

Town of Montgomery Planning Board Meeting
Held at the Town Government Center, Second Floor
110 Bracken Road, Montgomery, New York 12549
Monday, September 09, 2019

PRESENT: F. REICHLE, Chairman
J. BEAUMONT, Vice Chairman
R. PENNING, Board Member
W. KELLY, Board Member
J. BROWN III, Board Member
R. McGUIRE, Board Member

ALSO PRESENT: R. W. HOYT, Attorney for the Planning Board
L. DOTSON, Garling Assoc., Planning Consultant
A. FETHERSTON, Maser Consulting, Engineer
for the Planning Board
MEMBERS OF THE AUDIENCE

ABSENT: R. MONTEMARANO, Board Member

PLANNING BOARD CLERK: S. HADDEN

RECORDING SECRETARY: J. CASTON

AGENDA

7:30 PM Comment Session

7:30 PM Felizzi – Ridge Road – SEU Permit/Site Plan – Public Hearing

8:00 PM Alicea Holdings, LLC – ASAP Scrap Recycling, LLC – NYS Rte. 208
SEU Permit and Amended Site Plan – Continuation of the Public Hearing

8:15 PM Bluewater Industrial Partners LLC – Project Sailfish – NYS Rte. 17K & 747
SEU Permit/Site Plan – Continuation of the Public Hearing

Zachary Pond, LLC – Lotocke Drive (Browns Road)
Two-lot Subdivision - Presentation

Approval of the January 14, 2019 Planning Board Meeting Minutes

Approval of the March 11, 2019 Planning Board Meeting Minutes

Approval of the June 24, 2019 Planning Board Meeting Minutes

Comment Session

Fred Mertz, audience, Village of Montgomery read his comment letter against Medline. He gave a copy to the board and the letter is in the planning board file.

Wendy Curtis, audience, said she lives on East Kaisertown Road, about ½ a mile from where they want to be, Medline. I'm really late in this game, I really didn't know what Medline was until recently and what does anybody do when they don't know, they go to Google. So, I Googled Why Not Medline and what came up was a sucker punch to my gut, turns out there's a Medline in Lake County Illinois, north of Chicago in a Town called Waukegan and all around it is a cancer cluster. Shaded in the dark color on the paper she displayed. Medline which manufacturers and distributes medical equipment uses ethaline oxide to sterilize products before shipping them to hospitals. The dangers of ethaline oxide have been known since at least the late 1970's. In 1985 the National Toxicology Program, which is an arm of the US Department of Health and Human Services declared that the chemical is reasonably anticipated to be a human carcinogen. The government scientific agency then classified ethaline oxide as a known human carcinogen, they did that in 2000. One of the chief studies of cancer risk involved more than 18,000 workers at the sterilization plant. Researchers for the National Institute for Occupational Safety and Health found that the workers suffered worrisome rates of breast cancers and lymphomas. The study provided the foundation of a draft risk assessment issued in 2006, by the US EPA. It was a document that wasn't formerly released until December of 2016. Medline will say they are operating within legal limits; however existing federal standards may not be enough. Even air pollution produced within legal limits can still be dangerous to the public at large, especially since the EPA has not updated its regulations following a recently heavily vetted research demonstrating that ethaline oxide can pose health risks at lower levels of exposure than had previously been thought. The EPA now contends that human exposure to certain levels of ethaline oxide can lead to significant health problems including cancer, DNA mutations, blood cancers and birth defects. Neither federal or state EPA have any plans to test for these ethaline oxides in the surrounding areas in Chicago. The public...

Chairman Reichle – Thank you, Wendy, we are out of time.

Audience voiced their displeasure.

Chairman Reichle - We have a public hearing scheduled at 7:30 p.m. and I give the public 10-minutes for the comment session, that is why I asked for a show of hands, so the people waiting here for the public hearing at 7:30 p.m., we put them off for 10-minutes so we can be polite to everyone.

Ms. Curtis handed the board copies of the Waukegan Chemical Plant Emissions Cancer Risk printout.

Felizzi – Ridge Road – SEU Permit/Site Plan – Public Hearing

Chairman Reichle opened the Felizzi Public Hearing.

Michael Bodendorf, PE with Hudson Land Design Professional Engineering was present for the applicant. He reviewed the proposed project.

Chairman Reichle – Do you have the mailings for the public hearing notices that were sent out, the green cards?

Mr. Bodendorf – I don't.

Chairman Reichle – You will have to get them to us tomorrow, please.

Mr. Bodendorf – Okay, I will.

Chairman Reichle – Opened the floor for comments.

Donald Quarles, audience – I live on Ridge Road and one of the reasons that my wife and I chose to live on this road is because it's a real quiet and beautiful street, a lot of privacy, it's surrounded by woods. It's completely residential street, 100% at this time. Why it's zoned otherwise at the other end of the street is beyond me? I did have a question as to noise and traffic regarding this proposed building that is being put in there. What kind of trucks are they going to use?

Peter Felizzi, applicant – I have 5-bucket trucks. On any given day all of the trucks would be going out but the vehicles are taken home every night so they wouldn't be parked in the lot.

Mr. Quarles – Okay, I know at this time the proposal is for a small building. My concern is once that property is purchased, could it continue to grow and become a bigger company? I mean, the whole reason that I bought the house was to have privacy on a side street.

Peter Felizzi, applicant – My intention was just to put up this building. I've been in this business for almost 30-years. I've never been able to put my trucks inside in the winter time. We are constantly fighting the weather, working, a small mechanic, I'm not a mechanic by any means, I'm just trying to make it easy on my guys and myself and my equipment.

Mr. Quarles – I understand where you are coming from. I guess what I don't understand is, and maybe somebody can enlighten me. Why on a residential street with no access to Route 84? There is an overpass that goes over Route 84, but no access at this time. Why there would be anything other than residences on that street, maybe somebody can enlighten me on that?

Chairman Reichle – I think it's been zoned that for quite a while. In the back it is I-1, so I think this is the first one in the I-1, and then from there on to Route 84 is I-1.

Michael Bodendorf, P.E. with Hudson Land Design and representing the applicant – In the next parcel to the north is as well.

Felizzi – Ridge Road – SEU Permit/Site Plan – Public Hearing

Chairman Reichle – It is, the next one is all off the page, but for some reason a couple of these houses were zoned that, its been that way for quite a while.

Member Kelly – Many years.

Member Pennings – Many years.

Barney Zipkin, audience – I’ve got a question, one or two stories?

Mr. Bodendorf – One story.

Mr. Zipkin – What is the setback from the road to the building?

Mr. Bodendorf – 75-feet.

Mr. Zipkin – Is parking in the front or the back?

Mr. Bodendorf – It’s on the side.

Mr. Zipkin – I live across the street and it was wooded, beautiful, dead end, the whole deal.

Mr. Bodendorf – We’re going to have a heavily screened frontage on the site.

Mr. Zipkin – I’m not concerned about that, I’m here to say, it’s great to have woods around you, but it’s not going to last forever. I’m on an industrial parcel and I’ve got a house. Would you rather have more houses and people complaining or do you want a guy who goes to work, brings his two trucks in, and goes home? I would rather have this, his bucket trucks are not like my bucket trucks, they are little 6-wheel, they are very small. What time do you leave, 7:30 in the morning?

Mr. Felizzi – We start at 7:00 a.m.

Mr. Zipkin – 7:00 a.m., most people are still sleeping. He doesn’t have engine brakes on his trucks and hopefully he has mufflers on them. He’s going to go in and they don’t go home for lunch, they don’t come back because they left their pocketbook. They come home at 5:00 p.m., they are done, they go home, and that is what we get. I’d rather have that than some complaining neighbor with barking dogs. I’m hearing that all day long, good luck, I’m going home.

Chairman Reichle – Anyone else on the Felizzi site plan? Hearing from no one he asked the board if they had any comments or questions?

Member Pennings – I suggest that they keep some of the larger trees.

Mr. Bodendorf – Those large trees, there is a Sugar Maple in question, there is a large Sycamore right here. Is that the one that you are talking about?

Member Pennings – No, that is a Sycamore, there is a Sugar Maple right here.

Felizzi – Ridge Road – SEU Permit/Site Plan – Public Hearing

Mr. Bodendorf – Sure. We'll take a look and make sure that we're not interfering with any of them, but all of the ones that are on the frontage are right behind that wall and we're only planting trees here. We're not planning to grade there or anything, so we'll make sure that we don't interfere with any of those trees. If you want us to, and if it helps you make a decision, we could get those located.

Member Pennings – And the two Hickories also,

Mr. Bodendorf – Right there in the frontage and you want to keep that sycamore too, right?

Member Pennings – Absolutely.

Member Brown – Did we see an elevation of what you are building there?

Mr. Bodendorf – We haven't provided one, but we can if you want to see it.

Member Brown – I'd like to see it.

Chairman Reichle – It would be a good idea to see with colors of the building.

Attorney Hoyt – Because it is a requirement of the code.

Mr. Bodendorf – We will provide that.

Chairman Reichle – It wouldn't be a bad idea to spot those couple of large trees that you said you would keep, as long as they are in good shape.

Mr. Bodendorf – Sure.

Member Kelly – Mike, I would like a cutsheet and a candela calculation for the pendent. It's one fixture, it should be a couple of pages. Get that to me and then I can move to approve this.

Mr. Bodendorf – Yes, you are talking about the pendent's on the poles?

Member Kelly – Are you using a pendant on a pole as well as a pendant on the building?

Mr. Bodendorf – Yes.

Member Kelly – Okay, but it's the same fixture.

Mr. Bodendorf – Yes, it is.

Member Kelly – I only need one set of calculations for the fixture and one cut sheet showing exactly what you are doing.

Engineer Fetherston – We witnessed the soil percolation test for the septic back in June and we had a couple of comments and a memo from July 19th that were not major.

Felizzi – Ridge Road – SEU Permit/Site Plan – Public Hearing

Vice Chairman Beaumont – Since you are morning and evening, we need to know the timing of the lights.

Mr. Felizzi – I would rather not have lights on, for any neighbor, even just a motion light.

Mr. Bodendorf – There are options for timers on the lights, they go dim at night and stay on very dimly.

Vice Chairman Beaumont – Bill is very good at keeping the light on the property and if it can be turned off with a light sensor and a timer, that would be good.

Member Pennings – Have you contacted somebody with the Coldenham Fire Department?

Mr. Bodendorf – We reached out to them, but we haven't spoken to anyone yet.

Member Pennings – Can you do that please? And then if somebody can put a lock box on there for 911 for overnights?

Mr. Bodendorf – Okay.

Chairman Reichle – We had gotten the County review back the end of July, they had a comment on endangered species.

Mr. Bodendorf – Yes, we're going to limit tree clearing too. I think it's October 15th through March 31st, the hibernation period of the bats.

Attorney Hoyt – We need the Affidavit of Regularity that you did the mailings. We need the white slips from the post office and of course any green cards that you did receive back or any returned envelopes, as we recognize that you don't always get green cards, but we need the white receipts.

Mr. Bodendorf – Okay, we'll send them over tomorrow.

Chairman Reichle – We've got a few things that we've discussed, we can have you back in on the 23rd. I don't think that it will take very long, but we have a lot on our agenda that evening, probably 8:00 p.m. You'll come back in and hopefully we'll have a lot of this stuff worked out and we can move forward.

Member Pennings motioned to reconvene the Felizzi Public Hearing for Felizzi to September 23, 2019 at 8:00 p.m. or as soon thereafter as the matter shall be heard, seconded by Member Kelly. All in favor, all ayes, Member Montemarano was absent, motion carried.

Chairman Reichle – This is the public's notice that this applicant will be back in on September 23, 2019 at 8:00 p.m. to reconvene the public hearing.

Alicea Holdings, LLC – ASAP Scrap Recycling, LLC – NYS Rte. 208
SEU Permit and Amended Site Plan – Continuation of the Public Hearing

Chairman Reichle opened the continuation of the Alicea Holdings, LLC, ASAP Scrap Recycling, LLC Public Hearing.

Marissa Weiss, Attorney for the applicant and with the Jacobowitz & Gubits Law Firm and Matthew Towne, P.E. with Willingham Engineering, Edward Alicea, owner, George Sanchez, with ASAP Scrap Recycling and Matthew Gilson, Business Administrator for ASAP Scrap Recycling and Controller for Headzup, Inc.

Ms. Weiss gave an overview of the project.

Mr. Towne reviewed the changes that were made on the site plan.

Vice Chairman Beaumont – Matt, can you tell me about the (inaudible).

Mr. Towne – I think it's just whatever fits in there.

Vice Chairman Beaumont – It cubes it so you ship all of it back together, correct, that should cut down the time it takes to get a load?

Mr. Sanchez – Absolutely.

Chairman Reichle – Because it's not like the cars that you had to wait for 8-9 cars on a trailer, now you don't have to do that, light iron, cars, and they are in two, can all go together. This is a continuation of a Public Hearing, so we'll welcome comments and questions from the public. Please just state your name for the record, maybe Matt, if you could see that they have the microphone if they would like to come up. Is there anyone that would like to make a comment or have something to say about the project?

Barbara Lerner, audience – We own the property on the corner of Rte. 17K and Rte. 747, I have a quick question, the precious metals recovery, is that (Inaudible).

Mr. Sanchez – No.

Ms. Lerner – So where are the precious metals coming from? Are you planning on buying people's scrap like silver, gold, and whatever?

Mr. Towne – No, there is like...

Chairman Reichle – Stainless, copper,

Mr. Sanchez – Copper, aluminum, wire...

Ms. Lerner – So it's non-ferrous, it's not really precious metals.

Mr. Sanchez – They are more precious than most.

Alicea Holdings, LLC – ASAP Scrap Recycling, LLC – NYS Rte. 208
SEU Permit and Amended Site Plan – Continuation of the Public Hearing

Steven Toth, audience – I was just wondering about a proper DOT Traffic Study for everything. It says that there is a lack of a shoulder on Route 208 on northbound and southbound. There is barely a foot of shoulder on the side of that road, it just doesn't have the adequate tractor trailer visibility or room on the shoulder in either direction. What are you going to do with the freon that is in the air from the air conditioning systems, because it's a gas, not a liquid? If you release freon in the atmosphere, there is a hefty fine. Since they are cubing the vehicles and all these fluids that are left in the vehicles, they are pretty much squeezing it. My mother has to worry about odors. I believe odors have to be controlled and not be coming off of their premises, along with dust. She has to see this big huge crane going back and forth from her bedroom window. He handed pictures to the board.

Cheri Zahakos, audience – (Inaudible)

Mr. Towne – I'm not sure, it's like a catch basin.

Chairman Reichle – It's like a big catch basin, it's like a big tub, a drain pump under the whole thing.

Mrs. Zahakos – My concern was that if somebody should go onto the property and fall into the pit. How are you going to remove the liquids from the pit into the barrels, would it be pumped or is it just gravitation of flow?

Mr. Towne – They are pumped.

Mrs. Zahakos – And I'm assuming the plumbing is very compatible and resilient against the (Inaudible). You say you're using a tarp, (Inaudible). I should ask the board, is that really feasible considering that you are using a tarp, and if the rain catches (Inaudible)?

Chairman Reichle – They are going to clip them.

Mr. Towne – It's sturdier.

Mrs. Zahakos – So it's down and over verses overhead like a tarp?

Chairman Reichle – Yes, it's like covering a woodpile or something.

Brian Sebring, audience – On the hydraulic system that cubes the vehicle, how big of a motor is going to be running that pump?

Mr. Sanchez – I don't have that information with me tonight.

Mr. Sebring – Well how many tons of pressure is it?

Mr. Towne – I can look.

Alicea Holdings, LLC – ASAP Scrap Recycling, LLC – NYS Rte. 208
SEU Permit and Amended Site Plan – Continuation of the Public Hearing

Ms. Weiss – We can submit it to the board for that.

Mr. Sebring – When you are using a hydraulic pump you always hit water. Where is the noise going to be, are you going to flow it, so it doesn't go outside to the neighbors? Noise travels a long distance.

Beverly Mertz, audience - I believe that this applicant does not have a building permit for the scale, correct?

Chairman Reichle – That has been clarified with the building department.

Mrs. Mertz – Have they been issued a building permit for it?

Chairman Reichle – They can't use it, so you can't come in and get weighed.

Mrs. Mertz – Oh, amazing, I think they've already been using it, so maybe someone should check into that, if that is legal or not. Thank you.

Mrs. Toth – What kind of phantom wall are they doing on my side of the property line? Also, they are crushing cars already, do they have a permit for that to operate?

Chairman Reichle – They don't have a car crusher there yet, I was just out there.

Mrs. Toth – I see it from my window.

Chairman Reichle – That's an enviro rack, it's the machine that is going to take the fluids out of the car, they don't have a car crusher there, that is a different machine.

Mrs. Zahakos – Are you using the scale to do business?

Mr. Sanchez – No, I'm not. We have placed our truck on the scale as an example to the town for when they walked through. Enviro rack had a sample car on it to show them how the fluid would be drained, nothing is in use right now.

A discussion was held amongst Mr. Toth, Mr. Sanchez, Mrs. Zahakos and Chairman Reichle.

Chairman Reichle – Board, any comments, any questions?

Member McGuire – Maybe I missed it, but can you discuss what the steel sheerer equipment is?

Mr. Sanchez – It's like a giant pair of scissors, it's got an extension arm that will reach over and cut the steel, rebar, or pipe or I-beam, cut them in 5-foot lengths and it gets loaded.

A brief discussion was held on the sheerer.

Alicea Holdings, LLC – ASAP Scrap Recycling, LLC – NYS Rte. 208
SEU Permit and Amended Site Plan – Continuation of the Public Hearing

Ms. Lerner – Where is the decibel volume description coming from, is it from the manufacturer?

Mr. Sanchez – From the manufacturer.

Ms. Weiss – The sheers has an operating decibel level of 75-decibels.

Ms. Lerner – Typically the decibel levels are during operation. Can you get a number, a decibel level number from the manufacturer, that will indicate the difference between operating and actual sheering because there are two levels? My sheers are kept 350 feet from my office, I've got 3-concrete walls in between us, and I can still hear them.

Ms. Weiss – I will find out.

Member McGuire – Is this on a concrete pad? If the sheers fall down on a concrete pad, there is going to be an impact noise, so this is also a consideration that I think you guys should think about.

Mr. Sanchez – The impact is low to the ground, it is like they are being cut right on the ground. It's not right in the air where it drops.

Chairman Reichle – You have a 5-foot 3-sided wall around your concrete pad?

Mr. Sanchez – Yes.

Chairman Reichle – And they are going to sheer inside of that?

Mr. Sanchez – Yes.

A further discussion was held on the sheering.

Attorney Hoyt – Our recycling law limits decibel levels to 57 at all property lines regardless of the activity and that is between the hours of 7:00 a.m. to 10:00 p.m. and then it drops down to 47.

A brief discussion was held on the decibel levels.

Cory Zahakos, audience – Where is the house that they are living in, in relation to the project and how far off the back?

Chairman Reichle – The house is the one right out by the road, isn't it? The shop is the one in the back.

Mr. Sanchez – No, the house is in back.

Mr. Towne – About 240-feet and that is doubled, so over 400.

Alicea Holdings, LLC – ASAP Scrap Recycling, LLC – NYS Rte. 208
SEU Permit and Amended Site Plan – Continuation of the Public Hearing

Chairman Reichle – Your property is zoned?

Mr. Towne – I-3 and the adjacent house is all in the industrial zone.

Member Brown III – The standard business practices or operations manual, including hours of operation, did we receive those yet?

Chairman Reichle – We got it today. Anyone have anything else? Board anything?

Chairman Reichle – All right there is no more public comment, we just added all this information today. They are going to put some decibel level information together for the public. We can put you on the 23rd, probably at 8:15 p.m.

Vice Chairman Beaumont motioned to reconvene the Alicea Holdings, LLC – ASAP Scrap Recycling, LLC Public Hearing to September 23, 2019 at 8:15 p.m. or as soon thereafter as the matter shall be heard, seconded by Member Brown III. All in favor, all ayes, Member Montemarano was absent, motion carried.

Chairman Reichle – This will be the public's notice that we are going to reconvene this on the 23rd of September at 8:15 p.m., thank you.

Bluewater Industrial Partners LLC – Project Sailfish – NYS Rte. 17K & 747
SEU Permit/Site Plan – Continuation of the Public Hearing

Chairman Reichle opened the Bluewater Industrial Partners LLC SEU Permit and Site Plan Public Hearing and stated that we've deemed the DEIS complete and had hearings on the DEIS. We closed the DEIS Public Hearing in January 14th of this year, but we've kept the hearing open on the site plan and the SEU Permit, and we've continued it in February, March, twice in April, twice in May, twice in June, early in July, and then again tonight, so we've had this hearing open for a number of months. I don't believe there are any updates on the plan, I think that we've got Andy's comments back and Andy, if you want to just brief us quickly on what you've found.

Engineer Fetherston – The last letter we had on this for the applicant was on July 25th and then in our letter dated September 6th we found some minor things on the site plan, minor discrepancies on the SWPPP, that is it Fred, we only have 3-pages and I've got a total of 18-comments for cleanup.

David Everett, Attorney with Whiteman, Osterman and Hanna LLP, Donald Chase and Steven Butte, Principles with Bluewater Industrial Partners LLC and Charles Utschig, PE with Langan Engineering were present for the continued SEU Permit and site plan public hearing.

Chairman Reichle – Opened the floor for comment.

John Brown, audience – We know that in the FEIS, which you complete a public hearing on and you received a rather extensive set of comments from the public, from other agencies, including some binding comments from other agencies related to items that I'm personally interested in, such as storm water run-off, where the wastewater treatment gets discharged, aquifer protection, and so forth. We understand that you are reviewing those comments as part of preparing your Findings Statement. My contention is that the site plan is the embodiment of whatever decisions that you make, so until that decision is made on your Findings Statement, it's inappropriate to even consider closing the public hearing on the site plan. Let me give you an example, their site plan as its shown to you today shows an onsite wastewater discharge plant, if in fact you decide that you need, I'm sorry, the site plan shows that it discharges to the Tin Brook, and if in fact you decide that it should be infiltrated onsite, that is a major change to the site plan. In the same way, storm water run-off or steep slopes, which were minor comments made by the Planning Department, may also affect the site plan. So, my contention is that until you have completed your Findings Statement and reached a decision on that, it's inappropriate to consider closing the site plan. I would like to ask where you stand at this point with the Findings Statement, is there an anticipated date when that will be available for public review?

Chairman Reichle – We are working on it.

Mr. J. Brown – So it's not yet available and there is not a draft at this point?

Chairman Reichle – It's not yet available, no.

Mr. Brown – I guess what I'm requesting the board is, until that is done, to review a site plan or even consider closing it is inappropriate.

Bluewater Industrial Partners LLC – Project Sailfish – NYS Rte. 17K & 747
SEU Permit/Site Plan – Continuation of the Public Hearing

Chairman Reichle – Okay. Anyone else?

Cheri Zahakos, audience – I'll be as quick as I can, this is basically on the (Inaudible).

Chairman Reichle – Is this on the aspects of the site plan?

Mrs. Zahakos – The SEU at the moment?

Chairman Reichle – Yes, like traffic, components of the storm water, the actual layout of the plan, not on Pilots or any of that because that is nothing that we can do anything about.

Mrs. Zahakos read her comment letter against the Bluewater project. A copy is available in the file.

Mrs. Zahakos – Do we acknowledge the E Code?

Chairman Reichle – Not yet.

Mrs. Zahakos continued reading her comment letter.

Richard Bystrak, audience – I've got a comment...

Chairman Reichle – On the site plan? This is a site plan hearing, we're kind of getting off track.

Mr. Bystrak – It's a very simple one.

Chairman Reichle – Okay, as long as it doesn't take too long.

Mr. Bystrak – It's simple, I'm not going to take long.

Chairman Reichle – All right.

Mr. Bystrak - If this was proposed back in 2000 when the local law was in effect, it would never be approved for a warehouse like this. When it was changed in 2010, it still wouldn't have been approved for a warehouse like this. My point is, the authority to do this is not here, it's not in the planning board and it's not in the town board because this needs to be approved by the public for buildings of this size, it has to be approved by the public and I'm putting \$1,000.00 right now on the table and I will give you 10 to 1 odds and I'll pay this board the results if the public approves this. I'll leave it to the public, let them approve this warehouse and Medline and if it does, I'll give you 10 to 1 odds.

Chairman Reichle – Anyone else? Hearing from no one he asked the board and consultants if they had anything further? Hearing from no one he said, we're in the process of working on the Findings and this hearing has been open since January. I don't believe we're going to hear anything more on it, so I'd like to entertain a motion to close the hearing on the site plan.

Bluewater Industrial Partners LLC – Project Sailfish – NYS Rte. 17K & 747
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Member McGuire – Fred, I don't think that's a good idea.

Chairman Reichle – No?

Member McGuire – If anything changes from the Findings Statement, then we're going to have to re-open the hearing, correct?

Chairman Reichle – No.

Member McGuire – Do we have to put a timeframe on this for an approval if we close the public hearing?

Chairman Reichle – 62-days.

Member McGuire – Are we going to be ready by then?

Chairman Reichle – The Findings will be ready by then, 62-days.

Member McGuire – Okay.

Chairman Reichle – Anyone else? Is everybody okay with closing the hearing?

Audience – No, the public isn't.

Gentleman (1) audience – I have a comment, what's the rush to close the hearing?

Chairman Reichle – We've been at this for 8-months, 9-months.

Gentleman (1) audience – Do you have all the paperwork that you need?

Chairman Reichle – Yes, we do. We've been reviewing and reviewing and reviewing it and gone over and over and over this.

Mr. Everett – The town has held 20 public hearings on this project, over 9-months and your board alone has had 14 public hearings. You have had 8,000 pages of studies and reports that were in the DEIS and the FEIS and you've had over 31 agencies review this project. I'm not going to list them all because they are all in the DEIS and the FEIS, so you know who they are, but all of their comments have been addressed in the FEIS and as part of the DEIS and their comments have actually made the project better with changes and the same thing with the public process. I mean you've had all these hearings and the public process has been a very productive one because a lot of the comments have resulted in changes to the project. There has also been a number of agencies that have already approved this project, even Army Corps of Engineers has issued a wetland permit to allow the road to be constructed off of Route 747. The DOT has reviewed traffic studies multiple times and they have actually approved it and they have approved the mitigation measures for it.

Bluewater Industrial Partners LLC – Project Sailfish – NYS Rte. 17K & 747
SEU Permit/Site Plan – Continuation of the Public Hearing

Mr. Everett continued and said we've had DEC review this, they've issued a draft SPDES Permit for the Wastewater Treatment Plant, they are ready to go after the Town's process is done. SHPO has reviewed this, multiple people from SHPO have reviewed this and they've approved the impact to the Haber house, the fact that it's going to be moved. US Fish & Wildlife Service has reviewed this and indicated that there are no impacts to any of the endangered or threatened species, there are none on the site. So, there has been an incredible detailed evaluation here on this project. You've had almost 30 experts who have reviewed this project on behalf of the planning board, and you have accepted it and considered all that input. Those include the town's planner, planning board engineer, planning board attorney, 3 traffic engineers, 2 storm water control engineers, 2 noise control engineers, multiple landscape architects, 4 endangered and threatened species experts, 4 biologists, 2 cultural resource experts, 2 geotechnical engineers, an architect, fire control experts, lighting experts, and the list goes on. I mean this project has been evaluated as a (Inaudible) and we're at the end of the process. You guys have over a dozen studies that have been done on the project including the DEIS and the FEIS, 85 pages of site plan studies, traffic impact studies, geotech studies, SWPPP, water supply report, archeology reports, acoustic studies, wetland reports, Phase I ESA (Inaudible) substance, noise impact studies, bog turtle Phase I, (Inaudible) survey, aquifer test plan, and it goes on and on. Your own engineer has issued over 400 comments on this project and a dozen letters, all those resulted in the project having revisions and becoming a better project. We're at the end of the process, it's time to close the public hearing. There is nothing more to discuss. Look at all of the things that you have done, you should be proud of what you've done, you did it right, now it's time to move on to the deliberative process for you guys to make a decision for the other boards of the town and the other boards and the other state agencies to make a decision. Thank you very much.

Mr. Bystrak – I've got a rebuttal to that, you know all of what he just said just proves that the public doesn't approve of this despite all the work that he just mentioned. There is a lot of people that don't want this and you're not taking that into account, all these approvals have nothing, they don't live here.

Audience applauded.

Mr. Bystrak – Think about what I said, 10 to 1 odd they will not approve this, the public.

The board held a discussion.

Chairman Reichle – We've been going around and around and around and around and around with all of this and we're hearing the same things.

Gentleman (2) audience – Shouldn't you have to on something this big? To have him up here and threaten you guys.

Chairman Reichle – He's not threatening us.

Gentleman (2) – He is.

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Chairman Reichle – We've been doing this for 8-months.

Gentleman (2) – So what if it takes a year, it needs to be done right.

Chairman Reichle – We started this in December of 2017.

Gentleman (1) – And is there a clock?

Chairman Reichle – We've done everything that we can do.

Attorney Hoyt – Unfortunately it's not a democracy, zoning is not based upon what the people want. The zoning book tells you what you have to do, it is not, please let me finish, zoning cannot be put to public referendum. Everyone that is here would close the door behind them, you can't put this to a vote unless the law allows you to, and zoning is not one of those areas.

Mr. Bystrak – This should have been decided before the zoning was made.

Mr. Brown – A process question, these guys claim everything is done. It's not done, you guys have not done your Findings Statement, you have not formally agreed with all the nonsense they put in their FEIS. For example, salt, your consultant has said don't use salt, all the other consultants have said, don't use salt. Today they told the IDA that they are going to use salt on the site. It doesn't mean that you agreed with everything that they put in the FEIS until you do your Findings Statement and until you reach a decision on those major things that are brought out. Binding comments, they say Orange County Planning has agreed. Orange County Planning posts binding comments in requesting things be evaluated. Until you've done your Findings Statement, it's inappropriate to consider closing the site plan because that will change the site plan. Are you prepared to vote on your Findings Statement today saying you agree with every single thing that they've put in there?

Chairman Reichle – We're in the process of reviewing it.

Mr. J. Brown – But you have not done that, you have not taken a position on that yet, that is my whole point. You can't close a site plan until you've agreed with the major points that they've put in there which affect the site plan. You've not agreed with those points yet in a public forum or voted on them, which you are required to do and in some cases; it requires a majority vote with the Findings Statement from other agencies. All I'm asking is...

Chairman Reichle – The major things we've got buttoned up, the storm water and the waste water treatment plant, we can't infiltrate, the DEC won't allow it.

Attorney Hoyt – They won't allow it.

Mr. J. Brown – Where is that stated?

Chairman Reichle – We have an email from Manju Cherian with the DEC.
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Attorney Hoyt – And Christopher Lang, we tried, they said, no.

Mr. Brown – Your own law is saying the Findings Statement. Are you prepared to rule on the Findings Statement today?

Chairman Reichle – We're not but...

Attorney Hoyt – But that is the board's decision.

Chairman Reichle – The Findings are the board's decision.

Mr. Brown – (Inaudible) is the site plan.

Attorney Hoyt – If the Findings Statement changed the site plan, your argument might have some merit, but I don't know that the board can say it will or it won't.

Mr. Brown – Since you can't say that it will or it won't, why won't you hold the public hearing open until you know whether it will, or it won't?

Attorney Hoyt – And if it does change the site plan, depending on how substantial a change it is, the board may have to re-open the hearing, but it's doubtful that the plan is going to change dramatically.

Chairman Reichle – We had to wait for our engineer's final comments to make sure that the site plan, everything is in order and now it's details that we're working through.

Mr. Brown – I don't believe that the points that were brought up by other agencies are details, they are major. I'd be happy if you guys have a Findings Statement and it's voted in a public forum where people can look at it and you can stand there and say, yes I agree, then go ahead and do your site plan closure.

Mr. Everett – Can I make a comment? (Inaudible) blocking the microphone.

Audience shouting.

Chairman Reichle – Order, order, come on!

Mr. Everett – The Finding Statement is an evaluation of the FEIS and the DEIS and the conclusions that are drawn in those documents; it is separate from the site plan hearing process, you are closing the site plan hearing process, that is all that you are doing, and then you are going to work on your Finding Statement, which is the end of the SEQRA process, they are two different processes, so you know, it's time to close it.

Woman (1), audience – When do we get a chance to talk again?

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Mr. Everett – You’ve had 9-months to talk.

Audience shouting.

Chairman Reichle – You don’t comment on the Findings, you don’t, it’s our document, it’s the planning board’s document.

Woman (1) – But we live with it.

Gentleman (3), audience – Your decision is going to affect all of us.

Mrs. Zahakos – While I respect your desire to facilitate this, it’s not all about all of the people that you can let in, it also is a requirement of this board to follow the Zoning Law and instead of quoting the e code, read the law, it’s also about all the other things that I read. It’s good to say you’ve checked these boxes. I know, you want to come in, we appreciate ratables; but there is the zoning code law, and by the way, it is Section 10.

Audience applauded.

The board held a discussion.

Chairman Reichle – We’ve got four public hearings coming up on the 23rd so we don’t want to have it then. What we’d like to do then is have our Findings ready for the 24th, September 24th, close the hearing and read the Findings and hopefully adopt the Findings that night.

Member Kelly motioned for the planning board to schedule a Special Meeting for the continuation of the Bluewater Industrial Partners, LLC, Project Sailfish, SEU Permit and site plan Public Hearing, to be held on Tuesday, September 24, 2019 at 7:30 p.m., or as soon thereafter as the matter shall be heard at Town Hall on the 2nd floor, seconded by Member Brown III. All in favor, all ayes, Member Montemarano was absent, motion carried.

Chairman Reichle – This will be the public’s notice that there will be a Special Meeting held on September 24, 2019 on the Bluewater Industrial Partners, LLC, Project Sailfish.

Audience applauded.

Attorney Hoyt – We will also, because the Special Meeting is called more than a week in advance, we will obviously comply with all those special rules, notifying the press, posting a notice downstairs, but there won’t be any mailings.

Zachary Pond, LLC – Lotocke Drive (Browns Road) – Two-lot Subdivision – Presentation

John Cappello, Attorney with the Jacobowitz & Gubits Law Firm and Ross Winglovitz, P.E. with Engineering Properties were present for the applicant.

Mr. Winglovitz presented the proposed subdivision.

Mr. Winglovitz and Mr. Cappello discussed the application with the board.

Robert Murphy, audience – Are you going to have a public hearing on this?

Chairman Reichle – Yes.

Attorney Hoyt – SEQRA, unlisted, coordinated?

Mr. Cappello – Unlisted.

Approval of the January 14, 2019 Planning Board Meeting Minutes

Member McGuire motioned to approve the January 14, 2019 planning board meeting minutes as previously corrected, seconded by Member Pennings. All in favor, all ayes, Member Montemarano was absent, motion carried.

Approval of the March 11, 2019 Planning Board Meeting Minutes

Member McGuire motioned to approve the March 11, 2019 planning board meeting minutes as previously corrected, seconded by Member Brown III. All in favor, all ayes, Member Montemarano was absent, motion carried.

Approval of the June 24, 2019 Planning Board Meeting Minutes

Member Brown III motioned to approve the June 24, 2019 planning board meeting minutes as previously corrected, seconded by Vice Chairman Beaumont. All in favor, all ayes, Member Montemarano was absent, motion carried.

IES Montgomery Family Limited Partnership – Borrego Solar Systems – NYS Route 52
SEU Permit & Site Plan – Recommendation of the Decommissioning Estimate to the Town Board

Chairman Reichle – We have the decommissioning estimate for Borrego Solar.

Attorney Hoyt – Back when you approved Borrego on Route 52, we punted on the decommissioning amount and I think it was because of a last-minute change and when we were going through the approvals, we realized that this board never recommended an amount, so that is why it's an add on tonight.

Attorney Hoyt – It's a significant bond, \$448,316.00, so there is probably a little room in there for prevailing wage.

Member Brown III motioned for the planning board to recommend the IES Montgomery Family Limited Partnership, Borrego Solar Systems Decommissioning Bond in the amount of \$448,316.00 to the town board, seconded by Member Kelly. All in favor, all ayes, Member Montemarano was absent, motion carried.

Member McGuire motioned to adjourn the meeting, seconded by Member Pennings. All in favor, all ayes, Member Montemarano was absent, motion carried.

Respectfully Submitted,

Judy Caston
Recording Secretary