

Planning Board Meeting Minutes – April 12, 2023

A special meeting of the Town of Yorktown Planning Board was held on **Monday, April 12, 2023, at 7:00 p.m.** in the Town Hall Boardroom.

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

- Aaron Bock
- Rob Garrigan
- Bill LaScala
- Bob Phelan

Also present were:

- John Tegeder, Planning Director
 - Robyn Steinberg, Town Planner
 - Nancy Calicchia, Secretary
 - James Glatthaar, Esq.
 - Councilman Sergio Esposito, Town Board Liaison
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WORK SESSION

Underhill Farm

Discussion: Proposed Project

Location: 48.06-1-30; 370 Underhill Avenue

Contact: Colliers Engineering, Site Design Consultants

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

Comments:

Mark Blanchard, Esq.; Joseph Riina, P.E. of Site Design Consultants; Steve Marino, Wetlands Scientist of Tim Miller Associates; Dr. Phil Greal, Traffic Consultant of Colliers Engineering; Terrance Murphy; Paul Guillaro, property owner; and Leigh Jones, Environmental Consultant of Barton & Loguidice were present.

Chairman Fon stated that the meeting this evening is an additional work session to continue the environmental and traffic discussions as part of their review. He informed the public that the Board receives and reads all correspondence which becomes part of the record and noted that they received a few items this evening. He noted that the appropriate time for public comment would be at the public hearing when all comments are heard in person and recorded as part of the record.

Chairman Fon stated that the Town Board hired consultants (environmental, traffic and historical) to review the application for the Planning Board as Lead Agency that is paid for by the applicant. He heard that there are people who are contacting these consultants directly and noted that this is not appropriate and hopes that this practice stops. All questions should be directed to the Planning Board/Department. Mr. Tegeder asked the Board if they would like the Planning Department to prepare a memo for the town consultants so that they are fully aware that all inquiries, comments and requests for data are to come through the Lead Agency only. The Board agreed.

Route 118 / Underhill Road Traffic Improvements / Funding

Mark Blanchard, Esq., Blanchard & Wilson – Mr. Blanchard stated that the meeting this evening is to try and finalize some of the issues that have been discussed such as the finance component for the intersection. He thinks there was confusion at the prior meeting as to what they are offering. Initially, the project came forward with the mitigation measure that was around a cost of about \$180K. As a result of comments from the Planning Board, traffic consultant and the public, the proposal has evolved into Option 2 (middle level) which includes moving the existing wall, widening the road, instituting turn lanes, pedestrian striping, etc. All of those components are what they are putting forward as the mitigation measures for the potential adverse traffic impacts. He added that the traffic consultant raised a question as to how they will guarantee that these expensive intersection improvements don't get passed to the town if the developer runs out of money. He noted that they are also coming forward with a proposal on how to finance the full improvement.

The financing is going to be put up by the developer as part of the mitigation with a portion of the monies to be reimbursed to the developer through an agreement with Westchester County IDA as a tax abatement agreement on the commercial side of the project, not the residential. They think that it might be a 3 or perhaps 5-year projection for full reimbursement. The abatement will cease as soon as that portion of the improvements are reimbursed so the town is not going out of pocket for this intersection improvement which opens the door for future development. He noted that this was brought up to the consultant at the prior meeting when Chairman Fon asked the town's consultant if the improvements encompass and mitigate their potential impacts and the consultant's response was yes. This was followed by another question asking if the future identified proposed projects in this overlay zone is mitigated and the consultant's response was yes it includes all that information. He stated that they had a positive reaction from the Town Board and need their cooperation for the IDA application. They also met with the school board and have not had any resistance as it relates to their abatement. They feel that this is an incredible solution to an existing problem as the intersection is not great. He added that developer is also funding the design for the improvements. They are undertaking the design, funding, and a project that is going to not only address their mitigation impacts but also allow for that corridor to be subject to future development. Mr. Guillaro stated that it will basically be \$600K to \$700K that he would put up front and the rest is going to be financed with tax abatements for reimbursement over time. The town will be the permittee and there will be no other cost to the town.

Chairman Fon stated that he wanted to make it clear that their questions also reflect questions from the public. For instance, he directly asked the town's consultant if this was a failed design and his response was no it was not. He noted that the town has created an Overlay District because they want to see this type of development. This intersection is not a good intersection but this plan has been designed to not only benefit this development but the entire area which is very important. Mr. Blanchard stated that the questions asked at the previous meeting were helpful and supplement the written record.

Councilman Esposito stated that the Town Board has had discussions and is proceeding slowly to understand the full impact. Just to be clear he wants the public to know that the abatement will only be on the commercial portion of the project. The town and school will collect the tax revenue on the residential portion which will not be touched by the abatement. Mr. Blanchard stated that this was correct and to further the point, the residential portion is not eligible for IDA benefits by statute. The town will see a beneficial tax revenue as soon as the project comes online and that tax revenue will increase once the abatement is reimbursed.

Mr. Phelan stated that they had communications from the public questioning whether this should be the appropriate way to fund part of the improvements and thinks it ties into the question of how do they know that those funds are going to be there when the project starts. He thinks it's fairly safe to assume that if the abatement program is put into place it will be there when construction starts. He noted that this would be the portion that the applicant is not going to fund but will advance the money for reimbursement. The other question was how do they know they are going to make the improvements for the portion they are funding. He thinks this is easy to solve by either tying it to the issuance of the certificate of occupancies or bonding. Mr. Blanchard responded that this is exactly how it would be done and that the Board would employ this as part of the conditions for the site plan approval. He noted that the applicant is funding the entirety of the improvements and not a portion. Mr. Phelan responded that he understood but wanted to state publicly that the applicant's responsibility is for the set amount and the other portion will be reimbursed since he is advancing the money which will benefit the town beyond his impact. He added that this is the reason he looks favorably upon this concept as the abatement program guarantees that the funds will be there. Mr. Blanchard stated that there are benchmarks along the way and noted that the IDA is a transparent process similar to the Planning Board with public meetings and will have its own conditions.

Mr. Bock asked about the total cost of the road improvements. Dr. Grealy responded that it would be approximately \$900K including their construction cost and contingency. He clarified that part of the consultant's concern was to have a higher contingency number of 20% (instead of 10%) bringing the cost to \$1M. He noted that the consultant wasn't aware of the details that Mr. Blanchard laid out. Mr. Guillaro's out of pocket project expenses include the design estimated to be \$100K, wall construction estimated to be about \$100K, and donation of land as well as administering the contract. Mr. Bock asked out of the \$900K how much are they looking to recoup for the tax abatement. Dr. Grealy responded that out of the \$900K, \$450K would be reimbursed over time. Mr. Bock stated that his understanding is that the abatement is for \$450K and the other expenses are direct mitigation for the project. Mr. Blanchard stated that they

are considering and presenting the additional cost of money to finance the improvements as mitigation until such time the reimbursement comes back. Mr. Bock stated that the mitigation is not money that they would expect to get back through a tax abatement. Mr. Blanchard responded that some of it is because that money is being fronted which costs the developer to front the money to finance and develop that portion of the project. So, when it comes back as reimbursable, they are proposing a portion of the full project cost be reimbursed through the tax abatement. But that whole process of fronting and financing this improvement extends far beyond their impact and is all eligible to be considered by this Board to be mitigation. Mr. Bock stated that the fiscal cost of advancing funds for impacts that are not directly attributable to this project is what the applicant is seeking in addition to the actual money spent. He noted that he just wanted to get an idea of how much they are assigning to the direct mitigation of their work which is not something they are looking to get back in the abatement. Mr. Blanchard responded that this was correct. Mr. Bock continued that whatever is left over and above that, they are going to get back so that we can get the intersection improvement but they will recover it because it's not a direct consequence of their project which is the \$450K figure. Mr. Blanchard responded that this was correct. Mr. Tegeder stated that if their contingency escalates they would continue with the project pay the full cost and the additional money would come out on the back end in the abatement. Mr. Blanchard responded that under that scenario the amount for the abatement would increase.

Traffic

Dr. Phil Grealy, Traffic Consultant of Colliers Engineering – Dr. Grealy distributed a copy of their response letter as a result of comments from the previous meeting with respect to on-site items, off-site items and Glen Rock Street traffic.

On-site items:

1. The internal intersection was moved and aligned with stop sign control. The original plan was using the exact alignment of the driveway as it comes in and loops around the building. The revised plan is to T up the intersection so anybody leaving from the east-west road in a westerly direction would be stop sign controlled. The distance from that out to Underhill Avenue is over 100-ft so they can easily stack five or more vehicles. The circulation was reviewed. They now have the separation distance from Underhill Avenue.
2. With relation to the above, they eliminated and relocated the three parking spaces that were on the driveway as you come in. They also eliminated two spaces in order to be able to T up the intersection as shown on the plan.
3. A separate loading area has been provided along the north-south roadway near the apartment building outside of the travel way.
4. Pedestrian connections throughout the site have been updated and clarified. The sidewalk system connects with the future senior center providing full pedestrian connection between the two sites.
5. The parking on the site is code compliant for the various uses.

Chairman Fon stated that the way parking is being looked at from a planning perspective has changed. He asked Dr. Grealy if he thought there were enough parking spaces with the number of units proposed. Dr. Grealy responded that the town code, in terms of parking requirements for residential units, is consistent with industry standards that keep getting updated over time. The Institute of Transportation Engineers are in line with what is proposed at one and a half spaces per dwelling unit. As an aside, he noted that the data also shows that if there are some senior units, there is a slight reduction. However, they are providing the one and half. Additionally, they are also providing about 20 land banked parking spaces in the event that additional spaces are needed. The proposed senior center is about 4,000SF of which 2,000SF will be allocated to the Parks and Recreation Department. With respect to the surface parking on the site some is related to the apartment building. The exterior parking during the day has the ability for shared use and this is where the senior center would benefit. Based on his review of this plan it is code compliant and that is without taking any credit for shared parking where there is an overlap.

Mr. Tegeder stated that in an additive fashion they have taken the apartment demand at one and a half per unit and the commercial at four per 1,000 and added that together to provide this on site in addition to land banked spaces. Dr. Grealy responded that this was correct. Mr. Tegeder stated that the question brought up by Chairman Fon is relative to taking a hard look at the parking in terms of times of disparate use and the different uses on the site to determine whether it is providing more than is needed even though it's adequate under the code. Given the characteristics of the site and some of the issues that surround the development, it should be looked at with a particular focus to make sure that they are doing their best to not have additional parking that's extraneous and unneeded. Dr. Grealy responded that the simple

way to do this would be to create more land banked parking and then analyze it after it's built. He added that in a bigger development with more commercial and retail it would then become very significant but noted that there is not much commercial space on this site and feels that being code compliant is a good starting point. Mr. Tegeder agreed but thought that the elimination of some spaces may help with other aspects of the site.

Off-site Items:

Dr. Grealy stated that the intersection reconstruction calls for pedestrian crossings on all four corners, pedestrian signals on all four corners, and updated signal equipment including video detection. On Underhill Avenue, there would be left turn lanes on each approach both in front of Town Hall and along the property frontage. There were concerns raised about traffic backing up as it does today past Cardinal Court so they are proposing signage and "Do Not Block the Box" striping as part of the plan. Some other sight distance improvements related to the driveways will be taken care of by the applicant. Mr. Blanchard already reviewed the funding and tax abatement aspect of the project.

With respect to the traffic on Glenrock Street, the town's consultant stated in his most recent memo that it is not a significant cut-through area. He added that they also analyzed the traffic volumes as part of their study and agree with the consultant's conclusions.

Councilman Esposito asked if the widening of the road will bring the entire intersection into alignment. Dr. Grealy responded it will and noted that part of the reason for some of the wall reconstruction and land dedication is to get the alignment so that the left turns can run concurrently and to ease the alignment that is problematic out there today.

Site Plan Update

Joseph Riina, P.E., Site Design Consultants - Mr. Riina noted that the most significant change on the site plan is based on discussions with the Planning Department. The size of the apartment building was reduced. The contrast between the two plans was shown. This plan is more open with a bit more separation; they also paid more attention to the tunnel system that goes under the existing structure to ensure that it is accessible. A retaining wall is also proposed. The pedestrian walking system throughout the site has been modified. The connection to Beaver Ridge was shown. With the reduction of the building, they also pulled the parking area further away from Saw Mill River Road which will potentially preserve some of the existing trees along that road. A small loading area near the commercial space is provided out of the traffic lane and can be expanded if necessary. This plan doesn't reflect the changes discussed for the intersection as yet and will come at a later date once the final configuration is confirmed. They added a few more parking spaces along the edge which was possible due to the shortening of the building. The land banked spaces were shown on the plans. The path around the pond was widened to 8-ft per the Planning Department's request. Based on the ABACA's recommendation, the applicant is proposing to relocate two of the townhome units from the end of the road to the end of the cul-de-sac and will also pull the cul-de-sac in. The Board thought that this was a good idea.

Mr. Riina stated that they meet the parking requirements for the site as stated previously by Dr. Grealy. The Underhill House is based on a 1,000SF restaurant and he noted that there was some discussion at the last meeting about not being suitable or too small for a restaurant space. They are assuming a 1,000SF restaurant and noted that when you take out the prep and non-patron spaces, it may be an 800SF restaurant. If the Board was inclined to make this a larger space that might be more attractive to a restaurateur it will then require more parking spaces and noted that they do have the ability to add spaces and the possibility of varying based on the shared use. Chairman Fon suggested that they talk to a restaurateur and thinks this building would be a fantastic site for this.

Chairman Fon stated that there was a question with regard to the existing structure's windows. Mr. Guillaro stated that they were going to take some of those windows out to see if they could be remade and had somebody that was going to do it at a reasonable price. Chairman Fon stated that it seems the intent was to restore them. Mr. Murphy noted that a few birds flew into the house through two of the windows as they are very old.

Mr. Riina continued that the big change was the reduction in the size of the building. Mr. Phelan asked if the reduction results in any revisions to the unit count. Mr. Riina replied it did not.

Mr. Phelan questioned the parking needs for the senior center to be built off site? Is there parking on the Beaver Ridge site that addresses part of their impact? Where are the total numbers? Dr. Grealy responded that on the site plan there is a note that allocates about 30 spaces as shared spaces but the spaces aren't going to be marked. He noted that Beaver Ridge does not have a surplus of parking.

Mr. Riina stated that with the revision, they are almost 60-ft from the furthest point of the Underhill house to the closest point of the apartment building so they gained about 20-ft of additional space. They also created a larger walkway in front of the commercial space with an overhang. It also allowed them to pull a little further away from Route 118. The existing stone walls will be protected.

Wetlands

Steve Marino, Wetlands Scientist of Tim Miller Associates – Mr. Marino stated that he is here this evening to discuss the wetlands, trees and tree code. He noted that he received a comment letter from the town's consultant Johanna Duffy of Barton & Loguidice to which they responded. He met with her at the site in February and agrees with the wetland delineation. There was a portion of wetland C that the consultant felt should be expanded to include additional area as being town regulated wetland in addition to a swale that runs from the corner of Glenrock and Underhill Avenue down through the site and eventually into the watercourse that flows to the pond. Those two features were added to the wetland mapping and are reflected in the plan. He believes that the wetland delineation is now accurate. With the additional area, they will now have additional wetland fill. In his response to the consultant, he indicated that they will include discussion of the functions of the wetlands on site which is critical to deciding what kind of disturbance is appropriate and what kind of mitigation is required. The wetland section of the EAF was updated to include language regarding the function of those wetlands. He noted that the wetlands were formed as a result of the construction of the emergency access road to Beaver Ridge which then created a berm dam condition and thinks that the consultant agrees. The water run-off down the hill hits that berm and settles on the western side of the berm as well as the ponded area, wetland B, which is essentially a hole in the ground that filled with water after excavation for movement of material to form that access road. He walked the site with the Conservation Board recently and was able to point out the piles of fill that still remain on site from the access road and are still essentially unvegetated because of the low nutrient and sub soils. Mr. Marino stated that their analysis concludes that the wetlands on the site are functioning to detain and retain water run-off coming down the hill, as well as conveying water from one portion of the site to the other. They don't really function much from a habitat and vegetative diversity standpoint and their mitigation plan reflects this.

Mr. Marino stated that they intend to get in touch with the Army Corps of Engineers in terms of the nationwide permit authorization for the activities that are proposed. He noted that the New York district currently isn't currently understaffed and have asked them to accumulate the information necessary for the wetland delineation of which they will do. The nationwide permit process allows for up to a half acre of fill in federal wetlands provided there is a reasonable amount of wetland mitigation from a functional standpoint. They will have to show why those wetlands are being filled and noted that his assessment of the site is that the two smaller wetlands on the site are unlikely to be regulated as federal wetlands because of a lack of direct connection to the wetland system. The watercourse that comes down from Glenrock Street through the site and eventually into the lake will be regulated as water of the U.S. and therefore under federal jurisdiction.

Their proposal is to do some excavation in the upland area west of the pond. The watercourse comes down under the road through the center of their new wetland. There is a berm directly west of the pond that has been essentially used as a walking path for many years that they are proposing to remove. They are trying to connect the upland woodland area more closely with the pond in terms of wetlands and wetland function. They are proposing to remove the material closest to the pond to get down to a level of about a foot above the pond elevation and then begin the process of replanting with wetland vegetation, trees, shrubs and herbaceous materials. As they go up the hill, they will pull back some of that material to create shallow depressional areas which will hold the water as it moves down that hill to support the wetland vegetation and eventually provide the wetland soils that would be in that area as a functional wetland. It's about 14,000SF, so it will be about two to one in terms of the entire wetland disturbance on site. The updated EAF will be provided in the near future for final review and distribution. Mr. Tegeger asked what work was proposed for the pond? Mr. Guillaro responded they will be dredging the pond and noted that it is probably at 4-ft currently and needs to be about 8-ft.

Leigh Jones, Town's Environmental Consultant of Barton & Loguidice – Ms. Jones stated that she was present on behalf of Johanna Duffy who could not attend the meeting this evening and noted that she did walk the site with Johanna. She stated that to evaluate the proposal they will need to understand the function and value of the wetlands on site to understand the mitigation measures. They will review the mitigation plan once submitted and understands it was recently updated. They will also need to reach out to the Army Corp of Engineers to confirm if there is a federal jurisdiction on

any of the wetlands. Chairman Fon asked Ms. Jones about the quality and value of the wetlands. Ms. Jones responded that they will review this once the information is provided for the wetland's assessment. Mr. Marino stated that there is a methodology they use in terms of wetland assessment which they will provide as part of the revised wetlands section for the EAF. Judging from what is going on in the field out there, the wetlands are functioning for water detention and retention during storm events, and conveyance of water. In his assessment, there isn't a lot going on in terms of vegetative diversity, wildlife habitat and groundwater recharge. Most of the functions they look at in terms of determining the level of function and benefits of a wetland aren't being provided in this wetland system based on a recognized assessment method. Ms. Jones asked what the mitigation plan was based on in terms of the square footage? Mr. Marino responded that it is the square footage of the wetlands they are filling and showed the area on the site where the mitigation should be. The mitigation area is based on the size of their impact and coming up with a two to one replacement.

Chairman Fon asked about the function of the wetlands. He noted that there was a blocked culvert at the site that required maintenance to fix the flow. Mr. Marino stated that in his opinion the wetlands on the site are very limited in function. The watercourse that comes down from Glenrock flows down through the woods in an eroded channel and a lot of that erosion ended up on the upstream side of that culvert (which has now been cleared out and flows) that goes under the emergency access road. The erosion that formed that channel ended up in that spot and filled in the stream channel and the water now comes over the top of the access road which is no longer passable as it is too wet. That area was formed as a result of the erosion coming down the hill, blocking the culvert and causing water to come over the street. From a wetland function standpoint, there isn't much going on other than its moving or holding water. Chairman Fon asked about the vegetation. Mr. Marino stated that the plants in the stream corridor and in those two small pockets are limited in terms of being a native, natural, well developed wetland vegetation community. There are very few species out there and most of that area remains uncovered with vegetation and is still bare soil all these years later. When they stripped off that topsoil to create the access road, all they left was bare, low nutrient soil underneath that isn't fertile. In terms of habitat, the only possible habitat that those two little wetland pockets could have would be in terms of vernal pool amphibian breeding areas. A vernal pool is an area that gets wet in the wintertime, generally November to December, when the trees lose their leaves. More water is left on the ground because the trees aren't pumping it out and the pools fill up with water. In late March to early April, wood frogs, various salamander species come to that pool to lay their eggs. Once the pools dry out mid-April to late April, those creatures are large enough to crawl off back into the woods. Chairman Fon asked if there were vernal pools at the site. Mr. Marino stated that there are areas that have vernal pool hydrology but in the three years that he has been out there he has never seen any wood frogs or salamander eggs in those pools. Chairman Fon asked what are the items used to determine a wetland? Mr. Marino stated that they look at wildlife habitat and diversity, vegetative diversity, and groundwater recharge. Chairman Fon asked about the wildlife habitat for the wetlands and pond. Mr. Marino noted that he found nothing that they would consider to be a wetland dependent species, but the pond would have some. They don't have groundwater recharge. They do have groundwater discharge on the slope coming down the hill as part of that stream system but not in the two small pocket wetlands. The wetlands are very small (2,000SF and 5,000SF) with some phragmites and grassy wetland species but are not a dense well developed wetland community. The soils were discussed and Mr. Marino noted that he didn't find them to be wetland soils. Chairman Fon asked if the mitigation area is the required square footage for the three combined wetlands and the response was yes. Chairman Fon noted that they added the area for the two low functioning wetlands which don't meet the criteria and created a quality wetland. Mr. Marino responded that this was correct and are proposing to add a significant number of native trees and shrubs that are wetland dependent or transitional in order to create a viable wetland community. He stated that the two smaller wetlands are a total of 7,000SF and the other is about 10,000SF not including the pond. Discussion followed. Chairman Fon asked if they met with the Conservation Board. Mr. Marino responded that they haven't been to them in a while but thinks that they understand the concept. Chairman Fon asked if the plan complies with the town's mitigation requirement and Mr. Marino responded that in his estimation it does.

Mr. Bock stated that the town's wetlands law seeks to protect and regulate the wetlands itself and the 100-ft buffer. He stated that a significant part of this project is within that 100-ft buffer and asked if the plans will show what steps are taken to protect the areas that remain open and wet. He noted that two of the buildings are close to the watercourse that comes down the hill and asked if that watercourse was to be enhanced. Mr. Marino responded that the 100-ft buffer only relates to the resource itself. The two smaller wetlands, B and C, would in most situations have a 100-ft buffer but once they are filled there is nothing to buffer. To the south of the mitigation area is the pocket wetland area to be built

for the stormwater treatment which will serve as a significant buffer to the new wetland on the site. They will take a closer look at what is going on west up to Glenrock Street in terms of what they can do to stabilize that channel, check dams, etc. Ms. Jones asked if there were any mitigation measures for the watershed into the stream channel and noted that she had not seen the grading plan as yet. Mr. Marino responded that the plan needs to be seen in the larger context and noted that it is only a couple 100-ft from the road and added that Glenrock Street provides most of the run-off to this site as it is uncurbed. They are proposing to curb and capture the run-off and will be noted in their documentation. Mr. Garrigan noted that this watercourse is essentially moving water from Glenrock down to the pond like a drainage swale and asked if it had characteristics of a wetland. Mr. Marino stated that in most regulations, wetlands and watercourses are handled the same. Currently there is erosion that is creating some issues with the channel as it comes down the hill, so stabilizing the banks of that stream, as well as providing some measures for slowing down the water as it comes down the hill will be valuable. Mr. Garrigan added that it seems the intention of the planting plan is to create a higher functioning wetland, twice as much as what is there currently with all native species.

Trees

Mr. Marino stated that they updated the section in the EAF with respect to the trees and tree code. He provided a series of maps and plans that shows the trees to be removed from the site. He informed the Board that the tree code refers to protected trees, as well as unprotected trees (non-native and invasive species) that are less desirable and recommended to be removed from the site if possible. The code also references a resource list of those trees. The original tree survey listed the trees as only maples. As a result of the code, they went back to the site to identify the species of the maple trees that are on the survey. Specifically, on this site, they have black locust and Norway maples. He noted that there are four different species of maples on the site which include Japanese and Norway maples which are non-native; as well as sugar maple, and red maple. The Norway maples are recommended for removal per the code as they are non-natives. They recalculated the trees and came up with a total of 92, either black locust or Norway maples, on the site. Of the 714 trees in the original survey, 603 are considered to be protected per the code and they are proposing to remove 402 which is lower than the original number of 523. As discussed earlier, they may be able save a few more trees due to the apartment building reduction. At present 402 are proposed to be removed and 201 of the existing trees will be preserved.

Chairman Fon asked how many of the 402 trees to be removed are protected and Mr. Marino responded that they all were protected. The green dots on the plan are the trees that will remain after construction. They particularly paid attention to preserving some of the trees (19 in total) that are not protected along Underhill Avenue and the intersection of Route 118 as well as Glenrock for aesthetics and screening. Chairman Fon stated that the site was previously a farm and questioned the age of the trees. Mr. Marino responded that based on the aerial photo analysis, everything from the culvert that carries the stream underneath the emergency access north was not vegetated in the early 1970s. It was basically pasture or open field and there weren't any trees out there. All the trees on the hillside are either aspens or cottonwoods which are very fast-growing trees. Chairman Fon stated that it seems that most of the trees were vegetated from the 1970s and Mr. Marino responded that this was correct for the trees on that side. Mr. Marino stated that as you get closer to the house and outbuildings there are some larger more mature Norway maple trees which are considered to be a non-native invasive species that are probably 100-year old. Chairman Fon asked if he would consider any of the trees on site to be historic. Mr. Miller responded he wasn't sure what the definition of a historic tree was but noted that there are some large walnuts, Norway spruces, oaks and Norway maples. He pointed out that one of the reasons that Norway maples are considered to be bad trees is that there is a chemical in the root system that prevents other trees and other species from growing around them. The tree and landscape plans were shown. They are proposing to remove 400 trees and replant 349 new trees as well as a large number of shrubs and smaller plantings. They are not quite one to one in terms of mitigation and are proposing to pay into the tree bank fund per the code for the additional trees. Ms. Jones asked for clarification of the tree removal with respect to the undesirable trees. Mr. Marino responded that there are 92 non-native, invasive trees that were identified to be removed. A spreadsheet of the trees proposed to be removed and preserved was shown. He noted that that a large majority of trees proposed to be removed are either aspens or cottonwoods. Chairman Fon asked if there were any trees in the wetlands. Mr. Marino responded that the two small wetlands don't have any trees in them. Wetland C has an existing white pine or hemlock tree on the edge and a red maple at the other end. There are no trees in the wetlands other than the stream corridor that's coming down the hill. Chairman

Fon asked if there were no trees due to the disturbance for the emergency access road. Mr. Marino thought so and noted that the soils were not conducive to tree growth. Mr. Riina showed the existing conditions plans with the tree locations.

Recreational Requirements

Mr. Blanchard stated that there seems to be some confusion with the concept of the recreational fee requirement as it applies to their project. There was some narrative that this project automatically triggers a recreational fee. He cited the town code (Section 300-21) with respect to the recreational requirements under the multi-family residential district. He noted that their site plan and EAF will demonstrate that they don't actually trigger the recreational fee requirement. If they fail to comply with the requirements of the code then it would be \$4,000 per dwelling unit in a multi-family project and noted that a large number was floating around. During the course of this review, they have been sensitive to touch on comments from state agencies, local boards, advisory boards, and the public. It is their position, after an extensive review, that they do comply with their playground, set asides, etc.

Mr. Phelan asked if the applicant is able to demonstrate that they meet the recreational requirements on their site would it then remove the option for the Planning Board to ask for a fee. Mr. Blanchard responded that this was correct, and noted that they would not have jurisdiction over that issue.

Affordable Housing

Mr. Blanchard cited the memo dated 3/27/23 from Ken Belfer, Chair of Community Housing. With respect to affordable housing, under the Yorktown code, the purpose and intent of this section is to provide guidelines and regulations for existing affordable housing. Yorktown, like other communities in Westchester, does not actually have a set aside requirement. In terms of affordable housing, they do comply with the code. He noted that they are not under an obligation for a set aside nor are they planning this. He added that in their SEQRA analysis, their study of community character and fiscal impacts for their project will show that they satisfy that requirement. He noted that because they are not required to set aside affordable housing, they are not deficient in the SEQRA analysis if they don't do a community wide study of affordable housing. For example, there are communities where a code would require a set aside for affordable housing or as an alternative would provide a payment in lieu of affordable housing. Under that scenario, if they were doing a payment in lieu of it rather than a set aside, then SEQRA would be triggered with a much more in-depth analysis. With this project, based on what is required, they are doing a fiscal impact study and touching on the community character and feel that their materials will satisfy the SEQRA review as it relates to affordable housing.

Site Plan

Mr. Guillaro asked the Board for their opinion on relocating the two townhome units at the end of the road to the head of the cul-de-sac as discussed earlier. The cul-de-sac length would be shortened as a result. Mr. Tegeder suggested moving the two units across from the condo building as well if possible. He noted that it would help to preserve some of the area around the pond that contributes to the existing landscape and increase the public space. The Board agreed that this would make sense.

Closing

Mr. Guillaro asked the Board if there were any other issues. Chairman Fon responded that the information provided this evening was very helpful for their review. He noted that they still need some more information with respect to the wetlands and the consultant review. Mr. Marino stated that they will submit this information shortly. Chairman Fon stated that the historical aspect of the proposal will be discussed at the next meeting.

Meeting closed

Upon a motion by Bill LaScala, and seconded by Rob Garrigan, and with all those present voting "aye", the Board closed the meeting at 8:56PM