

**Comments on Toll Brothers Hearing
From Councilwoman Susan Siegel
September 3, 2024**

Before the Town Board can act on the rezoning request, it has to first make a finding under the State Environmental Review Act – SEQRA - whether the proposed project will result in any significant adverse impact to the environment that cannot be adequately mitigated.

If the Town Board finds no significant adverse impact and issues what is known as a Negative Declaration, or Neg Dec, then the SEQRA process is closed and the Board can proceed to vote on the rezoning. But a Neg Dec also means that when the application moves to the Planning Board for site plan approval, the Planning Board can't reopen SEQRA. Its flexibility to seek changes in the site plan for environmental reasons will be limited.

Which is why SEQRA is the focus of my comments.

I'm concerned that the Town Board does not as yet have sufficient information to make a negative SEQRA determination.

While Toll Brothers has submitted a 500 page Expanded Environmental Assessment Form, aka, a FEAF, that summarized what environmental concerns would be impacted and how any adverse impact would be mitigated, many of the sections of the FEAF have not been reviewed by the Town Board or the Planning Board.

And because the site is in the Croton Watershed, the Watershed Inspector General's office in the state's attorney general's office, has been monitoring the project. And in an August 29, 2024 letter, WIG identified seven critical environmental issues it believes need more review

For example: steep slopes.

A steep slope is generally regarded as a slope with over a 15% grade.

The site plan the Town Board is considering disturbs over 8 acres on slopes greater than 15%. Some of those slopes are 35% or greater and some buildings are located on those slopes.

But the Planning Board, which advises the Town Board on SEQRA issues, has never reviewed the steep slope issue – even though it has weighed in on this very significant environmental issue before in other subdivision and site plans. Like the site plan for the Crompond Terraces multi family development on Old Crompond Road between Lowes and Best Plumbing. I remember those discussions and I remember the Board was very much against some of the proposed units on the slope, especially the required retaining walls that would be needed. There have been no discussions about retaining walls for the Toll Brothers project – because no plan has been submitted for those walls,

Toll Brothers has downplayed the significance of disturbing slopes greater than 15% and says there's no empirical evidence saying that doing would create problems. But its comments run counter to our Comprehensive Plan and town codes that specifically state that any disturbance to steep slopes should be avoided or minimized to the fullest extent possible.

And this is that the 2024 NYS Stormwater Management Design Manual that all developers have to follow says about steep slopes. Its comments are worth repeating.

Development on slopes with a grade of 15% or greater should be avoided if possible, to limit soil loss, erosion, excessive stormwater runoff and the degradation of surface water. Excessive grading should be avoided on all slopes...as should the flattening of hills and ridges. Steep slopes should be kept in an undisturbed natural condition to help stabilize hillsides and soil. On steep slopes new development, re-grading, or stripping of vegetation must be minimized.

Toll Brothers also dismisses a good part of the steep slope issue on the grounds that the slopes are man made. I don't see why that matters. A slope is a slope whether it's been there for 10-15 years or 500 years.

All that leads to this question: If the Planning Board had looked at the steep slope issue prior to tonight's hearing, and if it had followed the Comp Plan, town codes and DEC guidelines, would it have recommended to the town board that the units proposed on slopes greater than 15% be eliminated from the site plan? If so, what would a more environmentally sensitive lot count for the development have been?

A second major SEQRA issue that needs closer examination is sewers. While the development will connect to the Hunterbrook pump station that's part of the Peekskill sewer district, the plant is actually in the Croton watershed – so when there are untreated sewage overflows from the plant, the overflow impacts the Croton watershed. The town has known about this problem for years and since 2019 has been under a DEC consent order to fix the problem but to date little if any remediation has been done.

While the sewage overflow problem was raised at the Planning Board, and Toll Brothers has offered to do some I&I mitigation, neither the Planning Board or the Town Board has looked closely at the issue.

Is the pump station's capacity problem limited just to I&I problems during rain events or is there also a capacity issue on dry days? I haven't heard any discussion about dry days.

To what extent will the mitigation proposed by Toll Brothers solve the I&I problem? Even If all the proposed mitigation measures accomplish what the report says it will, will

there still be an overflow problem? And if so, should the town still allow additional flow to a plant prone to overflows into the Croton watershed?

It also bears noting that that the mitigation measures proposed by Toll Brothers conveniently meets the relatively low 1 to 1.5 ratio for mitigation set by the town, namely that for every gallon of new sewage generated by the development , Toll Brothers needed to remove one and a half times that amount.

Why did the town agree to such a low mitigation ratio? A recent Westchester County Planning Board memo noted that since 2010, it has been the policy of the county's Department of Environmental Facilities that municipal governments require development applications to identify mitigation measures that would offset the projected increase in flow at a three for one ratio one for market rate units . But Yorktown agreed to a 1 to 1.5 ratio for Toll Brothers.

And there are other SEQRA issues the Planning Board never looked at, but typically does when it reviews FEAFs.

- Like compliance with the Comp Plan. The FEAF conveniently cherry picks some sections but totally ignores other like the need for more diverse and affordable housing for all demographic groups.
- There was no Planning Board review or discussion of traffic impact.
- There's No tree mitigation plan for cutting down 2,000 trees
- There's No real plan for the adaptive reuse of the Field Home. Toll Brothers doesn't want the building; it wants to subdivide off the Field Home site and give it to the town. But the town shouldn't take it over until it has a use for it. In the meantime, will Toll Brothers continue to maintain the building – or will the building be left to deteriorate while its future is decided and it becomes another Bernstein House only on a larger scale and to an historic building.

When all these issues are added together it's obvious that the Town Board needs to return the application to the Planning Board for a more thorough SEQRA review.

One final word

We were cautioned at the previous hearing that time kills projects and that Toll Brothers' contract is approaching a deadline. In other words, if you want this project, don't delay the rezoning.

But let's look at the record

Toll Brothers first approached the Town Board with a concept plan in October, 2021. But Toll Brothers didn't file a rezoning application until November, 2022 – 13 months later. And its final FEAF wasn't submitted until May, 2024. Toll Brothers, not the town, is responsible for any delay,