an opportunity to satisfy the concerns of the Board with an alternative design that we could reasonably do we would certainly take that opportunity but noted he hasn't heard a single thing that we could do to ameliorate the issues that they have identified and again he just have to go back to the obvious one which is what can we do other than not build the access road to reduce the number of trees. Amanda Gotto noted that was one so you've already starting thinking. Jane Schanberg also added she thinks that the Board is very cognizant that this is an application that is very different from the usual thing and has required a great deal more and we would like the respect of having acknowledged and since you're suggesting that we are somehow uninformed on this, we have spent hours on this, and we are bending over and trying to be very careful, we still have SEQRA to deal with. **All in favor. Motion carried.**

Attorney Golden noted the next steps for SEQRA once a positive declaration is made.

Attorney Gaudioso noted that he had two requests; a copy of the transcript of the meeting, and detailed billing sheet of all consultant bills through today so that way we can compare them because there is a limitation on the SEQRA for the EIS process and the consulting fees as they would like to review those bills and proceed accordingly with respect to those so we again to reiterate my request we'd like a copy the transcript this evening and a copy of all consultant bills through today.

Attorney Golden noted that they are entitled to the latter, with respect to the former, there has been no formal transcript, a stenographer, who has been taking this down that can produce a record and under the governor's orders there's no deadline for producing a transcript of a virtual meeting it has to be you know very laboriously listened to and typed out by somebody and so there isn't any deadline for that 7

so I don't know that you can count on that before submitting your draft scope, but Pat can provide a recording of this that can be copied today, which Pat stated the recording will be out on YouTube tomorrow afternoon which she can send him the link.

Attorney Golden noted that this now needs referring to the Ulster County Planning Board. Discussion followed that the ZBA referred to the UC PB not the PB. MO

Motion 1 by Stana Weisburd. Motion 2 by Jane Schanberg. All in favor. Motion carried.

Chair Ruger noted that this was Pat's last meeting and she would be retiring. Pat noted she would be there until the 25th.

Motion 1 by Jane Schanberg to adjourn. Motion 2 by Stana Weisburd. All in favor. Motion adjourned at 9:29 pm.