

DEERPARK PLANNING BOARD - SEPTEMBER 12, 2012 - PAGE #

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, September 12, 2012 at 7:00 p.m. at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

BOARD MEMBERS

Al Schock, Chairman    Theresa Santiago    Derek Wilson    Willard Schadt    Mike Hunter

OTHERS

Mr. Alfred A. Fusco, Jr., Town Engineer    Mr. Glen Plotsky, Town Attorney  
 Mr. Alfred Fusco, III., Town Engineer    Mr. David Dean, Town Board Liaison  
 Mr. John Fuller, Civil Engineer    Mr. Chun Feng, Architect, Dragon Springs Buddhist, Inc.  
 Mr. Brad Burnett, Applicant

THE PLEDGE OF ALLEGIANCEDEERPARK KOA SITE PLAN - PUBLIC HEARING - #12-0402

Represented by Mrs. Lisa Monk, Applicant & Mr. John Fuller, Civil Engineer 856-1536  
 Owner/ Applicant Riverrush RV & KOA Campground is seeking a site plan for property located at  
 108 Guymard Turnpike, Cuddebackville, N.Y.

It is an RR Zone.

Section –Block –Lot = 28 – 1 - 49

Application received April 13, 2012.

SEE ATTACHED PUBLIC HEARING RECORD

Al Fusco referred to his technical memo, dated September 11, 2012:

- “1. Original comments from August 8, 2012;
2. The Fire Department should review the acceptability of the emergency access.
3. We need an easement from the applicant for a drainage way from Guymard Turnpike for a 24“ pipe crossing the road and an agreement with the Town Highway Superintendent on the drainage ditch through the property. The new 24“ pipe and proposed easement should be shown on the plans.
4. If any comments from the County have been received, they need to be reviewed. The plans were forwarded to the Orange County Department of Planning on August 10, 2012 as per GMC 239.
5. Board comments.”

Al Fusco referred to a letter that the Board received from Orange County Department of Planning, dated August 31, 2012:

“The Department has received the above referenced site plan and has found no evidence that significant intermunicipal or countywide impacts would result from its approval. We would like to offer the following advisory comments:

Flood Evacuation Plan

1. We recommend the Town ensure that the applicant provides a flood evacuation plan that includes a description of the steps that employees and campers should take in the event of a flood, as most of this site is within the 100 year flood zone. This evacuation plan should include a requirement for campground employees to receive regular training and/or review related to this plan to minimize the potential for campers to be injured, should this site flood.

Site Plan

2. We recommend the applicant indicate how the proposed evacuation parking area will be accessed in the event of an emergency, such as a flood, as the site plan shows this parking area in a wooded area with no clear access point to the campground or the adjacent existing gravel right-of-way. If this parking area will be accessed from the existing gravel right-of-way, we further recommend (1) that the applicant ensure that there is an adequate sight distance from the parking area entrance, as this parking area is near a sharp curve in the right-of-way and (2) that the applicant provide a copy of any written access easements over the existing gravel right-of-way.”

Al Fusco said that the County recommendation is a local opinion, and the comments can be either considered or not.

Derek Wilson asked about the three existing apartments in the red barn, and the ZBA variance allows for a fourth apartment?

Al Fusco III answered that right now there is a single family home that the owner lives in, and then also the barn had one apartment in it, and has been fixed up, even though it does not previously have a c/o. He said that at this point there are violations, as per the New York State Building Code, and the applicant has taken out a building permit and fixed the issues, and now has a c/o for the barn, for the one apartment. He said that there are two residences on the property at this time, that is, a single family home and only one apartment in the barn, even though the variance was for four apartments.

Derek Wilson asked about the building that is on the river, is it okay because it's in the floodplain?

Al Fusco III answered that he believes that it's been there for a long time, and the deck was built prior to his appointment in the Building Department, although it does look new, and in good condition.

Al Schock said that years ago there were no hard and fast rules for campgrounds, so it's hard to determine what is a legal thing and what would be grandfathered, etc.

Al Fusco III agreed, and said that that is the reason why the applicant is now before this Board, because there is no site plan and his department does not know what is there and what is allowed and what is not, because it has been there for such a long time.

Derek Wilson made the point that something that is illegal cannot be grandfathered. He said that the zoning, when it's in effect, says that it can't be done, and it's been done for ten years, and it's an enforcement problem, if we know it's being done now, the Board can't say okay, you did it illegally, you do it now.

Glen Plotsky said, that unless it was being done, before zoning was enacted.

Al Fusco III said that the buildings that the applicant is talking about are immovable, they are on skids, so to speak, and they look very old and have been there for a long time.

Derek Wilson said that it's been an enforcement problem for many years,

Al Fusco said that one of the other things that he thinks is significant, is the ZBA resolution from this applicants' variance granted last year, because that lends into this tremendously, particularly in relationship to a lot of the comments that the Board is hearing this evening, and the comments regarding the town zoning, because they call some things pre-existing, non-conforming uses, which is pretty much grandfathering, and then there are other areas that they were given variances for.

Willard Schadt asked if the Board members will have access to the written comments and the applicants' responses to them, prior to the October 10th meeting.

The Chairman answered yes.

The secretary was instructed to place this applicant on the October 10, 2012 agenda.

BRIM RECYCLERS – # 12-0504

Represented by Mr. Brad Burnett, Applicant & Mr. John Fuller, Civil Engineer 856-1536  
Owner/ Applicant Brim Recyclers wish a site plan for parking in two different locations

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on property they wish to purchase from Callanan on property located on Route 211, Cuddebackville, N.Y.

It is an HMU zone.

Section – Block – Lot = 22 – 1 - 90

Application submitted August 8, 2012

John Fuller submitted preliminary site plan maps to the Board members. He said that this applicant appeared before this Board at a prior meeting, because he had received a letter from the Building Department concerning the utilization of this property. He said that the property that Burnett is leasing, that was previously utilized by Callanan Industries, is located with entrances on both Route 211 and Route 209. He said that the survey map he just handed out contains a track map, or a boundary property, that is a boundary survey of the property, including topography requirements for both the entrances off of Route 209 and Route 211. He said that specifically this request is to come and create a site plan which is enforceable for the utilization of the property that the applicant is currently looking to use for a trucking enterprise, and the applicant utilizes the property in the form of a transfer station, that is, bringing trailers and box trucks or containers, and the like, parking them on the property, transfer materials, and then take it off site. He said that the applicant represents local business, including Brim Recycling, which is located adjacent to the property, as well as Summit Research, and other general freight. He said that the applicant wishes to legitimize the site plan, with regards to a special use, under the category of light manufacturing, which the trucking is accessory to, the recycling operation of Brim, as well as the other entities which they represent, one of which is Summit Research of Huguenot, New York. He said that on these maps that he distributed tonight, it will identify how the applicant wishes to use the property, located off of the Route 209 and Route 211 entrances.

Glen Plotsky asked that the trucks that are used on this site, are just not all Brim Recycling trucks?

John Fuller answered that the entity is Burnett Enterprises and is unrelated to Brim Recycling, even though the same individual owns both entities, they are different.

Glen Plotsky asked if Burnett Trucking does the trucking for Summit Research?

John Fuller answered yes, and it is his understanding that Burnett is leasing the property, and it is not being leased by the outside agencies, such as Summit.

Al Fusco referred to his technical memo, dated September 11, 2012:

1. The Building Department has issued a violation on the subject site with a 90 day compliance period.
2. Need certified survey for the property lines with easement, right-of-way and deed references shown.
3. Details of the parking surface should be provided.
4. An Erosion Control Plan needs to be provided.
5. A Storm Water Pollution Prevention Plan (SWPPP) may be required, depending on the details provided in the next submission.
6. A more detailed review and comments will be conducted after the submittal of the above.

## 7. Board comments.

Al Fusco said that submittals also have to be done for the 239 General Municipal Law, because the property is located off of two County highways.

Glen Plotsky expressed his concern about sending a non-public hearing document to the County for review.

### MOTION

Wilson made a motion for lead agency. Hunter second. Roll call vote: Santiago, aye; Hunter, aye; Schadt, aye; Wilson, aye; Schock, aye. Motion carried.

John Fuller said that he has identified things such as site entrances, buildings, parking areas, bathrooms, etc. on the site plan in the general notes. He said that the intent is for the general parking of the vehicles there, and most of the management of Burnett Enterprises' operation is handled by an off site location, meaning that they are not going to utilize an on site office, at least in the near term, as part of this application. He said that the applicant is not looking to do any alterations on the property, meaning there is not extensive grading or paving of existing areas. He said that the applicant is looking to utilize the existing paved drives or predominantly gravel drives, which exist on the property.

Glen Plotsky asked to be shown on the map, the land that the County of Orange says that the applicant cannot use.

John Fuller answered that that area is off of Route 211, which looking at the site plan, is the entrance that comes off of Route 211, and is known as Jeb Road, which the applicant has a right-of-way through that, and the applicant has been parking containers in that area for quite some time.

Glen Plotsky told John Fuller that he is going to have to have someone present him with a legal authority for the Deerpark Planning Board to grant the applicant this application. specifically with regard to that stretch of property, while it's in litigation. He said that he does not want to put the Planning Board in the position of being sued by Orange County, as Mr. Burnett is now being sued by Orange County. He asked that Mr. Fuller contact the applicants' attorney and have him send him information, explaining his understanding as to why the Planning Board should take this action at this time, as opposed to waiting for a determination as to who really does have a right to that strip of land.

Mr. Burnett said that where he is in litigation with the County, is where it comes in, off of Route 211, and it has nothing to do with the Callanan property, it's the property right next to his on Jeb Road. He indicated the section of land on the site plan. He said that probably, if he gets this Callanan property through, then he will just give up with the County litigation.

Glen Plotsky said that that may change the way that Mr. Fuller wants to make his presentation, then if that is Mr. Burnett's position, he might want to show it on the plans, so that the Planning Board potentially, can grant Mr. Burnett permission to use the other piece of property, perhaps, condition it on the understanding that the applicant will not be using the contested piece, and then resolve the title at the same time.

Mr. Burnett said that he understands, but that will be up to his attorney, he can't make that decision.

Glen Plotsky agreed, and said that he is just thinking out loud that since that is part of the discussion, then it should be discussed. He reviewed by saying that he has a concern about the Planning Board granting use on property, where the ownership and/or is in dispute. He said that all he is going by is a letter he received from the Orange County attorney saying that the Planning Board does not have the authority to

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render this determination. He said that the applicant needs to have his attorney contact him, and show why the Planning Board should stick its neck out and give that type of permission, until it's determined who has the authority to decide the use of that strip. He said that then in response to Mr. Burnetts' statement that perhaps that the other piece is allowed, is given permission by the Planning Board, then the applicant would withdraw or give up the contested parcel by the County. He said that if that is in the cards potentially, then Mr. Fuller might want to present that as an alternative, not necessarily as the only presentation, but the alternative, and then maybe everything will work out that way.

Al Fusco asked Mr. Fuller to provide right-of-way agreements to the Town Attorney and himself. He also said that Mr. Fuller will have to modify the location of where the applicant is putting his vehicles, to comply with that aspect of it.

John Fuller said that he will contact the applicants' attorney, to supply that. He said that there are structures on the property, but as far as the intent, the scope of the operation is to not necessarily have personnel on site, within a structure to operate this. He said that the structure would be used more for storage. John Fuller said that he will come back with a revised submittal, with the applicants' attorney with him. He said that depending on the scope of the 90 day time line period, he said that he does not know what the time line is with that, and asked if the applicant could be granted an extension, to allow the site plan to progress.

Al Fusco said that that is a possibility, but it would be the purview of the Town Board and the Building Inspectors' office.

Al Schock asked for an explanation of the problem.

Glen Plotsky answered that the difficulty is that according to the letter in the file, Orange County is writing to this Planning Board saying that this Board is being asked to grant a site plan on property that they don't have the Countys' permission, because the County says that they own the property, and this applicant does not have permission to use it for anything, He said also that the County is in litigation on this issue.

Al Fusco explained the problem by saying that there is a right-of-way, and the Town Attorney and the Board and himself need to see what that right-of-way says. He said that he needs to see that "yes, Callanan has a right-of-way there." He said also that one of the plans in this applicants' submittal, shows parking outside of the right-of-way, on the property that is not owned by Callanan. He said that this is what this discussion is about, that is, take that off of there for now, and until the Board has, in fact, legal representation that the applicant does have a legal right to park there.

Derek Wilson said that the applicant has stated that the problem can be solved, that even if he uses the right-of-way, just for a right-of-way, or not at all, he can do everything he wants to do from the other side.

Al Fusco agreed, and said that the plans have to show that.

Al Schock said that this is a separate piece of property, and what concern is it anyway?

Derek Wilson answered, because the applicant is showing it as an access point.

John Fuller said that he can represent on future revisions of the site plan, with regard to Callanan, which is the property that brought the applicant here, as far as compliance purposes, he can remove that suggested storage, which is in that right-of-way, which would not affect the application for the Callanan property.

Glen Plotsky said that in other words, the County says that the applicant can do what he wants to do, without parking there.

John Fuller said, for Burnett Enterprises, yes.

Glen Plotsky asked, is somebody else going to be parking there, like Summit Research, or some body else?

John Fuller answered no. He said that he will refer to the applicants' attorney, who can explain it better. He said that in the meantime, the scope of the application is to bring compliance of the Callanan property, which the applicant currently utilizes, and leases as Burnett Enterprises. He said that relative to the ability of this Board to approve this site plan, it is not necessary for the applicant to convey or depict that there is parking by Burnett in that right-of-way, which he uses to access that back property off of Route 211.

Glen Plotsky said that just as long as we are incredibly clear that there is a note on the plan that says, "The applicant will not park in the disputed right-of-way." He said that if the applicant does, he does not want the Planning Board being sued by the County, because the Board gave the applicant permission to do that. He also said that for enforcement purposes, he wants to make it perfectly clear that if anybody parks there, from the Boards' perspective, whether the County calls it in, or whether somebody else calls it in, there is that ability to sanction, whoever is parking the vehicles. He said that if it is not Burnett Enterprises, than there is no issue.

Derek Wilson said that in re-reading the letter from Orange County Planning, it doesn't dispute the use of the right-of-way, other than for parking. He said that there doesn't seem to be a dispute to use it.

Al Fusco further explained to Mr. Fuller that he needs to change the applicants' site plan, to show the right-of-way, the Callanan property, and whatever he needs to do on that property. He said not to show the parking outside of the right-of-way on any other property.

Al Fusco said that instead of this Board declaring lead agency, he would like a resolution this evening, that it is the intent of this Planning Board to declare lead agency. He said that he will send that resolution out to the appropriate agencies, so that they have an opportunity to contest lead agency, if they wish, only because of the litigation that is pending on this issue, outside of this Planning Board.

#### MOTION

Wilson made a motion to rescind the previous motion for lead agency, and instead made a motion for the Deerpark Planning Board to declare its' intent for lead agency. Hunter second. Roll call vote: Santiago, aye; Hunter, aye; Schadt, aye; Wilson, aye; Schock, aye. Motion carried.

The secretary was instructed to place this applicant on the September 26, 2012.

#### NANCY GIBSON SITE PLAN - #11-0301

Represented by Mr. John Fuller, Civil Engineer 856-1536

Owner/ Applicant Nancy Gibson wishes a site plan, special use permit to create an animal sanctuary on 76 acres located at 200 Peenpack Trail, Huguenot, N.Y.

It is an RR Zone

Section -Block -Lot = 37 - 1 - 14.1

Application submitted June 27, 2012.

John Fuller submitted an amended first page of the site plan application. He said that at the last meeting of this applicant, the Board approved the lot line changes that were requested, which helped to improve the two parcels, which were originally part of the two lot subdivision that was approved 1 1/2 years ago. He said that his client is now proceeding with the site plan application, and she did answer a lot of the Boards' questions at their last meeting. He said full scope site plan drawings have been submitted to the Board.

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He said that the original larger parcel, which is a 73 acre parcel, that is currently vacant, and will be the land where the animal sanctuary will be located. He said that the other parcel is where Ms. Gibson is currently constructing her residence, and where she will ultimately live. He said that there is a driveway that comes off of Peenpack Trail, and meanders through the property, and then up to the house that is under construction. He said that the intent of the scope of what he is trying to intend with this, is to seek a special use permit, for the applicant to build out within a period of time, that is, a minimum of two years, special use approval. He requested as part of the approval, and what he had indicated previously, is to utilize the applicants' existing driveway off of Peenpack Trail, through an easement format, that will be part of the initial special use approval, and give access to the parcel that will be under construction. He said that in conjunction with that, his client is seeking to get a stream crossing permit, and to eventually build a bridge over the Cold Brook, coming off of Peenpack Trail, further up, which is where the parcel has frontage, onto a public right-of-way. He said that the road will be built eventually, with a stream crossing, which will be a bridge, and then cross into the property, and across the field. He said that as part of the scope, initially the full scope would be to have a barn, a cat enclosure, which will also be the office for the sanctuary, and then further up on the property, will be an octagon type structure, which will be where the dogs will be located. He said that he delineated, based on the full scope of what is in the Ordinance, relative to livestock and kennels, he said that he has identified the maximum number of animals that would be part of this initial special use approval. He referred to some blow ups on the site plan, indicating the existing pond on the property, and just above that would be a barn, which will house animals such as ducks and goats, and then the cat enclosure will be located just above that, where there will be sufficient parking on site. He said that further up on the property will be the octagon structure, which is where the dogs will be located. He said that in these latest drawings there are details of preliminary plans and elevations of what the barn and other accessory structures will look like.

Willard Schadt asked about the bridge that will cross the stream, if there was any reason why that would not be completed in the future?

John Fuller answered that it's just a matter of obtaining a stream crossing permit from the NYSDEC, and then Ms. Gibson does have the finances to build it out.

Willard Schadt asked about the particular spot across the stream where the bridge will be built, if he foresees any problems?

John Fuller answered no.

Derek Wilson said that the special use permit will have a time period on it, and Ms. Gibson will not want the time period to lapse, before the project is completed.

John Fuller said that the intent is that within the first two years, to allow Ms. Gibson an easement access to her own property for purposes of build out, and then eventually the bridge will get built.

Derek Wilson said that things can happen in two years, and the bridge being built is tied to that time period, so anybody who bought that property couldn't use the property, if the bridge had not been built, within the two years and the special use permit time period would lapse.

John Fuller said that if there is any difficulty within that two years, his client would most certainly be back before this Board, to either request an extension or clarify why there is difficulty in building that bridge. He said that he is confident that there will not be a problem being held up by the NYSDEC, and in fact, it's part of this Board's review in the two lot subdivision, where a condition was put on the larger parcel, that no development could be made, until a bridge crossing could be obtained. He said that this is under the premise that Ms. Gibson owns the adjacent property, and can gain access through it.

Willard Schadt said that he wanted it to be very clear, that if something did happen, at the end of the two years, that the applicant does not come back before this Board and says that due to circumstances beyond her control, she will want to use the right-of-way forever.

John Fuller said that he does not think that this is this applicants' intention, and at capping it at two years, that gives the applicant a restriction, which will give her motivation to get it carried out quickly, and not delay.

Derek Wilson said that John Fuller said that there is a delay time with the NYSDEC.

John Fuller answered that his client wants to proceed with the build out, because the build out will be the barn and the accessory structures, which will take a certain amount of time, and in that time the approval from the NYSDEC could be granted, and then the bridge built. He said that with these maps, he is starting the NYSDEC process immediately. He said that part of the condition of this applicants existing application, is for her to utilize the existing property, which has the dwelling unit on it, as an easement driveway.

Mike Hunter asked that once that easement is built, then that driveway is closed off completely.

John Fuller answered correct. He said that the intention is that the easement will be lifted once the bridge is built, and there is a full access off of a public right-of-way.

Glen Plotsky expressed his concern that the individual and the 501C3 corporation will each need kennel licenses, because the Town Ordinance only allows four dogs, and this applicant has six.

Al Fusco agreed and said that this application has six dogs, and two kennel licenses will be required.

Al Fusco referred to his technical memo, dated September 11, 2012:

1. Most of the comments have been previously addressed by the applicant, no new plans have been submitted for review.
2. The lot line change and site plan should be two separate applications.
3. Board comments.

Concerning the easement, John Fuller said that the intent is, that ultimately when the public uses it, they will utilize the bridge off of Peenpack Trail, and not the easement. He said that the intent of the easement is to put a cap on it, for two years, to allow the build out of the structures to take place under building permit, while the applicant pursues the building of the bridge.

John Fuller said that he will make the changes on the plans, and get back to the Board.

DRAGON SPRINGS BUDDHIST INC. - # 10-0401

Represented by Chun Feng, Architect 754-7400

Owner/ Applicant Dragon Springs Buddhist Inc., is seeking a revision to their site plan, by changing a garage into an incense shop, by changing a gazebo into a meditation hall, and a proposed storage shed, on property located at 140 Galley Hill Rd., Cuddebackville, N.Y.

It is an RR Zone.

Section -Block -Lot = 31 - 1 - 21.22

Application received August 1, 2012

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Chun Feng said that this new amended plan, a garage is being replaced by a small incense shop, and he indicated on the map a gazebo, which he said is being replaced by a meditation hall, and on the parking lot. there is a proposed storage shed of 6,000 square feet.

Al Fusco reviewed his technical memo, dated September 11, 2012:

1. We have submitted to the County and Town of Mount Hope under 239 General Municipal Law. No comments back, and the 30 days is now up.
2. The location of the storage shed has been moved as per the latest plan. We believe it is a better location and had recommended this site earlier.
3. The Board asked the weight limit of the County bridge and after checking with the Orange County Department of Public Works, there is no weight restriction on the bridge.
4. I spoke to the Highway Superintendent, and a sign displaying no horns is not appropriate, and I agree.
5. I have not yet seen the occupancy limit exceeded on the recent inspection we performed.
6. The road was damaged by Hurricane Irene and Tropical Storm Lee, no damage has been caused by trucks but we will keep our eye on the situation.
7. Just a note: We will discuss special use permit renewable for this project in September.
8. Board comments.

Derek Wilson said that the original agreement was that truck traffic was always supposed to come in off of Route 209.

Chun Feng said that most regular delivery trucks to come off of Route 209, but every once in awhile there will be a special delivery from a company that does not always deliver, and they drive in off of Route 211, and he said that he has no control over that.

Derek Wilson asked, is there any way to mitigate the damage to the town road?

Al Fusco answered that most of the construction is winding down, so there will not be so much heavy traffic.

Al Schock expressed his concern that, how can the applicant keep the number of weekend people on the premises, under 200?

Al Fusco said that there was a previous Planning Board issue, and the applicant had presented the fact that tentatively they had 100 workers, and 100 students/ guests, or whatever the case may be. He said that that was the representation that the applicants had made.

Derek Wilson clarified by saying that there is supposed to be 100 part time and 100 full time. He said that the part time was mostly visitors on the weekends, and that was the way that it was originally being presented.

Al Fusco said that nothing has changed in that regard, other than the size of it, so that they could handle many, many more. He said that at this point, that is still the premise that the Board is going under, until the applicant apply for something else.

Willard Schadt asked, how do you enforce that?

Al Fusco answered that it is enforceable by the Planning Board, Town Board, Building Inspector, Town Attorney. He said that that was part of the resolution. He said that at some point, the applicant may come back to the Planning Board to ask to change the number. He said that at some point the applicant may go to the Town Board to ask for a permit to host a special event, of say, 500 or 1,000, but that would be something that would be outside of the Planning Boards' scope. He said that at this point, the request that the applicants had made of the Planning Board is the 200 number, and their special use permit has maintained that.

Al Schock asked, why would the applicants erect the huge buildings up there and spend millions of dollars on them, and also residents on the road have stated that 6 or 8 buses drive up to the facilities at any given time?

Al Fusco answered that he does know that one of the facilities, it is nothing more than a rehearsal hall, which is the size of a full hall. He said that it is comparable to a major facility that you would see at Paramount Theater, or something like that. He said that it's only used for rehearsals, and that's all that the applicants intend to use it for, so that their students and dancers have a feel for a major stadium experience. He said that the rest of it he cannot answer for, other than their religious entities that they have. Al Fusco answered, concerning the buses, that he's only seen the buses there, parked in front of the facility. He suggested that Al Schock can take a ride up onto the premises with him some day.

Willard Schadt asked, that when a condition, such as this 200 people only on weekends is imposed, what is the reality of the enforcement mechanism, if somebody complains, what can the Town do to verify that there are not more than 200 people?

Al Fusco answered that it is just like everything else, that is, a complaint is made to the Building Department or Supervisor, that complaint needs to be in writing, and then it is investigated. He said that the Building Inspector and his team does that a lot. He said that when he has gone onto the property, he has counted cars and can make a determination that way, and can tell the difference between 1,000 people and 200, that is, within that scope. He said that when the buses do go by, and they have a capacity for 60 people, they may have that many people on them, and they may less.

Willard Schadt asked Mr. Fusco, if he had gotten any written complaints about the amount of people up there on the property?

Al Fusco answered that he had just gotten one today, pertaining to this recent public hearing, although there might've been other complaints from previous public hearings.

Chun Feng said that of the three temples on the property, he seldom sees one person there, and there are just statues inside. He said that their religion does not have a lot of people, and there are very small amounts of people who come. He said that the big rehearsal hall, there are only a

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few dozen people involved with that. He said that in the future they may apply for a permit for a mass gathering, but he really doesn't know, because he is not involved in that decision making.

Willard Schadt asked, what is your estimate of the number of people up there now?

Chun Feng answered that right now there are a lot of construction workers, but once they're done, they will not be up there.

Willard Schadt asked about the special use permit, which will come before this Board again in November?

Al Fusco answered that that will be for the project overall.

Willard Schadt asked, would that be an appropriate time to look at the number of people up there?

Al Fusco answered yes.

Al Fusco III said that the Building Inspectors' mechanism is that he goes out and makes a complete inspection of the entire site, and makes sure that the applicant conforms to the site plan and the special obligations that were put on the special use permit, and is generally done once a year, so that the report can be made to the Planning Board.

Willard Schadt asked, when will that be done?

Glen Plotsky answered the applicant has to have that inspection before the October 24th meeting.

Derek Wilson asked about the sewer treatment system that had been approved by this Board was an inground system that had reserve areas, and that now the NYSDEC has been applied for, by this applicant, to be able to discharge into the Bashakill.

Al Fusco answered that Derek Wilson is correct, and that there was a time when the previous Building Inspector was concerned, that when there would be so many facilities being built, the 8,000 handles more than 200 people, but if the applicants exceed that, he felt that a sewage treatment plant would be required. He said that at that point, the applicant came back before the Planning Board, and they had included in there, the possibility of a sewage treatment plant. He said that at that time in 2007, the NYSDEC said that they were preparing to approve it, but then it was ultimately withdrawn, because the applicants couldn't afford to do it at that time, and they went back to the 8,000 number, and it is all inground.

MOTION

Wilson made a motion for lead agency. Hunter second. Roll call vote: Santiago, aye; Hunter, aye; Schadt, aye; Wilson, aye; Schock, aye. Motion carried.

Al Schock read a negative declaration: "In accordance with the 6NYCRR, part 617 State Environmental Quality Review, SEQRA regulations specifically, 617.7 determines that significance, the Town of Deerpark Planning Board had reviewed the project application for the Dragon Springs Buddhist Inc., and after

thorough review of the application and plans, EAF, public comment, consultants comments, including the review of the air quality, groundwater, stormwater, traffic, cultural resources, habitat, Town Ordinance, Town Master Plan, impacts on energy, impacts on the community, the Planning Board hereby proposes by motion that the above project will not result in any large or important impacts, and therefore is one which will not have a significant impact on the environment. Therefore, we hereby issue a negative dec for the above noted project.”

Derek Wilson said, that this is for changes to the project.

Al Fusco agreed, and said modifications to the project.

Derek Wilson said that his concerns are that the applicants re-inforce the use of all truck traffic over 18,000 gpw, delivery trucks, buses, etc., be directed off of Route 209, for the safety of the residents. He said that further designation that the applicants specify to truck traffic and construction vehicles that they obey the speed limit and drive with extreme care, because of the narrowness of Galley Hill Road. He said that the occupancy limitation of the previous site plan is continued.

#### MOTION

Wilson made a motion for a negative declaration. Schock second. Roll call vote: Santiago, aye; Hunter, aye; Schadt, aye; Wilson, aye; Schock, aye. Motion carried.

#### MOTION

Wilson made a motion for approval of the Dragon Springs Buddhist, Inc, amended site plan, as proposed, based on payment of all fees. Santiago second. Roll call vote: Santiago, aye; Hunter, aye; Schadt, aye; Wilson, aye; Schock, aye. Motion carried.

#### APPROVAL OF MINUTES

Wilson made a motion to approve the minutes from the August 22, 2012 meeting. Hunter second. Roll call vote: Santiago, aye; Hunter, aye; Schadt, abstain; Wilson, aye; Schock, aye. Motion carried.

Derek Wilson asked Glen Plotsky, that when the Board approves the minutes, do they have to approve the public hearing record also?

Glen Plotsky answered no.

Derek Wilson said that at the last meeting, Glen Plotskys' associate had told the Board that minutes must approved.

Glen Plotsky said that he will talk with him, and get back to the Board about that.

Al Fusco said that before Mr. Plotsky and himself had read the minutes, and then had tried to give the Board a recommendation, and he said that he is willing to do that, and if he has a question, he will give it to Mr. Plotsky. He said that he will read the minutes, and then would be more than willing to give the Board a letter saying that he believes that the minutes are accurate.

Derek Wilson said that he believes that there is a legal posting time period of the minutes.

Al Fusco said yes, that that will start with the approval of these August 22nd minutes.

#### ADJOURNMENT

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Wilson made a motion to adjourn. Santiago second. Roll call vote: Santiago, aye; Hunter, aye; Schadt, aye; Wilson, aye; Schock, aye. Motion carried.

Meeting adjourned at 9:50 p.m.

Respectively submitted,

Barbara Broliier, Secretary

