

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, May 26, 2010 at 7:00 p.m at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

#### BOARD MEMBERS

Willard (Skip) Wilson, Chairman  
Derek Wilson  
Mike Breitenfeld  
Willard Schadt

Dan Loeb  
Noel Malsberg  
Theresa Santiago

#### OTHERS

Mr. William A. Onofry, Town Attorney  
Mr. Dave Dean, Town Board Liaison

Mr. Alfred A. Fusco, III., Town Engineer  
Mr. Damian Brady, Esq.

#### THE PLEDGE OF ALLEGIANCE

#### DEERPARK VILLAGE - DISCUSSION

Owner/Applicant Deerpark Village Associates wishes to create Planned Residential Housing units on property located on Wilson Road, Sparrowbush, N.Y. It is a Planned Rural Residential Development (PRRD) Zone.  
Section - Block - Lot : 23 - 2 - 32.2 & 38.8  
Application received August 30, 1993

Al Fusco said that the changes that the Board made at the last meeting, he sent to the applicants engineer, and now is waiting to hear back from him.

Al Fusco handed out copies of his changes.

Al Fusco briefly reviewed what the Board talked about at the last meeting, as Board members Noel Malsberg and Willard Schadt were not present. He told Noel Malsberg that the Board addressed each of his written comments.

Al Fusco said that concerning the issue of the land use, the wording was changed to: "The retail services complex planned for the site, will primarily service Deerpark Village residents and will change the land use character."

Noel Malsberg asked that since this will be a gated community, will people who just come along Wilson Road be able to go into the community and access it, and/or the stores inside?

Al Fusco answered that the applicant has still indicated that this is undetermined.

Al Fusco said that concerning the Wilson Road improvements, that the parent formula was taken out, and the applicant decided that they want Wilson Road reclaimed and then paved to Town specs. He said that they do not want to widen it. He said that the applicant did keep the Town Highway Superintendents' request, and that they indicated that they will upgrade Wilson Road, but not widen it.

Derek Wilson referred to Section I, page 60, #11, "Wilson Road improvement. Wilson Road at its present width has sufficient capacity to accommodate projected traffic." He stated his opinion that this Board should not agree to this statement, that it has sufficient capacity for 1,500 units or 900, but basically once there is the first phase and then the second phase, the Board should see what traffic is generated, and how it's handled. He said that with this statement, the Board is locking itself in, and won't be able to widen the road in the future. He said that the language should be changed to: "Sufficient capacity at this width to safely accommodate projected traffic, at the first few phases of the project, they should re-base and re-pave the existing road surface. This project traffic increases sidewalks or some other alternative roadway design, so that they can safely accommodate pedestrians and auto traffic, may need to be considered."

Dan Loeb referred to Section I, page 61, #11 "Wilson Road improvements: and said that Wilson Road improvements indicates to him physical improvements. He went on to refer to Section I, page 62, #12 "Updated

Traffic Studies-After completion of 215 units, at that time of the submittal of a site plan application for a subsequent stage of the development..." He said that they basically say that they will survey again the traffic situation, then the Board surveys it, and if any improvements are necessary to mitigate the impact of that stage, the developer will be responsible for installing the improvements. He suggested that if "Improvement" can be combined with "The review of traffic". He said that the applicants concedes the review of traffic to 150, or the completion of the first phase.

Al Fusco said that under "Updated Traffic Safety Studies", he wrote "After the completion of 150 units, and at the time of submittal of site plan application for subsequent stage of development, the application will be accompanied by a traffic survey, which will examine existing conditions at sample study intersections.... and Wilson Road in its entirety. Should the survey determine that there will be an increase in traffic, that are substantially greater than what was projected in the EIS, the analysis of all intersections and Wilson Road improvements, will be considered, and if any improvements are necessary, the mitigation impacts and development, the developer will be responsible. The traffic study will be reviewed by the Town Engineer or a Planning Board consultant."

Willard Schadt asked about the term, "substantially greater" and asked, how makes that call?

Al Fusco said that the word "substantially" will just be taken out of the wording., He read the new wording: "Should the survey determine that improvements all required in the interest of safety, intersections and Wilson Road improvements, will be analyzed, and if improvements are necessary, in order to make impacts in that stage of the development, the developer will be responsible."

Derek Wilson said that one way to mitigate the impact on Wilson Road, concerning the Cochection Turnpike entrance, is to not just have it as an emergency entrance, but also use it as a service entrance, that is, can be used at any time. He said that as you get a higher number of people living there, that entrance should be used normally, to basically spread the traffic out.

Dan Loeb asked, when is the second entrance phased in?

Derek Wilson said that the applicant is basically saying that since they cannot cross the wetlands, than the Cochection Turnpike entrance will have to be used as a second entrance, unless they can configure some other mitigation, without crossing the wetlands.

Dan Loeb said that he understands it to mean that there are 7 stages or phases that are developed one one road entrance; and then 7,8, 9, and 10 are developed on the other side of the wetlands.

Derek Wilson said that at the first phase, the developer is talking about an emergency crossing, to get over to the second entrance. He said that at 150 units the developer is talking about putting a bridge over the wetlands. He said however, if they cannot get the Army Corp. of Engineers to agree, then they will not be able to do that. He said that then it will be "plan B", which is Cochection Turnpike. He said that even if they can cross the wetlands, Cochection Turnpike is still supposed to be an emergency egress and entrance, from the first phase.

Al Fusco agreed, and said that that was the intent of the developer. He said that if, in fact, the wetland becomes NYSDEC, then the developer will not be able to get permits, then that will have to be upgraded to a secondary access.

Theresa Santiago asked what about the wintertime?

Al Fusco answered that it would become an actual road at that time, not just dirt, they would have to upgrade it to a town spec road.

Theresa Santiago then asked, who will maintain it, plow it, etc?

Al Fusco answered, probably the Town, up to that portion of it, where it hits their property, up to their property line.

Dan Loeb asked, what if they build 500 units, and then they come into trouble getting across the wetlands, that is, at what threshold within that 500 units, does it become apparent that they have to start using that secondary entrance?

Al Fusco answered at the first stage. He said that there has to be two accesses, right off the bat.

Dan Loeb said two accesses, then you have the sticky question, and now you have traffic going out on another area, and another traffic study, and those people are being affected now. He said that maybe there should be language in there, that says, that in the eventuality, if that happens, that study has to be done too.

Al Fusco agreed, and said that that is part of the upgraded traffic study.

Al Fusco said that when he come into the design in the first phase, boulevards, that is, two roads side by side, where there is a center median where cars can cross over, can be built. He said that if a fire truck comes along, you don't want anything blocking the way.

Derek Wilson said that the grade on the Route 42 side of Wilson Road is quite steep, and a fire truck would have a hard time getting up there.

Al Fusco said on Section II, page 103, "Water", the Board agreed that the nearby residents should get free water, for as long as they own their homes.

Noel Malsberg added, "non-transferrable?"

Al Fusco answered yes.

Al Fusco said that concerning the culvert, the Town will pay 90% of that cost.

Al Fusco said, Section I-52, #15, the Board had added at the bottom of the page: "... it is not expected that it would generate significant numbers of school age children." He said that this will be enforceable through the Homeowners Association.

Al Fusco said, Section I-6, the language concerning the Deerpark Town Code: "...it establishing that these reviews will be accompanied by a SEQRA review." He said that the words "as necessary" was struck from the end of that sentence.

Al Fusco said, Section I-7, at the bottom: "The evaluation of impacts of previous stages" is a point that was added there. He said that basically the Army Corp. of Engineers or the NYSDEC will be responsible for the wetlands. He said that early on, there will be a jurisdictional determination, because one of the first things that happens, is that this goes to the NYSDEC under a notice of intent for stormwater.

Derek Wilson asked, do they come out and do a physical site review?

Al Fusco answered that they review the plans, and generally do an "in office" review. He said that occasionally they will come on site, but now they are short-handed, so they don't come out as much as they used to.

Al Fusco referred to the changes made on page 3, "Missions Statement" and read: "...Also, the FEIS includes consideration for an alternate plan, for questions by the Planning Board which reduces the scope of development from 1,518 dwelling units, SDEIS plan, to 900 dwelling units. The Planning Board also requested alternatives of less than 900 (750, 500, 350), the applicant had stated that these alternatives were not economically feasible."

Dan Loeb said that he has a problem with the very first paragraph of the FEIS. He read: "The Final Environmental Impact Statement for Deerpark Village in the Town of Deerpark, Orange County, New York, has been prepared by and for the Town of Deerpark Planning Board, acting as lead agency for SEQRA review purposes."

Al Fusco answered that this is the Planning Boards' document, and has retained the Town Engineer to go over this document and make changes that the Board wants.

The Board and Al Fusco agreed to strike "...by and..."

Derek Wilson said that originally he had requested the percentages of the trips, that is, the increase in traffic, percentage wise, that this traffic generates, and asked for the applicant to complete a summary table of the percentage of the increase in traffic.

Al Fusco answered that the applicant has point blank refused to do that. He said that in the meantime he has put together percentages of the project that they have found acceptable. He said in other words, at 1,500 units, it's 100%, that is, 100% of the projected traffic. He said that 900 units, would be 60%, and subsequently for each amount of units.

Derek Wilson said that in Section II-61, it refers to an increase in traffic by a factor of 3, and in increase in traffic by a factor of 5, at different intersections. He believes that this is very misleading. He said that there are all sorts of batteries of information and tables, but the purpose of the FEIS is to summarize it for essentially a lay person to be able to read it. He said that a summary chart is needed in this section.

Dan Loeb said that there are percentages in this document, that is, if you full build out at 1,500 in the morning, they expect 393 cars to come out of there is a two hour period, from 7 a.m. to 9 a.m. He said that there is then 374 cars for the 900 units alternative, and then there is a percentage of that. He said that there are 745 cars coming in and out from 3:30 p.m. to 6:30 p.m. at the 1,500 units, and then 603 cars at 900 units. He said that he is trying to co-ordinate the traffic that is generated with those picture diagrams. He said that on page I-21 and I-22 there are diagrams for the traffic, but he would also like to see diagrams for Wilson Road and Route 42.

Derek Wilson said that he would like to see tables for the trips out of the site entrance, the trips at the Wilson Road and Route 42 intersection, the trips at the Wilson Road and Route 97 intersection, and the combination Route 42/ Route 97 intersection in Sparrowbush. He said that he would like to see the number of trips generated at each phase.

Dan Loeb said that Appendix 1 in this document is all picture charts that they originally had, and then Appendix 2 is the data, that matches up.

Derek Wilson said that this information could be fitted on one page, that is, the three intersections, the site entrance, the number of trips, the different phases, the build and no build, and take the base traffic and the build traffic. He said that there's no reason why they can't do that.

Dan Loeb said that if you want to justify 450 or 500 units, and then you compare it to a 900 unit or a 1,500 unit, he said that he can break them down over a time period, that is one car every 20 seconds, and that resonates with people. He said that if he can compare that with the traffic on Route 97 and Route 42 at their peak hours, and the projected traffic at Wilson Road and Route 42 are off by about 200 cars. He said that there's 150 to 200 cars that go by that busy intersection of Route 97 and Route 42, and the intersection of Wilson Road and Route 42, it's only 200 cars. He said that making a comparison, there's only 200 more cars that go down Route 42, and it's a valid estimation, and it's a picture.

Derek Wilson asked, can the Board ask for a summary table?

Noel Malsberg said, the data on I-81 could be put on a chart.

Derek Wilson asked for a summary of the trips: trips at the three affected intersections and the site entrance, and basically a build and no build for the period of time that they are talking about. He said that some of it will be guessing, because nobody knows exactly how many cars and going to go this way and that way, it's all guesswork. He said that for the future, this will also give a reference, so somebody can go back and reference, to see if the traffic is actually being produced.

Noel Malsberg agreed and said that this is too much data and looking at all of this, he didn't know how to interpret so much information.

David Dean asked Al Fusco if the State DOT gets a copy of the traffic study?

Al Fusco answered that they do get one, when any improvements on the State highway is considered. He said that then at some point, the NYSDOT will get it.

David Dean said that if this project generates a huge amount of new traffic, the impact on the intersection of Route 42 and Route 97, has the potential to be troublesome. He said that if by phase 3, for example, the Board knows that this is going to be an issue, it would be better that NYSDOT knows ahead of time.

Derek Wilson said that the applicant also chose a weekday, Wednesday, rather than a weekend day, to calculate the summer traffic. He said that in the summer time the greatest amount of traffic goes north on Fridays and comes back south on Sundays, and those are the peak times. He said that if there were a failure point at that intersection, it would be during those peak times. He said that the applicant doesn't have to do another traffic study at this point, but just that this information is flagged in this document, where they reference it. He referred to Section I-21, the third paragraph down: "...A new traffic count at Route 42 and Route 97 was made on Wednesday.." He said that if an acknowledgement could be placed in there, that the peak traffic hours in the summer time may occur during weekend traffic, Friday p.m. and Sunday p.m..

William Onofry suggested adding the following statement in that section: "However the Board strongly recommends that future traffic studies evaluate traffic counts during the summertime weekend periods." He said that he will insert that to the last paragraph, so that the wording doesn't break up the context.

Dan Loeb said that summertime is the crazy time on Route 97, and all the accidents and the longest time that the road is closed is in June, July and August. He said that it will be up to 5 or 6 hours.

Derek Wilson referred to Section I-45, and read from the end of the bottom paragraph: "...In view of these factors, it could be concluded that the project will not adversely effect any State or Federal..." He asked for the wording to be changed to "...the project may not adversely effect..."

Derek Wilson said, on page Section i-45, the bald eagle letter, and asked if the applicant had gotten a more up to date letter, rather than this 15 year old letter. He asked, is this letter still adequate?

Al Fusco answered, if anything, it's probably going the other way at this point.

Derek Wilson referred to Section I-46, at the top of the page: "The project design has made every attempt to minimize the impacts on wildlife." He asked that the wording be changed to: "...has attempted to minimize the impacts."

Derek Wilson referred to Section I-49, concerning housecats. He said that basically the applicant is going to spay and neuter, and he believes that that is not enough mitigation for the number of units and cats in the facility, and it will affect the bird population. He said that he believes that the applicant needs to seek another solution, whether it be a restriction on allowing cats to roam, or limiting the number of cats that people will own. He said that the applicants' mitigation of "we're going to give everybody pamphlets," is not enough. Derek Wilson suggested that the applicant to come up with another, better mitigation for the future cat population problem.

Skip Wilson added that the homeowners association should make a rule, and then follow through.

Derek Wilson said that the homeowners association would need to have regulations to either limit the number, or the fact of whether the cats can run loose, as a type of mitigation.

Noel Malsberg suggested that the number of cats should just be restricted.

Theresa Santiago suggested animals in general.

Derek Wilson said that this is a problem here, because it's generated by the density of the project, and then it's adjacent to a wildlife area.

Al Fusco suggested adding this language: "Occupants with outside pets will be provided information about local veterinarians and clinics will be encouraged to consult with these professionals." He said that they will have clinics, and that wording should be added.

Derek Wilson said that the cats being loose is the primary problem, and then limiting the number of cats, which can be a problem with each occupant.

William Onofry said that whatever wording the Planning Board puts into this document, then it becomes an issue of monitoring and enforcement. He said that the deed restriction that is required, technically the Town doesn't have a right to enforce it, it's a restriction that must be enforced amongst the homeowners. He said that unless the Town is going to put something in writing, then it's unenforceable. He said that whatever the Planning Board puts into this document has to make sense.

Derek Wilson suggested that the cats be leashed when they are taken outside.

William Onofry changed the following wording: "As mitigation, the applicant will insure all prospective purchasers and renters are aware of the impacts that cats have on desirable wildlife."

Dan Loeb said that a homeowners association is only as strong as the number of people who belong, and/ or the number of people who are going to get a lawyer, because a lot of people don't care, and there's no involvement.

William Onofry said that at the beginning of the development, the developer is still a part of the Association. He said at the beginning stages, there is a hands on impact from the developer. He said eventually the developer will turn the reins over completely to the homeowners themselves. He said that there's only so that the Planning Board can do, especially from the Planning stage, the Planning Board is here to look at the big picture, and basically, all the Board can do is to put the requirements in there.

Dan Loeb stated his belief that the homeowners association is also involved in the number of underage children living there.

William Onofry said that those type of restrictions are usually looked at and enforced seriously. He said that this Board has no way of influencing the homeowners association.

Derek Wilson said that the age restriction is based on the zoning, and the Code Enforcement Officer has the ability to actually enforce, through the homeowners association. He said that it might be a little difficult to prove who is living there, but if he feels that kids are coming out of there, that are not supposed to be coming out of there, it would be a violation of the Zoning Code.

Dan Loeb read on page I-56: "... The most significant mitigation could be the alternative of 900 units, which could reduce the disturbed area." He asked for the following word change: "The most significant mitigation offered, could be the alternative of 900 units..."

Derek Wilson asked about the review letter by the Delaware River Basin Commission, where they made comments that when they pursue the permits, for the septic discharge, they have to do a study of the best natural alternatives. He asked, does that refer to that they have to study the discharge other than into a stream. He then read from Appendix 13, page 4, page 2 of the letter, beginning of the 4th paragraph; "SPW requirements include a natural treatment, alternative analysis (Article 3.103)..." He asked, does that require them to show that they cannot use inground discharge, or is it just referring to the fact that the aquionics is a natural treatment.

Al Fusco said that here, they are talking about treatment, he said that they're talking about a stream simulation, to make sure that their flows and the percent removals are compatible with the stream.

Derek Wilson said that the natural treatment analysis, alternative analysis, doesn't require them to look at inground discharge.

Mike Breitenfeld referred to Section II-43, "De-chlorinization" and asked, does this mean that there will be no de-chlorinization?

Al Fusco answered that basically what they're saying is, and it is up to the NYSDEC, that the NYSDEC can do one of several things. They can say that they have to use UV, which is probably what they will use. He said, however, they will have to have a back-up of chlorine, in case the UV unit goes out. He said that they will probably have to de-chlorinate as well, but it's really up to the NYSDEC. He said that their NYSDEC permit will have to say specifically what is required, and the NYSDEC also has to monitor it monthly. He said that, if by chance, they do have some bacteria, then they will have to upgrade their disinfection,

Noel Malsberg referred to Section I-59: "The 900 unit will significantly reduce the amount of discharge..." He then referred to I-79, where it basically states that at 900 units, they're not going to put it in the ground,

Al Fusco referred back to I-59, the bottom of the page: "The Planning Board will require a study to determine if the ground discharge is the best way to mitigate impacts on John Woods Brook and the Delaware River ecosystem for treated effluent."

Noel Malsberg stated again, that the language on page I-59 says one thing, and then the language on page I-79 says an entire different thing.

Derek Wilson said that the language on page I-79 is trying to deal with the possibility of monitoring the groundwater, and once they get to a certain threshold, they would look at using inground discharge to make up for the infiltration that they will be losing. He said that the bottom line is that the sewage plant is not managed well, and there are huge impacts on the brook.

Skip Wilson said that they can get \$100,000 fines, which should be a deterrent.

Derek Wilson said that they will have to come back for another SEQRA at each phase.

Derek Wilson referred to page II-61 to II-63, and said that at the very end they answer questions and then they get down to a summary that says that everything that they're doing would barely be perceptible and would not be considered an adverse impact, as far as noise. He said that with the building of that number of units, and construction traffic, it's hard to believe. He said that they summarized how much of a difference it's going to be and propose mitigation for noise, as far as hours of operation and other stuff. He said that he does not believe that the noise will be barely perceptible. He said that the hours of operation are limited from 8 a.m. to 5 p.m. for construction activities.

Al Fusco said that the increases would increase noise levels to less than 2 db.

Derek Wilson said that on page II-74, the second sentence up from the bottom, there is a typo: "Project Summary:... the 1,518 unit project described in the SDEIS includes 61 miles of project collector streets." He said that that should read: "...the 1,518 unit project described in the SDEIS includes 6.1 miles of project collector streets."

Mike Breitenberg referred to page II-44, the very last line, where they are talking about improving Old Cocheton Turnpike for emergency road access, but that's all they say. He asked, "can't they be more specific concerning fire trucks, etc."

Skip Wilson asked, don't they need approval from the Fire Department to go in and look?

Al Fusco answered that they would do that at the site plan. He said, that it wouldn't just be Cocheton Turnpike,

but all the internal intersections also.

Dan Loeb referred to Appendix 9, to "Provisions of Emergency Services" where they make reference to the Port Jervis Ambulance Corporation, and asked if Sparrowbush has an ambulance?

Theresa Santiago answered they have EMT.

Skip Wilson elaborated and said that all fire companies have EMT's and then there's also the other ambulance company "Regional Ambulance", as well as the Port Jervis ambulance.

Dan Loeb then asked, what type of apparatus do they show up with?

Skip Wilson answered an all terrain vehicle pick-up truck equipped with everything.

Dan Loeb said that they are referred to as BLS, Basic Life Support. He said that this is a type of development, that as far as emergency services resources, most likely is that they will utilize emergency medical treatment. He said that he sees that as the majority. He said that Bon Secours Hospital said that they can handle the load. He said that his point is that when you have someone committed to one of them, then there's a possibility that another event could happen, or what if three events happens at the same time. He said that he doesn't know if there will be enough resources to meet the needs. He said that Port Jervis only have 2 ambulances, so who picks up the slack? The fire department?

Skip Wilson said that either the police or the fire companies are always the first on the scene.

Damian Brady said that essentially the ambulance has the ability to contract out it's own stuff, and they control this particular region for doing the private contract. He said that they have this particular zone. He said that during the day the ambulance is usually staffed by people who are paid by Port Jervis Volunteer Ambulance Corp. and then during the evening, the Port Jervis Volunteer Ambulance Corp. is staffed by volunteers. He said that up until recently it used to be Regional Ambulance, but now it's now contracted out with somebody else. He said that Regional was the back-up BLS, and the primary ALS for this entire region.

Derek Wilson said that 911 takes care of it.

Damian Brady said yes, and usually what happens is that Regional has an ambulance in town, because they have a headquarters right next to the hospital, and if they need back-up they'll call another ambulance, because they're paid.

It's a matter of whoever gets to the site first. That's been part of the problem.

William Onofry, so basically, getting back to Dan's question, it would be that there's a back-up. And the response that's incorporated here, is only from one, but there are alternatives out there.

Derek Wilson said that the problem is when you get into practicality, is that you have a system that works now for the population density.

Noel Malsberg said, that's it, but they're changing that.

Derek Wilson said that they're substantially changing that. He asked the tax revenue that they generate is it going to be bundled into capital improvements or donate to the ambulance or something. He said that it's the same for any development, if you look at it, and this is an unusually large development.

Dan Loeb said that their projected figures are 900 units, fully developed will produce tax revenue of \$264,000, that's at 900 units. It sounds like a lot of money, but now if you go to 400 units, you've got half that. A fire truck cost 1/2 million dollars.

Al Fusco asked for a clarification. He said that on the summary table with the percentages, what is the Boards' answer?

The Board agreed that Mr. Fusco should ask for that summary table.

William Onofry said that for clarification, the Board had previously asked for the same thing.

Derek Wilson said that the Board requires it, and then it goes to the lawyers, and if they don't agree, then it gets petitioned before the judge. He asked Al Fusco if he can e-mail the Board members a few finding statements.

#### ADJOURNMENT

Derek Wilson made a motion to adjourn. Theresa Santiago second. Roll call vote: Santiago, aye; Loeb, aye; D. Wilson, aye; Breitenfeld, aye; Malsberg, aye; Schadt, aye; W. Wilson, aye. Motion carried.

Meeting adjourned at 9:00 p.m.

Respectfully submitted,

Barbara Brollier, Secretary