

APPROVED

CRAIG PAEPRER
Chairman

ANTHONY GIANNICO
Vice Chairman

BOARD MEMBERS
KIM KUGLER
RAYMOND COTE
ROBERT FRENKEL
MARK PORCELLI
VICTORIA CAUSA

TOWN OF CARMEL **PLANNING BOARD**



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*Director of Code
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Town Engineer

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*AICP, CEP, PP, LEED AP
Town Planner*

PLANNING BOARD MINUTES

JULY 15, 2020

PRESENT: CHAIRMAN, CRAIG PAEPRER, VICE CHAIRMAN, ANTHONY GIANNICO,
RAYMOND COTE, ROBERT FRENKEL, MARK PORCELLI

ABSENT: KIM KUGLER, VICTORIA CAUSA

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>TYPE</u>	<u>PAGE</u>	<u>ACTION OF THE BOARD</u>
Barone, Mariano	65.18-1-4	Resolution	1	Resolution Adopted.
Melchner, Charles & Stephanie	66.-2-37	Special Site Plan	1	Denied to ZBA.
728 Route 6 LLC	76.22-1-54	A. Site Plan	1-5	No Board Action.
The Teal Door Counseling Center	86.11-1-15	Site Plan	6-7	No Board Action.
Stillwater Business Park	75.17-1-53 86.5-1-25&26	Site Plan	7-12	Declared Lead Agency.
Old Forge Estates	75.15-1-19	Subdivision	12-15	Planner to Prepare Resolution.
Centennial Golf Club of New York, LLC	44.-2-2,3,4	Zoning Amendment	15-24	

The meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Rose Trombetta

MARIANO BARONE – 32 OVERLOOK DRIVE - TM: 65.18-1-4 – RESOLUTION

Mr. Franzetti had no comments.

Mr. Cleary stated you have a resolution of approval before you to be voted on.

Mr. Cote moved to adopt Resolution #20-02, dated July 15, 2020; Tax Map #65.18-1-4 entitled Barone Regrading Plan. The motion was seconded by Vice Chairman Giannico with all in favor.

MELCHNER, CHARLES & STEPHANIE – 417 SEMINARY HILL ROAD – TM – 66.2-37 – SPECIAL SITE PLAN (BARN)

Chairman Paepre stated according to Mr. Carnazza comments, everything has been addressed and he just needs variances.

Mr. Franzetti stated all engineering comments have been addressed.

Mr. Cleary stated all planning issues have been addressed. The next step is a referral to the ZBA.

Vice Chairman Giannico moved to deny the application to the ZBA. The motion was seconded by Mr. Cote with all in favor.

728 ROUTE 6 LLC – 728 ROUTE 6 – TM – 76.22-1-54 – AMENDED SITE PLAN

Mr. Franzetti read Mr. Carnazza's memo which stated the applicant was issued a permit to change the facade of the building but stay fully within the existing footprint. A stop work order was issued because the construction was extended off the footprint. They are here to legalize the extension and to change the use from a restaurant/catering hall to a restaurant and four other smaller retail spaces. There are no proposed uses for the second floor. Dry storage is the only permitted use for the space unless they return to the board(s). Provide a copy of the variances granted in 1991. I'd like to verify they aren't specific to the previous use. Put all granted variances on the zoning table. It is currently incomplete. Provide the aisle width. It is not clear on my copy. You will need to delineate the parking area that is not on this parcel with a physical barrier. If a portion of the parking will be on an adjacent lot, easements must be submitted.

Mr. Franzetti read his memo which stated this application encompasses a proposal to renovate an existing restaurant building to a small retail strip. Per the applicant the existing parking and utilities will remain unchanged. Based upon review of this submittal, the Engineering Department offers the following preliminary comments:

I. General Comments

1. The following referrals would appear to be warranted:
 - a. Mahopac Fire Department
 - b. New York City Department of Environment Protection (NYCDEP)
 - c. New York State Department of Transportation (NYSDOT)

2. Permits from the following would appear necessary:
 - a. NYSDOT – depending on improvements to the ingress/egress along Route 6
 - b. Putnam County Department of Health – Grease Trap approval
 - c. NYCDEP – wastewater flows.
3. Depending on the proposed intended change of use for the site, a traffic study should be considered.
4. Vehicle Movement Plans should be provided which provide the following:
 - a. All turning radii for the site should be graphically provided. This includes the turning radii into the site ingress and egress.
 - b. It is unclear as to the type of vehicular traffic which will be entering the site and there is no definition regarding the delivery of goods to the site.
5. The applicant will need to show if any work is being performed in the NYSDOT Right of Way (R.O.W.). If so approval is required from the NYSDOT.
6. The number of employees should be provided so as to calculate the number of required parking spaces.
7. Provide the calculations for grease trap sizing.
8. A landscaping plan for the rear and sides of the building should be provided.
9. All planting should be verified by the Town of Carmel Wetlands Inspector
10. All plantings shall be installed per §142 of the Town of Carmel Town Code.
11. All curbs and asphalts should meet the specifications provided in the Town of Carmel Town Code.
12. Sidewalks, manholes and guiderails should be installed per §128 of the Town of Carmel Town Code
13. The applicant should provide a separate water and wastewater use report.
14. A legend should be provided.
15. Signs (e.g., stop, yield, etc.) and pavement markings (e.g., do not enter, etc.) should be provided at the ingress and egress' of the site.
16. The applicant does not address stormwater runoff from the site. All existing drainage should be provided.
17. Additional details are required for the garbage enclosure.
18. Details for the location, height and type of exterior lighting, lights, along with a spill plan denoting illumination levels must be provided.
19. Design of retaining walls should be provided.
20. Should any public improvements be deemed necessary as part of the development of the tract, a Performance Bond and associated Engineering Fee must eventually be established for the work.

Mr. Cleary stated many of my comments have been addressed. He said the renovation of the building is a great thing. It is a very conspicuous location, so improving that building would be great. The physical appearance of that improvement is something we want to pay attention to. The use on the 2nd floor will be storage which is fine, but it needs to be reflected on the plan. There is one space that is identified as a coffee shop and it has been identified on the plan as a retail use. The detail of the coffee shop needs to be provided, because sometimes that becomes a restaurant and it would be a different parking requirement. That needs to be clarified. The front of the site is very significant to us. There is a patio/deck in front of the building, about half of that sits in the right of way. We need evidence from the NYSDOT is letting you use that area. He said all the comments about the parking area need to be addressed. Landscaping is very important. Lighting needs to be clarified.

Chairman Paeprrer stated we are all very much in favor of this project, it fits the downtown redevelopment, but there are several pages of comments. He then asked the architect to give an overview of the project.

Mr. Willie Besharat, applicant's architect addressed the board and stated when we initially came to the building department we had a building permit to do the renovations. He said Mr. Carnazza indicated in his memo that we increased the size of the building, but that is absolutely incorrect. What happened was there is a jog in the front of the building. The front of the building that is close to Route 6 was pushed back and the side that was back was pushed forward, so the increase in square footage was minimum, possibly negative of 10 to 15 square feet less than the building originally was. The reason why it was done that way, the roofline above it was to go straight, so the location of that wall was insignificant in relationship to the construction. It didn't change anything, except make it prettier. He said we will address the type of finishes, the colors, the roof and material, etc. With regards to parking we have an exact record of what was approved in the original site plan and we are going back to that. We are in the process of contacting the school district to lease a section and create additional parking. This property has a variance for the number of parking spaces in the past, which use to be a catering hall and restaurant. They have a variance for 57 parking spaces, that doesn't apply to us because it was site specific for that particular use. All the other variances, such as aisle width, size of parking spaces, etc., have been granted and we will submit it to the board.

Mr. Cleary stated one of the problems with respect to that is there is no striping left on the site.

Mr. Besharat said we are trying to get an easement agreement from the school district.

Chairman Paeprrer asked if the space in question is on the right side looking at the building?

Mr. Besharat replied yes, that's correct. He continued and said we have been trying to get the easement for about 6 months. Eventually, we got a stop work order based on that change of line. He said that building as is right now is dangerous to the public. The owner has found drug paraphilia in the building. What we want to do right now is close the building to the public.

Chairman Paeprrer stated Mr. Carnazza is away right now. I recommend you see Mr. Carnazza when he gets back.

Vice Chairman Giannico said Mr. Carnazza's memo says you changed the footprint of the building not the square footage and that's why he issued the stop work order.

Mr. Besharat stated what we are asking is to put in the windows and the siding to make it look pretty while we are going through this process. We will address all the other comments. He stated the retaining wall is existing.

Mr. Franzetti stated you need to show all the details, top and bottom elevations.

Chairman Paeprrer asked what will be in the upstairs of the building.

Mr. Besharat stated there is no proposed use for the 2nd floor and it will not be finished. If we do finish it and use it, we will come to the board. The only way we

could use that is if we get the easement. If we get the easement, we have additional parking and we will cover the need for the parking upstairs.

Mr. Cote asked what is the anticipated use of the 2nd floor?

Mr. Besharat stated right now we will have storage for liquor. This building has no basement. As of right now, the existing 2nd floor will remain as is; untouched, unchanged, nothing will be added to it. Once we have the parking we would like to create office space. A portion of it will be used by the owner for the Vietnamese restaurant that is being proposed.

Chairman Paepre stated right now you have a coffee shop and Vietnamese restaurant proposed. Do you have anything else proposed?

Mr. Besharat said we have Carvel and cell phone interested. The coffee shop will have no seating; it will be just take out only. He said the new use versus the old use is the different stores will be busy at different times. It will balance out with the proposed uses for this building versus what was there.

Vice Chairman Giannico asked if they have any preliminary renditions, elevations, views.

At which time, Mr. Besharat displayed the elevations to the board and described what the building would look like.

Vice Chairman Giannico stated it has the makings of what the town is looking for. Eventually, we will want to see samples.

Mr. Besharat we have no problem with that, we work with the board.

Mr. Cote asked Mr. Besharat if he has water and wastewater calculations.

Mr. Besharat said we could analysis from the guidelines of the County and give the town engineer a better idea of what the usage is going to be. It will definitely be a lot less than what was there before.

Mr. Franzetti stated you will have to deal with the NYCDEP on addressing wastewater from that facility, because it goes into our collection system into the plant across the street. They will want those numbers. You will need to do the comparison.

Mr. Besharat replied okay. He said the stormwater management doesn't change, because we are not proposing any new impervious.

Mr. Franzetti said does drainage go into the storm sewer or does it go into the sewer. If it goes into the sewer it needs to be disconnected, because you can't have an inflow like that. You need to show all that information.

Mr. Besharat stated nothing goes into the sewer; the stormwater goes into the catch basins that are on site.

Mr. Franzetti said that's what we need to know. He said we may also need a traffic study.

Mr. Besharat stated the traffic would be more scattered.

Mr. Cleary stated you could document that very easily. He said we won't know if we need a traffic study until we get a traffic analysis.

Chairman Paepre stated you have heard from basically everyone saying this is a great project, Mr. Guo has a great reputation for the work he has done in the past and we know he is going to beautify the area. He said you need to meet with the consultants to address all the comments.

Mr. Besharat replied we have no problem with that. We are asking the board to give us permission to close the building.....

Mr. Charbonneau stated this board does not have jurisdiction over that. That is a zoning enforcement issue that needs to be dealt with the building inspector. If you are not happy with the building inspector's decision, then you have to go to the Zoning Board of Appeals.

Mr. Franzetti asked the board if there will be a need to bring this to our architectural review consultant.

Chairman Paepre stated we should use the architectural consultant for this project.

Mr. Mike Caruso, applicant's attorney addressed the board and stated what we have done to resolve the parking issue is getting an easement from the school district. He said I have made several overtures to the Superintendent, but they have responded yet. We are trying to do is secure the right to use what is unusable property along the shared easterly/westerly boundary between the two properties. The school district cannot convey the property that they hold. They can't even grant us an easement into it. Whatever rights we can secure, they will be inchoate, meaning a license or some form of intangible agreement to rent with a term. But until we have a dialog, and we could certainly use any support the board could lend officially to open that channel.

Mr. Mark Constantine, attorney for concerned property owners approached the podium.

Chairman Paepre stated this is not a public hearing.

Mr. Constantine stated there was a reference to this application that this application is not complete yet, is that correct?

Mr. Charbonneau stated when the application is submitted to the town is complete. When it is under review by the planning board there are other items that may be requested. So when they refer to it as being incomplete, that means they are not ready to vote on it tonight.

Mr. Besharat stated he will meet with the consultants to go over the comments.

**THE TEAL DOOR COUNSELING CENTER – 18 MILLER ROAD – TM – 86.11-1-15 –
SITE PLAN (ADDITION)**

Mr. Franzetti read Mr. Carnazza's memo which stated the applicants propose to add an existing counseling center over an existing deck. On the code analysis chart, "Existing No Change" is not an acceptable answer. The architect needs to look into these code questions and answer the question(s). Provide setback envelope, lot depth and lot width lines on the plat. Provide a list of all variances on the plat. The Town of Carmel requires all applicants to "clean up" the property and obtain all necessary variances unless there were previously granted. You labeled the parking space along Miller Rd. "Previously approved". Provide the approval. Where on the area location plan is this property? Please locate. Provide a detail of the trash enclosure. Provide the location of the existing tree buffer. Additional buffer may be needed as this is a residential area. Provide parking calculations. It appears that several variances will be required, however, I cannot determine without all the information requested.

Mr. Franzetti read his memo which stated the applicant proposes to add an addition to the existing building. The addition will be on the area of an existing 275 sqft deck. The project will continue to use existing infrastructure (i.e. septic and water) and minimal changes to the existing site. The following referrals would appear to be warranted - Mahopac Fire Department. Should any public improvements be deemed necessary as part of the development of the tract, a Performance Bond and associated Engineering Fee must eventually be established for the work. Additional information regarding lighting on the site should be provided. Note that Sheet 6 was not provided. No site improvements are proposed for this project. This Department does not have any additional comments related to this project as long as there are no changes being made to the site.

Mr. Cleary read his memo which stated this is replacing an existing deck located at the rear of the building with a 297 square foot, cantilevered extension to the existing building utilizing the former deck columns. The extension provides for additional conference room and office space for the counseling center. The total square footage would be increased to 875 square feet.

§ The site is located in the C – Commercial zoning district. The existing office use is a permitted principal use in this zoning district.

§ The building addition complies with the dimensional regulations of the C district.

§ The enlarged office will total 875 square feet of gross floor area. 5 off-street parking spaces are required. Currently 7 off-street parking spaces are present on the site in a parking lot on the south side of the building, and a parking area with direct access onto Miller Road is present in front of the building, that can accommodate 3 vehicles. The off-street parking requirement is satisfied.

§ The site plan notes that the front parking area on Miller Road was approved for 1 parallel handicapped parking space. No handicapped parking signage or striping is present, and vehicles were observed parking perpendicular to the curb. Clarification of the use of this area is required.

§ The proposal calls for cantilevering the building addition off the rear of the existing building, utilizing the existing columns and piers. Verification is necessary to establish the structural integrity of these structures to support the load of the building addition.

§ The building, including the existing deck that will be replaced by the building addition, are located within the buffer setback of a large wetland located at the rear of

the site. The proposed cantilevered building addition that utilizes the existing piers and columns would not result in an increased in the wetland buffer encroachment. However, if the piers or columns need to be replaced, and new footings or foundations are constructed, those improvements would be considered encroachments into the wetland buffer, requiring a wetland permit.

§ Clarify if the building addition is required to accommodate services not currently provided at this facility, which would significantly increase the intensity of the use of the site.

§ Was the deck a necessary element to the services provided at this facility? Will a new deck be required?

Ms. Kristen Caroprese of Teal Door Counseling and Mr. Fred Reger, applicant's contractor appeared before the board.

Ms. Caroprese asked the board if she could handout pamphlets. The board was fine with that.

Ms. Caroprese addressed the board and stated she created the Teal Door Counseling Center about 1½ years ago. I worked as a therapist for a very large practice called Carmel Psychological and Associates. We are a private practice of 12 therapists including our nurse practitioner that does the medication. We are trying to bring a different field to mental health. When you come into our practice, it is much more familiar and comfortable then going into an agency/clinic. I renovated the entire inside and changed the whole dynamic of mental health. She said we treat all different ages, families, couples and seniors. We are at the point that we are getting to big that we need to expand. She said off the back is a big deck that's useless. We don't need a deck. What we would like do is add a bigger room so I could have group meetings with my staff. The three offices we have now are very small. You could only fit 2 people. She said it will not change the structure of the building. There are no neighbors on either side of me and across the street is Dr. Rooney who is fully supporting us.

Chairman Paepre asked are you trying to enclose the existing deck to make it a room that could be used all year long?

Ms. Caroprese replied yes. We would have two more offices. One would be a group/staff room and the other would be an office for myself.

Mr. Fred Reger, applicant's contractor addressed the board and stated the architect did the design and the structural analysis and elevations. He wasn't able to be here tonight for the meeting.

Chairman Paepre stated Mr. Carnazza had a lot of comments and it would be a good idea to meet with him to review the comments.

Ms. Caroprese replied okay.

**STILLWATER BUSINESS PARK – 105 STILLWATER ROAD – TM – 75.17-1-53,
86.5-1-25 & 26 – SITE PLAN**

Mr. Franzetti read Mr. Carnazza's memo which stated the applicants propose to merge the three commercial lots, remove the existing house (Pre-Existing,

Non-conforming two-family) and small garage, legalize the existing rear storage building, relocate a storage building that was built without approvals, and add the large storage building all to bring the site into conformity (with the exception of 1 necessary variance). What is the proposed use for the 2nd floor of the larger building? The large building needs to be corrected. Plat shows "60,000 s.f. footprint, two story storage building". It is a 30,000 s.f. footprint, 2 story storage building (total 60,000 s.f.). A variance is required from the ZBA for the rear storage building. 30 ft. rear required, 25 ft. provided, 5 ft. variance needed. Provide the location of the existing tree buffer. Additional buffer may be needed as there is a residential area across the street. Could it be extended across by the scale? Any areas that will be used for outdoor storage need to be located on the plat. Variance will be required for any such outdoor storage areas. This project should be referred to the ECB for comments.

Mr. Franzetti read his memo which stated the applicant seeks to extinguish the property lines between Tax Map nos. 75.17-1-53, 86.5-1-25, & 86.5-1-26. On the combined lot the applicant seeks to demolish the existing residence, relocate an existing 5,040 sf storage building and to construct a new 60,000 sf storage building. This will also require site grading, retaining walls, stormwater management practices and re-pavement of a portion of the lot.

Based upon our review of this submittal, the Engineering Department offers the following **preliminary** comments:

General Comments

The following referrals would appear to be warranted:

- a. Putnam County Department of Health
- b. Mahopac Fire Department
- c. Town of Carmel Highway
- d. Town of Carmel Environmental Conservation Board (ECB)

Permits from the following would appear necessary:

- e. Town of Carmel Highway Driveway permit
- f. New York State Department of Environmental Conservation (NYSDEC) – Coverage under General Permit GP-0-20-001
- g. New York City Department of Environmental Protection per the Watershed Rules and Regulations, permits are required within limiting distance to reservoirs and reservoir stems
- h. ECB – work in wetlands buffer

The area of disturbance for the work has been provided as 1.8 acres. The threshold criteria of disturbances for the NYSDEC stormwater regulation are between 5,000 square feet and one (1) acre and over one (1) acre. The project will require coverage under the NYSEC SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001) and the development of Stormwater Pollution Prevention Plan (SWPPP) that has permanent controls.

All re-grading required to accomplish the intended development should be provided. It is unclear from the drawings provide the extent of cut and fill proposed for the site.

Traffic and Vehicle Movement Plans should be provided which provide the following:

Graphic representation of vehicle movements through the site should be provided to illustrate how vehicles will be moving through the site and that sufficient space exists to maneuver vehicles on the site.

All turning radii for the site should be graphically provided. This includes the turning radii into the site entrance.

Available sight distances at each driveway location should be specified on plan. Any clearing along the edge of the roadway R.O.W. that may be necessary to assure appropriate sight distances are provided, should be identified. All calculations should be provided

Slopes at the entrance way need to be defined. It is suggested that slopes of less than 6% be used for the first 20 feet of entry and that slopes of no greater than 8% be used entering the site. Please refer to AASHTO guidelines for commercial properties.

A light spill plan should be provided

All existing and proposed easements on the site must be provided.

The applicant may be required to supply a stormwater maintenance agreement and maintenance guarantee per Town Code (§156-85 and §156-87 B respectively).

Should any public improvements be deemed necessary as part of the development of the tract, a Performance Bond and associated Engineering Fee must eventually be established for the work.

Detailed Comments

1. Layout and Landscape Plan Sheet SP-1
 - a. All planting should be verified by the Town of Carmel Wetlands Inspector. Note should be added to drawing.
 - b. Noise/light buffer areas to protect the neighboring properties must be provided along the entire length of the property.
2. Grading and Utilities Plan Sheet SP-2
 - a. Top and bottom wall elevations should be provided for the proposed retaining wall.
 - b. Drainage system profiles must be provided.
3. Erosion and Sediment Control Sheet SP-3
 - a. Design criteria used for the sizing of the stormwater management practice (SMP) must be provided
 - b. The infiltration system design details and calculations need to be provided. The infiltration system needs to be designed per NYSDEC regulations so as to ensure it will function. This minimally includes the depth to groundwater in the area where the unit is installed.
 - c. Details on how the proposed infiltration area will be protected during construction.
 - d. The area of disturbance should include the area where the planting are proposed.
4. Details Sheets D-1 and D-2

- a. All curbs, sidewalks, and asphalt should meet the specifications provided in the Town of Carmel Town Code.
- b. Sidewalks, manholes and guiderails should be installed per §128 of the Town of Carmel Town Code
- c. A detail for standard duty asphalt in the parking area has been provided. The top layer of pavement should be 2 inches not 1.5 inches and the binder course should be 3 inches not 2 ½ inches.

Mr. Cleary stated the first comment is the merger of the properties which is theoretically fine, but we to have understand if there are any encumbrances on those properties and the merger has to precede your site plan approval. He stated is this going to be used as a separate free standing site or part of the Liffy building next door. We have seen this site before, quite frankly, it's a mess. There are vehicles all over the place and trucks stored rather haphazardly and randomly. Is this building going to be put in the middle of that? Or is this building replacing that. How is this site going to operate? He said enhancing the landscaping is very important. It should be more robust. He asked is the scale remaining? There is a separate gate for the scale. He said the use and operational issues with respect to the property need to be clarified. Are you bringing water and sewer into the building? Will there be lights in the parking lot. There are NYSDEC wetlands to south of the site. Are you repaving the parking lot? Are you doing any work in that area? If you are, now we have another involved agency in this application. If that is the case we should be designating lead agency and doing a coordinated SEQR review.

Chairman Paepre stated the most important part of this project is to clean up the site.

Mr. Adam Thyberg of Insite Engineering, representing the applicant addressed the board and stated this site was subject to review by the Town Board with a referral to the Planning Board for zone change a couple of years ago. That would bring the three subject lots from residential designation to commercial.

Chairman Paepre stated we did review and approve that.

Vice Chairman Giannico asked has ownership to this property changed?

Mr. Thyberg replied not to my knowledge. He continued and stated two of the lots in recent years have operated as storage facilities. The third lot currently contains a dwelling (blue building on Stillwater Road). Given the increased demand for storage in Hudson Valley and in particular in response to the COVID emergency, the applicant is seeking to consolidate those storage uses and increase their capacity for those operations. He said that was the motivation for the zone change and the site plan that was submitted for tonight. The zone change was approved in 2019 by the Town Board. We are here tonight to bring the site into conformance with the commercial zone requirements and also improving the site in other ways. Again, we are seeking to combine the lots and we are seeking to take down a non-conforming use on 105 Stillwater Road lot. We want to move one storage building and construct a 30,000 square foot building, with two floors making it a 60,000 square foot building. To accommodate that we will need a new driveway, we will be proposing stormwater infiltration practices, designated parking and loading and retaining walls will be required as well. No new employees are anticipated as a result of these actions and no new water and septic is proposed. All the new construction on the site meets town

bulk regulations and we are seeking a variance for the storage building located on the southern end of the lot. With that we would like to be referred to the ZBA for that required variance.

Mr. Cote asked if the two story building being proposed will be a self-storage building?

Mr. Thyberg replied I don't know if it is going to be self-storage or a managed storage facility. He said he will get more details on that.

Chairman Paepre stated to Mr. Thyberg that the planning board also plays the role of the architectural review board. He said we would like to know more on the finishes and the construction of the 60,000 square foot building. He said I'm not sure if we will need our architectural consultant, since this is a storage building in a commercial area. We need to see what you have planned and we will then make our decision.

Mr. Thyberg replied absolutely. We will submit renderings and colored elevations.

Vice Chairman Giannico stated before we do anything with this going forward, I think that site needs to be cleaned up. I'm not inclined to do anything with it until that site is cleaned up properly.

Mr. Thyberg asked do you have a specific request as to what you would like to see happen prior.....

Chairman Paepre stated I think it becomes pretty apparent when you drive in there. He stated what's on the table tonight is we probably want to declare ourselves as lead agency. We could move the project along, but keep control of it if we are the lead agency. He said I'm 110% behind the Vice Chairman on the site needs to be cleaned up and I would be happy to go out there and tour it with you. He said what's on the table tonight for us is to make a motion to declare ourselves as lead agency and then we could work with you on the 6 pages of comments.

Mr. Cleary stated the issue of cleaning up the site when we talked about this a year ago, the applicant's response was most of untidiness are vehicles. They are on wheels and they could be moved and place into appropriate locations. We are not asking them to do a lot to tidy up the site; it's a relatively easy thing to do.

Chairman Paepre addressed the board members and stated if you haven't been out to the site yet, to go out to the site and take a look at it.

Mr. Frenkel stated I was at the site there today and what I saw was a mess. He asked if the last submission from a year ago included a condition to clean up the site in their approval?

Mr. Cleary stated it wasn't for a condition of approval. He said we recommended a zoning amendment to the Town Board which eventually changed the zoning. It our referral to the Town Board we recommended that the applicant should clean up the site, it wasn't a condition or requirement.

Mr. Charbonneau addressed the board and stated since it requires a property maintenance issue, my suggestion would be to have the Building Inspector, Mr. Carnazza do a site visit and submit a report so the applicant has idea of what needs to be cleaned up.

Chairman Paepreer stated I would be happy to go out there with Mr. Carnazza. He said we need a motion to declare lead agency from the board.

Mr. Cote moved to declare the planning board lead agency on this application. The motion was seconded by Mr. Frenkel with all in favor.

Mr. Thyberg stated there is still the outstanding issue of the required variance on the existing building on the southern end of the property. He was hoping to be referred to the Zoning Board to start that process as well.

Chairman Paepreer said that won't be tonight. He said to work on the five pages of comments and we will have Mr. Carnazza visit the site to give us a clear direction of what needs to be cleaned up.

OLD FORGE ESTATES – BALDWIN PLACE ROAD – TM – 75.15-1-19-40 – CLUSTER SUBDIVISION

Mr. Carnazza had no comments.

Mr. Franzetti read his memo which stated this application encompasses a proposal to amend a conventional 10 lot subdivision on a 45.3 acre parcel to a cluster subdivision of 14 units per §156-45 of the Town of Carmel Town Code. Based upon our review of this submittal, the Engineering Department offers the following preliminary comments:

General Comments

The following referrals would appear to be warranted:

- i. Mahopac Falls Volunteer Fire Department – The applicant provided a copy of letter dated December 31, 2018 to the Mahopac Falls Volunteer Fire Department (MFVFD).

MFVFD responded to the applicant regarding fire flow and moving flushing hydrant.

Permits from the following would appear necessary:

- j. Town of Carmel Highway

Per the applicant this permit is not required

- k. Town of Carmel Environmental Conservation Board

The applicant has noted this comment and has indicated that the application will be submitted to the ECB upon referral from the Planning Board

- l. Putnam County Highway Department for access onto Baldwin Place Road.

The applicant has noted this comment and provided a copy of the November 16, 2010 signed drawing from the PC Highway Department.

- m. New York State Department of Environmental Conservation (NYSDEC):
 - i. State Pollution Discharge Elimination System (SPDES) Groundwater Discharge;
 - ii. General Permit for Stormwater Discharges from Construction Activities. The project has coverage under the NYSDEC General Stormwater Permit for Stormwater Discharges from Construction Activities permit number NYR 10L634. The applicant should determine if the coverage under the original permit is applicable to the updated site plan.

The applicant has noted the need for both permits. The SSTS permit will be applied for and the stormwater permit will be updated.

The applicant has indicated that the project has received coverage under the NYSDEC existing General Permit GP-0-08-001 and will be amended to meet the GP-0-20-001 requirements.

- n. New York City Department of Environmental Protection (NCSDEP):
 - i. Intermediate Subsurface Sewage Treatment System permit
 - ii. Stormwater Pollution Prevention Plan Approval. The NYCDEP approved the Stormwater Pollution Prevention Plan (SWPPP) for this project. The expiration date is September 2, 2018.

The applicant has noted this comments and will submit an amended SSTS and SWPPP to the NYCDEP.

- o. Putnam County Department of Health
 - i. Common Wastewater Treatment System Permit approval.
 - ii. Carmel Water District #13 Public Water Supply extension.

The applicant has noted the need for both permits and will apply for boty.

A SWPPP, as detailed by the New York City Department of Environmental Protection (NYCDEP) Pursuant to §18-39 of the NYCDEP Watershed Rules and Regulations is required.

The applicant has noted that in order for the NYCDEP to commence review of the SWPPP, that the State Environmental Quality Review Act (SEQRA) determination from the Planning Board is required. The Engineering Department has no objection to moving forward with the SEQRA process.

Review of the SWPPP is ongoing.

The applicant has noted this comment.

The Board should be aware that the drawing DOES contain information regarding areas proposed to be reserved for open space. A note has been be provided on the drawings.

The applicant has noted this comment.

Should any public improvements be deemed necessary as part of the development of

the tract, a Performance Bond and associated Engineering Fee must eventually be established for the work. Prior to Final Resolution the applicant will be required to submit a quantity take off of all proposed improvements for bonding and inspection fee purposes.

The applicant has noted this comment.

The applicant is advised that a stormwater bond and maintenance guarantee, pursuant to §156.87 of the Town Code, may be required.

The applicant has noted this comment.

Preliminary Detailed Comments

Graphic representation of vehicle movements through the site should be provided to illustrate that sufficient space exists to maneuver all types of vehicles anticipated at the site. Additional information should be provided regarding the type of vehicle shown. Similar information should be provided for the septic field access road.

The profile indicates that the road will have a maximum slope of 12%, which exceeds the maximum allowable slope 8%. (Town Code 128-28). If the Planning Board were to classify the road as a Type "D"- Local Rural, then the maximum slope could be increased to 10% in accordance with Town Code 128 Attachment 1:1.

The applicant has provided the previously approved drawing from the Planning Board that show the road slopes approve for this project. It is recommended that the applicant meet with the Engineering Department and Town of Carmel Highway Superintended to discuss further.

Driveway profiles have been provided. Additional detail should be provided to show that the driveways meet the Town Code of less than 6% for the first 15 feet and less than 7% for the last 30'.

The applicant has provided slopes for the driveways. Slopes should be provided at each location. It is recommended that the applicant meet with the Engineering Department to discuss further.

Additional information should be provided on the SSTS access maintenance trail. This includes construction, how stormwater will be captured/treated, stream crossing, etc.

The applicant has noted this comment and provided additional information. That has indicated the NYCDEP does not require treatment in this area. Documentation of this should be provided.

Mr. Cleary stated this project has a long history. It has evolved from a conventional subdivision to the cluster plan of which you have in front of you. The applicant's engineer has addressed most of the technical issues with respect to this. This project

got sidetracked with the pandemic. He said the next step would be SEQR Neg Dec. Typically, you do that when you are close to preliminary approval as well.

Chairman Paepre asked for an overview of the project.

Mr. Paul Lynch of Putnam Engineering, representing the applicant addressed the board and stated this project received a 10 lot subdivision approval sometime in 2005 or 2006. The approval received its stormwater pollution prevention plan and coverage for NYCDEP as well as NYSDEC. One of the caveats in the development of the 10 lot subdivision was there was going to be a 300 foot section of road that was going to be left unpaved because of the determination that we would be crossing a second water body. You are only allowed one paved water crossing at that time. He said the owners of the property had difficulty with the real estate end of it. So we went back to look at doing a cluster subdivision instead. The clustering actually disturbs much less of an area. There will be a central sewage system instead of individual septic systems that were originally approved.

Mr. Frenkel asked about the open space.

Mr. Lynch stated about two thirds will be open space and it will remain green. It does not get developed.

Mr. Frenkel asked if the homes will be single family?

Mr. Lynch said they will be individual residential houses, not condos.

Chairman Paepre asked what is the timeframe of the construction?

Mr. Lynch replied last year. He said they really want to build this project as soon as possible.

Chairman Paepre asked the Planner to prepare a resolution for the next meeting.

CENTENNIAL GOLF CLUB OF NEW YORK, LLC – FAIR ST. – TM – 44.-2-2,3,4 – AMENDMENT TO ZONING ORDINANCE (DISCUSSION)

Mr. Franzetti read Mr. Carnazza's memo which stated the current town zoning code (§ 156-45-"residential cluster development") allows what the applicant is requesting, however, it is allowed at the current zoning which is R-120 and requires 120,000 s.f. of lot area per dwelling unit. What is proposed is 6 units per acre, 18 times the permitted density for the rest of the town (1 unit per 3 acres) with the exception of senior housing which allows 8 units per acre. Why would we not allow this type of development off a State road (Route 6, 52, or 301)? The proposed amendment only allows this off a County road. At a density of 6 units per acre, municipal sewer and water should both be required. All units should require 2 parking spaces and an additional 30% for visitors. Setbacks from the front yard should be at least 40 ft. as required in the rest of the town. If somebody has 20 acres and builds a 40 unit

building, that is 40 ft. tall, that should be required to be setback at least as far as a new one family dwelling. Only 50 s.f. of recreation space is required per dwelling unit. This is the size of ¼ of a parking space. 300 s.f. of recreation space is required per dwelling unit for senior housing. I think at least as much recreation space should be required for families with kids as is required for seniors. Add to the end ...and this open space shall be deeded in perpetuity to remain open space forever (or whatever legal terminology needs to be added to protect the town from this being developed in the future.) This submission is really spot zoning. There is no other parcel in the Town of Carmel that can meet the criteria of this code. No other golf course is on a County road and has sewer and water.

Mr. Franzetti had no comments.

Mr. Cleary stated when this application was before you a few months ago, they had proposed changing the zoning of this property. They have abandoned that approach and now are proposing to keep the zoning in place, but modify the country club use provisions to allow clustered subdivision on a country club property at the density Mr. Carnazza referenced before. This is not conditional zoning; this is a permanent to the zoning. It's a conditional use like 29 other of our conditional uses. We have a host of different conditional uses. The use is allowable subject to those criteria. The zoning is not conditional. He said the fundamental issue is this primary change in tactics, which is keeping the zoning in place and adding this provision to the club use to allow residential cluster development. He said if the zone remains the way it is today, a cluster residential use is an allowable use in that zone today, but not at the density that's proposed but the use is already allowed in that zoning district.

Chairman Paerprer stated so cluster housing is allowable in our code.

Mr. Cleary replied that's correct. Under our cluster zoning provision you are allowed subject to the formula that exists in the code. He said you come up with a density based on that formula. He said there are two ways they could develop homes on the site today, under the conventional 3 acre zoning, or the clustered zoning. It does not give them the density they are seeking and that's the challenge the applicant has.

Vice Chairman Giannico asked so the density being proposed is outside of what our code reads.

Mr. Cleary said that's the change they are asking you to consider.

Mr. Frenkel asked what would be the maxed density?

Mr. Cleary replied the applicant is proposing to self-limit the density on the property to 100 units. The formula would be 600 units, but they are self-restricting it to a cap of 100 units.

Mr. William Shilling, applicant's attorney addressed the board and stated months ago we had proposed a zoning change pursuant to §157-70 which would provide for the return of R-1 in the affected area. After consulting with your consultants, members of the Town Board and our own consulting team we believed it would be easier, more efficient and more productive to go forward via text amendment. The code remains the same but it is amendment to provide for this kind of development for an existing golf course provided all the conditions are met. He continued and stated we presently have 27 holes on the golf course together with all the amenities. On the site itself,

there is a banquet center which is autonomous from the golf course and a restaurant. He said this is a large staple in the Town of Carmel in that it provides the recreation, social, panoramic views that the golf course presents and considerable green space. He said with this application we are only looking to affect the westerly side of the golf course the 9 holes that runs parallel to Kelly Ridge. He said because we are proposing a cluster the people on Kelly Ridge would not be affected. In exchange for the granting of the text amendment it would permit the Town of Carmel to retain 18 holes and championship golf. The proposed deed restriction together with the open space would result in 150 acres of open space. As you may be aware, golf courses all throughout the state have succumbed to the fate that golf courses are experiencing now and they have effectively turned their keys over to commercial and residential developers. We propose something that gives you green space forever. In the end it's 150 acres. I submit to you this is a directive to you from your own code. In the greenway connection provides that you should be reaching out for green space. It's in your code. He said in §156-76 talks about zone change. In zone change is a necessary tool that you must have given the dynamics of change within your town. Zone change is not monumental. It's necessary to address changes that take place. 273 of town law defines the process and §156-90 directs the Town of Carmel planning and zoning boards to seek out open space and recreation. It's part of your job to seek these things because it is beneficial to the Town of Carmel. The procedure is you go to the Town Board first and give them a brief overview and then we come to this board for recommendations. The Town Board is the lead agency and they hold the public hearing. He said how this board decides to recommend is your own, but there are so many positives to what we are proposing tonight. The application was sent from the Town Board to your board, and again, previously it was to create to a former R-1 zone, and now we seek a text amendment. He said what is benefited by the town would absolutely absolve the town from spot zoning. The benefits that the town would receive, the 150 acres of forever green space, the continuation of the amenities, the continuation of the businesses and the 70 employees there.

Mr. Charbonneau stated you do agree that it is the only spot in the Town of Carmel where this zoning would apply.

Mr. Shilling replied under the text amendment that's before you, yes and I'm going to leave that to the consultants. But the designation of a type of road that it's found on, we are going to change that. There are three golf courses in the Town of Carmel and the text amendment should be changed to show any golf course on any road. It doesn't have to be a County or State road. With that being modified, I believe any golf course could benefit by this provided they meet the criteria. He said 27 holes were approved in 1990 which was 1 acre zone at the time. They received 162 base units for the elements that were provided them. They have paid over 3 million dollars in those entitlements since 1997 and they are ongoing today. He said unfortunately, over the last five years things have dramatically changed and it's well documented that failing golf courses are prevalent throughout our area and through the country. It is a fact that outings are down to virtually none. Banquets are way off and memberships are down to point where a lot of golf courses have surrendered to developers. My clients continue to sustain devastating losses to the extent that the maintenance of 27 holes is no longer in the cards. It's not there, they cannot do it and the issue now is survival. They can't continue under these circumstances. The board has a series of choices; would you like to see the 18 holes stay in place? Would you care to see the restaurant, banquet center and the 78 jobs that are currently on the site stay? This is your choice, but the arrangement that's been made through deed restriction and other open space and in the end there will 150 acres of undeveloped open space. You have

all those elements and benefits against this. If this is voted down, my client will start a conventional subdivision with approximately 96 to 100 lots on the entire site. Those are their choices right now. He said you know your function tonight, but I want you to consider not only what is being presented, but what will inevitably happen if it is denied. Under the law there is clear and example authority for what you are doing. Preliminarily there are 3 or 4 important points. The first being §156-70 is a zone change. It's in every code I have ever seen. Creative boards with dynamic circumstances use it and use it to the town's advantage. §156-73 is the code section which tells you what your job is and to give a recommendation. I say to consider the pros and cons, the attributes and the detriments. The third thing is case law. Case law says you are absolutely free to impose conditions on approval and if the conditions that are imposed are clearly favorable to the town, spot zoning would be defeated. He said and the fourth is §156-90 where you are directed to seek to get, to procure, to preserve the open spaces, obtain and preserve and to look for recreational opportunities for your citizens. With that, I look for a favorable recommendation, I propose it's warranted and my clients are in financial distress like many golf course. He said if a favorable recommendation is given, and is ultimately passed, the Town of Carmel gets to keep the championship golf course which is a staple in our community and our town, the restaurant, banquet center and 150 acres of open space never to be developed. He said against that the pros and cons is an as of right conventional subdivision on the entire tract. I'm sorry if this sounds like a gun to the head, I don't mean it to, but this economic reality. He said I submit to you respectfully, if it's denied I think it would be a very, very sad day for the Town of Carmel.

Ms. Caren LaBruto, Senior Planner with The Chazen Companies addressed the board and stated the applicants are seeking a text amendment to allow for the continued activities of the clubhouse amenities as well as some golf functions, so they could do a partial redevelopment of the property with residential development. The zoning text amendment was developed with the cluster provisions in mind and other aspects of the zoning regulations that are considered larger sized developments. She stated we welcome your comments on how to improve the draft. She said the site is approximately 187 acres comprised of pre-taxed parcels on Fair Street and John Simpson Road. The zoning text amendment is for existing golf courses only. It would allow for residential redevelopment if you could meet the minimum lot area of 20 acres for residential. We suggest that there be a max of 6 dwelling units per acre, with a total maximum of 100 dwelling units. This will be calculated similar to how cluster is calculated. We suggest semi-detached dwellings, 2 families, single family and we introduced a new residential use – the attached dwelling which would be row houses with no more than 4 in a row.

Ms. LaBruto continued to discuss the text amendment which included bulk and dimensional requirements and recreational requirements. She also discussed the comparison of the cluster and the zoning text amendment of the site. She said we are open for suggestions, this was just a draft.

Mr. Larry Boudreau, architect with The Chazen Companies handed out plans to the board members containing the context layout of the 96 units. He stated the key here is that Carmel has sewer and water and Southeast doesn't and the idea is to move the current parking lot across the town line, so that opens up the development opportunity that's shown. The access will remain the same for the clubhouse, the golf course and project. He said the project would comprise of a 40 acre parcel. The townhouses will be specific for this project for the 96 units. He talked about the deed

restricted area for the project. He discussed the elevations, floor plans and layouts and finishes of the units.

Mr. Frenkel stated he was having trouble visualizing the location of the development versus the golf course and the land that would be deed restricted.

At which time, Mr. Boudreau pointed to slide two which shows the 187.4 acres and 3 parcels. He pointed to the parking lot, driveway, development and golf course.

At which time, Chairman Paepre asked the board members if they had any questions or comments.

Mr. Frenkel stated I'm hearing and sympathetic to the economic plight that Mr. Shilling described, but what happens to the golf course if there is a further economic slide?

Mr. Shilling stated part of the golf course in Carmel is subject to deed restriction. The documents which the deed restricts, I'm sure would provide for that eventuality. In other words, it's deed restricted from commercial and residential development. There is a document that would be filed that the owner of the golf course would sign forever barring it from commercial or residential development. The document would also provide for the event if the golf course went under. It would be brought out as a contingency in the deed restriction covenant.

Chairman Paepre stated if we proceed with this route and the golf course goes out of business, what happens to that golf course space? You're saying it would remain as green space and not be developed as commercial or residential property.

Mr. Shilling said it would be an agreement that would be framed by my clients as a deed restriction and the town. He stated the prohibition to commercial development or residential development would be in perpetuity.

Mr. Frenkel asked where is the deed restriction in the amendments being proposed on the golf property versus the property you are putting in as open space.

Mr. Shilling said there are 150 acres total of what would be open space. 50 acres of it is created by the deed restriction which my client would execute as part of this. That deed restriction would have as a party to the agreement a member of the town that would provide for whatever it is the town would like in the event the golf course went under.

Mr. Cote asked how many acres would be the subject of the open space?

Mr. Shilling said part of the open space has been made possible by virtue of the cluster subdivision.

Mr. Boudreau stated the deed restricted open space is 52.5 acres. That covers all the property adjoining the properties along Kelly Ridge.

Mr. Cote stated so the proposed area for building is 20 acres?

Mr. Boudreau replied it's 40 acres.

Mr. Cote said so that's 92.5 acres. What happens to the other 94.9 acres?

Mr. Boudreau stated the 94.9 is currently the Lakes 7 and 9, the Fairways 1 and 9 and the clubhouse, vegetative areas outside the golf course and wetlands.

Mr. Cote stated there will be no deed restriction on that correct?

Mr. Boudreau stated no deed restriction, but the idea is that it remains open space.

Mr. Frenkel asked why isn't it in the amendment that you are proposing.

Vice Chairman Giannico stated initially you were talking 150 acres of open space. That's how it was presented to us.

The board members continued to discuss the open space and text amendment.

Mr. Frank Smith, applicant's attorney addressed the board and stated as it relates to the deed restriction of the parcel that's not included in the text amendment. The text amendment provides the one to one ratio, where, however, many you use for the cluster you also need to have it deed restricted as open space. So, in this instance, we would have to provide 40, but we are providing the 52.5 acres. The question is about the remaining 90 acres. He said conditional zoning would permit the Town Board to make a number of recommendations in order to approve the project. As it stands the text amendment itself provides for a mandatory one to one ratio of the area that's being used for development to also be retained as open space. So that 52.5 acres would be deed restricted per the text amendment code and with the remaining acreage the Town Board could make conditions upon the approval.

Chairman Paepfer stated there is a town master plan currently underway. He said one of things the town revitalization is looking at is more opportunities for commercial use and more mixed use. He asked Mr. Cleary what I'm hearing tonight will not help this in any way, correct?

Mr. Cleary stated this is a residential development. That's correct.

Chairman Paepfer stated if the entire golf course does go out of business someday, it would still remain residential.

Mr. Charbonneau stated that §156-76 sets forth the blueprint for a change in zoning, which the referral came from the Town Board. He proceeded to read the section which reads recommending the adoption of any proposed amendment the Planning Board shall fully state its reason for such recommendation describing any change in conditions justifying the amendment and the manner in which the amendment would be harmony with a town master plan. So that is definitively something in our code that you are to consider when considering any zoning change, text amendment or otherwise.

Mr. Shilling stated part of the statute that Mr. Charbonneau just read is compelling. The conditions that are to be imposed to keep the golf course and all the things in place are really to be the suggestions of the boards not of the applicants. So if there is a concern that the golf course might go under and that's 50 acres, you might not necessarily want it to be deed restricted. You could suggest in your recommendation a certain provision that would allow the town to control the future development. So,

that's why we are here to hear the concerns you have and then you would make the recommendations based on what you believe would be the best direction for this project to move forward.

Mr. Charbonneau stated one of the procedural issues that we ran into the first time this applicant was before with respect to the zoning amendment was the planning board's reluctance write this legislation themselves. We are receiving a document from an applicant; we're asking to comment on it, we are not re-writing it. So, to the extent that the board likes the document itself, and would request certain modifications, I'm sure the applicant would receive those and modifications and submit it back to the board for its overall consideration. He said I think the board is reluctant in doing would be receive a submission from the applicant and then try and do its own wordsmithing trying to integrate back into our code.

Chairman Paepreer stated why doesn't this proposal come forward with what already is approved in our code which is the cluster per our code or the 3 acre zoning.

Ms. LaBruto stated I think part of it is the added density that we were seeking. Part of it is the flexibility and design that speaks to Toll's vision for the site.

Chairman Paepreer asked Mr. Cleary what are our options here, positive or negative or no comment back to the Town Board?

Mr. Cleary replied that's exactly right. The challenge you have is your guidance is something like this must be consistent with the comprehensive plan. So, the comprehensive plan that is in place today was designed for the up zoning. This is completely contrary to the existing master plan. The update that is occurring now is yet to be determined. We haven't seen the outcome of that. They are stuck with an inconsistent approach to zoning based on the old master plan and an unknown approach to zoning with the future master plan. This petition has to stand on its own merits. Any additional information or studies to help you make a judgement they have to give that to you. Your response would be a positive, negative or not communicate at all to the Town Board.

Mr. Shilling stated clearly the reason we think we deserve greater density is because we are willing to deed restrict our property which is an incredible value that's been lost by my client. The fact that we are clustering adds more open space. The reason we should benefit is because we are giving something that has a value. To deed restrict and to take away a viable large chunk of property by virtue of the remaining golf course and the cluster development where the green space is there as a result of the cluster. As far as the benefit to the town, the golf course and everything on the site are incredible important to the people in the hamlet and in the town. He said we feel as though we are giving a great deal to the town, and we feel as though we have given a great deal to the town on the amenities that exist there now. We are asking for relaxing of the standards because we think it's in the best interest of the town and we believe the quid pro quo would be the relaxing of standards because of the donation or restriction we have given to the town.

Mr. Porcelli stated if you were going to develop the whole parcel, the infrastructure would be massive and Toll Brothers wouldn't be here looking at this piece either.

Mr. Shilling stated my client has done marketing and notwithstanding the point you made, they find it economically their best alternative at least presently.

At which time, a discussion ensued regarding the acres that would be deed restricted and if there are any wetlands on the property.

Mr. Frenkel asked Mr. Charbonneau if the board is compelled to consider open space under the greenway provisions and how it relates to the fact that this is in contravention of the existing comprehensive plan.

Mr. Charbonneau stated that's the balancing act that you are being asked to perform. He said Mr. Shilling has set forth a number of provisions in our existing zoning code that this text amendment would be consistent with and would foster those goals. I have also read to you the criteria that this has to be consistent with the comprehensive plan, so you are forced to deal with that in the context of the existing comprehensive plan knowing that we have a comprehensive plan committee meeting ongoing for several months. He said you have also heard testimony tonight relative to the fact that the density would be significantly different than would otherwise be permissible. So, those are the comparisons and contrasts that you are going to have to consider. He reiterated to the board that you could make a recommendation, recommending the adoption of the proposed amendment and you should set forth the reasons for that recommendation of adoption or you can make a recommendation of rejecting the proposal and likewise, should set forth the reasons for why you would be rejecting it and that would be referred back to the Town Board for their further consideration.

Chairman Paepre stated can we also not make any recommendation to the Town Board.

Mr. Charbonneau replied that's correct, but I would create a record with respect to why you are essentially standing mute with respect to the proposed text amendment so that the Town Board has something to consider when it ultimately makes its decision.

Vice Chairman Giannico asked with regard to the 94.9 acres (golf course), would you be willing to put some language that would be comfortable with the town and the Town Board as far as control of future development of that should the golf course close?

Mr. Shilling replied yes. I will speak to my client, but I'm sure if the town wanted to put its thumbprint on the agreement in that eventuality, I'm sure they would be agreeable to that. He said if the board feels that they provided us some changes to the text amendment regarding the road that the golf course must be on, etc., we would be happy to resubmit and seek your favorable approval if you think that would be something that you would like to see.

Mr. Cleary stated that is a fundamental change to the text amendment that allows other properties to be eligible. That's a significant modification to other golf courses.

At which time, Chairman Paepre asked if anyone on the board wanted to make a positive, negative or neither right now.

Mr. Porcelli asked if this has to be done tonight.

Mr. Cleary stated there is a timeframe. I'm sure the applicant would consent that if we have deliberations.

Mr. Charbonneau stated there is a statutory timeframe that we are working under. The planning board has essentially 45 days. If there is going to be a new submission with a change in language then the applicant should ask to do that and the planning board would probably consent to that. However, you do have a timeframe in which you have to act and if you wish to deliberate further consent of the applicant would be necessary in order to do that.

Chairman Paepre stated I'm not sure much would change if they resubmitted with the master plan currently on the way.

Mr. Frenkel stated in the context of the master plan being considered, personally I'm feeling reluctant in forcing them into a position that they may not be ready to take. My preference would be that third course, which is not a yes, not a no, but explaining our concerns to the Town Board.

Mr. Porcelli asked how far off is this master plan?

Mr. Franzetti stated possibly a year from now.

Chairman Paepre stated keep in mind we are only making a recommendation to the Town Board. It's going to be the Town Board's decision, but regardless of what the motion is, we should provide the town a lot of valuable information that was discussed tonight to help them. I want to help them make an informed decision.

Mr. Cote stated as much as Mr. Shilling artfully tries to convince that this is about the greater good of the town, I'm not personally convinced. I think quite honestly, this is really about the applicant and the applicant's financial issues and I understand. As a planning board our goal is to look at the totality of Carmel and try to develop it smartly in line with the master plan. I don't see the true benefit to the town to giving up so much as far as density, etc. As much as you try to say it's not spot zoning because two other golf courses might be.

Mr. Shilling stated it's not spot zoning, because of the benefit derived by the town, not necessarily because it applies in practice to one or two.

Mr. Cote said that's the definition of spot zoning.

Mr. Shilling stated spot zoning is where you give preferential treatment to a taxpayer or landowner without equal return. My statement to you is that you are getting an equal return. He said this is a part of zone change which is part of your code and so is the greenway pack. He said in exchange for the non-losing of the golf course, they are giving density and your greenway pack says we should look for green space. That's a priority, that's a directive that your statute gives to you. We heard comments from the board that I would like you to consider to show that we are closer your approval then perhaps we are right now. He said there is no master plan that we could wait for and the master plan in existence is known by everyone to be terribly deficient. He said I think this is definitely within the Town of Carmel's best interest. He stated I would like to resubmit and put a couple of more things in for you to consider, before you make your recommendation to the Town Board. I ask you respectfully, if that's not what you want I understand.

Mr. Frenkel stated he was concerned that the condominium structures will not be carrying its own weight in terms of property taxes compared to other single family homes.

Mr. Boudreau stated that economic analysis that we did and presented in September was at the full rate. We looked at it briefly under a condominium structure and we can provide that to you.

Mr. Porcelli asked what about being flexible on the density?

Mr. Boudreau stated at 6 units an acre it comes to 151 and the minimum is 100. That density could go to 4 and be 100 and we are developing 96 units. If that is something the board would favor we could look at that.

At which time, a discussion ensued regarding environmental constraint land which included steep slopes and regulated wetland buffers.

Mr. Boudreau stated if I have to include the buffers then the 6 units gets us to 100 and if I don't include the buffers then 4 gets us to 100.

The board and Mr. Boudreau continued to discuss the environmental constraints, wetlands, calculations and the density of units.

Mr. Boudreau stated he will run the calculations based on the definition of the environmental constraints that will be provided by Mr. Cleary.

Mr. Charbonneau asked are we at the point where the applicant is asking to submit additional information either an amendment or additional information with respect to the proposed text amendment for the board's continued consideration?

Chairman Paepre stated Mr. Shilling said he would be willing to provide more data. I think as a courtesy we should at least allow that.

The board members were in agreement with the Chairman.

Mr. Cote moved to adjourn the meeting at 9:50 p.m. The motion was seconded by Mr. Porcelli with all in favor.

Respectfully submitted,

Rose Trombetta