

APPROVED

**TOWN OF THOMPSON
PLANNING BOARD
WEDNESDAY, FEBRUARY 12, 2014**

IN ATTENDANCE: Chairperson Patrice Chester Lou Kiefer
Michael Croissant Melinda Meddaugh
Absent: Matthew Sush James Barnicle, Alternate
Absent: Bobby Mapes, Alternate Paula Elaine Kay, Attorney
Logan Ottino, Building Inspector Kathleen Brawley, Secretary
Matt Sickler, Consulting Engineer
Scott Mace, Town Board Liaison

Chairperson Patrice Chester called the meeting to order at 7:00 p.m. Chairperson Chester appointed James Barnicle as a full member this evening in Matthew Sush's absence.

PUBLIC HEARINGS:

MACHNE KEREN HATORAH - 514 Hamilton Road - S/B/L: 18-1-17
Timothy Gottlieb, P.E.

Chairperson Chester read the Notice of Public Hearing to the audience.

Mr. Gottlieb advised the Board that this is an existing summer camp/school for boys. They are proposing to remove a portion of the existing dorm and kitchen and replace it with a new kitchen. The other part of this application is to remove one two-unit bungalow and replace it with a 2000 square foot dwelling unit. There will be no increase in sewer flow. A SPEDES permit is required. Six parking spaces are required and they are working on that. Chairperson Chester questioned the applicant about a clogged sewer line issue. Mr. Gottlieb was not aware of any clog on site, but did know that it was down at intersection and not for this piece. The applicant owns several properties on Hamilton Road and there is a small building at corner of Wildcat and Hamilton that had a sewer issue, however, it is not part of this application. Lou Kiefer asked if the building was used by the applicant and Mr. Gottlieb confirmed that it was. Joel Kohn advised the Board that the applicant repaired the sewer line eighteen months ago.

The members of the board had no further questions. There were no comments from the public.

A motion to close the public hearing was made by Lou Kiefer, seconded by Melinda Meddaugh. 5 in favor, 0 opposed

EXCELLENT BUS SERVICE - BRIDGEVILLE ROAD - S/B/L: 32-2-4

Glenn Smith, P.E.

Chairperson Chester read the Notice of Public Hearing to the audience.

Mr. Smith advised that the applicant received site plan approval and a special use permit on July 1, 2013. The premises is a bus station on the corner of Heiden Road and Bridgeville Road. As the Board is aware, a special use permit must be renewed annually. The Board chose to have a public hearing to ensure that there was no additional public comment. The applicant operates from around June 20 to Labor Day each year and then closes down for the winter. The site is 98% completed. They paved the premises last year. There are a couple of items remaining. The applicant needs a Dumpster on the site; the house on the premises is being renovated and new bathrooms will be installed. The Town Engineer wants more landscaping. The applicant removed trees and shrubs because there was so much on the property when they purchased it. Lou Kiefer asked when will the bathrooms be done? Mr. Smith advised that the applicant submitted plans last summer, but the permit has not been issued yet. When it is issued, they will finish them. Mr. Kiefer asked Logan Ottino what is holding up the permit. Logan advised that the house is gutted and already in the process. Mr. Smith advised the Board that the applicant intends to have the bathrooms completed by the summer.

Melinda Meddaugh advised Mr. Smith that she would like to see landscaping by the entrance and exists, as it seems bare in spots. Mrs. Meddaugh also questioned if a sign is going to be installed. Mr. Smith advised that a sign will be installed prior to the summer. Mr. Smith advised that the applicant had to remove a lot of landscaping as the County Department of Public Works required a permit and the removal of trees because of site distance issues. Mr. Smith advised that the applicant did do some landscaping with flowers and rocks.

Public Comment: Board Liaison Scott Mace advised the Board that he received telephone calls from neighbors concerning the larger accordion buses coming out of exit. The applicant advised that the turns on accordion buses are much better than those made by solid body buses. They are used in New York City and are fine on City streets.

Melinda Meddaugh questioned Mr. Smith concerning the applicant's intent to go through Bridgeville Road and past Holiday Mountain. Mr. Smith advised that the applicant is intending on utilizing Heiden Road for most of their traffic. Mr. Smith confirmed that there were traffic issues last year, but that once exit 107 is reopened the applicant will use that. Attorney Paula Kay wants it noted on the plan that when available, exit 107 and Heiden Road will be the best routes to leave property. Mr. Smith advised that it is much easier for the applicant to utilize them and will note the Board's preferable access on the site plan.

A motion to close the public hearing was made by Lou Kiefer, seconded by Melinda Meddaugh. 5 in favor, 0 opposed

A motion to accept the January 22, 2014 meeting minutes was made by Lou Kiefer, seconded by Michael Croissant. 4 in favor, 0 opposed. Melinda Meddaugh abstained from voting as she was not present at the last Board meeting.

Due to the fact that no representative from the Concord was present at the time they were called on but a representative was expected to appear, a motion to take the agenda out of order was made by Lou Kiefer, seconded by Michael Croissant
5 in favor, 0 opposed.

VERIA LIFESTYLE MANAGEMENT CENTER - KUTSHER ROAD - S/B/L: 5-1-18.1
Gary Silver, Esq., Glenn Smith, P.E.

Mr. Smith forwarded a letter to the Board on February 7, 2014 confirming that lead agency was established by the Board on December 18, 2013.

Chairperson Chester advised that we will make a negative declaration motion under SEQRA tonight.

Mr. Smith addressed the Town Engineer's comments, as follows:

A Landscaping Plan is submitted, which includes a lot of plantings along Kutsher Road. There is an orchard on the property, as well as a lot of existing trees and landscaping. The applicant did not want to give detailed landscaping plans around the buildings, as they are still being planned and not finished.

Mr. Smith advised that with respect to the meditation gardens, extensive paths in the woods and along the grounds will be constructed. The application will let the Building Department decide what the surface of those paths will be. Because the paths have to be handicap accessible, the applicant will go with whatever the Town chooses. Porous asphalt was suggested by Melinda Meddaugh.

A 35 foot fire access was made; Mr. Smith shifted the location of the building a little. He met with the Town Engineer Monday and went through all of these issues.

As Mr. Smith indicated earlier, lead agency was declared by this Board in December 2013.

One catch basin will be rebuilt and is noted on the plan.

There are four fire hydrants tied into a half-million gallon water tank on the site and the same will be shown on the plan. Mr. Smith will also show the transformer pad on the site plan (a NYSEG transformer plan).

With respect to landscaping, the applicant is going to leave the pine trees along Kutsher Road, as they are good screening. The old wood telephone pole guardrails will be taken down. All of the plants noted on the plan are taken from the suggested list.

With respect to the demolition plan, buildings noted on the plan with an “X” will be demolished. The tennis club house will be added to demolition list as well. The shed that held the equipment for the now-defunct dome over tennis courts will be removed as well.

Mr. Smith advised that he responded to all of the other comments made by the Town Engineer’s SWPPP manager in his New Windsor office. Mr. Smith asked that any Board approval be conditioned on the Town Engineer’s response to the SWPPP issues addressed by the applicant.

The applicant now has a plan to replace the drainpipe for the pond (which is currently located under the main building) and skirt it around the building so if it needs to be repaired, we do not have to dig.

The applicant also wanted to address the comment made by the Town Engineer’s SWPP manager concerning the entrance pond on arrival area of hotel. The “pond” is going to be a self-contained circulating pool type structure and not a pond.

There were no comments from Board.

Chairperson Chester asked for a motion for negative declaration motion under SEQRA and a motion was made by Melinda MEddaugh and seconded by Lou Kiefer. 5 in favor, 0 opposed.

A motion for Site Plan approval conditioned upon Town Engineer’s approval of all of applicant’s responses to the Town Engineer’s comments, including the Town Engineer’s response to the SWPPP issues addressed by the applicant, to was made by Melinda Meddaugh and seconded by Lou Kiefer. 5 in favor, 0 opposed.

THE RENTAL CENTER - BRIDGEVILLE ROAD - S/B/L: 31-1-80.4

Tim Gottlieb, P.E. and Mark L. Schulman, Esq.

Mr. Gottlieb advised that the applicant’s biggest issue is parking. We went to the site and recalculated office, sales and warehouse areas which reduced the required parking to 30 spaces including employee parking. One concern is that this is not the type of business where you attend at the office to rent; most items are delivered by the business. Most customers do not attend at the store and the amount of people who go to the premises is substantially lower than most retail stores. The applicant advises that on average, 10 to 20 people come to the premises each day. The applicant would like to use the parking spaces in front of the building for customers, the side parking spaces for employees and use the additional 11 parking spaces we are required to have in front for display.

The premises will always have sufficient space for 30 parking spaces, but the applicant will not use them all in the present use. The applicant proposes 10 customer parking spaces; 9 employee parking spaces and the remaining 11 parking spaces for display. Attorney Paula Kay advised Mr. Gottlieb that if the applicant us going to use the 11 parking spaces as display, it needs to say so on the plan.

Please do not label them as additional parking. Mr. Gottlieb advised that there is equipment where the employee parking is now and it will be relocated to the storage building in the back. Chairperson Chester asked how many machines are displayed by the applicant day to day and Mr. Gottlieb advised that it varies but includes backhoes, flatbeds, etc. Chairperson Chester asked if the applicant really needs that much display area for a building the applicant claims customers do not come to. Attorney Paula Kay advised the Board that we can limit the amount of items they can display on site, the general consensus of all Board members is that they felt that they should do that since they have done that for other applicants in Town. Lou Kiefer advised that the biggest problem is the tractor trailer parked in front. Michael Croissant advised that it cannot go elsewhere on the property. It is used to deliver equipment. Chairperson Chester questioned if there is another place on the site to store the flatbed and Mr. Croissant advised there was not. Mr. Gottlieb advised that is why they are trying to get equipment back into the building in the rear.

Melinda Meddaugh asked if the site is going to be cleaned up? Mr. Gottlieb advised that with the installation of the new storage building, the three storage trailers will be removed which will clean up the site tremendously. Mr. Gottlieb advised that the Town Engineer wants the trailers removed from the site and noted on plan, which he will do.

Melinda Meddaugh noted that there is a grass area on front which could have some landscaping. Mr. Gottlieb was concerned that a majority of that area is on the County Road, which leaves a very small area. Mrs. Meddaugh suggested some small flowering trees. Mark Schulman, Esq., advised that the applicant will have no problem with adding landscaping, so long as it does not cover the inventory that is on display. Mr. Gottlieb advised that they have no issues with the remainder of the Town Engineer's comments.

Lou Kiefer advised that he still felt that the biggest problem is the tractor trailer and where it is parked; he thought that the applicant used to have the truck go around behind the building and he believes there is existing room for access. Michael Croissant felt that the applicant could not do so with the existing space.

Chairperson Chester asked what improvements were made from the Board's last comments? How have you limited display? What does the applicant want to display in front? Mr. Gottlieb will let the Board know what the applicant wants to display.

Attorney Paula Kay asked that the applicant provide specificity as to a total number of items to be displayed and where they are going to be placed. The Board does not need the exact items to be displayed. Also, please do something with the tractor trailer if the applicant can manage to do so. Mark Schulman, Esq., advised that with the new building in the back as well as the septic area, we may not be able to do that. Mr. Gottlieb said they would try to figure something out.

ICHUD FOUNDATION - ROUTE 42S - S/B/L: 28-1-22

Joel Kohn and Chaim Schwartz

The applicants advised that they received their waiver for the sprinkler system from the State of New York with two conditions: One, that a sign be installed on the door of the kitchen (in Yiddish and English) that the kitchen is for staff only, and no children are permitted and that the fire alarm must be reported to central station.

With respect to the Town Engineer's comments, most have been noted on the plan. The tank for the sprinkler system has now been shown on the plan, although we do not need the system now. Attorney Paula Kay asked that the applicants note on the plan that they do not need sprinkler system and received a waiver from the State of New York on February 11, 2014. A table of units using a numbered system will be submitted to the Town Engineer. The Building Department asked for the buildings in the front of the premises be cleaned up to look nicer. Mr. Kohn advised that they have painted some. Michael Croissant advised the applicants that he drives by the premises every day and the applicant really needs to clean up the buildings in the front. Mr. Kohn advised that they will get it cleaned up in the spring. The fence along the new building needs to be repaired. Mr. Schwartz advises that they will do landscaping and ensure that the grass is nicely maintained, but that they cannot have any other special landscaping, as the children who reside on the premises during the summer ruin any landscaping they install. We have planted trees, they get ruined. Please remember that they have one thousand children on the premises every summer. They will make sure that there is grass and that everything is neat. Attorney Paula Kay advised that the Board wants to see more trees. Melinda Meddaugh wants to see more trees along the road. Logan Ottino advised that there are a couple of pine trees. Lou Kiefer advised that the visual problem is the applicant's biggest issue. Mr. Kohn advised that NYSEG cut a lot branches off of the trees on site. Chairperson Chester advised the applicants that the Board is okay with landscaping, but that the applicants need to address maintenance. James Barnicle suggested that the applicants contact Cornell Cooperative or Sullivan Renaissance who could come in and suggest some items that would last. Mr. Kohn advised that they did a project with Sullivan Renaissance a few years back and everything is gone; the children destroyed it. Mr. Barnicle said that was all the more reason to go back to Sullivan Renaissance and advise them that it did not work and that you needed an alternative. Mrs. Meddaugh suggested that shrubs may make the premises look nice on the road side of the fence. Mr. Schwartz' concern with that suggesting is that they applicant may need DOT approval, as they were previously advised by the DOT not to do anything on that side of the fence. Attorney Paula Kay suggested they ask DOT again.

Mr. Schwartz advised that they make sure the premises is clean, the grass cut and the garbage cleaned up every morning. Mrs. Meddaugh advised that Sullivan Renaissance has grants they will give to help defray the cost and cleaning up the fencing, etc, is part of what Sullivan Renaissance covers.

Chairperson Chester asked for a motion for negative declaration motion under SEQRA and a motion was made by Lou Kiefer and seconded by Melinda Meddaugh.
5 in favor, 0 opposed.

Chairperson Chester advised the applicants to go back to the Town Engineer to address painting, maintenance and the appearance of the buildings on site, especially those by the road. Chairperson Chester further suggested that the applicants explore all options with Sullivan Renaissance and Cornell Cooperative. Mr. Croissant reminded the applicants that this is a major entry into the Village of Monticello and it needs to look good. There are a number of problems with the buildings in the front and debris under the decks.

A motion for Site Plan approval based on all of the foregoing conditions was made by Melinda Meddaugh and seconded by Lou Kiefer.
5 in favor, 0 opposed.

CATSKILL KOSHER DELI

Timothy Gottlieb, P.E. and Joel Kohn

Mr. Kohn advised the Board that they are asking for any action by the Board, just input.

Chairperson Chester advised the applicants that the Board would like to hold a public hearing to get comments from the neighbors since the entire area is residential. We'll see what comments we get from neighbors and then we can do some fine tuning to the plan. Mr. Kohn advised that the plan submitted is much better than the plan previously proposed and Chairperson Chester agreed. Mr. Kohn advised that they will get a letter from the Homeowner's Association.

A motion to hold a Public Hearing on March 26, 2014 was made by Michael Croissant, seconded by Lou Kiefer.
5 in favor, 0 opposed.

YESHIVA VIZNITZ (SHUL) - 167-168 GIBBER ROAD - S/B/L: 6-1-11.7

Maria Zeno, Esq.; Timothy Gottlieb, P.E.

Mr. Gottlieb advised that the applicant has addressed all of the Town Engineer's comments and are addressed on the plans. A 26 foot area for a ladder truck to have access is sufficient. As for landscaping, it is shown on the plan and was done in accordance with the Board's suggestions. Matt Sickler, P.E., noted that it appears that the applicant has incorporated all of the Town Engineer's comments, but he will wait for the Town Engineer to review. Ms. Zeno further advised that there will be no sign in front of the Shul.

The Board had no further comments.

Chairperson Chester asked for a motion for negative declaration motion under SEQRA and a motion was made by Lou Kiefer and seconded by Melinda Meddaugh.
5 in favor, 0 opposed.

A motion for Site Plan approval conditioned upon the Town Engineer's final review of the plans was made by Lou Kiefer and seconded by Melinda Meddaugh .
5 in favor, 0 opposed.

THOMPSON HEIGHTS - COLD SPRING ROAD - S/B/L 29-1-19.1

Steve Mogel, Esq.

Mr. Mogel advised that the applicant may finally have a concept here and presented a new sketch from summer of 2013. Attorney Paula Kay advised Mr. Mogel that the Town Engineer's comments noted that the applicant has reviewed several alternatives; could Mr. Mogel identify on the new map what is what? Mr. Mogel advised that it is a mixture of buildings. Most appear to be five unit buildings, while others are three unit buildings. Attorney Paula Kay noted that the buffer with the neighbor Cozy Acres is still maintained. Melinda Meddaugh questioned if changing the plans requires the applicant to go back the County Planning Department for 239 review and Attorney Paula Kay felt it was not required.

Attorney Paula Kay advised the Board that the issue is that all of the buildings are on one lot and not on separate lots and that there is still a question of individual lots versus "series". The applicant was going to go to the ZBA for interpretation of "series" and instead of doing that, they re-did their plan. Ms. Kay further reminded the applicant that definitions are not something the Planning Board reviews. Ms. Kay asked Mr. Mogel if the units will be owned on individual lots? Mr. Mogel advised that it does not necessary mean each transfer will be in fee simple, it could very well be a condominium ownership. Ms. Kay felt that condominium ownership would be acceptable.

Melinda Meddaugh asked how much land is being cleared? It is a 33 acre parcel and after wetlands, etc. there was some concern that the developer show more green space within this development. Mr. Mogel advised that he had examples, but he did not bring them. Chairperson Chester asked if the applicant was not going to construct certain buildings noted on the plan, would those spots remain green? The applicant should minimize when they can. Mrs. Meddaugh felt that there are so many units, how can you make that happen? Perhaps the applicant can reduce number of units.

Attorney Paula Kay advised that the issue was with the interpretation of the word "series". The duplexes were two units and "series" is defined as three or more units per New York State Code. The applicant could not continue with the plan as it was originally laid out. Mrs. Meddaugh questioned about cluster development and whether it would be an issue. Mr. Mogel questioned if the Board was looking for a PUD and Ms. Kay advised they were not.

Attorney Paula Kay asked what kind of forestry is on the premises. With the Monticello Motor Club, it turned out that the forestry was not dense and this project is in a similar area. It may appear that the Board is over concerned about things, but it is because we do not know what is presently there.

Chairperson Chester advised the Board that the Board has to give the applicant some direction tonight. They have done everything the Board asked them to do. Attorney Paula Kay said they did do everything the Board asked them to do and the plan as presented is fully allowable. The Board can work on the other issues as we go along.

Logan Ottino advised that the Board that the applicant has advised that they will do a full landscaping plan once they knows what they can do with the site. Matt Sicker, PE advised that once grading, etc., is done, the applicant can more accurately tell us what is left to work with for landscaping. Melinda Meddaugh was concerned because everything is right on top of a steep slope and near wetlands. Attorney Paula Kay advised that the applicant has pushed their buildings back. Mrs. Meddaugh would like to know what the buildings are going to look like (style, color, etc.).

Chairperson Chester advised that the Board will need a lot more detail going forward, but that the applicant does need to know where they are going to go. Chairperson Chester suggested that the Board take a vote on concept, then Mr. Mogel can go back to applicant.

A motion to approve the concept was made by Lou Kiefer and seconded by Michael Croissant 4 in favor, 1 opposed (Melinda Meddaugh opposed concept).

Chairperson Chester advised Mr. Mogel that the applicant had majority approval their for concept.

Chairperson Chester advised Mr. Mogel that there areas to address: what the buildings are going to look like; landscaping and tree coverage; the amount and type of green space that the applicant can preserve; setbacks; wetlands; adjoiners; and fire apparatus roads and turning radius. This is not all inclusive, the Board may have additional comments and this is just a starting point for the applicant. Melinda Meddaugh advised that the landscaping in the front should be addressed especially. Logan Ottino also advised that if the applicant wants a day camp building (e.g.: a large screened in gazebo for rainy days), they need to address that now. Attorney Paula Kay further reminded the applicant to provide the type of forestry so the Board knows what we are dealing with.

APPEL - 249 ROCK HILL DRIVE - S/B/L: 32-1-38

Douglas Appel and Ward Engineering

Board Member Melinda Ketcham recused herself from reviewing this application.

Mr. Appel advised that he is desirous of doing a local fruits and vegetable stand and offering fresh juices and a coffee machine. He is planning on having a small oven for some baking, but not initially. This time of year he cannot offer local produce, but will mainly be offering local fruits and

vegetables. Lou Kiefer questioned how much seating Mr. Appel is looking for. Mr. Appel advised that it is a small building, so figures one table with four chairs. The back yard was something in the future to landscape. The Rock Hill Farmers Market is down the road and he is hoping people may walk up to his store. He recognizes that parking is an issue. Attorney Paula Kay advised Mr. Appel that the best thing to do is to put it the backyard area on the plans now, as then he would not have to come back before the Board. Chairperson Chester asked Mr. Appel what plans he has and Mr. Appel advised that his plan does not have anything for the outside area. Mr. Appel advised that on the slab in the back, the walk-in cooler door swings out, so he could not use that. He was going to put a couple of tables out back. Attorney Paula Kay suggested that they show it on their plan for the Town Engineer to review. We can make site plan approval contingent on the Town Engineer's review of their revised plans. Ms. Kay also advised the applicant to put the maximum number of seats on the plan. Mr. Appel advised it was just the one table inside and he's not sure what to do with that, since the premises is more of a retail space and not a sit-down restaurant. Chairperson Chester suggested that Mr. Appel just make note of the table on plans. Logan Ottino asked Mr. Appel to take the plywood off of the accounting office windows and Mr. Appel confirmed that he will take care of that.

Chairperson Chester asked for a motion for negative declaration motion under SEQRA and a motion was made by Lou Kiefer and seconded by Michael Croissant.
5 in favor, 0 opposed.

A motion for Site Plan approval conditioned upon the Town Engineer's final review of the plans was made by Lou Kiefer and seconded by Michael Croissant.
5 in favor, 0 opposed.

Attorney Paula Kay advised Mr. Appel to make the minor changes to his plan, make an appointment with the Town Engineer. If the Town Engineer is happy with the revised plans, the Chairperson will sign the plan and you can get your Certificate of Occupancy.

PRESTIGE TOWING - 86 SACKS ROAD - S/B/L: 1-1-74

Jacy Ricciani, Esq.

Ms. Ricciani advised the Board that the applicant is seeking site plan approval to build a private garage for storage. She believes he is going to need a number of variances in order to move forward with this application. As she reviewed the file, the EAF she previously submitted is incomplete and needs to include the variances, as she recognizes that the Board is not going to do a segmented review of this application.

Attorney Paula Kay advised Ms. Ricciani that the only variance the Board is aware of is the permitting of an accessory building without a principal building. Also accessory uses for an oversized private garage has very specific requirements. For example, the door cannot exceed 16 feet in height. Ms. Kay further advised that it appears they need no other variances from the Zoning

Board of Appeals. All other issues will be handled by the Planning Board. Chairperson Chester advised that the Board will deny the application and it will be referred to the Zoning Board of Appeals.

Chairperson Chester asked if Ms. Ricciani received the Town Engineer's comments and Ms. Ricciani advised that all comments were incorporated except for the issue of the adjoiner across the road. She believes that property is state land and may not belong to anyone. The applicant is okay with all other comments.

A motion to deny the application was made by Lou Kiefer and seconded by Michael Croissant. 5 in favor, 0 opposed

CONCORD (CAPPELLI) - CONCORD ROAD

Kevin McManus, P.E.

Mr. McManus provided the Board with a brief history. In December 2008 the applicant obtained hotel, casino and harness track approval including a convention center and ballrooms. In February 2009 the applicant scaled back the project and obtained supplemental approval. The Town Engineer signed off on the project and the applicant obtained building permits. Subsequently, The Concord lost a major portion of the site due to financial reasons. The Concord maintained ownership of property west of Concord Road and others, as well as the right to obtain a lease of parcels of land the Concord does not own in order to build out as approved. The harness track and relocated Concord Road are located on these leased lands. In June 2012, Concord exercised that lease which is good through June 2015. The applicant came back before the Board last year because there was an issue with grading and stormwater components which extended beyond the leased lands. The applicant came and asked for approval to extend the retaining wall, etc. so it does not extend beyond the leased lands. The stormwater plan was revised for same reason. The applicant wants an extension of that approval, as it expires tomorrow, February 13, 2014. The lease expires in 2015, but we have the right to extend it for two additional terms, but we can only do so if we are vertical with components of this approved project. We have to have a building constructed. Attorney Paula Kay asked where the required location of the building is (i.e.: casino and track) and Mr. McManus advised that legislation is a key proponent. If we are chosen for a casino, it will play an important role. It is essential for us to say we have a fully approved site plan in order to make that happen. We previously filed a plan with the County in June 2009 showing all of the parcels involved.

Attorney Paula Kay asked what the applicant's intention is with respect to harness track which is located on lands presently under the lease. Mr. McManus advised that the applicant has discussed this with Town Engineer. We needed to make a flat site. So fill would be moved from one side of the road to the other as opposed to driving the fill off premises. If the applicant is chosen to build a casino on this site, Mr. McManus wonders if the applicant would even proceed with the harness track. The applicant would not go about building a harness track just for the sake of going along with approved site plan. We are asking for approval "as is" so we don't have to re-do the site plan.

Attorney Paula Kay asked if the applicant has approval from the property owner to remove fill from the leased premises? Mr. McManus advised that the plans and the buildings that we have approval to construct have first floor approval to construct and in order to facilitate construction of a paddock, etc., these grades have to be where building elevations are set. It is hundreds of sheets of paper and a great deal of consideration was put into this. Ms. Kay advised that she needs to do research about whether a new racino is allowed in the new State legislation. Lou Kiefer advised that he could not see the State doing that and further questioned whether it was possible to have a racino with the track, even if they do not have a casino? Mr. McManus advised that it is possible, but probably not. Obviously we would modify the site plan to some other supplemental design if a casino is not approved. We have had approval for many years. We want to stay in the running and this is how we have to do it.

Chairperson Chester advised Mr. McManus that before the Board extends the approval, the Board wants answers to their questions. Timing will not count against the applicant because the applicant made application to extend prior to the expiration of site plan approval. Mr. McManus confirmed that he will find out the answers. Mr. McManus further advised the Board that if there is a prohibition of a racino on this site, then this site plan will be nullified (he is assuming others will nullified as well). Attorney Paula Kay advised that the plans would have to be amended to remove the harness track.

A motion to adjourn the meeting at 8:41 p.m. was made by Lou Kiefer, seconded by Michael Croissant.

5 in favor, 0 opposed.