

**TOWN OF SKANEATELES PLANNING BOARD**  
**SPECIAL MEETING MINUTES**  
**Hidden Estates DEIS Discussion**  
**January 14, 2020**

Joseph Southern  
Donald Kasper-absent  
Scott Winkelman  
Douglas Hamlin-absent  
Jill Marshall  
Scott Molnar, Legal Counsel  
John Camp, P.E. (C&S Engineers)  
Howard Brodsky, Town Planner-absent  
Karen Barkdull, Clerk

**Continued Review – 9 Lot Subdivision**

Applicant: Emerald Estates Properties, LP  
Skaneateles, New York

Property:  
2894 East Lake Rd  
Skaneateles, New York  
**Tax Map #036.-01-37.1**

Present: Robert Eggleston, Architect; Rudy Zona, RZ Engineering; Rich Andino, Attorney;

Chairman Southern opened the meeting at 6:30 p.m. Counsel Molnar suggested that the board review the criteria for the draft environmental impact statement (DEIS) as defined in the regulations from NYSDEC, review the scoping memorandum adopted May 25, 2019 that drives the DEIS with Planning board as the lead agency, and then page the submitted DEIS document with any comments from the board.

The timing of the regulations from NYSDEC with the DEIS supplied by the sponsor to the lead agency, (in this case the Planning Board), is 45 days in which to suggest edits if the board deems the DEIS is not adequate for publication and review. The DEIS was submitted by the applicant on December 6, 2019 after hours and was effectively received on December 9, 2019 at 8 am. The applicant and board concluded that the date of receipt was December 9, 2019 with the board providing written comment regarding any edits needed to the DEIS to the applicant by January 23, 2020.

The NYSDEC website provides direction and guidance on how to handle and advance a DEIS on behalf of the applicant and the board in its review. The board should rely on the standards of §617.9 that describes the required content of the DEIS as a starting point. The content for the DEIS must include the following elements:

1. A concise description of the proposed action, its purpose, and public needs and benefits including its socio-economic considerations
2. Concise description of the environmental setting of the areas to be affected sufficient to understand the impacts of the proposed action
3. A statement and valuation of the potential significant adverse environmental impacts at a level of detail that reflects the severity of the impacts and the reasonable likelihood of their occurrence. The DEIS should also identify and access the following impacts only where they are relevant and significant.
  - a. Reasonably related short term and long term impacts
  - b. Those impacts and adverse impacts that cannot be avoided or adequately mitigated
  - c. Any irreversible or irretrievable commitments to environmental resources that would be associated with the proposed action

- d. Any growth inducing aspects of the proposed action
  - e. Impacts of the proposed action on the use and conservation of energy
  - f. Impacts of the proposed action on solid waste management and its consistency with state and local adopted consolidated waste management plans
  - g. Impacts of public acquisition of land, interests in land, or funding of non-farm development on land used for agricultural production and unique to the irreplaceable agricultural lands within agricultural districts
  - h. Measures to avoid or reduce both an impact of the action on climate change and associate impacts due to the effects of climate change such as sea level rising, etc.
4. A description of mitigating measures,
  5. A description and evaluation of the range of reasonable alternatives to the action that is feasible considering the objectives and capabilities of the project sponsor. The description and evaluation of each alternative should be at a level of detail sufficient to permit a comparative assessment of the alternatives discussed. The range of alternatives must include the no action alternative. The no action alternative discussion should evaluate the adverse or beneficial site changes that are likely to occur in the reasonably foreseeable future in the absence of the proposed action. The range of alternatives may also include as appropriate to consider alternative:
    - a. Sites
    - b. Technologies
    - c. Scale or magnitude of action
    - d. Project designs
    - e. Timing or phasing of action
    - f. Uses
    - g. Types of actions.

Counsel Molnar noted his observations of the DEIS and ultimately the FEIS, although written by the sponsor, it is to be reviewed and approved by the lead agency for circulation and sufficiency. It is a balanced document with a very objective approach. In the past the board has review a DEIS and recommended to the project sponsor that it be adapted so that it is more level and objective. For this application, the board would take the same approach. For instance, taking conclusions that are contrary to what the board has stated on the record, or adapting or recognizing facts that were not on the record or part of the overall discussion on whether nor not the application metis the dimensional limitations or the requirements of the code such as a discussion of whether or not the Finger Lakes Land Trust or the town entered into negotiations or cut off negotiations concerning a conservation easement on the property or otherwise. Those elements are not otherwise objective or balanced in terms of the environmental impact of the proposed action according to the six criteria determined by the Planning Board to be potentially significant. When the board is reviewing those actions, Counsel Molnar recommended that the board consider whether those items need to be edited.

He recommended that the board understand the timing and the turnaround concerning the DEIS and written comment or request for same. The lead agency has 45 days in which to request of the project sponsor a revised document. Revised and edited to include those items that are required under the regulations and that are certainly part of the scoping document that the board arrived at and approved May 24, 2019 when it circulated it to potentially interested parties. The scoping document is critical to the board's investigation, analysis, and review of the document submitted for the DEIS. The sponsor has no time limit return of an edited document to the Planning Board. It can take as much time as need to do additional research to find additional material, to edit the document, etc. Hopefully the edits would address all of the concerns that the lead agency requests and addressed in writing.

Upon return of the Supplemental Draft Environmental Impact Statement (SDEIS), the lead agency has 30 days to review the document for accuracy, adequacy for public notice, place on the town's website, etc., or request the applicant to turn comments. If comments are not addressed, the lead agency may document and suggest that they be addressed in the SDEIS. SEQR regulations place no limit on rejections of a submitted DEIS and requires that the lead agency must identify the deficiencies in writing to the project sponsor. The goal of the lead agency in review of the submitted DEIS should be to advance the review of the proposed project to the public review phase. The Planning Board will review the submitted material and Counsel Molnar will prepare a written response to the applicant.

The applicant is the sponsor and RZ Engineering as author/editor of the document. The document cover sheet and exhibits are accurate. Counsel Molnar commented that the submitted document should be edited so that it is objective in its responses. It should not be from the perspective of the sponsor or the Planning Board. Wherever necessary in the document, the addition of "The sponsor contends" to any statements that reflect the sponsor's conclusion that is not in the record or in the review of the SEQR long form with positive declaration or scoping documents.

The table of contents reflects that there is an executive summary on page 3 and alternatives ending on page 55. The executive summary with the description of the actions are duplicated between two sections – page 2 to 23 that essentially addresses everything on the table of contents, and appears exactly the same on page 24 to 55. Counsel Molnar suggested to the board that it be compressed into one coherent document so that it does not seem redundant. The overall document seemed to be complex at times, although Counsel Molnar said that he is familiar with the scoping document and what went into the board's positive declaration and suggested that the headings be adapted. As an example, the six points as determined by the board to be the six major areas as outlined in the scoping document, section B 1-6 of the scoping memo. When the board is dealing with section 1 the magnitude of slopes creating steep slopes, the discussion of the impact and the mitigating measures and alternatives should be addressed under number 1. It should flow logically for any reader to see the question presented and the discussion of facts pertinent to the question, discussion of mitigating measures or alternatives and how the applicant proposed to address them. The board needs to review and come to a consideration and subject to interested parties with the final environmental impact statement (FEIS). The DEIS needs to be set up in a format that follows the scoping document to remove redundancy.

In paging the document, page 1 is the cover, page 2 is the table of contents, page 3 is the exhibit table which also includes exhibits 23 and 24, the Planning Board and Zoning Board of Appeals minutes from 2011-2012 regarding the Marchuska proposal. It is included as part of the DEIS, as to whether or not the Marchuska property is subject to shared lakefront recreation. At the time, the Marchuska property was being developed for special permit, site plan, and variance approvals to construct the single-family residence, there was a discussion on the record and the Planning Board concluded that the Marchuska project, was not defined as shared lakefront recreation. The applicant had an easement over the property to gain access to the lake. It was determined that that was not shared lakefront recreation because it was an easement in favor of the easement holder, the immediately adjacent parcel across the street that was subdivided in segments over time. The Marchuska project for the redevelopment of the lot for a single family dwelling on the former Roger Scott lot, did not propose to in any way create or subdivide any future parcel or intended parcel to it to create additional lots which would or would not have access easements that sit over the Marchuska property. There was no prospect of creating additional lots that would be entitled to that access. It is a point that reflects that it was not shared lakefront recreation and was not part of the overall discussion. There was no need for it to be code compliant with the requirements of shared lakefront recreation in the code and was therefore not addressed. It was in applicable and for that reason it is recommended that the applicant delete any discussion of that in the DEIS and exhibits 23 and 24 as they are not applicable to the proposed environmental impact of the six

findings in the positive declaration and the scoping document. The board agreed with the recommendation.

On page 3 there are some typos on the third paragraph on where it references FEIS where it should be DEIS. Paragraph 3 needs to be re-phrased as it is not objective and it should read that "It is the sponsors contention that" in all of the conclusive statements made. Paragraph 4 should be stricken from the documents relating to the Joel Russell workshop. Paragraphs 5 and 6 should also be stricken as the background was not in the board's record or reviewed by the board in their determination of a positive declaration for the project.

Wherever required in the document, it was recommended that the document be edited so that it reflects the final design as it currently sits before the Planning Board. It is not the conclusion of the Planning Board that the road be equal to 12% grade and no larger, and it excess of the requirements of a conservation density subdivision road. That conclusion is borne out because of the steep slope upon which the project lies. It is a code requirement that states that a conservation road be no greater than 12%. More importantly, it was the recommendation of the fire chief that the road be as wide as suggested in the final design and compliant with the 12% grade so that the fire chief can respond in the event of an emergency to provide fire service for the potential lots and residences to be created in this project. It was not a unilateral requirement of the Planning Board for the road to be at 12%. The document should be edited for that as well. Mr. Camp commented that in several section of the document where it reads that "the Planning Board requires" and the fact is that it should read that the code requires. Counsel Molnar added that it was also the fire chief's requirements in order to provide fire protection for the proposed lots that the road be a certain width so that the fire equipment can ascend the steep slope.

Mr. Zona said that there are valid sources that are the reasoning of why the road was modified. Member Winkelman commented that the safety of the road is important to all of us and the challenge is that it not only 12% but also it is a long twisty 12%. It is a challenging site that also dictates the requirements. Member Marshall said that she had a question on the last sentence of the executive summary on page 4 that states, "This proposal, with environmental concerns mitigated, creates less of any environmental impact than a "no action" alternative." Counsel Molnar recommended that it be stricken from this section and be place under the "no action" alternative.

Page 4 the first paragraph is exactly the same paragraph that is on page 24. Counsel Molnar inquired of the applicant intends to use for editing page 24 on or from page 2 on through 23 to consolidate the discussion points. Mr. Zona stated that he understands that the suggestion was to use each of the questions with a framework under the questions. With everything else, he would start with page 4 and take points from 24 on to move into page 4. There are multiple SEQR items that would fall under concern 1 and they could be listed there. Counsel Molnar commented that the scoping memo was designed that way.

Global comment number 3, wherever there is a conclusion it should be objective. On page 5, "Once the lot is graded the lot can be seeded and stabilized prior to completion of each residential structure which will limit disturbance to a small area on each lot" should be re-worded to state "Once the lot is graded the lot shall be seeded and stabilized prior to completion of each residential structure which will potentially limit disturbance to a small area on each lot". This would also be in compliance with a SPEDS permit. To keep the document objective, conclusions should reflect the potential and there are certain minimum requirements that shall be in compliance. Where necessary, that edit should be made. Mr. Camp suggested that in the same paragraph the sentence "The construction disturbance of each building lot will only be disturbed during the initial lawn grading." It is important that the applicant understand that the lawn is to be graded and stabilized during the entire construction of the house, which is not typical for residential house construction. He recommended that the sentence be removed.

Counsel Molnar noted that at the bottom of page 5 is a table reflecting lot size and disturbance, which is useful; however, verification needs to be completed to ensure the numbers reflect what is in the record. Mr. Camp indicated that the table does not include the road in the disturbance calculations. Mr. Zona stated that the purpose of the table is to try and color in some of the limitation of each lot and what could be used in the building envelope and the code, as to what is allowed for impermeable surface coverage. Mr. Camp inquired if it included the disturbance of the road and Mr. Zona said that it should. Mr. Zona commented that he could break it out for each lot and lot disturbance, and for the road. It is unlikely that the lot disturbance would occur at the same time for all of the lots and the road at the same time. The road will have to be in place before any of the lots are sold. Mr. Camp inquired if the road is on any of the lots and continued saying that if it is, it should be calculated as part of that lot's disturbance. Mr. Zona stated that it could be shown in phases with the road disturbance as the first phase, and the disturbance for a dwelling as a second phase. He continued saying that the DEIS indicates that 3-4 lots would be sold a year so he could do it based on 3-4 lots at a time. Mr. Camp suggested that he should show the worst case scenario of all of the lots developed at the same time as it is difficult to anticipate how many lots would be developed at the same time. Mr. Zona said that they could comment in the section that it would be unlikely that the 9 lots would be developed at the same time. Counsel Molnar said that it could be phased with the statement beginning with "The sponsor contends".

Counsel Molnar queried if the review will now look at page 24-25 for editing. Mr. Zona recommended that they continue with the concerns and that the back portion of the DEIS would be integrated into the six concerns addressed. Mr. Zona said that the way the scoping document was drafted; it had the concern, with the SEQR questions applied to the appropriate concern. He continued saying that each concern should be summarized with a limited response, and put the effort into each SEQR response on how each concern applies to each SEQR question. Counsel Molnar stated that it should be reflective of the scoping document. Mr. Zona inquired if each concern will have the following SEQR issues listed with each of the related concerns with analysis provided later in the document in the executive summary concern section. Then the bulk of it will take the SEQR item with concerns 1 and 3 applied to it, is how we are going to do it.

Counsel Molnar concurred that it is a fair approach and his concern is when the re-write is undertaken, the draft come back. The Planning Board is charged with setting forth in writing the proposed edits to the draft document. Those proposed edits will not be visible until the board sees the turn. He requested from the applicant that given the challenge, that they have an agreement that the Planning Board can exceed the 45-day time limit on its proposed edits as the compression will be monumental just for the first go around. Mr. Zona said that the DEIS will need to be redone. Counsel Molnar suggested at least two –three weeks from the next turn for the proposed suggested edits without relinquishing by this first go-around. Mr. Zona stated that this is a pre-review rather than an official DEIS submission. Member Marshall asked for clarity that the board is presenting general ideas tonight and give the applicant a chance to condense the DEIS. Mr. Eggleston inquired on when the 45 days extension would begin. Counsel Molnar clarified that the next submission would be a 30 days period with the goal of the regulations narrowing comments every time, with the Planning Board providing a defined set of comments and the applicant having an obligation to reply to the comments. Counsel Molnar suggested more time to provide the first set of comments to the applicant. Mr. Zona said that the board is not giving comments after this meeting but will wait until after the next submission to comment afterword. Mr. Eggleston said that his understanding is that global comments would be submitted to the applicant by January 23<sup>rd</sup>. Counsel Molnar said that if the applicant and the board can have an understanding on how it can efficiently address the comments; it would be helpful for both parties. The board will give the applicant general global comments reserving technical minor comments as the edits come back so that the board is not waiving or otherwise relinquishing that edit requirement and the notice requirement to the applicant. The first turn will be big.

Mr. Zona said that this is a pre discussion before the DEIS discussion that will occur and the clock starts. Mr. Andino said that he is in agreement and that the board has some wiggle room in the parameters of the regulations as there is no limit on the number of times the applicant can come back on the DEIS. Counsel Molnar reiterated that the board is requesting the opportunity to reserve on the edit detail so that the board can do the editing properly for circulating and publishing to the public. Mr. Eggleston summarized by saying that the board will be giving global comments by the 23<sup>rd</sup>, they would go back and re-work the document and re-submit it, and not be subject to 30 days because it is not the SDEIS.

Counsel Molnar stated that the applicant has no time limit and the document can be turned back as they see fit. Mr. Eggleston said that the next document would be a SDEIS which given the board 30 days and the next turn is not going to be called the SDEIS rather a DEISv2. Counsel Molnar said that his statement is a fair statement. If the global comments are addressed, then the board should be able to do the detail comments within 30 days.

Mr. Camp stated that is several places there is language about the Planning Board rejecting and/or accepting certain things and that the board has not accepted or rejected anything except the conservation analysis. Counsel Molnar clarified that the conservation analysis has been submitted but not adopted. Mr. Camp continued saying that alternative 4 states that the Planning Board has accepted it over a year. Counsel Molnar re-affirmed that the applicant is providing to the Planning Board the reservation to do fine comments when the second turn comes in.

Chairman Southern commented that on page 8 fourth paragraph, with comments like the individual now has opposition to development has no place in this document. The fact that the applicant could not get the Finger Lakes Land Trust to do what you wanted to do. Counsel Molnar said that that is a global comment that should be edited out on page 8 and wherever it appears in the document, as it is not germane to the potential environmental impacts to a given element in the positive declaration. Chairman Southern said because a board member stated this or that. Member Marshal inquired if each should be pointed out. Mr. Zona said that if you find it specifically in one place and indicate that it is elsewhere in the document, they he would remove them all. Member Marshall indicated page 8, the second paragraph states that the proposed conservation density subdivision is the most environmentally friendly potential use of the parcel. Mr. Zona said that they would modify that statement with "The sponsor contends". He continued saying that he will go through the document and modify those types of statements throughout. Mr. Eggleston said that the code is also stating that and Chairman Southern clarified that it is not the person but the code.

Mr. Zona said that if it is in the code then it could be modified to state that fact. Chairman Southern said that comments like that if it isn't in t the town is dissatisfied with the current code the town board should propose a new code making the adjustments they would like to see for future projects, should not be in this DEIS. Counsel Molnar stated that the comment is irrelevant.

Member Marshal commented that the document does not refer to the Comprehensive Plan regarding the character or the views. Mr. Eggleston said that was related to the comments that were requested to be stricken from the document, the Notre Dame study, etc, it should relate to the Joint Comprehensive Plan instead.

Mr. Camp referred to page 10 Concern 1, the applicant has outline the magnitude of excavation on steep slopes and creation of steep slopes, and on page 11 the proposed solutions are study, explore and study; study and explore are not solutions. Mr. Zona said that the solutions came from the scoping document. Mr. Camp stated that this document should discuss the mitigating plans to address the concern. Mr. Zona commented that if no study is being done then the section should not reference a study.

Member Winkelman noted that on page 10 summary point 3, to widen the road beyond the code requirements of a conservation density private road requested by the Planning Board. The road is being widened beyond the minimum requirements, and that is an important distinction. Counsel Molnar suggested that it was requested by the fire chief and not the Planning Board.

Member Marshall said that on page 10 the comments that in the document it is mentions a couple of times the example of a wedding venue that would create more use of the existing driveway, and inquired if a study has been done. Counsel Molnar stated that the comment is not relevant and the use would require a special permit with SEQR review. Mr. Zona said that you would have to make some assumptions. Mr. Eggleston said that they would have to have the data to support the comment with traffic numbers. Mr. Zona inquired that if he referred to a 100-seat event center in a local town adjacent to Skaneateles that generated more traffic could that statement be made. Mr. Camp said that traffic was not one of the concerns identified by the board. Mr. Zona continued saying that it is an alternative use and Mr. Eggleston added which would have other detrimental effects. Counsel Molnar said that it also assumes special permit approval.

Mr. Camp inquired on page 11 statement about Doug Wickman requiring a steeper road. Mr. Zona said he thought the original driveway was approved at a steeper slope than 12% in some areas. Mr. Eggleston said that the road slope started further west on the original plan, and Doug Wickman is the one that pushed it which made it steeper. Mr. Camp inquired if it was under the context of reducing disturbance or some other purpose. There was a different intent by the applicant at that point and the context is not clear. The driveway was intended for something different that the road being proposed today. Mr. Eggleston said that he does not believe that statement is fair because the driveway was intended to get people from A to B. He continued saying that it fell under a different classification with less criteria and he pushed the design saying do not start it way out there, start it closer. If it has started way, out there it would have started everything earlier and it would have been easier to accomplish. Mr. Camp commented that my guess is that we would have to review the minutes; if you are going to include this then there will have to be a substantial look into what all that means. It is odd how it is written in this type of document. Chairman Southern said that he fails to see why it needs to be in this document. The existing driveway is what it is and as an alternative, here is what is being proposed. Mr. Camp said that that was a different project and this is a new project with a new application. Member Winkelman said that he sees it as a continuation. Mr. Zona said that he disagreed that it is a different application as you are still using it for houses although the classification of it is different because of the number of lots. He continued saying that it is not being used for a difference purpose; it is not being subjected to commercial traffic. Mr. Camp stated that it is being reviewing on behalf of fire-fighting traffic; the circumstances have changed. Counsel Molnar stated that you can have only four lots on a driveway and you are adding 9 additional lots through a conservation density subdivision road with its own dimensional requirements. Mr. Camp said that if the statement is included there will be a lengthy discussion on it. Member Winkelman commented that Doug Wickman must have had his reasons. Mr. Zona said he is not disputing anything and that the existing design of the driveway is suited to its purpose. He continued saying that the intend of the paragraph is to show that there has been some good faith effort on the applicant's part to look into other ways of using the existing road instead of going through the exercise of disturbing steep slopes and the rest of it. Mr. Camp reiterated that if the paragraph is going to be kept in the document then a fair amount of work done to make it so that I would recommend to the Planning Board that they accept it into the document. Mr. Zona said that the town and the applicant has had discussion on using the driveway the way it is to try and alleviate some of the concerns. It is important to note as part of the DEIS that you have gone through a bunch of exercises and have looked at everything and this is one of them that shows that the applicant and the town have done their due diligence and alternative ways to make the project work.

Mr. Camp saying the suggestion was that if you want to keep the driveway then the applicant should get a variance. Mr. Zona said that the purpose of the paragraph is not to go get the variance. The directive of the scoping document is to explore other options so you should show what you did. One option is to keep the existing road as is. Mr. Andino said that they could explore that under the new format under the alternatives section. He continued saying that there is a discussion of alternatives of no changes to the existing driveway and it could go under that global heading. Member Marshall commented that the existing paragraph was not acknowledging the driveway met with the approval with the previous application, which is a different situation than what is being proposed. Mr. Zona suggested that the paragraph could be re-worded without going through the history to determine what the original reason was. Member Marshal stated that the DEIS does not need to comment on Doug Wickman.

Counsel Molnar stated that for purposes of the alternatives section, section 1 at the bottom of page 11 rolling over to page 12, he would recommend to all parties that alternatives be defined- 12% road, alternative 4, alternative 5. Common ground should be found to define the terms for the purpose of assessing alternatives and referring to them throughout the document to assist with understanding of what they are and to provide clarity to the public reading the document. The same thing would apply to defining the conservation analysis on the second to last paragraph on page 12.

Chairman Southern commented that on page 12, item 2, the Planning Board has made no assumption or statement that that was not a feasible alternative. That would be a conclusion you arrived at after attempting to make an entrance throughout the properties. He continue saying that he still sees it as an alternative.

Mr. Camp inquired if on page 14, first paragraph, was a typo regarding the note and Mr. Zona said that it will be stricken from the document. Counsel Molnar commented that it was in the scoping document and positive declaration. He continued saying that the cut through the steep slope will be 12 feet deep, a significant cut. Mr. Camp said that the way it read it may be in the incorrect section. Mr. Zona said that it will be placed in the correct spot.

Chairman Southern referred to page 12, item 3, and the statement “at the request of a Planning Board member” should be removed from the document, as it is inappropriate as the board acts as a whole. Mr. Camp commented that the statement of “at the request of” should be removed. Counsel Molnar stated that the conservation analysis has been submitted, but arguably, accepting and adopting it is an approval, which cannot occur until SEQR is complete. Mr. Zona said that it would be re-worded. Counsel Molnar observed that the last sentence could be struck.

Mr. Camp noted on page 14 a minor commented that the statement beginning “The SWPPP will be reviewed and approved by the Town Engineer. The town engineer cannot approve, and as such, the word approved should be stricken.

Mr. Camp observed that on page 42 the middle paragraph discussion and mitigation measures proposed, there is language in it that will need to be changed, beginning with the first sentence stating, “This is a misplaced concern”. He contused suggesting that the entire paragraph be stricken. Mr. Zona said that it will be re-worded.

Counsel Molnar referenced page 15 concern 3 impact of project on view. The findings of the Planning Board as reflected in the scoping document are impact of new road and overall project on view. It is two sections and he recommended consistency with what the scoping document said which is reflective of the positive declaration. As the applicant is setting up new headings with concerns, it should be recited as it previously was.

Chairman Southern referred to page 17 at the top reference to the Loveless Farm subdivision is not necessary. If you want to make a statement as to the final project was it should reflect one lot.

Chairman Southern commented that on page 20 the comment under proposed solution 1, "If the town is dissatisfied with the code change" should be removed. Member Marshall restated her earlier comment that the document does not mention the comprehensive plan is the part of the plan is an agricultural aesthetic that helps to preserve the views and the overall appeal of the community. The zoning laws are in place to support the plan and the plan is not mentioned in the document. She continued saying this type of development should be near the hamlets or village center. Mr. Eggleston commented that this is the kind of development that is suitable in the RF district as it is low density. Member Winkelman commented that a lighter footprint could be considered.

Chairman Southern noted that comment on top of page 21 item 3, at the bottom of page 21 and the paragraph referencing exhibits 23 and 24 should be stricken. Mr. Andino stated that the comment referenced is in the scoping document. Mr. Zona suggested that the comment be left in and that an answer that is acceptable could be craft to answer it. The answer to it could be that the statement is irrelevant. Mr. Andino stated that all of the referenced to the statement in the document will be addressed succinctly. It carries on to the top of page 22 also.

Counsel Molnar commented that there appears that there is a conflict in the document that should be resolved. There are instances where the sponsor is contending that the quality of the soils types is not conducive to traditional agricultural crops, and the alternative for viticulture as an alternative use of the property. He inquired if it would be possible given that the soils are poor. Mr. Zona said that soils can be poor for one crop but good for another crop. Chairman Southern said that the contention was that if the soils are poor, even with viticulture the applicant would need to add fertilizers. Mr. Eggleston said that in discussions with Mark Tucker who farmed it for years, had commented that it was poor soil for corn and soybeans. The soil is conducive to viticulture; however, any farming will require fertilizer. Counsel Molnar suggested that the sections may need to be edited to provide better clarity on the suitability of the soils and that there is no conflict of the suggested alternative.

Member Marshall stated that she had a question on page 23 regarding clearcutting. The comment the visual open scar would be in stark contrast to the vegetated adjoining areas of neighboring parcels. The way it is stated is an opinion as some people like the agricultural fields better than the houses. This section should be re-worded to explain, as the existing paragraph is an opinion.

Counsel Molnar noted that on page 23, the bullet points number 2 and 4, the clear cutting and the addition of a wedding venue, it would be helpful to identify that those are not uses as of right without regulatory approval needing a zoning permit for clear cutting and a special permit for a wedding venue. It should be re-worded to reflect that, as it cannot be done tomorrow without a permit. Another note on page 23 is to the alternative section, the regulations talk about alternative to sites, technology, scale or magnitude. Has an alternative to scale or magnitude been defined and/or considered by the applicant for inclusion in this DEIS. What if it is not nine-lot subdivision but something less as something to be considered to reduce the impact? Mr. Zona commented that the DEIS mentions a 17 lot subdivision but less lots should also be evaluated in there. Mr. Eggleston said that they would be required to produce the same road although there will be less houses. Member Winkelman commented that a conservation road could be done up to Goldmann's property, make improvements to the driveway going up, allowing two lots instead of one. Counsel Molnar said that the driveway would still need to be modified to satisfy the fire department. Mr. Eggleston stated that it becomes the subjective opinion of the fire chief who has the final say on the requirements. He continued saying that the international building code is not a perfect document that

gives certain powers to the fire chief. The question is whether he would relinquish that for a driveway. The town is reviewing driveways for fire access on other applications that we had done in the past. Chairman Southern commented that the last statement on page 23 should reflect that the alternatives were discouraged rather than rejected by the Planning Board.

Mr. Camp commented that on page 52, the top paragraph, the assertion seems to be that East Lake Road can only be described as a residential road that is not a correct assumption as it is a state highway and the speed limit is 45 to 55 mph. Member Marshall noted the sprawling development comment regarding their proposal being more environmentally responsible than the houses along East Lake Road. Mr. Camp said that there are a lot of narrow lots along the highway. Member Winkelman commented that the development along East Lake Road was not by design but evolved over 150 years. Mr. Eggleston said that the code wants to prevent that from happening in the future. Member Marshall said that the proposal is for clustering of dwellings in an agricultural field and there is no comparison to what has happened along East Lake Road.

Counsel Molnar referred to page 44, second paragraph he would recommend against naming any property owner by name (as in the case of Mr. Marchuska...). The point is made if the first sentence is left. The remainder of the paragraph can be deleted.

Counsel Molnar noted on page 41 the discussion and mitigation measures proposed – it states that “the Planning Board created the problem of the magnitude of excavation by insisting that the road width exceed code by 40%”, is not an accurate statement and should be removed entirely.

Chairman Southern commented that on page 33 the last sentence of the fourth paragraph, “at the insistence of an individual Planning Board member” and the last paragraph “at the request of a Planning Board member” should be removed.

Member Marshall noted the top of page 45 reflects the applicant’s opinion by saying that the Planning Board has presented no metric by which rationale as to how...” should be removed.

On page 52, clarity needs to be provided to reflect that it is eight new lots and 9 new dwellings that are being proposed.

Exhibit 10 was made available yesterday to the file in dropbox.

The applicant will be expecting a summary of the global comments to be created by Counsel Molnar so that they can adequately revise their document in preparation for the detailed review of the next turn.

**WHEREFORE**, a motion was made by Member Winkelman and seconded by Member Marshall to task Counsel to prepare a summary of the global comments to be submitted to the applicant for their revision of the DEIS document. The Board having been polled resulted in the unanimous affirmance of said motion.

**WHEREFORE**, a motion was made by Member Marshall and seconded by Chairman Southern to adjourn the meeting. The Board having been polled resulted in the unanimous affirmance of said motion. The Planning Board Meeting adjourned at 8:25p.m. as there being no further business.

Respectfully Submitted,

Karen Barkdull, Clerk