

These are intended to be “Action Minutes”, which primarily record the actions voted on by the Planning Board on September 12, 2012. The full public record of this Meeting is the audio/video recording made of this meeting and kept in the Planning Board’s records.

PRESENT: Michael Ianniello, Chairman; Lou Mendes
Ingemar Sjunneemark, Stewart Sterk, Lee Wexler
Hugh Greechan, Engineering Consultant
Lester Steinman, Esq., Counsel
Susan Favate, BFJ Planning
Rob Melillo, Building Inspector

CALL TO ORDER

Mr. Sjunneemark called to order the Regular Meeting at 7:05 p.m.

Mr. Sjunneemark said that Mr. Ianniello will be arriving shortly.

1. APPROVAL OF MINUTES

On motion of Mr. Sterk, seconded by Mr. Mendes, the July 25, 2012 Planning Board Minutes were approved.

Vote:

Ayes: Mendes, Sjunneemark, Sterk, Wexler
Nays: None
Absent: Ianniello

2. 543 HALSTEAD AVE. – Change of use –Proposed dry cleaner, drop-off and pick-up.

Mr. Pelligrino Orsini, architect, appeared for the applicant. He stated that this is a drop-off and pick-up dry cleaning business. The hours of operation are Monday through Saturday from 8 a.m. to 6 p.m. The applicant will be the only worker on site. The architect said a parking variance was granted.

Chairman Ianniello joined the meeting at 7:14 p.m.

Ms. Favate suggested that two planters be added in the front recessed area. The architect was agreeable to this recommendation and said that in each of the two planters a small boxwood shrub and seasonal flowers will be planted.

On motion of Mr. Sterk, seconded by Mr. Mendes, the proposed action has been determined to be consistent with the Local Waterfront Revitalization Program (LWRP).

Vote:

Ayes: Mendes, Sjunneemark, Sterk, Wexler
Nays: None
Abstain: Ianniello

On motion of Mr. Sterk, seconded by Mr. Mendes, the Application as submitted was approved.

Vote:

Ayes: Mendes, Sjunneemark, Sterk, Wexler
Nays: None
Abstain: Ianniello

3. **APPROVAL OF MINUTES** (from August 8, 2012)

On motion of Mr. Sjunneemark, seconded by Mr. Mendes, the minutes of the August 8, 2012 Special Meeting were approved.

Vote:

Ayes: Mendes, Sjunneemark, Ianniello
Nays: None
Abstain: Sterk, Wexler

PUBLIC HEARINGS:

4. **1000 TAYLORS LANE – DEIS and Preliminary Subdivision and Wetland Applications’ Public Hearings**

Mr. Sjunneemark moved to open the joint Public Hearings on the Draft Environmental Impact Statement (“DEIS”) and the Preliminary Subdivision and Wetlands applications, seconded by Mr. Sterk.

Vote:

Ayes: Mendes, Sjunneemark, Sterk, Wexler, Ianniello
Nays: None

Please refer to the attached transcript at the end of this document on 1000 Taylors Lane.

Mr. Sterk moved to close the Public Hearing for the DEIS portion of the Public Hearing for 1000 Taylors Lane, Mamaroneck, NY, seconded by Mr. Sjunneemark.

Vote:

Ayes: Mendes, Sjunneemark, Sterk, Wexler, Ianniello

Nays: None

On motion of Mr. Sjunneemark, seconded by Mr. Sterk, the Planning Board of the Village of Mamaroneck, NY will receive written public comments on the DEIS through the end of business on Friday, October 19, 2012.

Vote:

Ayes: Mendes, Sjunneemark, Sterk, Wexler, Ianniello

Nays: None

The Planning Board adjourned the Public Hearing on the Preliminary Subdivision and Wetland applications pending the completion of the SEQRA process.

The Planning Board scheduled a Work Session on October 10 to discuss the DEIS.

5. 845 PALMER AVE. –SARAH NEUMAN –Proposed two-story expansion to house twenty-four patients.

Paul Noto, Esq. appeared for the applicant. He stated that this is their second appearance.

Mr. Sterk moved to open the Public Hearing, seconded by Mr. Sjunneemark.

Vote:

Ayes: Mendes, Sjunneemark, Sterk, Wexler, Ianniello

Nays: None

Mr. Noto said the Planning Board is the Lead Agency. He stated for the record that a binder was given to each of the Planning Board members. He said the lighting plan has been updated, and the FAR issue was addressed. He requested that the Planning Board prepare a letter of recommendation for the Zoning Board of Appeals on their behalf at the appropriate time.

Ms. Lisa Feiner stated that their goal for the new building is to create a home-like environment. She stated that the Pavilion also will be renovated and five home-like environments will be created.

Mr. Wexler inquired about the costs. Ms. Feiner said the operating costs for the greenhouse will be a wash with other operating costs.

Mr. Sterk inquired if, in the future, fewer people may be served. Ms. Feiner said yes.

Mr. Lee Pelligrino, Perkins Eastman, said that there will not be an increase in staff. He stated that there will be LED lights in the greenhouse. The road needs to be widened to about 26 feet which is standard. He noted that the turning radius is still a work in progress and he is working with Mr. Melillo on this matter.

Mr. Jerry Schwalbe, Divney Tung Schwalbe LLP, said there will be a rain garden in the backyard. The fence will be replaced and repositioned.

Mr. Schwalbe then addressed the current old style lights that use 100-watt bulbs, and the proposed LED lights. He noted that the LED lights can be turned in different directions. Mr. Mendes questioned the use of two different styles of lights, and commented that the mix of old-fashioned lights and new LED lights may not have the desired look and outcome. Mr. Wexler added that lighting is important and especially at night, and that adequate lighting is necessary near the entrances.

Mr. Wexler inquired if there are bike racks on campus since there is a shortage of parking. Mr. Noto responded yes and said that about two bikes are in the rack on a daily basis.

Mr. Ianniello asked if there were any questions from the public.

Ms. Lynn Buehler, 214 Rockland Avenue, neighbor, stated that many of the employees park on the street which takes away parking for nearby apartments dwellers. She stated that she grew up in Mamaroneck and her family owns an apartment building nearby. She also is trying to rent two units that she owns, and the lack of parking is unattractive for potential renters. She commented that the minimal use of bike racks indicates that employees drive to work. She suggested that the afternoon shift hours be slightly altered to open up parking spaces. She mentioned that the high school students also park on the street which exacerbates the parking problem.

Ms. Favate asked that a study be provided for the next meeting on the number of employees involved in the afternoon shift change.

Ms. Buehler asked how long the construction will take. Mr. Schwalbe said fifteen months.

Mr. Ianniello noted that the construction workers will need parking, and the construction vehicles also will need to be parked in the immediate area.

Ms. Buehler remarked that during the fifteen months of construction, parking will become more difficult to find.

Ms. Favate stated that correspondence was received from Westchester County Department of Planning that contained comments on the proposed expansion.

Mr. Greechan stated the drainage plan meets Village standards.

Mr. Mendes said that the greenhouse will be home to a certain level of people. He inquired if the residents will use a wheelchair.

Barbara Fleischer, Associate Administrator, responded yes. Mr. Mendes then inquired how they will get to the main building for various services. Ms. Fleischer said there is a walkway. Discussion followed on the walkway. It was determined that it will not be easy to push a wheelchair over to the main building. Mr. Mendes expressed concern for the greenhouse residents who will need services in the main building, and remarked that services may not be attainable. Mr. Schwalbe said that a newly created walkway can be added to the plan.

Mr. Ianniello said that the Public Hearing will be continued at the October 10th Planning Board meeting. . Mr. Ianniello also noted that for the next meeting, the applicant will provide, a construction management plan, statistics on the changing of shifts, an updated site plan showing the new walkway, and a lighting plan.

5. 0 PINE ST. – Technical Correction of Resolution.

On motion of Mr. Sjunneemark, seconded by Mr. Sterk, a Resolution adopted by the Planning Board on August 8, 2012 determining the suitability of improvement of Pine Street was amended to correct the submittal date of the Application from July 6, 2011 to June 29, 2011.

Vote:

Ayes: Mendes, Sjunneemark, Sterk, Wexler, Ianniello

Nays: None

The corrected Resolution was approved as follows:

RESOLUTION
VILLAGE OF MAMARONECK PLANNING BOARD
Adopted September 12, 2012

RE: 0 Pine Street – Technical Correction of August 8, 2012 Resolution of Determination of a Suitably Improved Street

After due discussion and deliberation, on motion by Mr. Sjunneemark, seconded by Mr. Sterk and carried, the following resolution was adopted:

RESOLVED, that the first WHEREAS clause of the 0 Pine Street – Resolution of Determination of a Suitably Improved Street adopted by the Planning Board on August 8, 2012, be and is hereby amended to substitute June 29, 2011, in place of July 6, 2011. Except as otherwise expressly amended hereby, the Planning Board’s August 8, 2012 Resolution remains unchanged and in full force and effect.

VOTE: Ayes: Ianniello, Mendes, Sjunneemark, Sterk, Wexler
Nays: None
Abstain: None

PLANNING BOARD
Village of Mamaroneck

Date: September 12, 2012

Michael Ianniello, Chairman

ADJOURNMENT

There being no other business, and on motion of Mr. Sterk, seconded by Mr. Sjunneemark, the meeting was adjourned at 10:31 p.m.

Respectfully submitted,

Anne Hohlweck
Recording Secretary

Transcript (prepared by Beth Evans of Evans Associates Environmental Consulting)

Chairman Next on the agenda is the Public Hearing for 1000 Taylor's Lane Subdivision

LS This is a public hearing with a dual purpose; it is a public hearing on the Draft Environmental Impact Statement for the 1000 Taylor's Lane project, and it is also a public hearing on the preliminary subdivision application.

Chairman So we could close one hearing and leave the other open?

LS Yes, you could do that. Let's see how we go towards the end of the evening. I guess if you want to, you can just open the public hearing.

Chairman made a motion to open the public hearing, which was seconded and unanimously approved.

BE Good evening, my name is Beth Evans, I am Principal of Evans Associates Environmental Consulting, and I'm here this evening representing my clients Richard & Caroline Alter. Caroline is here with me this evening, my associate Allen Pilch who is a licensed professional engineer in the City of New York as well as a licensed landscape architect in New York. We also have the applicant's attorney Martha McCarty. What I would like to do is to take a few minutes to review the application with you and for the public so that the document which has been prepared, the Draft Environmental Impact Statement, might make a little bit more sense. The Draft Environmental Impact Statement was submitted and accepted at your July meeting, and has been posted on Village website since that time. The subject property is slightly over 5 acres, its 5.165 acres in size, and on the west side of Taylor's Lane in the Village of Mamaroneck. It is in an R-15 Residential Zone and the applicants have owned it for a number of years. They have lived there since 2005. We first made application to the Planning Board back in 2009 for the subdivision application, and we appreciate the Planning Board's careful review. You declared yourselves Lead Agency under SEQRA in November 2009. We prepared a Full Environmental Impact statement at your request and submitted that in 2010. That Environmental Assessment Form was based on the current three-lot residential subdivision. After reviewing the EAF and looking at engineering drawings which we had been asked to prepare, you, as Lead Agency, made a positive declaration and asked us to prepare a Draft Environmental Impact Statement be prepared. A public scoping session was held to identify the items which were to be addressed in the DEIS. We have spent a better part of a year preparing that DEIS, and you accepted it as complete at your July meeting.

The proposed subdivision will create two new residential lots in addition to the existing residence on the property. Lot 1, which is on the southerly side, will be 2.456 acres in size, Lot 2, which has the existing house is on, 1.195 acres in size, and Lot 3, on the northerly side, is 1.518 acres. All of these lots are significantly larger than the required 15,000 ft. minimum lot size, which is roughly 1/3 acre.

All of the proposed lots are served by public water and public sewer, and those utilities

currently in Taylor's Lane, and do not require extension to serve the proposed lots.

As part of our review with you over the years, you asked us to develop fully engineered site plans to show potential development of these 2 new lots as they relate to wetlands and wetland buffers, since both are also on the property. Those plans were prepared and reviewed with you and are included in the EIS as the proposed action. At this time the Alters have no intention of developing these 2 lots. They are living as I say in the existing lot and the existing house on the property which will remain on lot 2, but it is their hope that they can at some point build a smaller house and go ahead and move out of the house they are in now.

If we can just go to the aerial photograph which shows the surrounding land use. Single family residential land use comprises the majority of the area to the east and south of the subject project. Magid Pond freshwater wetland system, is directly to the west, as is Otter Creek, which is a tidal marsh owned by the Nature Conservancy (NC). All of this area, the entire surrounding and subject property are part of the Long Island Sound Critical Environmental Area (CEA) and the Village of Mamaroneck also designated Magid Pond and Otter Creek as their own CEAs back in the 1990s.

The proposed subdivision has been done in a way that the lots are over-sized and we believe they can be developed without encroaching into wetlands or wetland buffers in any way. All of the lots conform to existing zoning; we're not asking for any variances or deviations from side yard, front yard, or rear yard setbacks.

As part of the preliminary review – the freshwater wetland and the tidal wetland are also regulated by New York State DEC, and as part of that agency's preliminary review they identified the potential for known or historic archeological sites on or near the property, and requested that the Applicants prepare a study of these resources. The Alters retained a cultural resource consultant who prepared a Phase 1A Sensitivity Analysis and determined there were no historic or cultural resources near the property, but when on to prepare a full Phase 1B Archeological Field Reconnaissance Survey and the results of that showed that there were no pre-historic sites or archeological resources on the property. That study is included, in its entirety, as an appendix to the EIS.

One of the other topics that we been asked to address is the project consistency with the Local Waterfront Revitalization Program (LWRP). We reviewed both the existing LWRP policies and the working draft that is currently under consideration by the Village in preparing the Draft Environmental Impact Statement. We believe, as the Applicant's consultants, that the project is fully consistent with the policies of the LWRP, both as it is written today, and also the work in draft.

Specifically, the DEIS details the project in relation to the Fish & Wildlife Policies, that can be found in detailed discretion in Section D, which deals with Wetlands and Watercourses, and in Section E, which is Vegetation and Wildlife. The Flooding and Erosion Hazard Policies are discussed in detail in the Surface Water and Storm Water Management, Section F of the DEIS. My colleague, Alan Pilch, has taken care to develop a full Erosion and Sediment Control Plan for the project, as well as a full Storm Water Management Plan for

the project, and those are again included in the DEIS document in their entirety.

The other thing that the Planning Board asked us to prepare is the detailed engineering plans. The other thing the Board as asked us about is to prepare cross-sections of the proposed project as it relates to street frontage and as shown here on the figure which is included in the DEIS showing the cross-sections.

We have developed the engineering plans using house footprints which we believe to be realistic and conform to the zoning regulations and fit entirely within the building setbacks that would apply to the lots.

Finally, an environmental impact statement goes through a number of alternatives, and these alternatives were identified by the board as a way of assessing potential land uses that could occur on this property. The first alternative considered is the so-called No Action Alternative. As I say, the Alters currently live on this property, this 5 acre property, and it is entirely possible that they, or future owners, could wish to develop amenities on the property in accordance with the regulations and the zoning requirements that pertain to the property. So No Action doesn't mean that there will be no further disturbance of the property, it simply means we would not subdivide the land. What we chose to do in the DEIS was to show some of the potential amenities, a tennis court or swimming pool –we showed both of them – we didn't do that as a way of saying that's what would happen, we simply wanted to let the Board and the public know that there permissible activities which could occur on the site which could or would cause disturbance in exactly the same locations where the new houses are proposed.

PB So that would mean that the subdivision still in lots would be used for something other than...

BE No. No action would be no subdivision.

PB No subdivision.

BE No subdivision. The proposed action is simply the subdivision of the land, we are not proposing to build anything; we are simply proposing to subdivide the land. So No Action is leaving it as a 5 acre lot, a 5 acre residential lot and looking at potential use of that lot.

PB Maybe tennis court, maybe swimming pool...

BE Right, by this or a future owner...

PB Although one of the questions that I had is that, although you showed that as a possibility, you didn't show that as a possibility on the subdivided lots. That is, if we were to approve the subdivision, I take it that the same rules would permit the owner to try to build a swimming pool or a tennis court on each of the three lots.

BE If they were trying to do that within a regulated area, such as a wetland setback, they

would need to come before your Board to get approval for that.

PB Right, but if they tried to do it in a place close to where the current houses are, which are not within the wetland buffer, I assume that the situation would be the same as if the current owner had to come back to us and do that. Because I take it that the current owner would have to come back to us to put in a swimming pool or a tennis court if there were any incursion into any of the wetland buffers.

BE Correct.

PB So I couldn't quite figure out why you would put together the swimming pool and the tennis court on the No Build alternative without also putting it on the alternatives that you drew for the subdivided lots.

BE Because we're not proposing to develop those lots at this point.

PB But it's possible, if we were to grant the subdivision, that we would then have applications later, or maybe not even applications, depending on where they located the swimming pool and/or the tennis courts, that would include additional development on those other lots.

PB If it's the same owner owns all of three lots, they don't have to build houses they can make a swimming pool, they could have a tennis court or have other activities.

BE We'll be happy to detail this for you. Using an accessory use on a different lot probably does not conform to your zoning.

LS I think what you're getting at is your asking the Applicant as part of the FEIS to explore the possibility of putting those amenities on the subdivided lots and indicate what issues would arise and whether they could be put on

PB Certain apples and oranges quality

LS In the setting we're asking questions to be responded to in the FEIS I think the applicant should take that as a question to be responded to and show what amenities the zoning would potentially permit and what impact could result from those.

BE We'll be happy to do that.

PB That becomes important, because if we were to approve the subdivision and we were trying to figure out what sort of conditions we might want to impose on them, we'd like to see what it is would actually be possible if we don't impose those conditions.

BE We will be happy to provide that information. My only point in including those on the No Action alternative is to show that it doesn't mean that nothing else would happen with this 5 acre lot; that there are things that could happen.

PB Sure. I had a question. You had mentioned that the minimum lot size had to be 15,000 square feet, you were above and beyond that.

BE Well above.

PB What prevents someone from buying that and trying to then subdivide again?

BE We will address that, that's an excellent question and one that's been brought up as part of your review. We will be happy to address that in the FEIS for you.

PB I'm sorry.

BE Go ahead. I made a good stopping point, so I'm happy to have these questions.

PB I just have a question for you in legal terms. A lot of the letters that have been coming in people are referencing the house that's pre-existing conditions and was not subject to the latest updated laws and codes. I don't think that's our realm of responsibility yet or what is there. It is what's proposed to be there. Or am I missing something?

LS I think that it was a comment that was made on the document – that some information was not provided, so I think that the applicant is going to have to address. It may not be part of your overall decision making on this particular application, but it's been a question raised by a comment on the draft environment impact statement and it will have to be responded to.

BE Correct. And I will just very briefly say the house that is there was fully permitted and fully approved by the Village's Building Department.

PB When it was built it was according to the rules at that time.

BE Correct

PB So there is no corrections that had been taken afterward and if had been built, and the laws had been as they are today, there would have been maybe fines or something like that?

BI I didn't really look at the current house that's there, but by today's standards, if you have a CO on a house its fine. It was built to code. It's legal.

PB So I'm beginning to not understand why it is being pointed out, not only in one letter, but in several letters again, and again and again.

BE It is a consistent theme and we will certainly address it in the FEIS. But I just wanted to state on the record, during the public hearing, that there is a CO for the house, and it was all built in accordance with the permits issued. It is there, and you are correct, Mr. Chairman, what we're looking at is a proposal to subdivide this 5 acre parcel into 3 lots.

LS Ingemar, I just want to clarify one thing. Because of the unique nature of this hearing – normally if we had an application and an issue like that arose we would get to the bottom of it tonight and move on. But because it is a comment on the draft EIS, that and all the other comments that are received tonight and may be received in the future with a comment period, are required to be responded to in writing to the final EIS which ultimately will become this Planning Board’s document. So not only will it have to be responded to the board will have to determine whether the responses are adequate.

BE Moving on, the Board asked us to consider a 2-lot subdivision of the property instead of the 3-lot subdivision, and we came up again with two alternatives to look at we feel the lot lines are in the appropriate place and so we explored both the 2 lot subdivision with the new lot being to the north of the existing as well as to the south of the existing residence. And again I don't mean this to confuse the apples and oranges issue, but we did add potential other amenities to the larger lot. Again just to show what fits within the zoning regulations and setbacks in what would it be permissible we believe by the building permit under your code. Outside, completely outside of the wetlands or the wetland regulated setback.

The third set of alternatives that we addressed in the EIS were alternatives which provided a limit to the area of disturbance. Again we provided two versions of this – the first version with the 3-lot subdivision leaves all of the lots as proposed in size and area and configuration, but puts a proposed conservation easement area, potential conservation easement area on those three lots consisting of 1.8 acres. That would be deeded as permanent non-disturbance open space, and in that case, there would not be an application to come back to you for a pool or a tennis court or any other improvement within that conservation easement area.

The second alternative that we developed for this analysis is actually a 4-lot subdivision plan, with the 4th lot being an open space lot and permanently deeded as such; either deeded to the nature conservancy or some other open space organization. In this case, the residential lots themselves get smaller. Lot 1 becomes a 0.66 acre lot, Lot 2 with the existing house a 0.83 acres, and Lot 3 about 0.5 acre lot. We had shown the zoning setbacks the building envelope within those lots accordingly. This open space lot, the fourth lot, that would be left of the 5 acre site, is about 3.18 acres in size, and it is our assumption that if it were deeded to the Nature Conservancy or some similar organization, that it would be taken off the tax rolls and no longer a part of the residential tax base.

Finally, we did at your request, Planning Board’s request, show a maximum building, how being a house could go on these lots. That alternative is in the EIS, but I just wanted to emphasize that this is not the applicant’s intention. It is not our goal to build the biggest house or to sell to a future owner who would build the biggest house. But you had asked for a demonstration of what it would look like if these new lots were built out completely, and we provided that. Again, though we’ve shown that in comparison to the fully engineered proposed site plan, the Alters have no intention of building, but we feel that we developed a reasonable development proposal and engineered plan. We did deep hole tests for the storm water, we believe we’ve proved out the plan, and that it would work without encroaching on the regulated areas, wetlands or wetland setbacks.

PB Can I interrupt you for a minute?

BE Please.

PB You did include the maximum house size for your proposed 3-lot subdivision, but again didn't do that for, for instance, the 4-lot subdivision, where the houses would be smaller because the FAR would be different?

BE We will do that for you.

PB OK. It might be relevant to see what the impact would be if we were to do a 4-lot subdivision rather than 3 on what kind of house somebody might propose to build in the future.

BE We can do that for you. We can develop that. We haven't done a full build out on that. That's all I have. I believe that the document has a lot of detailed information in it. We'd be happy to answer any questions the board has. Of course we're here to receive.

PB In looking at some of the layouts, how far are you away from the buffer?

BE From the edge of the buffer?

PB Yes

BE In some cases we are quite close to the edge of the buffer with retaining walls and structural demarcation for grading on the lot

PB Distance wise.

PB Couple feet.

BE About 5 to 10 feet.

PB You did do a nice job of giving us cross-sections from the street. I did not notice that there were any cross-sections across the proposed boundary lines of the property. That is, to the extent, especially Lot 3 tends to be in a hole, I was looking to see if we could see a cross-section along the boundary line running from the street to the back of the property so that we could get an idea of what the pitch of that lot would look like if it were actually developed.

BE Sure, we can provide more cross sections.

(a couple of PB members are talking)

PB The conservation easement. Is that something that is then deeded over to the Village?

BE The conservation easement I can probably answer this better. The conservation easement can be deeded, it is a deed restriction on it– who supervises that easement or oversees it is really up to Board or the Applicant in terms of who it is offered to. It can be any number of agencies, but it is usually deeded to someone to make sure that it is respected.

MM If I can....

LS Mike, while Martha is coming up to the microphone, again, because of the nature of this hearing, when you raise a question, even though they are giving you some brief answers this evening, they are going to have to give you full answers in the document, so it is not really necessary for the Applicant to answer all of these questions at this point, because they are going to be fully answered in the document.

MM Martha McCarty, attorney for the Applicant. Quick response chairman: often in this community conservation easements have gone to the Nature Conservancy, and I actually don't know of any that have been given to the Village. Maybe Mr. Steinman knows, but I know that a couple of clients of mine who have given easements to the Nature Conservancy and that's to me entirely appropriate. That's their business. And obviously once it's an easement it's permanent. It doesn't matter if the Alters own the property, or if you own it or I own it, it's permanent and goes with the land.

PB Les, just to clarify this, I think this is right, as between the two alternatives, the conservation easement and the 4-lot subdivision easement, both of which the Applicant has proposed, and both of which there are some numbers attached, the conservation easement would have little effect on the size of the building that the Applicants could build on the two new lots because it wouldn't have an effect on the FAR of the lot for instance or on the size of setback restrictions. While, if there were to be a deeding of the 4th lot to the Nature Conservancy, that would have a more significant effect both on the setbacks and on FAR. Is that correct? (Question was directed to PB attorney)

LS Well certainly the second part is true, if they deed the property.

PB Right

LS As to the effect of the conservation easement I would want to think about that a little more.

PB Ok, thanks.

PB I think that gets to a question I have. I'm poring over the limits to the area of disturbance alternatives. Just trying to understand both how you came up with the way they are drawn, and also exactly what they would mean in terms of both the extent of any development that we could see in the wetland, and the alternate size of the houses that could be built.

BE Again, I will briefly, how we came up with these two alternatives, I believe it was at a Planning Board meeting, probably 18 months ago, that we talked about ways of potentially limiting disturbance on the lots, and we talked about placing some sort of restrictive covenant or conservation easement on the wetlands and wetland buffer areas. So in terms of the one where the conservation easement is shown, that was a plan that we had developed I think in consultation with your Board a while ago, so that is a “hard-line” if you will of that plan.

PB I’m sorry, where the easement is drawn is based on the freshwater wetlands for the line, is that possible?

BE For the two new lots it is drawn contiguous with the extent of the adjacent area or buffer. For the existing house lot, I believe it was Mr. Fuery who suggested that we take a number of feet off the existing retaining wall, I believe it was 5 feet off the retaining wall, to allow for maintenance and repair of that wall if necessary, and draw the line across that back of that lot there. On Lot 2.

PB But it didn’t take into account, I mean it presumably could have been drawn even closer to Taylor’s Lane. I mean it seems like there’s a little bit of an imbalance on the lot, on one of the lots, actually that buffer line ends up being quite close to Taylor’s Lane. The other one, it is actually pretty much in the same place where the existing house extends along with the retaining wall.

PB I assume that some of that has to do with the need to put the storm water management facility on the lot rather than on the conservation lot? For instance, on Lot 1, I think what they would want to do is make sure that they have that rock outcropping and then they have the storm water behind it, so they moved it out past where it is on Lot 3 simply because they didn’t want to put that either on somebody else’s land or on the easement.

BE That’s correct. It’s also candidly we put it at the edge of what is the non-regulated buildable area on the lot. We wanted to insure that future owners of these lots had as much land area to work with.

PB I understand, but that makes it less of an alternative for us in terms of a limit to the area of disturbance. It has a...

PB Right, we could move it back. Presumably there is nothing – we could condition this on moving the boundary in Lot 1 back to roughly the edge of

PB The storm water management area.

PB Or we could argue that this alternative at least contemplate having it moved back to a real significant limit to the area of disturbance. Whether they require they put it in the alternative or not, we would still require it.Sure..

BE And for the four lot plan the boundaries of the fourth lot were drawn where the limit of the conservation easement was proposed.

PB It's the same boundaries?

BE Same boundary, just one is a non-buildable lot that would be deeded as a separate lot and one is a part of the fee simple three lot subdivision.

PB Practically speaking how would, and maybe the fellow board members can help me understand this, how would this conservation easement change the development that could happen on this site? Both in terms of the actual houses that could be built and in terms of landscaping and disturbances they could have.

PB Well the FAR would be different.

PB Well that's the question I was just putting to Les a minute ago, because my sense is, that, as opposed to the deeded lot four, there might be a chance that the conservation easement imposes fewer restrictions on the size of the development, but Les was going to check on that to be sure.

PB But even with the deeded lot four, it would just be helpful to understand exactly where the limit to disturbance would be.

PB Right

PB And what the maximum house size would be

PB What I was pointing out before is that when they put the maximum house size and on their proposal, they didn't draw the same things on the alternatives. They only drew it on the proposed three lot subdivision, and it would be helpful for us, for each of the alternatives, to see what the maximum build out would look like.

BE We could do that.

PB As a matter of fact, I think there is a lot three there is actually a foot print shown here is actually bigger than in the four lot division.

PB That's just a sample house, that's not the maximum.

PB Probably not. This would give us an idea of the limitations of the four lot subdivision as compared to the conservation lot.

PB It seems to me we're practically interested in at least three things. One is the extent of the landscaping and disturbance. One is the extent of the house itself, and one is the maximum size of the house. Extent of the house. Location. I mean the extent of the house to the proximity of the wetland.

PB I think you're right. So I don't know if that was clear.

BE It was very clear.

PB That's what I'm trying to ask

BE I appreciate you itemizing like that, that's very helpful, thank you.

(PB are talking low amongst themselves)

PB Did we request a proposal showing the house, the swimming pool and tennis court all on one lot?

BE Did you request that?

PB Why are you showing a proposal with just one lot?

BE The no action proposal? Again, I will be perfectly candid; my intent in showing that is to simply show parts of the site that could be disturbed by other amenities were the subdivision not to be undertaken.

PB Without casting any, it's like it implicit threat. That even if we do nothing it still could be disturbed. That's all. I don't mean it in any bad way.

(a couple of people are talking at the same time 2 PB and BE)

BE It's not a threat. It's simply looking at land-use potential.

PB It's easy to have a swimming pool or a tennis court that they have it redeveloped in three houses.

BE And that is certainly your prerogative. My only point, I think sometimes people think that "no action alternative", which is what SEQRA calls that alternative, no action, no subdivision, means that nothing will ever change on that five-acre lot. And in a residential area like this that's not the case.

PB Does it mean that a swimming pool and a tennis court you'd still seek a subdivision? Would you still seek a subdivision if you just had a swimming pool and a tennis court?

BE Again, the no action, so if the subdivision is dropped, it doesn't mean that the owner of this five-acre lot, whoever that is, can't use that five-acre lot. So I just want to be clear that there is usable area on this five-acre lot that could be developed as a swimming pool, a tennis court, a house, a driveway, whatever it is, those trees would potentially come down under the zoning without needing a wetland permit.

PB So you're not really seeking

BE No.

PB As this is one of the options

BE That's correct. We're simply showing potential disturbance. In the public letters that we've gotten, in public comments over the last three years, there has been a lot of question about what kind of disturbance to the habitat in Otter Creek or Magid Pond would occur from a subdivision. That kind of disturbance to the upland portions of this lot could happen for any number of reasons.

PB All right.

PB Anyone else from the public want to speak?

DN Good evening. For the record my name is Dan Natchez, President of Daniel S.Natchez & Associates, an environmental water-front consulting company located at 916 East Boston Post Road, Mamaroneck, New York. We are here representing several of the neighbors. We appreciate the opportunity to go through this and we appreciate the DEIS that has been prepared. I think that there are a couple perspectives that I think need to be present. First, we would respectfully request that this hearing be kept open for at least one or two more meetings. If for no other reason, for getting answers from or to the questions raised tonight that goes by the board and I think will be raised by commentators tonight but also the Harbor and Coastal Zone Commission will not be meeting until next week to review this, and they may or may not have comments, but I think it's substantive enough action that, for no other reason, that it be held open until that happens. But any comment in writing I think they may choose to do else wise but I know it's up to them. But I think it's just of substance.

In terms of comments that were made, well actually what we're here for is to determine if a subdivision should be granted, and if so, how it should be granted. So it's a two-step approach. The question in terms of both there are some very significant environmental issues that you have been addressing, and we have provided you with some information last Friday which I'm not going to go through it right now, but there's been a statement here that everything was done in terms of development of the existing house on what is designated as Lot 2 for the subdivision in accordance with all the rules and regulations at the time. That's actually not true; the only change in the Village law that took place since the time that approval was sought to today is freshwater wetlands, I'm sorry, yes, the wetlands buffer that the Planning commission addresses, which is 100 feet, but the DEC's 100 buffer, has been in existence, and all of the other rules and regulations of the Village were in existence at the time. Whether the Village exercised its due diligence, whether the materials that were supplied for approvals were totally correct, or had inadvertent omissions, is relevant to the fact that we need to be careful that it did not follow the rules, and so whatever action is taken, the reason that that has been raised by I think a lot of the comments that you've received, is to take note of that and be careful so that whatever happens and whatever approvals that may take place, that could not happen inadvertently again. I think that that is part of the perspective that is taken. I think the issue that the Board has been focusing on, and just the back-and-forth in the last few minutes, has to do with not the building lot size and the

setbacks, but what most communities use in environmentally sensitive areas as a building envelope, which is different than a conservation easement, which says take this area and you can't do anything. The building envelope says this is the only thing you can disturb. And the building envelopes can be in two fashions. One is for the actual disturbance of the land, whether it's clear-cutting or otherwise, and B, where is the actual boundaries that you could actually build anything, and I think that's something that has a lot of merit, particularly in this case to consider as we go forward. With that as a premise, I would like to ask Paul Milliot of our office to go through a submission we would like to make tonight. We have copies, Shawn Barton of our office will pass them out to you, and we have one for the applicant as well. Actually that one you should probably give to Rob, so he gave it to Gerry for the official file as the original, and we'll go from there.

PM Good evening, Paul Milliot, also with Dan Natchez and Associates. As this is being handed out before we get to that I would like to ask the Board's indulgence just to take a moment to go through a little bit. The Board received an e-mail inclosing a letter from Barbara Novick, who very much wanted to be here this evening and was unable to due to a previous commitment. The letter that she submitted does summarized quite nicely a lot of what's been provided both in comments from Daniel S.Natchez and Associates, her own, and some of the other commenters on the DEIS. So if I may, Barbara Novick who resides at 955 Soundview Drive, across Magid's Pond.

PB Paul, why are we getting this today, instead of a week ago?

PM Because we didn't have that all together until today.

LS Given the context where we are, it really doesn't matter because again

PB We're not going to do anything

LS We're not going to do anything with it, and it's going to be responded to in the FEIS.

PB It's just easier for us to intelligently ask you questions if it's something we've already looked at, than if it's something we haven't. That's all.

PM From Barbara Novick: The proposed subdivision of 1000 Taylor's Lane raises many environmental issues especially in light of the existing house and its associated disturbance on the adjacent wetlands. We are concerned that the recently completed DEIS skirts over several of these issues and we hope the Board will give them full consideration in determining what conditions or restrictions need to be included in the deeds of any newly created parcels as a result of the proposed subdivision. We all agree that Magid Pond and Otter Creek are special and sensitive environmental areas. The simultaneous occurrence of a freshwater and saltwater wetland is relatively rare and provides a unique environment for both animals and plants. The area under discussion provides habitat for an incredibly diverse set of birds and mammals. We regularly see swans, geese, herrings, egrets, ducks and wild turkeys, as well as deer, beaver, raccoon, turtles and a host of other animals. The DEIS does not seem to interest the impact on these animals, even when an osprey nest is clearly in sight

of the property. This area has been deemed a critical environmental area for a reason and the utmost care should be taken in evaluating any application for development. We are particularly concerned about Magid Pond. The quantity and quality of the water are both important to the health of the pond, and in turn the plant and animal life it supports. Schemes that divert runoff may be as detrimental as plans that do not treat runoff at all, especially given the limited watershed that feeds the pond. I recall a similar situation in the neighboring community where one property owner diverted water resulting in damage to an adjacent wetland. This type of damage is virtually impossible to reverse making it extremely important to avoid this outcome. In addition in, the DEIS section on background and history, there is no discussion of the development that was done to create the existing house and grounds at 1000 Taylor's Lane. That project, which was completed only a few years ago, included clearing an area that extended into the wetland buffer and adding a significant amount of fill to regrade the lot. All of which was done without appropriate local or state wetland permits. In the DEIS's concluding section, adverse impact that cannot be avoided, there is no mention of the impacts to tree removal, wildlife displacement, or similar real impacts which gives us great concern about the level of applicant sensitivity to these issues. In considering additional development of this sensitive area, we believe any calculation should take into account the existing structure, grading and clearing of buffer land, and any new clearing and grading or building should be downsized to compensate and ameliorate the aggregate damage across the entire parcel and the resulting impact on the wetlands. During the scoping phase of this project, we understood that the applicant would be including in the DEIS an alternative that included a defined building envelope and potential development restrictions that could be incorporated as deed restrictions on the lots. In reviewing the DEIS we are not able to find mention of any such alternative. We believe this is critical to the approval process, so that any future buyer of the subdivision parcels would understand the intentions of this Board and the restrictions are placed on this property given the sensitive nature of its environmental status. As you saw on your site visit, Otter Creek is an unusual jewel in the Village of Mamaroneck. It is home to an incredible amount of wildlife including many birds that nest in the tall trees and eat insects in the marsh and fish from the pond. The environment is a rare find, and one that should be carefully preserved for the benefit of future generations. The wetland laws require it, and hopefully any project that is improved will reflect the importance of preserving this area. Thank you for taking the time to undertake a detailed review of this proposal. Respectfully submitted, Barbara Novick.

And moving on to the letter that we are providing this evening, along with various attachments. I'll start first with the graphic that is on the board, it's in three separate sheets, it's titled 1000 Taylor's Lane illustration sheets one through three. And beginning with sheet one, we're simply providing additional aerial perspective and the image to the left side of sheet one is the existing conditions with the boundary lines of the lots indicated. The image to the right side of the screen is giving an indication to the amount of land that would be cleared, which is essentially everything, as stated in the DEIS, that is land-ward of the buffer line, in order to accommodate the likely or proposed theoretical development. If we move to sheet 2, sheet 2 contains sketch up models without attics of the suggested potential house development in the location shown in the theoretical development plan. And then the right side illustration, it's noted several times in the DEIS the houses have been located as close to Taylor's Lane as possible, when in fact there is room for moving both houses, more so the

house on Lot 1 than Lot 3, closer to Taylor's Lane. So the right side illustration is showing that Lot 1 house moved 20 feet closer to the actual front yard building envelope, which then theoretically will allow for 20 feet less clearing and disturbance towards the wetlands towards the back or west side of the lot. Moving on to sheet three, sheet three the left side image is a sketch up version of the maximum development alternative contained within the DEIS and with the house footprints as indicated, again without attics, just for ease of sketch up production time. And the right side illustration is doing another version of max build out where no square footage is assigned to the basement. So the house on Lot 1 in particular, which is also slightly larger than the applicants max build out which we believe the max FAR is 37,000 ft.² house, which could be built on this piece, and with no square footage attributed to the basement occupies essentially the entire developable area as a 2 1/2 story structure and we've put 50% of the second floor into the attic level of that structure to get to that 37,000 ft.². Obviously if you went to portions without attic or with one-story sections of the house, such a structure could get even larger. We felt it important to put an alternative with no basement FAR counted, that as a frequent goal of people looking to buy houses, is to not count FAR in the basement. We have not gone through what the original Building Department approvals were for the existing house on Lot 2, but based on footprints and analysis of the existing house on Lot 2, and the stated 12,000+ square feet of the existing house that it is unlikely the existing house counts its basement square footage in terms of its total house size existing on Lot 2. So it was appropriate, when looking at a max build out solution, to consider a max build out that takes the square footage at a minimum out of the basement area and puts it all in an above ground space. As to what sizes of houses could happen here, and the concern that these which these oversize lots could result in truly massive construction if built to the full extent that the zoning theoretically would allow, and the commensurate impacts that would be associated with such greater development, than what the applicant is showing as a theoretical potential development of these lots. Similarly, we haven't demonstrated it in an illustration that the existing houses on sheet two, if you will, the proposed reasonable size houses, I think they're in the ballpark of 6000+ square feet or 6 to 9,000 ft.² each, also include all the square footage of the basement to get to that level of square footage. So someone could also easily look to build that size house without square footage in the basement, which then further gets to if we as we started discussing or started to be discussed by the Board, even when you're looking at the four lot subdivision and saying that okay, with a four lot subdivision perhaps the theoretical development becomes the max build out of how big a structure could be built on this property. That max build out on the four lot subdivision with that house in our heads from the DEIS, is including square footage of the full basement as a walkout basement, full basement. And a theoretical house alternative could put all of that square footage into above- ground space, could not have an attic and therefore build a much larger dimensioned house, etc. The alternatives granted could become infinite, but it's to keep an eye on the fact that the theoretical proposed development is a theoretical proposed development, and is not an actual proposed development and there is no guarantee that someone will build a nice confined structure, two-and- a- half stories, with a full walkout basement and countable towards FAR.

PB Although in fairness, given the topography of a lot three, it would be pretty difficult to build a house that didn't include part of the basement of this.

PM We could get into a lot of theoretical discussions with Rob and the Building Department as to what the Village Code can allow or not allow in terms of basements, even with a sloping lot such as this, there's potential for burying the basement if one so chooses to do it to lose the FAR. It's done fairly often, there's interpretations of how that basement is determined to be a basement to a cellar for inclusion of the FAR and space relative to the curb level or the elevation of the front of the house relative to the street versus the slope of the lot, etc. etc. So there are a number of variations that come into play, and it's not terribly unreasonable to get all of the FAR not counted from below, and we have a number of clients who they are typically hoping not to include when they're looking to build the max size house they can build, they are hoping not to have FAR accounted in the basement, to have that as cellar, if you will in Mamaroneck lingo, and then have that extra bonus space, if you will, on top of whatever is allowed by FAR.

With that as sort of a precursor, the second exhibit or that was submitted with a cover letter this evening, is an overlay of the proposed subdivision essentially with a couple of things done to it. The first thing done to it is just to take note that the 11 x 17 drawings within the DEIS, as we actually started looking and trying to put building envelopes and setbacks and whatnot on here, it came to our attention that the stated scale was 1 inch equals 80 feet, and it turns out that the actual plans aren't at 1 inch equals 80 feet, they are more like 1 inch equals 70 feet or 69 1/2 per the bar scale that's on there. So the plan that we submitted tonight actually scales the site plan to match all the dimensions that are on the site plan in terms of lot line lengths and whatnot, and is at 1 inch equals 80 feet. And there are a couple of comments in what we submitted last week about side setback lines that seem to be off by a foot or two here or there or front yard setbacks off by a foot or two here or there that in fact were not off, it was simply the scale of the drawing wasn't right so, what we were measuring on that drawing didn't line up to what the dimension should've been. Beyond those errors of scale, however, one of the items that is being shown here in the green lines that are included on here are the fact that the proposed lot side yard offsets are off for some reason assuming a 20 foot side yard setback when the R15 zoning requirement is for a 25 foot combined yard setback, so you would have 10 feet on one side and 15 feet on the other or some combination thereof to end up at a 25 foot instead of the applicant is showing for the most part with the exception of the north side of lot three, there are 20 foot setbacks on both sides. The main point in making this point is that if you adhere to the zoning setbacks for the zone, you can theoretically have more developable areas closer to Taylor's Lane then you might think is available with a setback shown at 20 feet. I'm not saying this was done to slant anything in one way or another, but simply making the point that if you do apply the zoning setbacks you do end up as a result with more square footage that could be developed closer to the road.

SF I just want to clarify. You're talking about the side yards setbacks though, right?

PM Correct.

SF So how does that affect Taylor's Lane?

PM Because, it's essentially 15 feet by whatever depth you would decide to go backwards on each side. Right now we're encumbering 40 feet on each side of the lot with the side yard

setback, when in fact there should be 15 feet less of that by the depth of a house that's being built or driveway or whatnot.

PB Your point is you get the same number of square footage of house closer to Taylor's Lane if you use side yard setbacks that are smaller.

PM Correct. So you can create a building envelope or the building envelope shown for that matter. That's another factor which could be from someone else's perspective in terms of where (mic is being moved) gets what houses in particular further away from the wetlands and available lot area for development further away from the wetlands. One could look at it from a different perspective you would think looking at the plan that there is this bigger side yard in terms of if someone was building side yard to side yard there is more open space between the houses. That's not a perspective we have been particularly looking at given the critical environmental areas, wetland issues etc., we've been looking at measures and alternatives that tend to concentrate development by Taylor's Lane farthest away from the wetlands. So there are couple of different ways one could look at it, is simply to make note of the fact that there seems to be something slightly amiss on how the side yards are depicted.

Step two of this particular overlay is we've taken the liberty of drawing in what Dan referred to earlier as potential building envelopes for the two new proposed lots. Not in a building envelope that's a result of the zoning side yard and rear yard and front yard setbacks, or the hundred foot buffer, or whatnot, but a frequent mechanism of subdivision approval as proposed developer to propose an actual housing sites if you will and have the subdivision approval restrict the future development into a particular building envelope for the buildings that would be constructed on the site. So what is being shown there is on both lots three and lot one, lot one has a 50 foot deep building envelope, by the full width of the lot, and these are based on the house dimensions that they showed in the theoretical development, and lot three has a 45 foot deep by the full width of the lot which is a slightly wider lot.

PB What's the setback from Taylor's Lane?

PM The required front yard is 25 feet

PB And that's what is on this drawing?

PM Correct, that's with the house on the line. And the paved road is beyond that 25 feet if you will. That's 25 feet from the property line which is the edge of the Village right-of-way, not 25 feet from the edge of the pavement.

PB There was another question in Dan's letter that came today at 5:45 or something like that, about whether this road is wide enough for the subdivision.

PM I don't think that was in Dan's letter. I don't think we had a letter at 5:45 today but that may have come at 5 or last Friday there was some comment on the adequacy of Taylor's Lane or whatnot.

PB You're right. Does the road meet the current subdivision width requirement? Can we answer that question with a yes or no?

PM Well actually we were frantically digging for that number Friday afternoon and for whatever reason it was escaping us. And actually if we go to point 3, if you will, of the overlay submitted this evening, has included the same sheet but we've gone out and measured the width of Taylor's Lane at various locations in front of the subdivision, and in fact the current if you are proposing a new subdivision and building new roads, the current Village subdivision street width is 24 feet. The existing widths of Taylor's Lane are all well below that and range from roughly 15 1/2±, frequently 16, 16 1/2, 17 as we get sort of beyond the project we start to approach sort of standard road width of getting above 20-21, when you come around the curve it gets wider accommodating the curve to some extent. And then going out to Post Road, the road is consistently wider, the road is even wider for most of its distances it appears as you go further towards the end to the waters and of Taylor's Lane. But for whatever reason this particular section in front of 1000 Taylor's Lane is particularly narrow, and has struck more than one person including those from our office measuring street width, those driving back and forth to other clients on Taylor's Lane etc. of the narrowness of this particular section of the road. So that is another question that seems it's not something that was included in the original DEIS scoping document, it's sort of an issue that's come up during this long process that Beth outlined of dealing with the property of

PB Your office was of course not advocating the Village widen the road in this critically environmentally sensitive area?

PM This becomes a balancing act of addressing safety concerns to a road that is well deficient of what current subdivision standards are, and the wetland impacts or potential mitigation for those wetland impacts, and putting the whole package together to come up with a solution that tries to do the least wrong to most things.

DN Just as a comment most of the Taylor's Lane in the area of the subdivision is pitched away from the wetlands so if it were widened if you will the water would not be going to the wetlands.

PM Or not directly in any event.

PB Wouldn't that actually depend on which direction it was widened?

PM It would depend on how the road is widened and how it is crowned.

HG You said those were field measurements? Looks like a CAD measurement, because it's to hundredths, and you don't measure in the fields to hundredths, unless you're adjusting is Looks like CAD measurements. Were you out in the field to verify it?

SB I am Shawn Burton from Dan Natchez & Associates. I field verified measurements and brought it back to the drawing that Beth Evans submitted and compared it to the lines that they had and rescaled it to the proper scale so that my measurements matched their

measurements

HG Ok

SB So I scaled it to the hundredths obviously just for accuracy, but I verified in the field as well.

HG Ok

PM So sort of jumping then, the other submission that we made this evening, is an attempt to start what in a way giving teeth to some of the alternatives and suggestions that have been bantered about, both here in this room and in the DEIS. The DEIS makes note of the conservation easement, but hasn't provided any detail of the specifics of a conservation easement. What would that really mean? I think we've already seen the Board questioning what does that really mean? It's suggested we will consider an alternative with a conservation easement, but there's no terms defined associated with that conservation easement as to just how it would restrict development, whether it's in terms of FAR, setbacks, house size, location etc. etc. So the WORD document that was provided this evening is a sort of a first cut at a number of suggested potential deed restrictions, conditions of approval, it is open to continued discussion, of how such measures would be implemented or whatnot. Keeping on the issue of road width, well down towards the end of them, there is a suggestion of requiring that the applicant have Taylor's Lane partially meet the current required road width.

PB The requirement of 24 feet?

PM The requirement is 24 feet

PB So in some locations they would have to widen it by 9-10 feet.

PM Well that's why we

HG We've heard that would be for a new subdivision road.

PM That would be for a new subdivision, which this is not a new subdivision road, it's a new subdivision on an existing road.

PB You still don't know what that number should be?

PM Well we've made the suggestion, the average current width in front of the 1000 Taylor's Lane property is about 16 feet. Expanding that to the full 24 gets to be, well what kind of impacts if we're expanding by 8 to 9 feet in some places, that splitting the difference if you will to the west side property owners deficiency, making the road a consistent 20 foot width would be my way of addressing the particular narrowness of this section, without going to a full new subdivision development to a 24 foot width.

PB So that must be something that also has changed over time because there already

today the lot 2 existing house as well as two more existing houses on the same stretch of road.

PM Correct.

PB So there has been subdivisions in the past I guess from this area.

PM Correct. It's whether the current proposal to add yet two more houses in the subdivision of this existing piece, warrants taking a look at the current safety of the road, the conditions of the road, the fact that it's wider on both sides, but narrows in this particular section, which is also at the crest of the hill on top of that. Whether it's something that should be addressed as part of a condition of subdivision approval.

PB To clarify at this point, is there a requirement in the Village Code that in order to approve a subdivision we have to make sure that all subdivision lots are on suitably improved roads. I seem to remember that

LS People asked that. This is probably dedicated to the Village for a period of time.

PB I understand that. What I'm trying to figure out is, if we're now taking a subdivision of an existing lot, does each of the new lots have to be on a suitably improved road?

LS I think the real question, and I think Paul was just beginning to touch on it, is the impacts on safety.

PB Right

LS That maybe ingress and egress, and traffic you conduct it in a safe manner. Now if you found for some reason that that was not the case, then we begin to look at what road improvements should be required in mitigation.

PB But there is no... what I'm trying to get at is, that Paul was thinking he didn't find it, there is no Village Code provision for what road width is safe, suitable etc. or a use for it but adding or subdividing a lot.

LS I'm not aware of it. If we had road criteria that's generally for the creation of a new road, and they have to meet that, but I'm not aware of specific

PM We since did more digging and we did find the section with 24 feet as for new subdivisions, and that is absolutely true for new subdivisions. In terms of subdivision of an existing lot, there is a sort of very broad giving great liberal interpretation of the Planning Board for considering safety and any other issues the Planning Board may see fit, in the approval of the subdivision, or language similar to that effect, without going through any specific criteria relative to roads or any number of full subdivision with new roads, new sewers, new services and all that type of whole different level of subdivision.

So at that we've gone through a whole bunch of language and I'm not going to go through all of this at this venue, but again the goal is most all of it is at putting some teeth to the theory that were only going to build this size of a house or we're not going to disturb areas as they are close to the wetland buffer other than for rain garden or whatnot, that you get into some actual language that can accomplish that. And to help to mitigate the impacts that any development of the property will have impact. It's a question of to what degree do those impacts to wetlands and critical environmental area, the Osprey etc. etc. so there's

PB Can I address a question actually to you and Les both about your suggestion of potential building envelopes here, which is, suppose we were to decide to impose building envelopes of the sort that you proposed here? And these lots are then subdivided, because we've imposed them as a condition. I take it the subsequent purchasers can come before the Planning Board and ask for modification of the building envelope. And since this is just something approved by us as a condition of the site plan approval, our successors could just decide to change it.

PM We are simply opening our suggestion in the printed version is that all of these not just be conditions of approval, but ultimately made deed restrictions filed with the subdivision.

PB Enforceable by whom?

PM Well, enforceable by ultimately the Village, but once it's filed with the County beyond the approved subdivision plan, then anyone coming to purchase the property, when they do their due diligence and get their title report, that plan should show up as well as being filed in the Village and the Planning Department, Building Department what not. So that someone coming forward to construct, or one coming forward to purchase, should be aware, unless they did bad homework

PB No I'm not saying they did bad homework

PM But if they did bad homework, than they have less of a hardship case to say we paid \$5 million for this piece because we thought we could build Versailles, only to find out we can only build a 9000 ft.² house, and 9000 is still a nice size house but...

PB If I may, and this is all for discussion, are you restricting or us restricting the side yard to 10 feet. I think you know professionally nobody's going to put up a 9000 ft.² house 10 feet from somebody else's property line. It just doesn't equate. A 3000 ft.² equates to maybe a 10 foot property side yard, but not a 9000 ft.², the scale is completely off. I appreciate the fact pushing forward is a nice concept, but I think we're going off base with something like a 10 foot side yard. I just don't think it's reasonable. And obviously we can take in, push it, mold it

PM I would differ in opinion

PB So you would put up a 9000 ft.² house knowing that you would have a 10 foot side yard?

PB We don't need a 9000 ft.² house.

PB Well that's what I'm saying, controlling the limit of the house.

PM In fact you could build a 9000 ft.² house without going setback to set back because the house they've already shown, if you include the basement, is a 9000 ft.² house and it doesn't fill that entire opening. In terms of the reasonableness, if you did want to go edge to edge, while I might conceptually say, ideally, no I wouldn't do it. There are certainly plenty of houses, usually on smaller lots, that we usually call them McMansions...

PB Which are horrible.

PM Are built side yard to side yard, and the developer, or whoever it is who's bought the lot, is just looking for maximizing whatever he or she can get out of that lot and they don't care whether it's a yard to side yard and oversized for the frontage.

PB I understand. That's a 3000-4000 square foot house, more than doubling it with the same side yard just is not reasonable.

PB In fairness, Mike, since Lot 2 already has a house with a side yard setback that's way bigger than 10 feet, it wouldn't be as if the houses were right on top of each other.

PB It doesn't matter. Because the house is built, and all I could do is put a fence 10 feet from my building. It changes the dynamics of the site. And maybe you were meant to do that.

PM It might be something that the Alters wouldn't want to see happen either, and might want to actually put greater side yard restrictions and that's for them to decide.

PB I understand your concept, pulling away further from the buffer and putting it closer to the road, obviously that does make more sense the further away you are, obviously the better it is.

PM And just one, in terms of would I build edge to edge? Given the development pattern here, I would say it's more plausible if you will then if it weren't as currently built. The current house is set quite a bit farther back, and the house that's enveloped by Lot 1 is not shown on any of these plans, but it set the very, very far back, so in effect it's not as though the house would be shoehorned in between two existing houses, because you would have house, back house, front house, back house, front and the existing house on the corner

PB I understand, I'm just purely thinking that boundaries, walls, fencing

PM Right

PB I think the main point is the houses that they're proposing would actually fit in these

envelopes. With that square footage, with additional width, substantial room on the side (3 people talking at same time)

PB Tell us why they (speaking low) tell us why you're pushing the house away from the rear so everyone gains from the rear, but now Taylors Lane becomes house, house, house with a 20 foot front yard and that doesn't help Taylors Lane either. I don't know if I understood what you meant, but...

PB I agree that there some balances, but I think overall the Planning Board is going to find in favor of pushing them as close to Taylor's Lane as possible when we're talking about a wetland, and a nature preserve...

PB We're not about to build a 6000 ft.² house 20 feet away from Taylors Lane that will have an impact on the dynamics also. There needs to be some sort of a happy medium. I don't like it. I might not approve of it that 5000 ft.² house 20 feet away from Taylor's Lane. I think it would change the whole dynamics of Taylor's Lane. So there has to be some sort of a happy medium

PB Again this is just a concept.

PB If I'm across the street, and I saw the size of those houses and you put a huge house with a 25 foot front yard I don't think the neighbors across the street would be happy with that.

PB Right.

(3 are talking at once)

DN I think this discussion points up the issue of not only building envelopes, but size that these are the things are before them part of the subdivision as a planning board believe is appropriate for this area or not in lieu of all of the environmental considerations and that's why you guys get paid the big bucks.

LS This information has now been provided so the Board can have the opportunity and the ability to analyze what's been submitted. We're at a fairly early stage in the process and the review of the application and you don't have to make any decisions tonight.

PB In these letters you say "on behalf of our clients".It would be helpful if you would state who the clients are so we know if these are neighbors

DN They are all neighbors

PB Are the comments in your letters the only comments that you have cleared with your clients. Are there some of your own concern? Are some your clients concern? And how does that work?

DN It works in that we have a frank discussion with our clients.

PB Who are they?

DN Clients are the Novicks, Freemans, Berenzwig.

PB Individuals, not an organization?

DN These are all individuals.

(2 talking at same time)

DN They live across from the subject property.

PB None of your clients live on Taylor's Lane?

DN Say again?

PB None of your clients live on Taylor's Lane?

DN That is correct. There are people on Taylor's Lane who have been involved in discussions with our clients regarding this as well as others.

PB And those are mostly the clients on the other side of the pond? Or have adjacent properties to the pond?

DN Those are our clients. That's correct. As I say, there have been discussions with our clients, and other neighbors on both sides of the subdivision.

PB Would you say that this is not just an environmental issue, it's also a view issue from the other side?

PB Are your clients concerned about the current view?

DN Scenic vista and open space is all part of the environmental issue.

PB So it's both. We're talking about environmental issues.

PB They are not separable. Your clients love being next to the pond and have the pond as a view, but they don't want to see a house on the other side, basically.

DN I wouldn't make that characterization. I think...

PB I'm sure you wouldn't.

DN You have letters from the Nature Conservancy, which are not our clients.

PB I have read that too.

DN Which go into much more detail on environmental issues regarding this. All three of our clients are very environmentally conscious and have started this, I believe, for environmental reasons.

PB Not because they don't want to see a house on the other side?

DN They see it. When the first house was proposed, they did not object, but I think what some of the concerns that they have, that have raised their concerns to a higher level, is what they believe would happen, versus what the regulations are, were different. For whatever the reason is

PB Are they in the same situation as the existing house on Taylor's Lane, because they were building those houses before we had the same requirement and buffers as we have today. I remember the field trip we took. We went to one of those houses, and they were very, very close I'm sure they were within 100 feet of the wetland.

DN There are houses that were developed long before any of the environmental regulations, since the 70s, which is where they were, and what we have learned over time is that things that may have appeared to be reasonable before, are not reasonable today, but having preserved and enhanced what is left and that is what is before you. That is why you have the environmental rules and regulations, both from the state and federal government, as well as the Village. That is the concept.

PB In your letter here on the 7th of September, on two occasions your pushing the point that the existing house was built without following and because it was previously disturbed without obtaining that all needed approvals and here you're saying the original construction, including considerable clearing, grading, water, construction with 100 feet freshwater wetland, was done without obtaining appropriate local or state environmental permits. That is contrary to the fact that we hear the building inspector telling us it was all legal. Today the inspector is saying that the time it was built it was legal.

DN No, what he's saying is they got a CO. Whether there was no application to the DEC for violating the wetlands setback, which was in effect at that time.

PB Dan, would you agree at this point, other than we should be vigilant with regard to what is built, what happened with the original building is largely irrelevant for this application.

DN That's what I said at the beginning.

PB I understand that. Which I raised at the beginning of the meeting, so let's keep it at that it's irrelevant. We're going to strike that.

DN It's only for perspective purposes, not for vindictive purposes, and going backwards.

PB I understand.

PB Can I ask you a question?

DN Sure.

PB Do you agree that some sort of subdivision can take place here? (speaking real low)

DN I believe that it is a foregone conclusion that some type of subdivision could be approved.

PB So, I think the information we've been going through, it's actually good information, and stuff we've been asking for, and what will be the impact of such subdivision in the future, so some teeth to this application can be provided. So is that where we should be going? To find a happy medium between placing a particular structure so that it fits both needs.

DN I think you're right. The proposed restrictions we gave you on the two-page summary at the end actually address those points very substantively. It is trying to say, here is the issue, everyone has a right to try and do what they want to do, nobody saying you can't do that. On the other hand, we have the environmental impact issue, and we have all of the other issues well documented, so the question is how do you marry the two, and what has been suggested is we don't intend to do it and we're saying if you don't intend, here's a way of doing it. And moving the ability to build a house as far back from the wetlands, is one way of doing it. Putting in deed covenants is a way of solidifying it. The biggest problem you have, when somebody buys a property, even if you have all sorts of conditions which the Planning Board does on many approvals, the buyer doesn't know about it. Okay? It doesn't mean they may not have done as much due diligence as they should, but it didn't come up in a title search.

PB I think we're going to get to the point. What I'm trying to say is I think you're trying to push some sort of a proposal, and it doesn't fit Taylor's Lane either, so we need to get something that is a happy medium.

DN I thought we tried to do that. What we have proposed, we do not believe is restrictive from the vantage point that cannot accomplish what the applicant has said is the desire, and a way of doing it to preserve it. That's your job to do. To tweak it whatever way you wish, but the framework of how to do it, and we think the major approaches in terms of the contour lines and what we've seized upon as a rationale to it that follows the DEIS as presented, and puts it in a perspective that solidifies it in a way that's meaningful. You can change that anyway you want and massage it, and that's your prerogative, and that's your responsibility. We're just suggesting that here's a way of doing it, and here's the specifics of how we think you can do it. If you don't like it, you can change it or you can make it

PB No, no, no.

PB I was going to ask for one more piece of data that I think might help in accordance with what Lew was asking. Data that both the applicant and Dan might provide what we're trying to do is make sure that whatever we approve ultimately fits in with Taylors Lane, it would be useful to know what the size of the footprint is and what the size of the square footage is, of all of the homes that are currently located on Taylors Lane, from Colonial Court to the end of the lane.

PB To the end of the lane or to the end of the subdivision area?

PB Well I would say at little past the end of the subdivision area. Maybe to the end of the lot one.

DN There's a house past lot one. We can do that.

PB At least to the sort of area that the road is public. But if we could get that data we would have some sense of whether the size house that is proposed would fit on Taylor's Lane, if it will fit within your building envelopes comfortably, or whether it won't. I think that's what one of Lew's concerns is.

PB Okay. My question for Lew is (laughing)

Someone say's that's what you get for asking questions....

PB So it seems to me that what's been presented here could be sort of boil down to a pretty simple one main simple restriction, which is the building envelopes cannot extend beyond in the case of lot 1 75 feet from Taylor's Lane, and I think it's 70 feet for lot 3. So you're basically establishing that sort of backstop on the development. And so Lew's concern which I really hadn't thought of, does that mean you get much more mass close to Taylor's Lane?

PB How much to room to leave, and I totally agree with Mike, I'm just afraid of the big house 30 feet away.

PB But it seems to me even if you didn't have that restriction, you're still open to having these houses 25 feet from Taylor's Lane, and also that is the most likely case given the topography.

DN I think we'll get there, and I think the only thing I would add to it is that you have an area for the house, and then you have to also address, if you're so inclined, amenities that could then be added or not added. You have setbacks to push everything forward, you to have an open area without the restriction, where theoretically you could put in your swimming pools, tennis courts or whatever. I think that's what was demonstrated.

PB I'd like to move along. There's probably more people who would like to speak. We do have your input and will read everything you submitted.

PM Thank you.

Chairman Thank you. Would anyone else like to speak? Really it looked like everyone wanted to speak. (laughter). Les, based on the request. They all looked at me like

PB We burned them out.

LS In fact, the only reason why I suggested that there might be other people waiting to speak. Now you have a couple of options, you can of course keep a public hearing open if you wish. And let's divide the two. You are going to keep a public hearing on the preliminary subdivision open, that's not even a question, but the next time that that probably come back is when the final environmental impact statement has been submitted and the finding statement, and we are further along in the process. In terms of the DEIS hearing, nobody else has come out, you may want to afford another opportunity for people to come out. On the other hand, it's also the opportunity to establish a written comment. So the people who haven't come out can submit written comments. The Harbor & Coastal Commission, as I think Dan has mentioned, has not made a formal request, but it's my sense that they will require some additional time. They are meeting next week and it's unclear if they would be able to, at that meeting, get a complete memo of all of their comments so, if the Board, whatever the Board was going to do on the public hearing, that they might establish a date for your comment period to cover an additional meeting by the Harbor & Coastal Commission.

PB I was going to say that

PB To cover that, my thought would be the comment period could be extended to October 19, which would give the Harbor & Coastal Commission two meetings and a couple of days after the second meeting, to get their comments in. And also I think Susan is going to prepare a comment memo as well on this, so it does provide the additional time that should be satisfactory to them.

PB So we will leave the public comment period open. So all you people that really wanted to speak tonight can come back and speak the next time.

PB So I think the Board needs to decide whether they wish to close the public hearing on the DEIS, and establish a comment period to close on 19 October for written comments, or does the Board wish to continue the public hearing. Now, one of the things that Dan said earlier was he had requested the public hearing to be continued to get answers, but that's not really the purpose of the DEIS public hearing. It's really for the public to express, and the Board to express, their comments and then to respond to them. So those are really the choices that the Board has: whether they feel there's a need to keep the public hearing open. If the Board does close the public hearing, that kind of gives the applicant the ability to get started, at least on those portions of the comments, and then, as the remaining written comments come in, they can keep going. So it's really up to the Board what they want to do.

BE If I could just add, we are on the agenda for Harbor & Coastal next week, so we will

be giving them a similar presentation to the one we've given you tonight, just so that they have the same information to form their comments.

LS This will be the first time that they've actually seeing this, as opposed to the Board having seen it, so that's why I'm sensing that they'll probably need more than one meeting to digest all of this.

PB I think very little is going to turn on what we do because there is still going to be public comments on the subdivision plan even if not on the DEIS.

LS There's going to be additional public hearings as we go down the road.

PB Right

PB And the public hearing is really just the comments we've already received

LS Just on the DEIS itself. The other public hearing is going to be continued.

(someone is commenting)

LS It triggers the process to keep it moving. When you close the public hearing, you set the comment period and keep the process moving.

PB So when the Board deliberates next on how to additionally respond to the draft DEIS and request changes for the final EIS we can get the public input at that point as well.

LS You're going to do it at a public meeting. You could get public input. The difference would be it would be close to a public hearing, unless they put them in writing than the applicant is not required to respond to them. It's an attempt to kind of establish a process that SEQRA tries to do, so that you have oral comments at public hearings

PB But the applicant would still be required to respond to anything we specifically asked for.

LS Absolutely. And the Board can present its own memorandum too.

PB Okay.

LS This is just the public comment part, and does not restrict the Board. The Board would have again to submit other questions.

PB So this sort of establishes that huge list of public comment, Q&A's

LS But if the board feels that they wish to have another debate on this, and will have additional public comments, then they might keep the public hearing and the DEIS open for another meeting.

DN The only thing I would like to offer, if I may, is that there's been subsequent questions and I think you've asked for that is more than just finishing the DEIS, and that could also be an interesting dialogue that might be very helpful as part of the record. Once you close the hearing the comments you may use them but they're not part of the record.

LS That's not the case. Which comments are we talking about?

PB On the FEIS.

PB Who cares. It's about the subdivision.

PB Exactly.

SF Basically, the applicant can't do an FEIS, can't get started or submit it until the public comment period is over.

LS We have to at some point close that so they can prepare the FEIS.

PB Let's take a vote.

DN You should also be aware that the Harbor Commission only meets once a month.

SF Right. And I think the time that Les was discussing covers two meetings.

(someone is talking low)

LS I think you have some very significant powers to shape on the proposed approval here. You've got the provisions of the zoning ordinance, which will have to guide you but you have some substantial discretion in terms of looking at the environmental impacts of this proposed development, and making sure that they have been addressed.

Chairman Let's put this to a vote. Do I have a motion to approve the closing of the public hearing for the DEIS for 1000 Taylor's Lane.

PB So moved.

Chairman Do I have a second?

PB Second.

LS And then a motion to set the comment period and a written comment to end on October 19, which I believe is a Friday,

BE Yes, it's a Friday.

Chairman It is Friday?

BE It is a Friday.

Chairman Motion to approve?

PB So moved.

Chairman Second?

PB Second.

Both votes were unanimous in favor of approval