

A meeting of the Planning Board for the Town of Moreau, Saratoga County, State of New York was held at the Moreau Town Hall, 351 Reynolds Road, Moreau, NY 12828 on the 13th day of December 2021 at 7:00 pm.

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**Town of Moreau**  
Planning Board Meeting  
Monday, December 13, 2021

**Planning Board Members Present**

John Arnold	Planning Board Member
Gerald Bouchard	Planning Board Member
Meredithe Mathias	Planning Board Member
Ann Purdue	Planning Board Member
Mike Shaver	Planning Board Member
Peter Jensen	Planning Board Chairmen

Mr. Bouchard was attending virtually via zoom for this meeting.

**Also, present**

Jim Martin	Zoning Administrator
Katrina Flexon	Meeting Secretary
Raymond Apy	Applicant for Saratoga BioChar
Andrew Millspaugh	Sterling Environmental Consultant for Saratoga BioChar
Bryce Meeker	Consultant for Saratoga BioChar
Vince Spore	Town of Moreau Resident
Matt Huntington	Studio A Consultant for Saratoga BioChar
Joe Dannible	EDP Consultant for Cerrone Builders
Luke Michaels	Applicant for Michaels Group Homes

The meeting was called to order at 7:01pm by Chairperson Jensen.

Chairperson Jensen The regular meeting of the Planning Board for the Town of Moreau for November 13<sup>th</sup>.

Mr. Martin December.

Chairperson Jensen December 13<sup>th</sup>, 2021, is called to order and the first thing to address is the minutes for November 15<sup>th</sup>. For November 15, 2021, are there any additions, deletions, or corrections?

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Mr. Arnold I have a couple but, you sent out a revised version electronically today that I never got a chance to take a look at so you may have gotten them so, I mean we don't have pages yet. 1,2,3,4 pages in on the very heading of Harrison Apartments about 3 inches up from the bottom the focus of Mr. Martin's inquiries about the most recent correspondence on a swift from October 25<sup>th</sup>.

Ms. Flexon Yeah.

Mr. Arnold I think that was probably supposed to be SWPPP. You probably already corrected that and resent it.

Ms. Flexon Yes.

Mr. Arnold The rest are all minor typos.

Ms. Flexon I think Ann, covered most of them.

Mr. Arnold Okay, alright.

Mr. Martin Gerry is in attendance.

Mr. Arnold Hi Gerry.

Mr. Bouchard Good Evening.

Chairperson Jensen Okay so 5 in person and 1 virtual. Do we have a motion on the minutes?

Mr. Arnold I'll make the motion to accept the minutes from the November 15<sup>th</sup> meeting as amended.

Chairperson Jensen A motion has been made, do I have a second?

Ms. Purdue I'll second it.

Chairperson Jensen A motion has been made and seconded, any further discussion?

Chairperson Jensen All those in favor say Aye

<b>John Arnold</b>	<b>Aye</b>
<b>Gerald Bouchard</b>	<b>Aye</b>
<b>Meredithe Mathias</b>	<b>Aye</b>
<b>Ann Purdue</b>	<b>Aye</b>
<b>Mike Shaver</b>	<b>Aye</b>
<b>Peter Jensen</b>	<b>Aye</b>

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Chairperson Jensen Opposed? Abstentions? Motion carries.

6 in favor. None oppose. Motion carries.

**A motion has been made for the November 15, 2021, Planning Board meeting minutes to be approve as amended by Mr. Arnold and seconded by Ms. Purdue.**

### **#1 Saratoga BioChar Solutions**

**Raymond Apy**

**2-12 Electric Drive, Moreau Industrial Park Moreau NY**

**Site Plan Review / Environmental Assessment Review**

Chairperson Jensen Board you have had an opportunity to review the EAF Environmental Assessment Form for Saratoga BioChar Solutions. Are there any questions that you would like to bring up at this time? If not, don't go to sleep.

Mr. Martin You have a copy, right Peter?

Chairperson Jensen Yes I do, thank you.

Chairperson Jensen In Part II you have two options, and this is Board participation, the choices are either No or Small impact can occur, or your second choice is Minor to large.

1. *Impact on land* – Proposed action may involve construction on, or physical alteration of the land surface of the proposed site. Yay or Nay?

Mrs. Mathias No

Chairperson Jensen No.

2. *Impact on geological features* - The proposed action may result in the modification or destruction of, or inhabit access to, any unique or unusual landforms on the site.

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Mrs. Mathias No.

Chairperson Jensen No.

3. *Impacts on surface water* – The proposed action may affect one or more wetlands or other surface water bodies.

Chairperson Jensen No.

4. *Impact on groundwater* – The proposed action may result in new or additional use of ground water or may have the potential to introduce contaminants to ground water or an aquifer.

Mrs. Mathias No.

Chairperson Jensen No is that your consensus on that one. No.

5. *Impact on flooding* – The proposed action may result in development on lands subject to flooding.

Mrs. Mathias No.

Chairperson Jensen

6. *Impact on air* – The proposed action may include a state regulated air emission source.

Ms. Purdue I think that would be a yes.

Chairperson Jensen A yes, ok so we've got that going. Impact on plants and animals. -The proposed action may result in a loss of floras or fauna.

Ms. Mathias No.

Mr. Martin I think you've got to go back to Impact on air. You have indicated yes for the general question. So then 6A is what's next after the general question is addressed.

Chairperson Jensen 6A. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels.

Ms. Mathias That was a yes.

Chairperson Jensen

- i. More than 1000 tons per year of carbon dioxide (CO2)

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Mr. Martin Yeah, I think we are going to have consultation with the applicant on some of these levels.

Mr. Millspaugh That's a yes.

Chairperson Jensen That's a yes?

Mr. Martin and then you have to decide based on the information you've hear or if you ask further questions, is it No or small impact for this or is it Minor or large. The applicant has indicated they are going through the proper permitting from DEC, you know they are going to have the proper scrubbing equipment, filtration that kind of thing on the emissions so this is where we need to get into a bit of a judgement here. Is it no too small or minor to large?

Ms. Purdue I've only had an obtuse scan of the permit for let's see what's its specifically called. The air facility permit, I'm not an expert.

Mr. Millspaugh On behalf of the applicant it's not above 100,000.

Mr. Martin Sorry can we get your name for the record.

Mr. Millspaugh Andrew Millspaugh with Sterling Environmental, consultant for the applicant. The CO2 emissions on the air permit application are less than 100,000 tons per year which is a major facility threshold, so it is in the minor facility threshold and is under review by the department for a permit.

Chairperson Jensen Okay don't go away.

Mr. Arnold Just so you know the mask makes it a bit of a challenge, at first it sounded like you said it's over 100,000 and that kind of is this open-ended limit and that's why everyone is like uh wait a minute what do we do with this. So if I ask for clarification it's not because I'm doubting you it's because I'm not catching it.

Ms. Purdue I guess for clarification I would ask is if it's less than 100,000 tons, what is it. I mean 100,000 tons just sounds like a lot.

Chairperson Jensen It is.

Mr. Millspaugh 100,000 tons per year is the DEC threshold to go from a state permit to a federal permit, so they calculated the exact number in the application. so the exact number is between 90,000 and 100,000 tons so it's not the limit it's below.

Ms. Purdue It's tons of what.

Mr. Millspaugh Tons of carbon dioxide (CO2)

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Mr. Arnold So I got a question for you. it's a good estimate, what happens if you go 102,000 tons.

Mr. Millspaugh So the permit application is for the full buildout of 3 lines, so the first line would get built and then it would be verified with a stack test and depending on those emissions would determine whether if all three will be build or two.

Mr. Arnold Okay.

Mr. Millspaugh But the application as submitted is for the full proposed build out of the site.

Mr. Arnold But I'm going to assume that even if you did go to 102,000 tons then it would just require you to now deal with federal regulatory agencies not state? Is that the idea?

Mr. Millspaugh That would be one course of action, it would go through a different permit application.

Mr. Arnold So who verifies that?

Mr. Millspaugh We would wait for the report from DEC, yep.

Mr. Arnold Okay.

Ms. Purdue In addition to carbon dioxide, there are other emissions.

Chairperson Jensen Yes,

- i. More than 3.5 tons per year of nitrous oxide (N<sub>2</sub>O)

Ms. Purdue And sulfur dioxide.

Chairperson Jensen Yes or no on nitrous oxide.

Mr. Millspaugh That's a no.

Chairperson Jensen Small.

- ii More than 1000 tons per year of carbon equivalent or perfluorocarbons (PFCs)

Mr. Millspaugh That's a no.

Chairperson Jensen

- iii More than .045 tons per year of sulfur hexafluoride (SF<sub>6</sub>)

Mr. Millspaugh That's a no.

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Chairperson Jensen

iv More than 1000 tons per year of carbon dioxide equivalent of hydrochlorofluorocarbons (HFCs) emissions.

Mr. Millspaugh That's a no.

Chairperson Jensen

v 43 tons per year or more of methane

Mr. Millspaugh That's a no.

Mr. Martin So getting back to the first one. The threshold here is more than 1,000 tons per year of carbon dioxide. Are those levels going to be a lot?

Mr. Millspaugh Its going to be around, between 90,000 and 100,000 tons per year, yes.

Mr. Martin So, that's substantially more than 1,000.

Mr. Arnold The standard is 1,000 or 100,000?

Mr. Martin Its 1,000. That's why I'm coming back to it.

Ms. Purdue Moderate to large.

Mr. Arnold Yeah.

Mr. Martin Yeah, so. If that's going to be your response, when we get to the end, we've got to address that. You can keep going though, the consensus on 6A small letter i is moderate to large impact may occur is that correct?

Mr. Arnold Yes.

Chairperson Jensen Alright.

Mr. Martin Sorry I just wanted to make sure.

Chairperson Jensen

B. The proposed action may generate 10 tons per year or more of any one designated hazardous air pollutant, or 25 tons per year or more of any combination of such hazardous air pollutant.

Mr. Millspaugh On behalf of the applicant, those are thresholds for the major facility again, this has an individual path for a 25-30 ton per and as stated on the permit application documentation this is still within the threshold, so it would be a no for that one.

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Chairperson Jensen We'll believe you.

C. The proposed action may require a state air registration or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour or may include a heat source capable of producing more than 10 million BTUs per hour.

Mr. Millspaugh Well the facility does require a state permit, air permit and it has emissions that exceed 5 lbs. per hour.

Chairperson Jensen Well Board, is it small or moderate?

Ms. Purdue I would say moderate.

Mr. Arnold Well they exceed it so I would say moderate to large.

Mr. Martin What is going to be your level, you know the threshold here is it may exceed 5 lbs. per hour, what would you expect.

Mr. Millspaugh I'll circle back to that in just a minute.

Mr. Martin Okay.

Chairperson Jensen Okay the next one.

D. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.

Chairperson Jensen What's your choice there Board?

Mr. Martin It appears that that is the case. Again I would, I mean if in your opinion it is moderate to large then that's what it is, we've got to then come back to it in the end and see what forms of mitigation are being offered.

Chairperson Jensen Yup.

Mr. Martin So I think that's a moderate to large.

Mr. Millspaugh The context to that, that question of 50% of a threshold is where the DEC is getting a registration for this air permit, so we exceed 50% of the thresholds for carbon dioxide, we're not eligible for registration from this description.

Mr. Arnold So if we put down moderate, your mediate would be the fact that you have that permit from Dec and are being inspected by the agency.

Mr. Millspaugh Right so part 3 would be there to clarify that.



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Mr. Arnold That's what I mean if that's where we're going, it's not the end of the world if its moderate to large. Did you circle back to the other one yet?

Mr. Millspaugh No, we just want to be exact.

Mr. Arnold Okay, no hurry, we can keep going.

Chairperson Jensen The proposed action may result in the combustion of treatment of more than 1 ton of refuse per hour.

Mr. Martin Does the feedback count as refuse, that is referred to here?

Mr. Millspaugh That probably depends on who you ask, but in terms of if it is a waste from DEC so it is, so it's a biosolid it's not a biosolid waste.

Mr. Arnold So you will be processing more than a ton?

Mr. Millspaugh More than 1 ton per hour yes.

Chairperson Jensen Okay, so is it small or is it moderate?

Mr. Arnold How much more than 1 ton and hour?

Mr. Apy That's 30 tons per hour.

Mr. Martin Alright so, the summary on this section depending what happens with A and C once the information is found, I've got 3 responses so far on a moderate to large. Am I correct is that consistent with everyone else?

Mr. Arnold Yes

Mrs. Mathias Yes.

Mr. Martin Because we have to circle back to these.

Ms. Purdue And actually before we get past this, I'd like to express my concern that I don't know what it even means if it's at this threshold 90-100,000 tons of carbon dioxide. I don't know if that translates into the impact on the community. I can understand if that's the threshold for licensing at a state or federal level, but I know nothing to understand how it can affect the community.

Mr. Martin Well that's something we are going to talk about in Part 3 at the end. Also there are the questions that we have to pick up on.

Chairperson Jensen Okay.

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7. *Impact on plants and animals* – The proposed action may result in a loss of flora or fauna.

Ms. Mathias No.

Chairperson Jensen No.

Ms. Purdue They are going to be clearing so I would think that's still a small impact.

Chairperson Jensen

8. *Impact on agricultural resources* – The proposed action may impact agricultural resources.

Ms. Purdue No.

Chairperson Jensen

9. *Impact on Aesthetic resources* – The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource.

Mr. Arnold No.

Chairperson Jensen No on that one?

Mr. Arnold For me.

Chairperson Jensen

10. *Historic and archaeological resources* – The proposed action may occur in or adjacent to a historic or archeological resource.

Mr. Arnold No.

Chairperson Jensen

11. *Impact on space and recreation* – The proposed action may result in a loss of recreational opportunities, or a reduction of an open space resource as designed in any adopted municipal open space plan.

Mr. Arnold No.

Ms. Mathias No.

Chairperson Jensen

12. *Impact on critical environmental areas* - The proposed action maybe located within or adjacent to a critical environmental area (CEA).

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Mr. Arnold No.

Mrs. Mathias No.

Chairperson Jensen

13. *Impact on transportation* – The proposed action may result in a change to existing transportation systems.

Mrs. Mathias No.

Mr. Arnold No.

Ms. Purdue There's discrepancies I thought in the engineer's report that there is reliance on the generic impact statement that was done maybe 30 years ago, and this is going to be generating 50 round trips a day.

Chairperson Jensen I disagree the use of the whole buildout is what they anticipated and that's why they are going to be contributing to the amount of funds that the Town has to have to correct some of the infrastructure and highway coming up on 197.

Ms. Purdue There is going to be some mitigation on this.

Chairperson Jensen it's already been done. They're going to relocate the parking, only their parking.

Ms. Purdue So the generic test is still valid?

Chairperson Jensen Still valid.

Chairperson Jensen

14. *Impact on energy* – The proposed action may cause an increase in the use of any form of energy.

Chairperson Jensen Is that a no or a yes.

Mr. Arnold Is that more than what was planned for.. the site?

Chairperson Jensen

14 a. The proposed action will require a new, or an update to an existing substation.

Mr. Arnold No.

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Chairperson Jensen

14 b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.

Ms. Purdue No.

Mr. Arnold No.

Chairperson Jensen

14 c. The proposed action may utilize more than 2,500 MW hrs. per year of electricity.

Mr. Arnold I don't know, you're not planning on using more than that?

Chairperson Jensen Are you going to use more than 2,500 MW hrs. per year of electricity?

Mr. Apy We're going to be under that.

Mr. Arnold Ok, under 2,500 MW. Can you state your name for that?

Mr. Apy Raymond Apy.

Mr. Arnold Okay. Thank you.

Chairperson Jensen

14 d. The proposed action may involve heating and/or cooling or more than 100,000 square feet of building area when completed.

Mr. Arnold No.

Chairperson Jensen

15 *Impact on noise, odor, and light* – The proposed action may result in an increase in noise, odors, or outdoor lighting.

Ms. Purdue Yes.

Mr. Arnold Yes.

Chairperson Jensen I would think perhaps.

Chairperson Jensen

15 a. The proposed action may produce sound above noise level established by local regulation.

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Mr. Arnold You're not going to be making more noise than allotted regulations right?

Mr. Millspaugh Well the local regulations don't have a specific threshold it says a detrimental noise and the environmental assessment statement recognizes the buffer in engineering. We did look at noise, unmitigated noise to the nearest property line of residents and with the noise being in the building in terms of DEC regulation we do have threshold numbers.

Chairperson Jensen Okay. There is a noise regulation in the Town code, and this is measured outdoors. I have a question for you, when you finish phase 2 you're going to be doing wood burning, to generate heat for whatever you are going to use it for.

Mr. Apy No.

Chairperson Jensen No?

Mr. Apy We are not burning wood.

Mr. Millspaugh Did you say wood grinding?

Mr. Apy Did you say wood burning or wood grinding?

Chairperson Jensen well I thought I said wood burning to heat water or heat something.

Mr. Apy Would you like to describe the process Bryce?

Mr. Meeker Yeah, we're not necessarily burning a solid, in this case we would be heating up that wood, so it was a gas, and we burn that gas.

Mr. Arnold So it's a gasification process.

Mr. Meeker Yeah, so you're not actually burning solids, the solids actually come out of our process.

Chairperson Jensen So you are going to be burning a wood product of some sort for some reason.

Mr. Meeker We're not burning the wood, we are heating it up, and we are burning the gas that comes off of the wood.

Chairperson Jensen Okay.

Mr. Meeker But we don't actually burn the wood.

Chairperson Jensen In the form of the wood, is it log? Chips?

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Mr. Meeker Anything that is viewed wood waste from the county and the Town we are looking to use it as getting rid of any wood waste you have.

Chairperson Jensen Okay, that's nice dancing around the question, but my real concern with the question is are you going to be using a chipper?

Mr. Apy We will have one yes.

Mr. Meeker We will be.

Mr. Millspaugh We will have a rotary grinder.

Mr. Arnold All inside an insulated soundproof, relatively soundproof structure?

Mr. Apy Those are planned to be inside yes.

Mr. Meeker Inside under cover.

Mr. Arnold Curiosity on my part, is that the same wood that you will be adding to the process in making the BioChar itself?

Mr. Millspaugh It will become part of the fertilizer and we use our ratio.

Mr. Meeker Yeah, we're only doing one kind of wood its more there if you offer any waste wood you're looking to get rid of. The wood waste in the area but also it helps us with our product, it's pretty much optional that we add the wood in there from the Town and County.

Mr. Apy This is Bryce Meeker responding.

Mr. Meeker I'm Bryce Meeker.

Mr. Arnold Thank you.

Ms. Purdue On noise engineering on the assessment you said the noise was exceeding acceptable levels you go to second level noise assessment which takes into consideration extenuating features. The extenuation features are dense forest around the facility. Is that dense forest on your property or is it on someone else. Who's going to maintain the dense forest for you?

Mr. Millspaugh It's partially on our property, partially on mutually corridor property and on privately owned land so portions of the forest would not be controlled.

Ms. Purdue How can you use that as an extenuating feature?

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Mr. Millspaugh Its an extenuating feature because in terms of the guidance of the first level and second level noise study through the DEC. At the first level you are taking away resources at one point we had this thing outdoors and you see what the noise levels are at the acceptable locations, if those are find we would proceed to a second level, since the first level shows that they exceeded the thresholds at those property lines we go to the second level where you get your walls and roof and anything else that is topography or vegetation. In this case since there is such a thick vegetation there using we pulled that from the GIS and used it as part of the extenuating feature for the noise levels but at the end of the day if the forest wasn't there you'd have all that at a distance which at a distance and they are going to be indoors so the insulation could be upgraded if needed, the thickness of the walls, the type of roof all the engineered controls can be varied to mitigate the noise if needed.

Ms. Purdue At what level are you willing to maintain the threshold at those stats.

Mr. Millspaugh The threshold of the nearest public receptor for this area would be 60 decibels 50 decibels at night.

Ms. Purdue So if the forest were to disappear, you'd maintain that?

Mr. Millspaugh Yes.

Mr. Arnold So a common descriptive for 50 decibels?

Mr. Martin Oh boy, that's even less than a lawn mower, a lawn mower I think is 65.

Mr. Arnold Okay.

Mr. Millspaugh It also depends on how close you are, most of them are like 50 feet from the noise source. So 50 would be a quiet night.

Mr. Arnold Wait, you're talking about 52 decibels at the public receptor not on your property at a distance. We are talking at the public receptor.

Mr. Apy Right.

Mr. Arnold So that particular receptor, which is a person okay, is going to hear a little less than a lawn mower decibel level at night is what you're saying. I'm not being critical I'm asking, just trying to get a clear picture.

Mr. Meeker We don't need to grind at night, and we are also installing an electric grinder as opposed to a gas which is immensely quieter.

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Mr. Arnold I've got to say I've worked around grinders in my day, and I've never really heard the engine over the grinder when its grinding. So I'm not necessarily sure the decibel level is the power source, I'm not trying to be difficult here. I'm just trying to get a grasp at what we are looking at. This is an industrial site, a manufacturing site so it's not like you are trying to put this in the middle of a housing development, but 50 decibels is a lot, alright, but if it's a consistent sound at night and its 52 decibels it becomes a lot louder at night. During the day that's no big deal.

Mr. Meeker We really won't be running the large grinder at night.

Mr. Arnold So that 52 is with the large grinder?

Mr. Apy Correct.

Mr. Martin What were the hours of operation for the grinder?

Mr. Meeker Daytime within the hours of 6am to 6pm.

Chairperson Jensen Okay.

15 b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.

Mr. Arnold No.

Chairperson Jensen

15 c. The proposed action may result in routine odors for more than one hour per day.

Mr. Arnold What is the odor status on the site, I know you have scrubbers I know DEC is involved.

Mr. Meeker I mean we've really kind of gone, a little bit further here than we imagined with odors to be honest, in regard to we've got a system that picks up particulates, and a number of scrubbers to clean out carbon dioxide, so2, ammonia.

Mr. Arnold Is the bio scrubber a liquid scrubber?

Mr. Meeker No it's a microbial scrubber.

Mr. Arnold Okay. Do you recycle those scrubblings back through the system? Is that the idea?

Mr. Meeker Just the output from the ammonia scrubber.

Mr. Arnold The particulate one won't get fed back into the system.



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Mr. Meeker We are not there yet. it's kind of a goal of ours.

Chairperson Jensen Okay Board, do we have a general consensus on the stink factor? No or small impact or moderate to large?

Ms. Purdue I guess the threshold that they have is a little more than one hours per day routinely. There will be some odor.

Mr. Meeker There is some odor the entire building is filtering air, we built the building to contain the odors and for our treatment process, everything is in a negative pressure with an advanced odor treatment system, I've never seen anything of this caliber, we've gone as far as we can.

Mr. Arnold I guess the question here is, yes that's a moderate but is remediated through your plans or because you remediated it it's not a moderate, it's a no too small.

Mr. Martin Yeah, I think what I'm hearing is a choice between small or large.

Mr. Arnold I mean even if we said moderate on that, it sounds like it's been remediated by the systems that you have in place, it sounds like a nice set of scrubbers to be honest with you. I would say moderate on that because the potential exists.

Mrs. Mathias Will this be addressed in the air permit?

Mr. Millspaugh There are 2 parts, compounds from being measured, and regulated are covered in the air permit. nuisance or odor that's subjective is taken care of in the solid waste management permit. There will be a compliant response in the air permit, there will be an environmental monitor set up for the site with a person who is assigned by the DEC so that would be the one who administers the responses to noise complaints, odor complaints anything like that.

Mrs. Mathias Okay, thanks.

Mr. Martin Than that's moderate too large for 15 c.

Chairperson Jensen

15 d. The proposed action may result in light shining onto adjoining properties.

Mrs. Mathias No.

Chairperson Jensen That's a no.

Chairperson Jensen

15 e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.

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Mrs. Mathias No.

Chairperson Jensen

16. Impact on human health – The proposed action may have an impact on human health from exposure to new or existing sources of contaminants

Ms. Purdue I think that's a yes.

Chairperson Jensen The consensus is a yes on that one? Be brave don't all speak at once.

16 a. The proposed action is located within 1,500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.

Mr. Martin No.

Mr. Arnold More than 1,500 feet from Bluebird Road right?

Mr. Martin Correct.

Chairperson Jensen

16 b. The site of the proposed action is currently undergoing remediation.

Mrs. Mathias No.

Mr. Arnold No.

Chairperson Jensen

16 c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.

Mr. Arnold No.

Chairperson Jensen

16 d. The site of the action is subject to an institutional control limiting the use of the property.

Mrs. Mathias No.

Chairperson Jensen

16 e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.

Mr. Arnold No.

Mrs. Mathias No.

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16 f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous waste will be protective of the environment and human health.

Mrs. Mathias Yes.

Mr. Arnold Yes.

Mr. Martin Moderate to large down?

Ms. Purdue Yes.

Chairperson Jensen So moderate to large?

Ms. Purdue Yes.

Chairperson Jensen

16 g. The proposed action involves construction or modification of a solid waste management facility.

Chairperson Jensen No.

Chairperson Jensen

16 h. The proposed action may result in the unearthing of solid or hazardous waste.

Mrs. Mathias No.

Mr. Arnold No.

Chairperson Jensen

16 i. The proposed action may result in an increase in the rate of disposal, or processing or solid waste.

Mr. Arnold No.

Chairperson Jensen

16 j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.

Mr. Arnold No.

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16 k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off-site structures.

Mr. Arnold No.

Chairperson Jensen

16 l. The proposed action may result in the release of contaminated leachate from the project site.

Mr. Arnold No.

Chairperson Jensen

17. *Consistency with community plans* – The proposed action is not consistent with adopted land use plans.

This is a negative question, the proposed action is not consistent with the adopted land use.

Mr. Arnold No.

Chairperson Jensen

18. *Consistency with community character* – The proposed project is inconsistent with the existing community character.

Mr. Arnold No because it is consistent with the existing community character.

Chairperson Jensen Okay Board give it deep thought, what is your decision.

Mr. Martin I think this is where you have to pick up the responses that you have indicated as a moderate to large impact may occur.

Ms. Purdue Impact to air, that was one, I'm not sure what the impact is on the area. You have 90-100,000 tons of carbon dioxide per year generating even if its within permit levels. I am uncertain if you ask me what the effect is, I'm not an environmental scientist and I'm not sure how to assess that.

Chairperson Jensen Okay.

Ms. Purdue Perhaps DEC could check on that.

Chairperson Jensen Okay, so we've got some moderate to large impacts on air which is more than 1,000 tons or carbon dioxide per year. Now are we going to address that.

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Mr. Arnold So the threshold we were given with the SEQR is 1,000 – one thousand tons. More than 1,000 tons per year of CO2 emitted, and the projected released more in the terms of uh almost 100 times that.

Mr. Millspaugh 96,000 tons per year.

Mr. Arnold If you could humor me, where is the CO2 coming from? Is it coming from the processing or the actual process?

Mr. Millspaugh Coming from the processing.

Mr. Arnold It is from the processing itself.

Chairperson Jensen Okay and do you plan to mitigate this 100 times increase? Are you going to close the door and forget about it, are you going to be monitored by DEC or DOH or whoever does it, or what are you going to do?

Ms. Purdue I would like to get the opinion of an environmental scientist to look at that and see if it translates to the impact on the community, I just have no idea. I just don't understand what that means and maybe its harmless, but I think we had a couple of the other thresholds exceeded as well.

Chairperson Jensen The proposed action requires federal, or state air emissions permits the action may also emit one or more greenhouse gases or above the following levels. Registration of use and omissions where they exceed 1000 tons per year.

Mr. Arnold And there was that one that was right across the board.

Chairperson Jensen The proposed action may result in an increase in noise, odor, or outdoor lighting, that one?

Mr. Arnold that's it.

Ms. Purdue And it may be permissible, and it may not be a problem, but I think we should consult with an environmental scientist that's just my opinion.

Mr. Bouchard Mr. Chairmen.

Mr. Martin Jerry.

Mr. Bouchard Yes. I just have a question, I'm trying to trigger my old memory here but when the first meeting we have with Saratoga BioChar in the presentation there was a discussion about that they weren't just carbon neutral, they were carbon.. I don't know if I will get the phrasing right. They were carbon positive like they were going to.. like they were going to take more

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carbon out of the atmosphere then they would put in. That was my recollection from the original presentation. I'm just curious how that works with what's in front of us here. Maybe I misremember.

Mr. Meeker May I speak to that?

Mr. Arnold Yeah and speak up so Jerry can hear you.

Mr. Meeker The term is actually carbon negative, in the sense that we actually offset more carbon dioxide than we put out.

Mr. Martin Well that's a very important fact. That should have been stated a little earlier.

Mr. Meeker When you think about carbon emissions you have to look at carbon - CO<sub>2</sub>E or carbon dioxide equivalent. When you look at methane it's 23 lbs. per carbon equivalent and nitrous oxide is 300 lbs. so the incinerator contributes to far more than we would and in terms of damaging the environment we are offsetting it, we are offsetting the landfills out there creating methane emissions when it decomposes. So by the time you look at the offset mainly from methane its 80-85% in NY that's from landfills and that's the biggest thing we are offsetting, there is also diesel output and incinerators. So from a carbon perspective like for example California with a good system for modifying carbon emissions that's where I'm saying we would be carbon negative and the reason being is we're offsetting I think 100,000 tons of carbon dioxide which sounds like a lot, but it doesn't take much nitrogen oxide to reach that, very little actually. So what we are arguing here that we're carbon negative we're offsetting more than we release in the environment mainly CO<sub>2</sub> equivalent basis of methane and nitrous oxide. Offsetting these more disruptive gases is how you create a carbon negative impact and then the other side of that equation is the carbon reaction produced can actually be sequestered in the soil as needed. Globally, you have a surplus of carbon in the atmosphere you have a surplus of carbon in the ocean, but the strange thing is there is a deficit in our soils, what we're trying to do is take this product and put it into carbon form and put it back into the soils, the sequestered carbon. The process does make some CO<sub>2</sub>, whenever you burn anything, gas, or anything but the levels are low and they're not at any level or high end that's from the feedback we've received from estimating our CO<sub>2</sub> emissions, but I think yes there are CO<sub>2</sub> emissions involved but the offset we're creating by not letting it decompose and not sending it to the incinerators is much greater than the offset of what we're actually creating. So if we were able to replace the incinerator we would have a huge increase in public health. Most incinerators right now nationwide are kind of on a fixed timeline or a very limited timeline regarding the emissions there will be few built because of those emissions.

Mr. Martin So you've, we've heard of a quantification of gross, you know CO<sub>2</sub> output.

Mr. Meeker Mhmm.

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Mr. Millspaugh I'll add onto Bryce's point the DEC does have to review all permit applications so this facility in terms of overall greenhouse gas reduction is reaching statewide goals. So part of their review process for the air permit is going to be review the emission and practices of incinerations and landfilling as it relates to this proposed permit application as an alternate way to manage biosolids and part of the review has to conclude that it is on a greenhouse gas level more efficient and better for the state.

Mr. Martin I guess that's where I'm going with my question. You have a gross output so factoring in the circumstances that you just summarized globally can we pair that down to this specific facility. What is the net impact on CO2 emissions if given the credits that you speak of for this specific operation at this location? Can that be quantified or can you..

Mr. Meeker It can be quantified actually we intend to sell on the California market because of this, that's one of our goals. Given the methodology it will certainly be a negative side but it's a new practice we'll call it. We'll take a year to two just to discuss it and analysis is and really that's the only time they can do that. But it is our intent to go through that process because honestly that's one of our big selling points for our technology and what it will do. So that is something we will certainly verify in the future, and we will be very happy with where we are at with carbon emissions.

Chairperson Jensen Okay.

Ms. Purdue I would say, overall the process you described is very attractive, but my concern still remains. In an immediate vicinity this neighborhood that has this increase in CO2, again I think overall what you're explaining in terms of a positive environmental impact is awesome. The question is, is there going to be some, is this CO2 a problem?

Mr. Meeker For 1 line again, we go back into sequential order we're taking this one production line at a time. We are looking at the numbers, so we'll get through the first one with stack tests, we'll know everything at that point precisely but we're confident we're developing a line with much less of a CO2 output than predicted, we've been pretty conservative on it.

Mr. Arnold If for some reason, Ann's concerns are legitimate which I believe that they are, I agree with you okay, and the 90-100,000 tons expected for a year which is your three lines okay. If that were to become an issues is there any remediation that can be done to that other than not having the three lines?

Mr. Meeker The CO2 would just be less.

Mr. Arnold Okay, so there is no scrubber for that CO2, it's just you would do less production which would lower you below the threshold.

Mr. Meeker I worked in other refineries where CO2 is a byproduct for emission.

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Mr. Arnold Right.

Mr. Meeker And it's produced through waste. You know I've never seen or heard any issues in that industry from CO2, except if you were to climb up and stick you head into the stack, with the lack of air you're probably going to have some issues.

Mr. Arnold Well no, the reason I asked that is because not long ago I read an article where there is a shortage of carbon sources for making soap and it was something to do with the slowdown in the fertilizer production industry. Apparently the carbon dioxide is a byproduct of making whatever nitrogen fertilizer their making from I believe from natural gas. So I didn't know if there were some remediation I'll be expensive that could be put in place.

Mr. Meeker There is carbon sequestration technologies that use a relatively pure source of carbon with minutus waste. They have ethanol plants that have a setback, they have plants that are expensive and very seldom but from an operational perspective with the CO2 gas we're going to have a stack, I don't see any real issues to human health.

Mr. Arnold Okay.

Chairperson Jensen Okay, and we have another one in the section on air. The proposed action may require a state air registration or may produce an emissions rate of total contaminants that may exceed 5lbs. per hour or may include a heat source capable of production more that 10 million BTUs per hour. Are you going to exceed this threshold?

Mr. Millspaugh Yes, for the 5 lbs. per hour yes. We will have contaminants that exceed 5 lbs. per hour.

Chairperson Jensen And how are you going to remediate that?

Mr. Millspaugh Those will be remediated through the air treatment systems, this is part of the air permit process the stack, the emissions out of the stack. those that exceed not just the 5lbs per hour but the quality regulated conditions that were modeled for dispersion out of the stack for current level concentrations for the air quality standards at both the federal and state level so that it's compliant all for one line and liberate the second and third line with the proposed actions for the verified emission from the first line and modify the second and third line.

Ms. Purdue Can you be more specific about how you would modify?

Mr. Millspaugh Well modifying would be either, additional treatment measures or reduce production and that's if the air emissions after the first line show there are any exceedances for the second and third line.

Ms. Purdue So you are saying you would not exceed by virtue of those steps of 5lb per hour.



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Mr. Millspaugh Well 5 lbs. per hour isn't a threshold for exceeding or not exceeding the emissions were modeled for all the regulated emissions which include so that exceeded 5 lbs. per hour like in this question in part II.

Chairperson Jensen Okay Board we have that. Board any further questions.

Chairperson Jensen Okay, then you are attempting to mitigate the odors through environmental control is that correct?

Mr. Meeker Yeah, we are doing that with everything so scrubbers and also the building design.

Mr. Martin Could you say that again?

Mr. Meeker Yes, that's correct we are mitigating odors by using the scrubbing system but also with the enclosure of the building with pressure will help to contain as it is under negative air to ensure no fugitive odors are release.

Chairperson Jensen Okay, I think I missed it previous you said the building will be under negative air?

Mr. Meeker Yeah the building will be under negative air through the process that creates air intake, so we pipe in air into the system and everything in there goes through the air treatment system. If the process is off the biofilter still work and treat the air accordingly.

Chairperson Jensen Okay great thank you. Now Board, I think I understand part of this. I still personally speaking for myself not for the Board, I have concern. Do we need a peer review from someone who knows what they are doing with this? Is this hazardous to the neighbors? Or is it just uncomfortable for the neighbors. I don't know, I cannot tell you.

Mr. Arnold I think if I may, I think my concern here is usually in SEQR if we find something that pops as a moderate to large, the first thing we ask is what's the remediation on it? Okay. Which is why I asked that question, and the answer at the moment seems to be there isn't one but there isn't one needed. Which is new territory for me.

Mr. Martin I don't think that's what is being said.

Mr. Arnold No, no no I'm not saying that negatively I'm saying that it seems to be that it's an okay.. or are you saying it seems to be that it's not an okay emission?

Mr. Martin I think what's being said is, at this gross level of emission for CO2, what I'm hearing it's that great in dispersal and the area of dispersal is in fact the form of mitigation. Alright?

Mr. Arnold Okay, alright.

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Mr. Martin So it is 100,000 tons per year, but it's not like its 100,000 tons that's coming in 2 seconds. Its 100,000 tons that's being spread over 365 days and over the geographic area. Now I don't know what that geographic area is, but that's what I'm hearing as the explanation because that's what's going to factor into the DEC permit.

Mr. Arnold And where I was going with it is, there is a portion of me that is comfortable with the fact that at least it's under DEC permitting.

Mr. Martin Yeah, that's why I said that, and then the second factor is, globally they're claiming an offset by virtue of their process taking CO2 out of the environment they're actually benefiting that but as Ann suggests that's all fine, well, and good but we still do have this concentration that's occurring within the plume of this stack.

Mr. Arnold Well I was just going to say as a global citizen I'm really glad to hear that, but as a Town of Moreau Planning Board member I'm not a global planning board member so we do have to look at it from our perspectives.

Mr. Martin Exactly. So the concern over the dispersal rate and the amount of what's coming out of the stack, where it is spreading to, you know and at what rate and all that kind of thing.

Mr. Arnold Then let me rephrase what I said, we are saying there is a remediation, that is being overseen by DEC and there is a reporting process if it doesn't operate properly. This is also a phase thing so this 90-100,000 tons this is with all three lines and full production.

Mr. Meeker Yes, that is correct.

Mr. Bouchard Hey if I can just for a second, I just got my calculator out I guess just to put a little context to this. If I'm not mistaken 100,000 tons is 200,000,000lbs, and that works out to be like almost 23,000 lbs. per hour. So that just seems high, I just find it hard to believe I don't know your process, but it just seems like that's a high number to me.

Mr. Apy We agree, it is a high number, we hope we've overestimated it to be conservative.

Mr. Bouchard. Okay.

Chairperson Jensen Like I said my question becomes Jerry, What does that mean? That's a big number.

Mr. Bouchard Yeah, I don't know.

Ms. Purdue It may disperse and that perhaps is not the problem. I concur with Peter's suggestion. We consult with an expert in this.

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Mr. Martin There are different ways to do that. Either you suspend the review and seek that kind of assistance now, or you POSDEC this and it goes off to an environmental impact statement and get your help that way.

Chairperson Jensen I think I would recommend to the Board and of course it's up to you, is that we table and get some advice from someone who knows what they are doing. Not someone who is related to the applicant, nor related to anybody who is anti what they are trying to do because the thing of it is that I don't know, and I hate that I don't know.

Mr. Arnold Is there a source at DEC to consult on something like this since this is their thing? I'm mean that can give you an idea on what other permitted industries are doing and that kind of thing right?

Mr. Martin I don't know how much access we are going to have to all that. In my opinion I think we should go off as we do with traffic, we'll frequently issue a third party and objective source to review the information and try to get us some context you know for what we are looking for here. Mainly the impact for the community and the region.

Chairperson Jensen It's alright Jim you ahead and say it we'll get someone who really knows what they're doing, and we'll leave them to figure it out.

Mr. Martin We'll no, I have respect to the process that this is being reviews by the Planning Board who are you know residents of the community we all struggle with this, but I think at some point we do need to hire or seek I should say some third-party advice here.

Mr. Millspaugh Mr. Chairman? Andrew Millspaugh with Sterling Environmental. Just for some context for 100,000 lb. per year of carbon dioxide as an example the cement plant in Glens Falls omits 267,000 lbs. per year so this will be less than that.

Chairperson Jensen That sounds more interesting. The question Board is what do you want to do? Do you want to trudge on? Do you want to hold up for recommendations from a consultant, your call.

Mr. Meeker Mr. Chairman, may I speak Bryce Meeker. Finch Paper is one of the things you have here they are 200-215,000 lbs. per year for a paper mill. I think in context the CO2 emissions are relatively lower than a lot of industries. I would also say given the scale of the amount of biosolids which we receive its pretty remarkable that we get by with that output putting it into context.

Mr. Arnold To put it in context in your little laptop over there do you have the numbers for Wheelabrator?

Mr. Meeker For what?

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Mr. Arnold Wheelabrator, an incinerator in Hudson Falls that's burning sewage right now.

Mr. Meeker Give me a minute.

Mr. Arnold Because that's local, that's here, it's in our neighborhood. I'm not sure but antidotally its interesting.

Mr. Meeker So the CO2 for that one is 63,500 but they omit 43 lbs. of NOx, that's a small incinerator by the way. It's a pretty small one, I mean they wouldn't be taking a fraction.

Chairperson Jensen Okay Board, suggestions, recommendations. What do you want to do?

Ms. Purdue I suggest that we hire a consultant to review the areas that we've viewed as moderate to large impact and give us an assessment as to how that impacts the community.

Chairperson Jensen Well, is that a motion?

Ms. Purdue Yes. And not only how it impacts, but measures on how to mitigate those impacts.

Chairperson Jensen A Motion has been made to engage services of a consultant to judge those moderate to large impacts. I have a motion, do I have a second?

Mr. Arnold I would second that. I would like to have an engineer look to make sure that they are doing everything they can to mediate that.

Chairperson Jensen A motion has been made and seconded. Any further discussion?

Mr. Bouchard Yeah, Pete can I ask a question? I just want to understand process wise, so we go to a consultant, and we ask them to look at the moderate to large impacts and we're asking them to if I understand this correctly recommend mitigations?

Ms. Purdue No assess the impacts and if possible suggest mitigations.

Mr. Bouchard Okay suggest mitigation. I want to know from this whole SEQR process if they come back with suggested mitigations.. This one is new to me, this is a much more in depth SEQR it feels like that we've done, maybe not in depth but we've run across things we haven't run across in my run on the board before. So if someone comes back with suggestions is this the point in the process where they incorporate them? How do we fit this review into Part III of SEQR?

Chairperson Jensen What would happen here is that we would get comments from the consultant, and we would end up with offering some opinions, and then we would go along with the suggestions or ask the applicant for mitigation measures to rectify the issues that have come up. Depending on the results of that and I'm not prejudging anything we would go to a

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decision, or we would go to a positive declaration which would require an environmental impact statement.

Mr. Bouchard Okay.

Chairperson Jensen Now, I don't think it's appropriate at this time to do that.

Mr. Martin What we are trying to do Jerry, I don't know if you've got an assessment form there but in my way of thinking, this is Jim. We're asking the consultant to look into the first three bullets on part III of the evaluation. In context from what the applicant has presented in their application and their information and then assess that as it is laid out here and come to a conclusion on a positive declaration or if there is enough as it is phrased here designed elements or project changes that can be incorporated that you can see your way clear to a conditioned negative declaration.

Mr. Bouchard Okay. I just want to make sure, I just want to understand how we would incorporate any suggestions from the consultant, and I think I understand now so I'm good.

Chairperson Jensen Okay Board. Any further discussion?

Mr. Martin So now the other thing I would like to establish Peter is their consent from the applicant to participate in this formation of an escrow account to fund this.

Chairperson Jensen I would have to guess that they've expended enough funds so far that they will go along with this extra step, but of course that's their problem. As far as we are concerned we have a motion on the floor. Any further discussion on the motion? If not would you call the roll please?

**Roll Call:**

<b>John Arnold</b>	<b>Aye</b>
<b>Gerald Bouchard</b>	<b>Aye</b>
<b>Meredithe Mathias</b>	<b>Yes</b>
<b>Ann Purdue</b>	<b>Yes</b>
<b>Mike Shaver</b>	<b>Yes</b>
<b>Peter Jensen</b>	<b>Yes</b>

Chairperson Jensen I have 6 in the affirmative. Am I correct madam secretary?

Ms. Flexon Yes.

**A motion was made by Ms. Purdue to engage services of a consultant to judge those moderate to large impacts assess the impacts and if possible suggest mitigations and seconded by Mr. Arnold.**

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6 in favor. None Oppose. Motion carries.

Chairperson Jensen Now this was bought up for the applicant to fund an escrow, is that something that can be accomplished?

Mr. Apy Let me ask a question, Raymond Apy the applicant for BioChar. I just want to understand the intent to request a third party on the CO2 emissions question. Is it in regard to human health concerns or something else specifically.

Chairperson Jensen We are concerned about the public and community's health yes.

Mr. Apy I assumed so and that warms my heart because it is not regulated as a hazardous emissions we are filling the air with it right now as we breathe and talk so if we are evaluating it from a global perspective as we talked about earlier we feel very good about that and if we are going to evaluate it as a human health concern I also feel very good about that.

Chairperson Jensen Well, thank you. I guess my only comment I guess because I like to be persnickety is they have global implications but Mr. Jones who lives ½ mile away is more concerned about what's going on in his backyard than what's going on in China.

Mr. Apy Absolutely.

Chairperson Jensen So that's why we would like to have this reviewed. I'll be the first to admit I do not have the qualifications for judgment and any results or opinions from the third party is not tied to either the applicant, to the Board, or to anyone else and we will try to stumble along from there.

Mr. Martin Very good. Now, if it would, and I offer this for the sake of any fears and to make sure that everybody both the board and the applicant know what is being asked for what we produce. I could draft a scope of services and distribute it for review so we have a written understanding of what is being asked for and what will be provided.

Chairperson Jensen We should not do this in the dark.

Mr. Martin No surprises, we have a nice tight scope so that you understand what the funds are being asked for and the board will make sure that your concerns are being addressed and the information is provided. Does that sound reasonable.

Mr. Apy That's fair, yes.

Mr. Martin This might take a little bit of extra time early on here but if that's what it takes it would be a well worth step to take rather than to get further on and questions aren't asked or aren't addressed there is further delay, further delay, further delay. So that's what I'll do, I'll draft up

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the scope for the Board to review, the applicant to review and we will get mutual agreement on the wording of the scope, and we will send it off to a qualified provider.

Mr. Bouchard Thanks Jim.

Chairperson Jensen We should get a list of what we should ask.

Mr. Martin I'll distribute a list of prospective, proposals if you will and if anyone has a suggestion via email to contact i will certainly do that.

Chairperson Jensen Does the applicant have any further questions for us, other than the fact that you'd like to shoot us.

Mr. Martin Well no, I think on balance you know we could have gone right to a POSDEC I mean so, we're trying to be fair. I'll remind you that we have a public hearing to get to this evening as well.

Chairperson Jensen We are not done yet, Now Board do I have a motion to table the environmental assessment review for Saratoga BioChar.

Mr. Arnold Do we have to table it, or can we just leave it open?

Chairperson Jensen I would prefer to table it.

Mr. Arnold I make a motion that we table until we have an opportunity to hear from our consultant.

Chairperson Jensen Okay. Do I have a second?

Ms. Purdue I second.

Chairperson Jensen A motion has been made and seconded any further discussion? If not and I don't think this is too controversial, all those in favor say Aye.

<b>John Arnold</b>	<b>Aye</b>
<b>Meredithe Mathias</b>	<b>Yes</b>
<b>Ann Purdue</b>	<b>Yes</b>
<b>Mike Shaver</b>	<b>Yes</b>
<b>Peter Jensen</b>	<b>Yes</b>

Chairperson Jensen Opposed?

<b>Mr. Bouchard</b>	<b>Aye</b>
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Chairperson Jensen Abstentions?

Chairperson Jensen Now I do have one question Jerry. Was your vote in response late because you are virtual? Was that a positive or a negative?

Mr. Bouchard A positive I vote Aye.

Chairperson Jensen Okay. Motion carries.

**A motion was made to table the Saratoga BioChar EAF until the Board hears feedback from a third-party consultant and seconded by Ms. Purdue.**

Chairperson Jensen Now we are at the public hearing portion. There are ground rules, the first one being if anyone has a question or would like to express a comment concerning this application you are encouraged and invited to do so. Second one is and that's your opinion anyone who do wish to make comment if you would state your name for the record and that is for our record keeping purposes only. So six months from now instead of saying someone said, John Smith or whoever. Our third and probably most important one is throughout the whole process we will have some sense of decorum. Other than that does anyone have any questions or comments they would like to make known concerning the review of Saratoga BioChar. Yes Sir.

Mr. Spore Uh Vince Spore, 163 Fort Edward Road. I've got several questions just for my own knowledge here, what we are talking about is sewage waste that you're going to burn?

Mr. Apy We are not going to burn anything we are talking about the residue solids from sewage treatment plants.

Mr. Meeker Biosolids that's right, so that sewage has been treated so it's already been converted from raw into biosolids.

Mr. Spore So it moves by truck?

Mr. Apy Correct.

Mr. Spore And by what classification is it for the truck?

Mr. Apy I'm gona allow Andrew to answer that, it's all DOT regulated, or we have Jeremy here to answer them.

Mr. Tensen This is Jeremy Tensen for solid waste. We transport biosolids in 65-yard dump trailers fully gasketed with tarp systems and they have road permits and DOT permits.

Mr. Spore What class is it?



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Mr. Tensen Its dump trailers.

Mr. Spore So the waste is not housed with mitigation or not biohazard?

Mr. Tensen No.

Mr. Spore No.

Mr. Tensen It certifies as a waste product, that has to be managed with waste to the point of a certified facility and this would be a certified facility.

Mr. Spore I see here that you had purchased a plant so I can assume that you've run this whole process, but have you done it with this equipment that you've got up here in the north corner.

Mr. Millspaugh Are you referring to the air treatment that we will spend a lot of time on or the actual processing.

Mr. Spore The actual process.

Mr. Apy So we run pilot tests we've taken already so there are two major components to the system the first is a dryer when we receive the biosolids from Casella from the transporter they have about 75% water content still, it's a sludge it looks like a solid but it's still a lot of water. The first thing we have to do is take the water out, so the first thing required is a dryer we pump a lot of hot air that's the order that's the air we want to treat is the air pumping through that. The second stage is a calciner where we heat that to a certain temperature and agitate it for a certain amount of time that converts the material and releases the synthesis gas which we then capture and use as fuel which makes this very efficient and through that process we also actually break down all the compounds and actually create the carbon fertilizer. Those are the two major compounds of this facility.

Mr. Spore But, so basically you have other facilities for the same thing?

Mr. Apy Oh yeah, thank you so what we have done. We've taken biosolids that are already dry, sorry Bryce is going to take over.

Mr. Meeker Yeah biosolids have already been all over the united states in many towns in downtown Milwaukee for instance there's a biosolids facility and along the east coast. The first step is drying it, second step is we take that dry product, and we bake it.

Mr. Spore Okay so the equipment that you outline in here is some European equipment?

Mr. Millspaugh That's the air treatment system.

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Mr. Spore Have you put that equipment into this process yet?

Mr. Meeker That is just on the air treatment side so that's not really integrated into our process it's just treating the air in the dryer.

Mr. Spore Yeah, I see.

Mr. Meeker So with that, I mean there is more or less just off the shelf on the air treatment side.

Mr. Spore You're dealing with the specifications of the manufactured building plans.

Mr. Apy Correct, we're seeking process guarantees from the manufacturers and we will get them.

Mr. Spore So when you start putting information into the state for a permit with theoretical data.

Mr. Meeker Well see, we've done testing on the gas that this creates.

Mr. Spore But you haven't done it with the existing or the new equipment that you plan on using.

Mr. Meeker We've done it with a smaller version. Yeah, so these ovens we'll call them.

Mr. Spore Technically when you do a new process okay. You do a follow up with other facilities and equipment you get some data from all these different points.

Mr. Meeker The guarantee from the manufacturer, they've accurately tested the data.

Mr. Spore From that data you then select manufacturers with your specifications.

Mr. Meeker Exactly, we've gotten to the point with the manufacturer...

Mr. Spore So the permits that you asked for or you submitted to the state at this point are theoretical.

Mr. Meeker Yes, but mostly we are overestimating on the information.

Mr. Spore Right. Then when you build the actual thing, then it has to conform to the state requirements.

Mr. Meeker Yeah, so we are building in three phases.

Mr. Spore I'm just trying to understand that process.

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Mr. Apy If I could add to that, Bryce one second. The part where it becomes theoretical is where there is no way for us to pilot this at scale.

Mr. Spore Yeah, I understand. I understand.

Mr. Apy So the pilot we did with biosolids 4 feet by 4 feet and ran it through the machine it's on a smaller scale, but we took data from that, we captured gas from that we did all the testing we liked the way it worked, it made the product we wanted, and we had success we had to extrapolate for a larger scale.

Mr. Spore Yeah, and I understand that. You did buy the process correct?

Mr. Apy We did what?

Mr. Spore You did buy the process?

Mr. Meeker It is used by other industries.

Mr. Spore So again from the state's standpoint, they would do actual physical testing of the stacks when you put the manufacturing online?

Mr. Meeker Yes.

Mr. Martin and I think there is ongoing monitoring after that.

Mr. Apy Andrew do you want to address that?

Mr. Millspaugh Andrew with Sterling Environmental, they will be coming out for the air permit application to the facility and similar to what you were talking about pilot scale, this is being built in phases, so the application is for the full build out of this facility it's going to be built in thirds. So a third will be built and as part of the startup testing there will be stack emission tests to verify the real scale data compared to the application and verify that those are accurate. If they need to be modified out we will have lines two and three to add changes to the production were pushed in order to stay within parameters of the thresholds or modifications to air treatments.

Mr. Spore Would you, your permit, would you, how should I put this. When you're filing for this permit its three times. In other words you'll have three basic facilities, same thing or?

Mr. Millspaugh The permit will be for one facility, and it will include conditions for permit to construct phase one.

Mr. Spore Right.

Mr. Millspaugh Benchmarks to be permitted to go on to phase two and to go on to phase three.

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Chairperson Jensen Anyone else?

Mr. Spore Yeah, wait I've still got questions. In your process do you use Sulfuric Acid.

Mr. Apy Correct.

Mr. Spore And that's in a scrubber?

Mr. Meeker Yeah, correct.

Mr. Spore And you store that on the facility?

Mr. Meeker Correct. We will have a sulfuric acid tank on site.

Mr. Spore Above ground?

Mr. Meeker Above ground yep.

Mr. Spore And you said you get it locally?

Mr. Apy Did we?

Mr. Spore I wrote it down.

Mr. Meeker We'll get the sulfuric acid from a local vendor, any local company.

Mr. Spore So your process, what you're doing is, this plant will be under negative pressure.

Mr. Apy Correct.

Mr. Spore So, and the purpose of that is because of the odors, correct?

Mr. Apy All the air in the plant will be drawn in and released we want all the air drawn in and put through our air treatment system.

Mr. Spore Okay. So in here you said there was, uh I'm not sure I can find it. You have something like 5,000 I'm not sure what you are using for measuring for odors.

Mr. Meeker OUs - Odor units.

Mr. Spore Yeah, you had 5,000 posted here.

Mr. Meeker Yeah, we've reduced that's before treatment.

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Mr. Spore Before treatment? Now what does the truck do in there. What's coming in on the truck. Well the reason I ask is because I was coming down the Northway a couple weeks ago there was a red truck and the truck had fluid coming off the back and the truck really stunk.

Mr. Millspaugh Was that a Casella truck?

Mr. Spore No, now I'm curious first of all when you withdraw that from a sewer plant, what is their dewatering process.

Mr. Tensen Yeah, I can answer all that. So the Saratoga County's dewatering process is a belt press, so the sludge is treated primarily and then it's sent to a series of belt presses which forces it between two plates or in this case the belt, which is actually manufactured in Greenwich. They have to achieve for us to manage it, well most of the time 20% solids which is 80% water, but they create a thickened material and they also, the requirements to pass the clean filter test which is you condense the material and no water extracts.

Mr. Spore So when you say it was put on the press, what's the amount of moisture.

Mr. Tensen Yeah, 20% solids 80% moisture.

Mr. Spore 20% solid, 80% moisture.

Mr. Tensen Correct, so there is still a lot of moisture that's why this process exists to further..

Mr. Spore So again my question, what is this smell level compared to regular.

Mr. Tensen So the interstate over here, the thruway is a major traffic route for these trucks there are hundreds there every day.

Mr. Spore What's that mean.

Mr. Tensen That means if you're not smelling it, yet you probably won't. They are passing by all the time.

Mr. Spore I'm not worried about the Northway I'm worried about them driving by my house. Okay, that's what I'm worried about and also with the facility handling.

Mr. Tensen I understand that, can I just add that we don't enter the contract BioChar produces unless they have odor control mechanisms onsite to control the odors of material handling so in this case you could use potassium permanganate or hydrofluoric acid, basically chlorinate it to reduce odors.

Mr. Spore Is that what you do?

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Mr. Tensen We don't, the plants are required.

Mr. Spore The plant is required, they have to be the standard.

Mr. Tensen The standard which it is part of the establishment standard in the idea that odor is very subjective but there are standards that are required, and they must have these compounds in their materials to prevent odor in transit.

Mr. Meeker There shouldn't be any water leaking from the trucks.

Mr. Spore Well I know what there shouldn't be.

Mr. Meeker You have to specifically pass the clean filter test to go to a landfill. That means there shouldn't be any water.

Mr. Spore I'm not talking about the landfill, I'm talking about your factory.

Mr. Tensen Yeah, but apparently these trucks are leaking all over the road.

Mr. Spore Is most of the sludge getting burned or.. with super heat.

Mr. Meeker Thermal treatment.

Mr. Spore Super Heat.

Mr. Meeker Thermal treatment.

Mr. Spore Thermal treatment. Is that coming from a local area?

Mr. Meeker It will, that's the idea, initially we'll service somebody not locally but these contracts are short so we will try to get all the local contracts and bring them in, that makes the most sense you know.

Mr. Spore Maybe the best way I can do this is um, here's my concern, odors. My property it's a ways away but what it does, its adjacent to the Industrial Park and I'm very concerned about it because you were talking about when you are at full production you'll have 50 trucks at a 12-hour periods 6am-6pm.

Mr. Meeker Mhmm.

Mr. Spore Right?

Mr. Apy That's correct.

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Mr. Spore That's what 14 minutes, every 14 minutes a truck is going to go down Fort Edward Road?

Mr. Meeker These trucks will not all contain biosolids. 36 an hour, but biosolids, some others with carbon or they will be service trucks. So there is really 36 trucks of particulate, and 12 an hour or every 30 minutes.

Mr. Spore That's still quite a few.

Mr. Meeker That's if we built all three lines. we are starting with one line.

Mr. Spore I understand what you're going to start with, this whole thing is about your total plant.

Mr. Meeker We'd like to do a full build out, but it also has to do with the stack tests with DEC and other things. We would like to get there but there would not be a truck every 30 mins if we were not running at full capacity, from BioChar.

Mr. Spore So does the Planning Board have to go back through this when they turn line number two and three.

Mr. Meeker No this is for the entire facility.

Mr. Spore This is for the entire thing.

Mr. Meeker We would have to go back to DEC for the emissions on each line.

Mr. Spore Yep, And how do you, how do we, how does the public know that's happening? When you expand the plant, how would they know.

Mr. Arnold You mean will you be notified, is that what you are asking?

Mr. Meeker We will actually build an addition to the building when we do it.

Mr. Spore Yeah, I know I've been by.

Mr. Meeker We will have to get another construction permit at that time too.

Mr. Spore I mean I suspect there's people out there right now, that don't even know this is going on.

Mr. Arnold So probably I think honestly if you're having a problem with the smell of the trucks going by or whatever, then the thing to do is to let DEC and the company know.

Mr. Spore Exactly.

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Mr. Arnold The point being is I don't know if you need to be notified, when the next line comes on if it's a problem, it's a problem if they are going to build the next line or not right? So then you can kind of get a taste for the process.

Mr. Spore I didn't know if there was any formality with permits other than DEC and the manufacturing the rest of the Town is left out of the picture. Right. So anyway, let me go on with my other things, noise. I know you mentioned decibel levels and it can also be subjective, but you can also measure it right.

Mr. Apy Yes.

Mr. Spore And, I'm sure you're going to measure the woodchippers, I presume. I never noticed a quiet chipper before either and, and I kind of just, is the wood housed? Does the wood come in log form?

Mr. Meeker It's just a regrind its chipped.

Mr. Spore When you say regrind, of chips?

Mr. Meeker Yeah.

Mr. Spore Okay, so any wood that's coming

Mr. Meeker If you take a pallet and grind it..

Mr. Spore So, so it's more than just chips coming in.

Mr. Meeker Pallets would be the biggest thing coming in from outside.

Mr. Spore You won't take any logs?

Mr. Meeker No. That's a lot bigger grinder than what we will have. We only have 5 acres we don't have room for all that.

Mr. Spore Just asking, I know fans make a lot of noise, I know air compressors make a lot of noise, unless there is a screw thing but if you've got to reciprocate it..

Mr. Meeker We do have an air compressor as well on our system for purging but its indoors so..

Mr. Spore Just because its indoors doesn't mean it's quiet.

Mr. Millspaugh So Andrew Millspaugh with Sterling again as part of the DEC permit process for the solid waste not the air, there will be a condition in there to physically take noise



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measurements as part of an annual noise study subject to their compliance review. So that will be part of the permit conditions they get for the standard saw that will be put in.

Mr. Spore I know sometimes I can hear the Hexion plant where my house is.

Mr. Meeker We won't be that loud.

Mr. Spore And of course the traffic. I'm still concerned about that, I think you did do a study on that.

Mr. Meeker Yes.

Mr. Spore And of course it said it will be fine.

Mr. Martin Within acceptable levels, let's put it that way.

Mr. Spore Okay, when they do that study do they know, do they consider the developments of the other apartments in the area?

Mr. Martin Yes. The known projects.

Mr. Spore Pardon.

Mr. Martin The known projects, the things that are in the planning que so to speak.

Mr. Spore Okay, from the DOT standpoint do they, what's there, when did they decide on, what criteria do they need before they decide to do so. Let's say on Route 9 going North going onto 197, they got a little indent there where you can pull off to the right side of the road so you can go onto 197.

Mr. Martin Yeah, the right turn lane.

Mr. Spore Right, and of course we get heavy traffic, people go down the bicycle way, so when does, how does DOT, when do they decide to fix that. Or at the 197 intersection and Gansevoort Road because a lot of people break at the light and just people scooting off to the side of the shoulder to get around them, are these part of the things that they look at when they do a traffic study.

Mr. Martin Yes, they look at the operations of the intersection, once they determine volume of traffic they look at the operations of the intersections and they're graded. All the movement they're graded A-F. The level of service A is a highly functioning intersection with turning movements or without delay. What determines the A, B, C and D grade is the amount of time that the driver experiences delay in moving through that intersection and if the level of service

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drops then DOT starts to look for ways to mitigate that, so the level of service is maintained, and that's why you see turning lanes being added, signals that kind of thing.

Mr. Spore I just don't know what strain this is going to be, it's hard to determine. When that happens, I can see a problem and I don't understand why DOT doesn't see a problem.

Mr. Martin Most timeframes occur within ranges. As long as it maintains within that certain range then it's acceptable, but if it drops down into the next range then DOT likes to see some mitigation, or some improvement made to bring it back up to an acceptable level.

Mr. Spore Alright, the other, of course the other thing is discharges. You folks got permits for air and water okay, I follow that process. Is there any adverse materials classified hazardous materials on the site? I assume there is sulfuric acid.

Mr. Apy Correct.

Mr. Spore Are there any others?

Mr. Apy No.

Mr. Spore None.

Mr. Apy Sulfuric acid.

Mr. Meeker Calcium bicarbonate.

Mr. Apy No bicarbonate is not hazardous.

Mr. Meeker No it is not, we'll have a sulfuric acid tank, we'll have a permit for the sulfuric acid tank.

Mr. Spore Where is the storage for the hazardous materials on the premises?

Mr. Meeker What we do is we have a spill basin if anything is to occur.

Mr. Spore It's in concrete.

Mr. Meeker it's in a concrete spill basin if anything were to happen that's standard protocol.

Mr. Spore What about fire, potential explosions, like you mentioned methane?

Mr. Apy We have air out of that receiving area constantly with the air treatment system 24/7.

Mr. Spore There's no air in that, I mean when you, this is the 6 to 6 operation.

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Mr. Apy Receiving is 6 to 6, processing is a 24/7 operation.

Mr. Spore Okay, the plant is going to operate 24/7.

Mr. Meeker So any of the synthesis gas or syngas that's created from the material, all of that is burned in a thermal oxidizer immediately. So anything that we create in the oven is immediately destroyed and oxidized and that's basically the energy source for our process.

Mr. Spore That goes through your dry system right?

Mr. Meeker It's actually just a standard dryer.

Mr. Spore Okay that's some of the burning gases, is that right?

Mr. Meeker The oxidizer basically burns all the gases, we create.

Mr. Spore Right.

Mr. Meeker And it just uses the heat from the dryer.

Mr. Spore Uses the heat from the dryer.

Mr. Meeker Right and anything from that dryer we put through our air treatment system and basically the emission we see is water vapor and carbon dioxide with this process. We actually recycle some of the water through our scrubbers.

Mr. Spore Yeah, alright.

Chairperson Jensen Anyone else have any questions regarding this applicant. I regret to inform you that the public meeting has come to a close at 8:52pm.

Chairperson Jensen Saratoga BioChar applicant do you have any questions for us?

Mr. Apy No.

Chairperson Jensen Thank and we look forward to hearing your decision on the consulting meeting and putting everything together appropriately.

Mr. Martin I hope to have that done within the next couple days, get the first draft out of the scope of services, to distribute to everyone and I'll try to reference it into an email with a timeframe that I'd like a response back, so it doesn't drag on also we are coming up on holiday season so trying to get this intact.

Mr. Apy Very good, thank you.

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Ms. Purdue Another things is there was a review letter by LaBerge Group about the SWPPP, and I was hoping you could provide comments on that.

Mr. Apy Yes, Ray Apy, Saratoga BioChar. We are in receipt of LaBerge's review of the SWPPP our consultant Matt Huntington from Studio A is already working on addressing the shortcomings on that and we will have that by the time we see you again, it won't take long.

Ms. Purdue Okay.

Mr. Apy Matt would you like to add anything?

Mr. Huntington Yes, I'm Matt Huntington with Studio A, and what I can add to that is the majority if not all the comments in there were really housekeeping items for the SWPPP. None of them will have any actual effect on the drawings or the site plan.

Chairperson Jensen The process of addressing those will satisfy the comments from LaBerge.

Mr. Huntington Correct.

Chairperson Jensen Great, thank you. Anything further? If not we will go to the next one.

The board dismisses the applicant.

## **#2 The Preserve**

### **Cerrone Builders LLC**

#### **Old Saratoga Road, Moreau NY**

#### **Amendment to site plan**

Mr. Dannible Just waiting for this to warm up. Anyway Joe Dannible with the Environmental Design Partnership and I'm here on behalf of Cerrone Builders and our applicant to amend the approvals associated with The Preserve at Old Saratoga.

Mr. Martin while he is getting his projector warmed up there, um the one item I had on my list is with the Highway Superintendent, I did speak to Paul, he is back and feeling better and I think I forwarded the email between me and him. Paul is very direct and to the point, he thought it was a good change, he likes the idea of the removal of one of the cul-de-sacs and shortening the

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amount of road to maintain. He did I think want to make sure there was some sort of turn around provided during the interim.

Mr. Dannible Which we already agreed to do at the end of phase I.

Mr. Martin And that will do it and will be acceptable for this counter.

Mr. Dannible Again, ideally we were here in November, we really didn't have many comments from the Board. The Board wanted us to go through engineering review, as well as contact the Highway Superintendent, we did provide new detailed plans that were submitted to LaBerge. LaBerge did provide a comment letter to date on the layout I believe was forwarded to everyone on the Board. There was two, essentially two comments on there, one to verify ground water separation and the bottom of the infiltration basin was 3 feet. The other comment was adding a note to a detail for a monitoring weld at the bottom of that basin that needs to extent 3 feet below the surface.

Ms. Purdue Yeah, I don't think I got that.

Mr. Shaver We didn't get that paperwork.

Mr. Martin I didn't see that either. I looked for it on my email.

Ms. Purdue We have one for Harrison Ave Apartments, I think that maybe all we got.

Mr. Martin That was all I got, I looked right before we came in and didn't see it.

Mr. Shaver Is that something we need or..

Mr. Martin If you've got it, you can forward it to my email right now and I'll print it out for the Board members. The last thing I saw from Phil was he said he didn't have time to get to this and we were hoping he did because we were going to have to ask the Board if they wanted to look at this next week.

Mr. Dannible That was the one we confused it on. Yeah, so they did not come in with the letter it was the opposite.

Mr. Martin Okay, then you didn't get something we didn't get.

Mr. Dannible No, I misspoke. Which I ..

Mr. Martin You know how easy it is to mix this stuff up..

Mr. Dannible Yeah, yes it is, I was getting all excited because I thought I had already seen that letter. So we did not get the letter on this project, and those comments I just provided did not

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occur. We did meet with LaBerge in their office a week ago Thursday. So almost a week and a half ago to go over the submission, at that point in time he thought it was going to be a relatively simple review we have a line we have all the stormwater in place.

Mr. Martin Now, I think that's, I want to pause there and say I think that's a significant point. A stormwater permit has been issued for this project, as the approved subdivision so we're working on a modification here and not just a whole new permit submission so, that's a key, key point. I just wanted to emphasize that.

Mr. Dannible We're not changing the stormwater ponds from the current sizes that we proposed, we are actually reducing the impervious area on the site, we are reducing the limits of disturbance on the site, both moving in a positive direction, yet we are not reducing the size of any of the stormwater infrastructure we will still be able to treat it with respect to the original permit that was issued. Looking at the area we went from the cul-de-sac Cider Press Lane was 7 lots to fronting those lots directly on the new road. A slight modification to the road profile and the alignment just to a better cut fill and reduce some of the impacts associated with the property.

Mr. Martin And I just wanted to reemphasize too I don't have the drawing here in front of me but the lot Joe, that has the shared driveway.

Mr. Dannible Yes.

Mr. Martin We'd like to incorporate our standard treatments in that for making sure the deeds reflect the sharing of the access.

Mr. Dannible Correct.

Mr. Martin So there is a maintenance agreement in place between the two properties.

Mr. Dannible And that's something we will provide an easement over the as-built center line, and it will be established at that point intime. So again, we are here we know we talked about it at the last meeting I think before we need to go through a public hearing on this project we are also referred to the county as this is just an amendment. So we hope that we can get a conditional approval from this board if it would be possible based on an engineering review. Again this isn't something new, this is a project where we already have stormwater in place per view of the engineer review of the project for LaBerge to look at the stormwater on the property. Again since we are changing it, the impervious, not changing the water shed dynamics or where water flows and reducing the impervious areas this is a about as straight forward modification as we can come up with and there can be a conditional approval issued tonight that could address any comments that LaBerge may come up with. I think that would be a great thing if we keep this project moving. We are moving into a, trying to set up a preconstruction meeting with the Town because we can start building Lookout Circle as well as the entrance road into the site

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without any need for any additional approvals from this Board. Some construction is to start within the existing permits that are approved.

Chairperson Jensen I think you'll be seeing us again.

Mr. Dannible I think I'll be here quite often, I think I'll be here next Monday too.

Chairperson Jensen Okay, the first thing that I can think of, unless I missed it is the shared driveway agreement of some sort, it should be reviewed by Town council.

Mr. Dannible. Mhmm.

Chairperson Jensen Board anything further?

Mrs. Mathias I don't think we've been caught up with this since our last meeting. The archaeological area that straddles two lots.

Mr. Dannible Correct.

Mrs. Mathias I think there may be some consideration to put in some sort of deed restriction to ensure that is preserved. So that would be a deed restriction on those lots.

Mr. Dannible Yes, so...

Chairperson Jensen We wouldn't necessarily need a deed restriction because the Town does not enforce deeds. They have to annotate on the approved drawing and then the Town has to quarry to enforce that. Other than that all we can do is say "go away"

Mrs. Mathias Okay, yeah annotation whatever.

Mr. Dannible That is annotated on the plans, this is the original though for the archeological sense the variance that went with the original approvals have been signed off by SHPPO there has been no change on that and that note will remain on the original plans.

Mr. Arnold Page 2 there's a note right on there. That one I can read but I can't read the lot numbers. That's what I need for Christmas is readers.

Mr. Dannible It said note #1 archeological sensitive area with a buffer of 20-foot area will be subject to permanent deed restriction prohibiting any activities that may disturb archaeological artifacts including tree removal without prior authorization from NYS Historic Preservation Office. Note #2 Install orange construction grade fencing around archaeologically sensitive area 20-foot buffer prior to commencement of any construction or land activities within the vicinity of this area. Construction fence remains in place until all adjacent surface areas have establishes a stable surface vegetative ground.

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Ms. Purdue Alright and the other thing I understand is this has DOH approval for the original subdivision but if you modify the subdivision I think you're supposed to go back and get their approval again, and I think that's for the entire subdivision, not looking at it in two halves. So I would assume you have to get the DOH approval to modify the subdivision prior to construction on part of the subdivision.

Chairperson Jensen Yes it is.

Mr. Dannible I would have to look into that. We could not start construction on any portion of the project that is within the modified area.

Ms. Purdue Yeah, I thought DOH gives you approval for the entire subdivision. So you might be getting site plan approval, but subdivision approval on a portion of it..

Mr. Dannible We can't modify the entire subdivision because we don't own the entire subdivision. 3 of the 27 lots, we are only, so they will not be modifying the entire subdivision they are only doing a modification of a portion of this subdivision.

Ms. Purdue DOH needs to approve on the modifications of a subdivision before you can start constructing on the portion you are saying is not changing today.

Mr. Dannible Correct unfortunately we're not changing.

Ms. Purdue You can't start construction.

Mr. Dannible On any of it?

Ms. Purdue That's my understanding.

Mr. Dannible I don't believe that's the case, but we can look into that. We can certainly look into that if that is the case.

Chairperson Jensen That would be the most appropriate thing then.

Mr. Dannible We may take some different avenues.

Mr. Arnold I have easy questions. I'm going to make sure he has time to write that note down first because that one seems a lot more complicated. What are the sizes of the three pie shaped lots?

Mr. Dannible They are all excess of an acre. They are all just over an acre.



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Mr. Arnold Okay, alright. This is a kind of a related unrelated question. The situation is original and gotten into my craw a bit here are you, do you have any stormwater mitigation that travels across private lots with one lot to another in this project that isn't handled under an HOA?

Mr. Dannible I would say the answer is no.

Mr. Arnold I would under the modified section I would say the answer is no. Under the whole subdivision I would say there might be, but I would say that's a moot point and I understand that but under the modified areas. He's laughing because he knows why I'm asking the question. Yes but we will get to late in a later portion of this evening, but I was just curious because, if it makes you feel any better I looked through and I didn't see any but.

Mr. Dannible Yeah, taking a look at this, I don't see where stormwater, there's no swales across yards or I mean we are dealing with much bigger lots in that scenarios then dealing with smaller or cluster lots in some subdivisions.

Mr. Arnold Yeah, and most of the stormwater mitigation for the road is handled within the right of way in the road.

Mr. Dannible Correct, or within basins associated with it.

Mr. Arnold Okay, alright I just wanted to ask. It's just a standard question I'm going to be asking from now on.

Mr. Arnold I asked this question last month, but I just want to be sure I was right about it, I'm pretty sure you said yes. It is possible for the lot closest to the cul-de-sac of Hidden Pond's Way that that lot can egress and ingress to that contact with the road, it's just difficult right? I think I did ask that and believe it was verified that they could do it, it would just be expensive and unnecessary, the one with the shared driveway.

Mr. Dannible Oh, correct yeah.

Mr. Arnold It can be done it will just be expensive an unnecessary, but it can be done.

Mr. Dannible Correct.

Mr. Arnold It can be done, there isn't wetlands that can't be crossed or a cliff that's impossible to build anything less than a bridge for. Okay. That's all I have. I happen to like the improvement since it's eliminating an unnecessary road and I think, usually if you have an extra road it's to make lots better, in this case I don't think it did. I like what's been done.

Chairperson Jensen Anything further? No further questions for the applicant, so what is your desire to move this along.

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Ms. Purdue The outstanding items for a conditional approval are SWPPP comments, the driveway agreement, the DOH issue.

Mr. Dannible What was the 2<sup>nd</sup> one?

Ms. Purdue The driveway agreement.

Mr. Dannible Okay.

Chairperson Jensen Anything further?

Ms. Purdue I would still like to see the comments on the SWPPP. I understand you are working on comments, but we've been surprised before, I mean not by this project but others so the SWPPP comments to me are important.

Chairperson Jensen Okay Board, what else, anything? What's your desire?

Mr. Arnold Could I? Ann?

Ms. Purdue Yes.

Mr. Arnold So my take on conditional approval would be if it's conditioned on the SWPPP comments and it would be that they would address what our engineer feels needs to be changed. So I guess my question is, is what your need is to see it. Is that just because you'd like to see what the things are because you're not sure that you think that will be adequate?

Ms. Purdue These are the conditions, and then someone says "oh the mylars are in" you know I would feel uncomfortable saying that condition is satisfied. It was reviewed so they could go tomorrow and build the SWPPP as it was and now they're modifying even less. So that's with the conditional approval, I don't think they need to come back. We'll get the letter and if they have anything significant I don't think we will need to hold them up on an approved project.

Mr. Dannible Prior to the Chairman signing the final plans we'll have a letter from LaBerge that is sent to the Town that says we have no further comments that would be addressed.

Mr. Martin Yeah, I guess my point of departure here is the fact that there is a SWPPP in place, there is a permit issued. If this were our normal procedure where we are simply doing a SWPPP review then yeah, our process has been with condition we need a clean letter from LaBerge. This here, that's an extenuating circumstance and it's the staff's opinion that there's a permit issue so we are simply modifying the permit.

Mr. Arnold So Jim, legal isn't here so I will ask you this. Just so I understand the process here, if we condition it on the Town engineer review and they look at one of them and go "Yeah, that's just not doable. We're just not going to do it."

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Mr. Martin Then they got to come back to you again.

Mr. Arnold Okay.

Mr. Dannible Or not at all and we can build what we have.

Mr. Arnold Yeah, no no I'm not trying to be contentious, I'm just trying to understand.

Mr. Martin There is nothing insurmountable then at that point it's got to come back again and see if it can be resolved.

Mr. Arnold I'm just trying to make it comfortable in my mind the if the Town's engineer says that this is a problem, and it should be fixed that our conditional approval mean that they have to find some way to meet that request.

Mr. Martin And, what we look for when we reference the mylars, when you come in and sign the mylars. These conditions, the evidence of those conditions that need to be met have to be supplied to the signatories before they sign off, one of which is always Peter the Chairman and then another member.

Ms. Purdue So basically we are going from preliminary final approval at the same time but its conditioned approval.

Mr. Martin So see again this is not even that. This is not preliminary and final this is an approved subdivision, they are modifying an aspect of an approved subdivision. It's not just planning, its actually permanent.

Ms. Purdue I got you, okay so basically final approval of the amendment subject the condition that they're shared driveway agreement that is signed off on by..

Mr. Martin Because that is a new aspect to this approval. They are now sharing a driveway between two lots, that weren't previously sharing.

Ms. Purdue Right, and that there be satisfactory engineer review of the SWPPP, satisfied in all the requirements from the engineer, and that there be DOH approval of the subdivision modification.

Mr. Martin And those three items have to be in place, and available for you to review with the mylar before it is signed.

Ms. Purdue Okay. I'm good, I'm good with that.

Chairperson Jensen Okay Board what are you going to do?

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Mr. Arnold Well we have a motion, and a second right?

Mr. Shaver Do we have a second? I'll second it.

Mr. Arnold I thought we had a second, that's why we were having a discussion.

Mr. Martin No.

Mr. Arnold I'm sorry. So do we have a second?

Mr. Shaver I'll second it.

Mr. Martin Mike seconded.

Chairperson Jensen This evening we have a motion for an approval for the modification for the Preserve at Old Saratoga with conditions such as requirements of the SWPPP, shared driveway agreement, and with review of the Town engineer and council. Motion has been made and seconded. Any further discussion? If not would you call a roll please?

**Roll Call:**

**Meredith Mathias     Aye**  
**John Arnold             Aye**  
**Ann Purdue              Aye**  
**Mike Shaver             Aye**  
**Jerry Bouchard         Aye**  
**Chairperson Jensen Aye**

Chairperson Jensen I have 6 in the affirmative. Is that correct madam secretary?

Ms. Flexon Yes.

Chairperson Jensen Motion carries.

**A motion was made by Ms. Purdue to approve the modifications for The Preserve subdivision at Old Saratoga road with the conditions to have a shared driveway agreement and have Town legal counsel review and approve. To have the SWPPP comments reviewed by the Town's engineer and approved along with DOH approval of subdivision modifications and seconded by Mr. Shaver.**

6 in favor none opposed.

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Mr. Dannible Mr. Chairman, just one additional comment. I've seen it done in some municipalities when there is a modification approval granted. Sometimes they reference that the project is consistent with the original SEQR findings for the record.

Mr. Martin I think that would be a wise thing to do.

Chairperson Jensen Okay, well if you insist.

Mr. Dannible Just trying to protect everybody.

Chairperson Jensen Board what do you want to do? Is it consistent with the previous SEQR?

Mr. Arnold If it isn't, it's probably better. It's been a long time, see the original SEQR was done a month before I came on this Board.

Ms. Purdue Do we have to look at what they did? How do we know, how do we do that Jim if it's feasible if its 7 years later, and we weren't involved.

Chairperson Jensen So we had to have approved SEQR and now we are looking at a modification and what would be different.

Ms. Purdue Do they need to file a new EAF? I mean with the modification.

Mr. Arnold No, I would say it got to be in compliance with that original SEQR. It's got to be better.

Ms. Purdue I don't think we are in the position. This is a reoccurring event, so I don't know if we need to do that.

Mr. Arnold I'm going to agree with Ann on this.

Chairperson Jensen You are? okay. Well just tell me what you want to do Board.

Mr. Arnold Well, if we don't do anything then that's moving right along right?

Chairperson Jensen That's right.

Mr. Arnold Do you want to motion for the Chairman and one other Board member to sign the mylars when they come in?

Chairperson Jensen That sounds good, a motion has been made. Did I not write it down the condition modifications?

Mr. Arnold We had conditional approval.

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Chairperson Jensen Conditional okay, Mhmm.

Mr. Arnold And just mentioning until the conditions are done there will be no signing the mylar, that being said we will need to sign the mylar eventually.

Chairperson Jensen A motion has been made for the Chairman and a Board member signing the mylars for the modifications of The Preserve subdivision once conditions have been met. A motion, do we have a second?

Mr. Shaver I will.

Chairperson Jensen You will?

Mr. Shaver Yep.

Chairperson Jensen A motion has been made and seconded. Any further discussion? If not, I don't think this is too controversial all those in favor aye.

**Meredith Mathias     Aye**  
**John Arnold         Aye**  
**Ann Purdue          Aye**  
**Mike Shaver         Aye**  
**Jerry Bouchard     Aye**  
**Chairperson Jensen Aye**

Chairperson Jensen Opposed? Abstentions?

**A motion was made by Mr. Arnold and seconded by Mr. Shaver to have the Chairman and one Board member sign the mylars for the modification of The Preserve Subdivision once conditional approvals have been met.**

All in favor. None opposed. Motion carries.

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### **#3 Winterberry Subdivision**

#### **Michaels Group Homes**

**Lots 11,13,15 Winterberry Lane, Moreau Ny 12828**

#### **Stormwater Modification Review**

Mr. Michaels Okay, Luke Michaels for Michaels Group Homes. Submitted cover letter and some information as well of regards to addresses left. 11, 13, and 15 Winterberry Lane, which is the subdivision we are building off of Bluebird Road. We are about to about just over halfway built out. Last November, we built and sold and closed these lots. 11, 13, and 15. The new owners were in those homes and earlier this spring they contacted the Town Board about doing some work behind their homes, it included clearing, grading, reseeding, a number of different items and after the work was completed it was brought to my attention that I needed to address our SWPPP plan for our entire site since there were changes made to it. So what you have is a letter from EDP which talks about the original SWPPP permit, the changes that were made, the discoveries from all the assessments that they did on the work that was done basically from the as-built and in summary they thought that the work that was done did not result in any significant impacts to neighboring properties and the site remains in compliance with the design requirements of the DEC stormwater management design manual. So based on the work that was done the as-builts that were taken, EDP confirms that the work that was done was not significant and not too much of a change, but it's been brought to my attention I still need to bring this to the Board to accept or change these elements of the SWPPP if I'm presenting that correctly Jim.

Mr. Martin You did a pretty good job.

Mr. Michaels Alright.

Mr. Martin The situation here is that, as Luke described at some point in early summer, three property owners and they has bought and purchased these homes from Michaels Group and even gotten I think their CO. They decided that they would like to modify the grade of their property for various reasons and where the Town started to get involved with it is we own the property that's adjoining the rear lot line. The Town does, I should say the Town owns the lot that adjoins these properties to the rear, and the nature of the grading and modifications that were to be done also affected Town property. The excavator entered into a contract with the Town, to go on Town property and do that work and the work was done. You know is this the best way to do this? In my opinion it is not.

Ms. Purdue So the Town should have gone to LaBerge.

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Mr. Martin Well, the Town was not the initiator of this action, the three property owners were, and the nature of the action required permission from the Town to go on our property and modify the grade and it was modified significantly. Where the Michael's Group is still on the record here so to speak is SWPPP over these three lots is not completely closed, the final seeding and all that was not established. The SWPPP is still technically active on these three lots or on at least a couple of them anyhow. The other thing is Michael's Group is the permit holder on the overall SWPPP, the overall plan for this entire subdivision, this drainage on this subdivision functions as a system and it's relied upon certain grades being maintained across the lots in order for it to function. The permit is issued on that as a predicate. So what happened was the grade changed and now we just want to confirm that the integrity of the permit and the overall SWPPP plan itself is maintains and the site continues to drain as it was intended to drain because of the SWPPP. I think what Luke is indicating here is that his engineer has gone to the site and on the basis of the information they've provided in their opinion, that grade has been maintained. You had modification here I think last month? For this same subdivision a much smaller one, on the other side of the subdivision for insulation of the drywell or something to that effect as I recall. It's in that same vein however this is a little bit more involved, there was a lot of work done here.

Mr. Arnold It's different. The significance of the difference is the previous agitation was taking a system that was supposed to be designed to handle the stormwater on site but was altered by the property owners wrongly as far as I'm concerned. Your allowed them to figure that as part of your engineering for stormwater and should maintain and I'm sure you would like it or your client would, but we still manage the water onsite. This one if different in the fact that we are now saying that these three lots used to flow to the North because of the grade and now the sheet flow is going to the South to an adjoining property okay which is different. Not only are we changing the original design we are system as it preforms. It's not performing as it used to, right?

Mr. Martin That is not my understanding. This in the changed condition is to function and grade as it did before and not to change.

Mr. Arnold Okay see that's not what the description says here from EDP, what I read does not say that.

Mr. Martin Well If that's the case then this needs to be reviewed.

Mr. Arnold And I'm very uncomfortable with the wording that EDP uses in page 2 section 2.2 alright the first paragraph describes the change in handling stormwater. The second paragraph specifically says that given the predevelopment drainage had largely to the South and considering the fact that the property to the South is a vacant wooded site consisting of sandy soils of high infiltration rates its EDP's opinion that the relatively recent grading changes in the rear yard of lots 11, 13 and 15 will not negatively impact the adjoining property. So it's very nice of EDP to say that the water now flowing offsite onto that adjoining property won't have any negative impact on that adjoining property. It happens that the Town owns it if I owned it I may



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disagree with that. That's why we specifically in our code that we ask the developers handle their stormwater onsite.

Mr. Martin It is my understanding that the prior condition or the prior intent of the permit as issued, the stormwater permit as issued, is for that to happen and I don't know of any provision for that to change.

Mr. Arnold So you're saying that the original stormwater plan for this site was to manage the stormwater from 11,13 and 15 traveling North somehow it eventually ended up going onto the neighbor's property heading south.

Mr. Martin No what was supposed to happen as I understood it and the original grading for the originally approved permit was the water was supposed to flow ultimately to the pond.

Mr. Arnold Right. Which it does not do according to EDP now it flows sheet flow onto the adjoining property and what they are saying is "well because its vacant wood and its well-drained it's not a problem".

Mr. Michaels I think that's just in reference to the neighboring properties and I think there is some more information within here which talks about the actual function of the system itself and I think in the amount of water if you go to the chart at the end, the predevelopment rates, approved, in that chart and what they're saying is that it's not enough to make a significant change to the existing SWPPP that's in place.

Mr. Arnold So there is a change.

Mr. Michaels Correct, that's how I read it, there is a change, but it doesn't result in any significant impacts to the neighboring and demonstrating properties.

Chairperson Jensen Well I think what you are asking, is that we approve a modification to the stormwater that our consultant has approved.

Mr. Michaels Correct.

Chairperson Jensen And you're asking us to now approve a modification, we are cutting him out he bears some responsibility on what happens here on the site.

Mr. Michaels Correct.

Chairperson Jensen And that puts the nose back on the Town and I'm not comfortable with that. I think this should go back to the original consultant, who did the stormwater review and have them provide comments like "Yes you idiots, it's not going to do a thing" or if they are not in agreement tells us what his proposal is to remedy what this proposal is doing.

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Mr. Arnold Well, I guess my position is, I agree with that.

Mr. Shaver I do too.

Mr. Arnold I also feel that the, in this case the three property owners having altered the plan should now get together with you or whoever and come up with a new plan to treat this water on site. Not just "Yeah, now it's going to go do this. Oh well, it shouldn't be a big deal. "Okay, if it's not a big deal it shouldn't be a big deal to remediate it right?"

Mr. Michaels Well, I don't know, I don't believe so, I think that would not be a big deal to some degree, but it's my opinion that should be worked out with the property owners and the neighboring property which is the Town. You'll see there, there is an agreement that was made between the Town and the contractor, I don't know if everyone has this, but this is the contract that was done between the Town and the contractor to where in this contract it states that just give me one second, in this scope of work this is between the Town and the contractor who did the work.

Mr. Arnold Can you give me the page number on that please.

Mr. Michaels Yes. This is at the end actually it's the last page of what I submitted. In the 2<sup>nd</sup> paragraph in the middle it says, The finished grade will also be achieved in such a manor so that the operation and the stormwater management system for the subdivision remains intact on completion of the work. Now this is between the Town and the contractor of the property owners where me as holding a SWPPP permit, I never got to review this, I never got to sign off on it, I never got to have any input in not that I wanted to.

Ms. Purdue Why did the Town get involved when there is a homeowners, why didn't they just say, "Deal with your homeowners?" Even though right now it's the Michaels Group.

Mr. Michaels Well, at the time the homeowners did approach me at the beginning and ask me if we could do something, they had it conditioned in the backyard. The water couldn't get to the Town property because there was a hill this high in the back yard, that was all natural grade, existing grade and they asked me to take it down and take away trees that were a danger of falling on their properties and I wasn't able to, I was not able to do that because that line was right at the top of the hill and in order to do anything I would have to encroach on Town property and you can't do that and um..

Mr. Martin And that's what that contractor was intended to allow for.

Mr. Michaels Right.

Mr. Martin In my opinion what that wording is saying is that the integrity of the original plan is to be maintained.

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Mr. Arnold Yes.

Mr. Martin And it wasn't.

Mr. Arnold Right, that was my thought.

Mr. Michaels Well, and I think what the next part is, and I'll go to in the end is upon the completion of the project the contractor should notify the SMO so a final inspection can be made and um I guess provided a written list of deficient items for the contractor to result so it could still be on the contractor to result it, but I don't think that comes from us. That minor adjustment that needs to be made, I think that comes from the parties that were under disagreement.

Mr. Martin And in my opinion, I think this certainly needs to go off to LaBerge for review and I think you also need to get with Karla on this one.

Chairperson Jensen I agree.

Mr. Bouchard This is Jerry, I'd like to have a comment on this too, I have a very clear recollection of one of the neighbors who lives off the backside of this development coming to the Board a couple of months after we approved this subdivision and he was very concerned about stormwater coming down that hill, I don't recall his name but I think he lives on Fort Edward Road one of the houses out there, and he came in and he talked, he was quite concerned and as a Board we gave him assurances that there was a stormwater plan in place and that it was engineered to prevent the things he was worried about. So I'm going to be very hesitant about taking on very much of this personally and as a Board member you know, we've already told people that we have this covered.

Chairperson Jensen Well I think that would be preferable, if it goes back into the vein I think we should go back to the consultant for his comments.

Mr. Arnold Okay, I guess what I was getting from earlier was I'm not really sure what place we have in this, I mean I don't see a, unless I'm missing something. I don't see a revision..

Mr. Martin The only page that is approved by the planning board and signed is the drainage plan.

Mr. Arnold Right, but what I'm saying is that we're not really being asked to approve changes because I'm really not seeing revisions made. It seems like we are being asked to approve the mistake that was made.

Chairperson Jensen Yes.

Mr. Arnold Which I'm not gonna do. I don't think it's my job here as a planning board member. I think this is something that needs to be handled through the building department maybe through

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the Town because they had some action in this. I did not realize that when a developer is developing a thing, you know a property. That property owners could start messing with the stormwater plan while the development was still being built and it all falls in your lap still and it could happen without you being notified, in this case we were.

Mr. Martin This is a unique situation, I've been doing this for 25 years and never seen.

Mr. Michaels Yeah, this is definitely out of the ordinary.

Mr. Arnold And this is a pretty sizable one, I actually took a run through there. They did have a spot in the back yard, they moved some major, they didn't just eliminate a couple of trees.

Mr. Martin There is hundreds of yards of soil brought in there.

Mr. Shaver My question is why wasn't it stopped when it was started?

Ms. Purdue Why did it start?

Mr. Shaver Why wasn't it stopped? Somebody should have had to see it, I mean you're in that subdivision everyday probably right?

Mr. Michaels Yeah.

Mr. Martin We went one on this site the Thursday before July 4th, the last thing I was told by one of the homeowners involved was that they'd gotten a quote from the contractor, the price was too high, the work was not going to be done and it was a moot point. I come into the office the next week after the holiday and it was done.

Mr. Arnold So did the price change or?

Mr. Shaver So it was done before they had contacted the Town, is that right?

Mr. Michaels No.

Mr. Martin No they signed the contract.

Mr. Shaver No, you said the work was done within a week before they had a contract with the Town.

Mr. Martin Apparently.

Mr. Shaver So somebody knew this was going to get done, and it shouldn't have been done period, correct.

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Mr. Michaels And at that time I saw the work, but I'm in no position to stop it or do anything, that's private property at that point.

Mr. Shaver I agree.

Mr. Michaels These properties are turned over one is the Towns property. There are three owners that live there and according to Jim if I have this right, if these properties were seeded at the time then where the grass was growing I guess it would be off of the SWPPP.

Mr. Martin I'm just, that's what was described to me by Matt Dreimiller the Town Stormwater Officer that you have to have full stabilization of the site before the SWPPP gets fulfilled and then the other end to this point is that's on the individual lots the entire SWPPP is still open.

Mr. Michaels Right.

Mr. Martin Until the entire subdivision sells out and the final lot stabilizes and that's another factor that comes into play here.

Mr. Michaels Yeah and I think you know, if its someone who you know, they close, and they are in there for a few years and they put in a pool or something, there's a permit in place to where all of that is going to be reviewed everything is still, grades are still working the same way. There was obviously an agreement and approval in place I just don't know.

Mr. Martin Well, I think you know the system is going to accommodate what I would term a minor modification, but this is a significant change.

Mr. Arnold So I'm going to say this, as a Town of Moreau Planning Board member my position on this is if for some reason there is a modification to this stormwater then I'll be happy to look at it for potential approval but for now I don't see a modification I see a mistake that was made that needs to be remedied. I'm very uncomfortable with the idea that they now are handling stormwater offsite, that really makes me uncomfortable and I'm really uncomfortable..

Mr. Bouchard Agreed.

Mr. Arnold With how relaxed EDP is with "Ah you know, it's going that way anyways"

Mr. Martin Its timing and limited authority I mean I have no authority to engage LaBerge to do this review for that, that can only be done by this Board with its consent of the permit holder here, it's going to be more escrows and you know more fees. I don't have the authority to do that. So nobodies trying to suggest to just approve a mistake this has to happen in an orderly fashion with the right protocol and the right order of events here, I just can't say yeah, lets engage LaBerge to infer a cost.

Mr. Shaver So where does it go now?

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Chairperson Jensen Where it goes now is we don't approve any modifications, then it would have to go back to whoever owns it Michaels?

Mr. Shaver He doesn't own it.

Mr. Arnold No, there are three property owners.

Mr. Martin No the problem is, the problem technically speaking, if this goes on into this conclusion and the final lot is developed and he wants a notice of termination on the permit he's not going to get it.

Mr. Shaver Right.

Mr. Martin Because the basis of the permit, in which it was issued under has changed.

Mr. Arnold And DEC

Mr. Martin Well DEC is not gonna sign off on this permit in this current condition.

Mr. Shaver So we should refer this to Karla ASAP, right? To get legal eyes on this.

Ms. Purdue I think the owners have to put the land back the way it was unless ..

Mr. Arnold So wait.

Mr. Martin That's not possible but I do think it is possible that there can be grading established that will bring back the original intent of the permit, so the water stays onsite and flows in the ponds.

Mr. Arnold They would have to work with you on that and your engineer since it's your permit you are trying to get them to sign off on at the end.

Mr. Michaels Well I, true but I don't know that I'm going to be consenting to any escrow work of any kind I think in this situation..

Mr. Arnold No, no, no I didn't say that you should have to do the escrow, what I'm saying is that the property owners should have to work with you because it's your stormwater plan that they muddled in here. Do you understand? They are the ones that messed up the stormwater, really it should be them. That's what I'm trying to figure out how do you get to that?

Ms. Purdue Jim did they get building permits to do this?

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Mr. Arnold That was where I was going with this. I can guarantee that they didn't get a permit and they moved a sizable load.

Mr. Martin There is no building permit for this.

Mr. Arnold For removing that much soil.

Mr. Martin We have no grading permit.

Mr. Bouchard I have a question this is Jerry speaking, I'm looking at the description of tonight's agenda and we are being asked to see the amendment to the grading plan and a related amendment to the SWPPP, so we haven't seen any amendment to the SWPPP right?

Mr. Arnold No.

Mr. Michaels No there wouldn't need to be, what EDP is saying that we wouldn't need an amendment to the SWPPP because there is not a significant change.

Chairperson Jensen Well that's not for us to decide.

Ms. Purdue We don't have a revised grading plan to submit to LaBerge and we don't have any related paperwork for review.

Mr. Michaels We have an existing grade plan, the as-built plan, and a letter from EDP that says that as-built plan does not show significant change for this stormwater for Winterberry.

Mr. Shaver That's your engineer, we need somebody on our end because our engineers are the ones that approve this.

Mr. Martin It would be my suggestion to table this discussion until we have Karla take a look at this.

Mr. Bouchard I agree.

Mr. Martin Because I don't know the status of the Town's contract with the excavator here, I don't know that that is a.. there may be some unresolved issues there that she's aware of that I don't know of. I don't think that contract has been completely fulfilled.

Mr. Arnold But that's an adjacent property that's not our concern. Right, there's not an issue in front of us that the adjacent property owner did something wrong involving the planning board right?

Mr. Michaels What do you mean the adjacent property.

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Mr. Arnold The Town contract portion.

Mr. Martin This is all in.. to some degree it's a connected issue.

Chairperson Jensen Okay.

Mr. Arnold So you're saying the Towns contract effected the stormwater plan.

Mr. Martin No I'm saying that..

Mr. Bouchard We should wait on Karla.

Mr. Martin I don't want to say something out of turn.

Mr. Bouchard This discussion is not the right place to have that right now.

Mr. Arnold Yeah.

Mr. Shaver Agreed.

Mr. Arnold I agree Jim.

Mr. Bouchard Its all hypothesis and we're not in a position to know any facts so better to sit than rush.

Mr. Martin We are continuing to issue permits on the subdivision, you know I think I signed off on 3 of them the other day. So its continuing to build out.

Mr. Michaels But ultimately..

Mr. Martin This is an issue that has to be resolved because I don't see how this permit closes you know if this aspect of it is not resolved.

Mr. Shaver okay, motion made, no more discussion until .. Jim has something from Karla.

Mr. Martin No I think she needs to be here at a meeting and speak with the Board about this, whether its via zoom or whatever, she needs to be a part of this discussion.

Chairperson Jensen I think that definitely she does, and my personal opinion is mine only and not the boards, that I'm not qualified to give an opinion on stormwater we need to go back to the consultant for review, failure to do so and this Board should not approve any modifications to anything until we see proof. We have drainage for a subdivision, and we should not move on that until we hear back from our consultant.



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Mr. Martin But I just want to emphasize, I as a staff person I was not coming here tonight seeking approval.

Chairperson Jensen No.

Mr. Martin My role here was to start the process and there's a few parties that have to be involved here. This was not coming here seeking an approval.

Chairperson Jensen Never said it was, of course the applicant would love to see that but it's not gona happen.

Mr. Michaels Am I the applicant?

Mr. Shaver Well you're not at the North Pole.

Mr. Arnold I am sympathetic to the position you are finding yourself in at the moment.

Mr. Michaels We will figure it all out.

Chairperson Jensen We're not throwing stones at you.

Mr. Shaver I make a motion that we adjourn.

Mr. Martin Well you do want to table this pending consultation with council right?

Chairperson Jensen Yes, right. Mr. Martin do you have anything else?

Mr. Martin No, I do not but next week I would like to summarize the public hearing is not occurring for the PUD on Route 9. There are steps the applicant is considering before they get to that point so, the agenda is as you have received.

Ms. Purdue Are they coming at all?

Mr. Martin They will eventually, but not next week.

Mr. Shaver Jim how did they make out with the sewer? Did they have to hook to the sewer or did you not hear anything about that or..

Mr. Martin I didn't hear anything, I got an email from the attorney, and I didn't have a chance to read it yet. So I don't know.

Mr. Arnold I'm curious, you were going to have a copy of some action that the Boards taken at the moment.

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Ms. Purdue The map of the sewer.

Mr. Arnold The map or whatever..

Mr. Martin Yes, that was sent to you. It was on your email.

Mr. Arnold So it's a digital one. You said you'd have a hard copy.

Mr. Martin Yes, I will make you copies I can make those copies. Yep, I'll be right back.

Mr. Arnold My email doesn't go with the phone it goes with my laptop, it would be hard for me to show that to other people.

Mr. Martin I'll be two seconds.

Chairperson Jensen So we have a motion to adjourn tonight, I have a motion do I have a second?

Mr. Arnold I'll second.

Chairperson Jensen A motion has been made and seconded. Any further discussion? If not all those in favor say Aye.

**Meredith Mathias     Aye**  
**John Arnold           Aye**  
**Ann Purdue            Aye**  
**Mike Shaver           Aye**  
**Jerry Bouchard        Aye**  
**Chairperson Jensen Aye**

Chairperson Jensen All in favor, motion carries.

**A motion was made to adjourn the planning board meeting at 9:54pm on Monday November 13, 2021, by Mr. Shaver and seconded by Mr. Arnold.**

All in favor. None opposed. Motion Carries.

Meeting was adjourned at 9:54 pm.

Respectfully submitted,

*Katrina Flexon*

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