

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 18th day of July 2022 at 7:00 pm.

Town of Moreau
Planning Board Meeting
Monday, July 18th, 2022

Planning Board Members Present

John Arnold	Acting Planning Board Chairman
Meredithe Mathias	Planning Board Member
Ann Purdue	Planning Board Member
Mike Shaver	Planning Board Member
Erik Bergman	Planning Board Member
Adam Seybolt	Planning Board Member

Also, present

Jim Martin	Zoning Administrator
Karla Buettner	Attorney for Town of Moreau
Katrina Flexon	Meeting Secretary
Nick Outterson	Applicant for Moreau Animal Clinic
Chris Jones	Consultant for Applicant Moreau Animal Clinic
Jeff Anthony	Consultant from Studio A for Applicant Moreau Animal Clinic
Lynn Corcoran	Resident of the Town of Moreau
Sheila Itzo	Resident of the Town of Moreau
Wayne Stebbins	Resident of the Town of Moreau
Nancy Clark	Resident of the Town of Moreau
Reed Parish	Resident of the Town of Moreau
Bob Sears	Resident of the Town of Moreau
Luigi Palleschi	Consultant from ABD Engineers for applicant RASP
Tim Barber	Consultant from JAG for applicant RASP
Mike Close	Applicant for RASP
Peter Sluck	Resident of the Town of Moreau
Reed Anders	Resident of the Town of Moreau
Justin Grassi	Attorney for Applicant Ty Hall
Raymond Apy	Applicant for Saratoga BioChar Solutions LLC
Charles Dumas	Attorney for applicant Saratoga BioChar Solutions LLC

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

Approval of Minutes

The following Planning Board meeting minutes were prepared and submitted to the Planning Board prior to the July 18, 2022 meeting for review. March 7, 2022; March 21, 2022; April 25, 2022; May 12, 2022.

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 18th day of July 2022 at 7:00 pm.

Chairperson Arnold asks the Board if they have had an opportunity to review the minutes of March 7, 2022. He asks if there are any additions, deletions, or corrections.

Ms. Purdue states she sent her comments to the meeting secretary for adjustments.

Mrs. Mathias states she has one correction she will give to Ms. Flexon for amendment.

Mr. Bergman makes a motion to approve the March 7, 2022 meeting minutes as amended.

Mr. Seybolt seconds the motion.

Chairperson Arnold asks the Board if all in favor say Aye

Results as follows:

Erik Bergman	Aye
Adam Seybolt	Aye
Ann Purdue	Aye
Mike Shaver	Aye
Meredithe Mathias	Aye
John Arnold	Aye

All in favor, none oppose, motion carries

A motion was made to approve the Planning Board meeting minutes of March 7, 2022 by Mr. Bergman and seconded by Mr. Seybolt.

Chairperson Arnold asks the Board if they have had an opportunity to review the minutes of March 21, 2022. He asks if there are any additions, deletions, or corrections.

Mr. Bergman makes a motion to adopt the March 21, 2022 meeting minutes.

Ms. Purdue seconds the motion.

Chairperson Arnold asks the Board if all in favor say Aye

Results as follows:

Erik Bergman	Aye
Adam Seybolt	Aye
Ann Purdue	Aye
Mike Shaver	Aye
John Arnold	Aye

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Mrs. Mathias abstains

All in favor, none oppose, 1 abstention, motion carries

A motion was made to approve the Planning Board meeting minutes of March 21, 2022 by Mr. Bergman and seconded by Ms. Purdue.

Chairperson Arnold asks the Board if they have had an opportunity to review the minutes of April 25, 2022. He asks if there are any additions, deletions, or corrections.

Mr. Bergman makes a motion to adopt the April 25, 2022 meeting minutes.

Ms. Purdue seconds the motion.

Chairperson Arnold asks the Board if all in favor say Aye

Results as follows:

Erik Bergman	Aye
Adam Seybolt	Aye
Ann Purdue	Aye
Mike Shaver	Aye
John Arnold	Aye

Mrs. Mathias abstains

All in favor, none oppose, 1 abstention, motion carries

A motion was made to approve the Planning Board meeting minutes of April 25, 2022 by Mr. Bergman and seconded by Ms. Purdue.

Chairperson Arnold asks the Board if they have had an opportunity to review the minutes of May 12, 2022. He asks if there are any additions, deletions, or corrections.

Ms. Purdue states she feels the minutes are incomplete and the minutes should include the statements made by the public. The minutes are also missing the discussion to rescind the SEQR determination, and the motion to proceed with an independent review.

Chairperson Arnold suggests the Board submit their notes from the May 12 2022 meeting to the meeting secretary for a revision of the minutes to include further detail.

Chairperson Arnold asks the Board how they would like to move forward concerning the minutes.

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Mr. Bergman states he thinks it should be tabled until the Board can collect and submit the notes from the meeting to the secretary to add to the existing meeting minutes for further details.

Ms. Purdue asks specifically for the statements from the public submitted during the meeting to be included.

The Board tables the review of the meeting minutes of May 12 2022 until next meeting.

SPR 1-2022
Moreau Animal Clinic
Nick Outterson
3 Nolan Road
Public Hearing

Project Description: Applicant is proposing to construct a 4,852± sq. ft. building to house an animal clinic on an existing 1.48± acre parcel. The proposed building will be connected to the public water system and include an on-site wastewater septic system. The proposal includes an asphalt parking lot for 44 parking spaces.

Mr. Jones and Mr. Anthony introduce themselves to the Board. They are here looking for a lower cost option for the additional traffic study requested from the Board. If this is possible they are seeking conditional approval for this and to have the public hearing continue on tonight's agenda.

Ms. Purdue mentions there are different levels of traffic study, she asks if the \$4,000-fee request is the typical amount needed for a traffic study of this kind.

Mr. Martin states that this is a relatively conventional analysis, he's not sure if they're going to see a variation in pricing. The third-party analysis should be within a very tight price range. He states this is a joint agreement, once he heard the applicant did not want to meet this amount he wanted to get both parties in the same room to discuss this. The analysis is fully funded by the applicant so he states he will broaden the search and look for other companies to produce an analysis.

Mr. Martin says from this point, a formalized agreement between the town and the applicant should be made for future procurements. He asks if the board has any suggestions in the interested of getting a better approach and estimate.

Mr. Anthony asks the Board if they'd like the applicant to proceed with the public hearing or postpone it until the traffic study is completed.

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Mr. Martin states the Chairperson needs to open it because it's been advertised.

Chairperson Arnold opens the public hearing at 7:23pm

<u>Name of person speaking</u>	<u>for or against the project</u>
Walter Haynes	Indicated Against
Lynn Corcoran	Indicated Against
Sheila Itzo	Indicated For
Wayne Stebbins	Did not indicate For or Against
Nancy Clark	Indicated Against
Reed Parish	Did not indicate
Bob Sears	Did not indicate
Matt Boucher	Did not indicate

Mr. Jones and Mr. Anthony give an overview of the project for the public present.

Chairperson Arnold states there is one written correspondence that Mr. Martin will read into the record.

Mr. Martin reads the letter into the record

“I have several questions regarding the proposal. 1. Will they cremate animals onsite, will that require a NYSDEC Air Permit? 2. Will a NYSDEC permit be required for the wastewater system. This is not household waste, it will contain substances used in animal treatment. 3. Buffer zone between new building / parking and adjacent residential, how much? 4. 44 Parking spaces seems excessive for this type of business. What about stormwater management? 5. Will any animals be boarded overnight outside of the building? 6. Hours of operation? 7. lighting. 8. Snow removal? 9. Traffic impact at Nolan Road and Route 9 intersection?

Walter Haynes
5 Pine Valley Dr.”

Mr. Outterson states there will be no cremations onsite, there will be no animals boarded overnight inside or outside the facility. He adds the hours of operation are Monday through Friday 7am to 7pm. He adds he will be performing the snow removal and it will be placed in the green space as far away from the parking lot as possible.

Mr. Anthony states the facility will have all the required permits from DEC or Health Department. He answers there are substantial amounts of buffer which include evergreen plantings along both main property lines. States they have submitted to the Town stormwater plans for the project and onsite stormwater management is proposed. There is a lighting plan which is part of the application, essentially the lighting is walkway lights and pedestrian lighting, this is the type of lighting that is controlled to shine down.

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Chairperson Arnold states the last question will be addressed after the traffic study is complete. He asks if there is anyone else who would like to speak. He adds there are rules to the public hearing, please specify your name, maintain a certain level of decorum.

Mrs. Corcoran introduces herself and states she lives behind the proposed facility site location. She has similar questions in regard to lighting. She expresses concern regarding traffic impact, the amount of parking.

Mr. Jones states the 44 parking spaces is from the town code and they've added a couple extra to accommodate snow removal. He adds there is a parking issue at the current site.

Mr. Outterson responds that at the current site there are 17-18 parking spots, the employee spots run 10 -11, they are running into problems with the amount in regard to snow removal, appointments, medicine pick up, tech appointments, he states with all this in mind he has assessed 44 parking spaces to be appropriate.

Mrs. Corcoran states her concerns about the property value changes with the vet facility being built next to her home. She also voices her concerns about boarding animals and if the facility is even permitted in the proposed location. She also states she does not understand the wastewater part of the project, she asks if there will be extra chemicals in the system.

Mr. Anthony states the wastewater is going to be a traditional onsite septic system with inground disposal with an absorption field.

Mr. Outterson states at the current facility now they have a standard residential septic system with no rules or regulations needed to abide by. The biohazard materials are handled separately.

Chairperson Arnold asks if there is anyone who would like to speak

Mrs. Itzo introduces herself and states it's her understanding if the Animal Clinic does not build their facility here then perhaps a more intrusive company would.

Chairperson Arnold asks if anyone else would like to speak

Mr. Stebbins introduces himself and asks to see the plans the applicant produced for this meeting. He asks if the building meets the towns setbacks. Regarding the traffic study, he would like to know what the results are and when it will be done, he asks about boarding and outside cages, the septic system used, parking spaces, sign details, lighting, and buffer zone with foliage. He adds he strongly believes there will be an increase of accidents.

Mr. Jones states the building meets all town requirements for height and setbacks.

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Mr. Outterson answers there will be no boarding or kenneling at the site, he also explains there will be more spots used at this facility, he plans to hire more employees and that alone will use more than the current facility has.

Mr. Anthony states the septic system is located in the back and is a standard residential septic system. He adds there will be one sign out front, and the lighting proposed is called dark sky compliant which is pedestrian level low fixtures.

Chairperson Arnold states the public hearing will be left open until the board receives the traffic study.

Mrs. Clark voices her concerns with the traffic impact.

Chairperson Arnold asks if anyone else would like to speak.

Mr. Parish introduces himself and has two questions. Can the site plan depict where the snow is to be pushed and when the site receives deliveries are there going to be tractor trailers? Can a tractor trailer turn around on the site? He did not indicate if he was for or against the project.

Mr. Outterson states the biggest delivery they have is the pet food that comes once a week to every other week, this comes on a 10-wheeler not a semi, not a tractor trailer. WB Mason comes which is also similar. He also states that the snow location is up to the Town, at this time he does not have any regulation on snow placement.

Mr. Sears introduces himself and asks how far away the driveway is and asks for a traffic study to be done. His background is construction, and he has asked Mr. Martin if there has ever been a traffic study done on a project with traffic less than 8,000 cars a day. He did not indicate if he was for or against the project.

Mr. Martin replies that he would venture its far less than 5,000 cars a day. In his opinion the number of cars does not constitute the need for a traffic study, what does is the trip generation, how many cars are generated by the action proposed.

Chairperson Arnold asks if there is anyone else that would like to speak, if not he states they will table the public hearing until the traffic study is completed.

Mr. Boucher introduces himself and requests the board provide consistent rules during all public hearings. He does not indicate if he is for or against the project.

Mr. Martin states he will get caught up on the SWPPP for this application.

Chairperson Arnold ask the Board and the applicant if there is anything they would like to add before the public hearing is tabled.

The Planning Board tables the public hearing for the Moreau Animal Clinic until the traffic study comes in for review.

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SPR 4-2022

RASP

Tim Barber

8 Duke's Way / 1150 Route 9

Public Hearing

Project Description: proposal of a 6,000 sq. ft warehouse/office building adjacent to an existing parking lot within the existing manufacturing facility. The new building will be serviced by a new septic system and the water service connection will be shared by an existing building. A 49-space parking lot, new sidewalk and lighters are also proposed.

Chairperson Arnold opens the public hearing for RASP at 8:24pm

Name of person speaking _____ for or against the project

Peter Sluck	Did not indicate
Reed Anders	Dis not indicate

Mr. Paleschi introduces himself and other consultants to the Board and gives an overview on the proposed project

Chairperson Arnold gives the public hearing a few rules. If someone wishes to speak they must state their name, maintain decorum, and address the board and not the applicant and there is a 5-minute time to speak.

Mr. Sluck introduces himself and asks what it will be used for.

Mr. Close states this building is going to allow them to have more space for offices that they currently do not have, to expand for new employees and manufacturing so they can offer more shop type work. He adds its really not much more than they are doing now.

Mr. Anders – states the property there has always had a for sale sign for additional property, is there going to be development on this property after this construction.

Mr. Close states there is always a potential they would like to grow, they have some land that could have further expansion. There is always room to grow but at this time the 22 acres is just currently for sale, and nothing is offered for it.

Chairperson Arnold asks if there is anyone else who would like to speak.

Chairperson Arnold asks the Board if they have any questions and if there is anything further to address before they can move forward.

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Mr. Martin states the Board can close the public hearing if there are no further comments. He states this application is an unlisted action which will require a EAF Short form assessment from the Board. He explains the project is campus style setting and there are no outstanding concerns.

Chairperson Arnold closes the public hearing at 8:24pm

The Planning Board goes through the short EAF form for this application.

Chairperson Arnold 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. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

The Board answers no.

2. Will the proposed action result in a change in the use or intensity of use of land?

The Board answers no.

3. Will the proposed action impair the character or quality of the existing community?

The Board answers no.

4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?

The Board answers no.

5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?

The Board answers no

6. Will the proposed action cause an increase in the use of energy, and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?

The Board answers no.

7. Will the proposed action impact existing:
 - a. Public/private water supplies?
 - b. Public/private wastewater treatment utilities?

The Board answers no.

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8. Will the proposed action impair the character or quality of important historic, archaeological, architectural, or aesthetic resources.

The Board answers no.

9. Will the proposed action result in an adverse change to natural resources (e.g. wetlands, waterbodies, groundwater, air quality, flora, fauna)?

The Board answers no.

10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?

The Board answers no.

11. Will the proposed action create a hazard to environmental resources or human health?

The board answers no.

Ms. Purdue inquires about the flooding question. Number 10. She would like to know if a SWPPP is required for this project.

Mr. Martin states the applicant has implicated that the project has less impervious than the previous indicated site plan, his expectation is, that is sufficient, he would like the applicant's engineer to talk about that more.

Mr. Palleschi states back in 2014 the SWPPP was prepared for the previous design the existing infiltration basin takes into the account the future parking lot that was part of that design, so when you overlay the building on top of the previous design they are actually increasing the green space. He states any time the green space is increased run off is reduced, if the site is for more impervious than what they are currently proposing then it still works. He adds they also pitched the roof for the water to run off the back and incorporated a stone drip edge.

Chairperson Arnold asks if there any additional questions for this applicant.

Ms. Purdue states there should be additional detail on the onsite septic system, and lighting plan.

Mr. Palleschi states the septic details are on sheet 4, he adds the lighting out there now is remaining they are not changing the lights.

Mr. Bergman makes a motion for a negative declaration on the EAF short form for RASP.

Mrs. Mathias seconds the motion.

Chairperson Arnold asks for a roll call.

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Results as follows

Mike Shaver	Yes
Ann Purdue	Yes
Erik Bergman	Yes
Adam Seybolt	Yes
Meredithe Mathias	Yes
John Arnold	Yes

All in favor, none oppose, no abstentions, motion carries

A motion was made by Mr. Bergman for a negative declaration on the EAF short form for RASP and seconded by Mrs. Mathias.

Mr. Bergman makes a motion to grant site plan approval for RASP.

Mr. Shaver seconds the motion.

Chairperson Arnold asks for a roll call.

Results as follows

Mike Shaver	Yes
Ann Purdue	Yes
Erik Bergman	Yes
Adam Seybolt	Yes
Meredithe Mathias	Yes
John Arnold	Yes

All in favor, none oppose, no abstentions, motion carries

A motion was made by Mr. Bergman to grant site plan approval for RASP and seconded by Mr. Shaver.

Mr. Bergman makes a motion that the chairperson and one other member of the planning board sign the final approved plans for RASP.

Ms. Purdue seconds the motion.

Chairperson Arnold asks if all in favor say Aye.

Results as follows

Mike Shaver	Aye
Ann Purdue	Aye
Erik Bergman	Aye
Adam Seybolt	Aye

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Meredithe Mathias **Aye**
John Arnold **Aye**

All in favor, none oppose, no abstentions, motion carries

A motion was made by Mr. Bergman and seconded by Ms. Purdue to have the Chairperson and one other member of the Planning Board sign the final approved final site plans for RASP.

The applicant thanks the Board

The Board thanks and dismisses the applicant

PUD 2-2022
Ty Hall Plumbing and Heating Inc.
Ty Hall
1693-1699 Route 9
Resubmission for a request PUD Change

Mr. Grassi states at this time the applicant is looking for is a recommendation back to the Town Board from the Planning Board for the zoning legislation to permit the proposed use.

Chairperson Arnold clarifies that the applicant is requesting a recommendation to the Town Board for a PUD.

Mr. Grassi confirms its for a PUD. The Planning Board gave the Town Board a recommendation for the zoning change and the Town Board has approved it already.

Chairperson Arnold asks the Board if they have any questions for the applicant.

Ms. Purdue makes an observation that this application doesn't appear to be for the purposes of a PUD.

Mr. Grassi replies one of the reasons why they chose a PUD is they already have existing residential uses so it would be a mixed use. What they intend is part offices and an enclosed area in the back for the trucks themselves. He believes that technically that is two different uses as well, with the residential that's three uses.

Ms. Purdue states this is really just placing commercial business in the middle of residential.

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Chairperson Arnold agrees with Ms. Purdue the request does not fit a PUD description.

Mr. Grassi states they had meetings with Town Board members and their response was route 9 is becoming more commercial and eventually they will be looking at rezoning the entirety of that area. Mr. Grassi states they don't have time to wait for the Town to eventually look into rezoning Route 9 which is how they ended up with the PUD.

Ms. Purdue states she is not aware of that area being rezoned. She states it is predominately residential.

Mr. Shaver states he believes it's becoming more residential, with new housing being built there.

Mr. Bergman agrees with the Board. He states there was a PUD request in front of the Board a couple months ago regarding solar and the decision was suggested strongly that they look into innovative housing.

Mr. Martin points out that there will need to be a public hearing for this. A public hearing for the referral. The Board has to first deem that they have all the required information in regard to the PUD and once they do the Board can schedule a public hearing. Once it comes in as a PUD all PUDs are subject to a public hearing at the time of recommendation.

Chairperson Arnold asks if there is anything else.

Mrs. Buettner states 147-27 of the Town code which requires a list of everything that they need to provide to the Board. She states Mr. Grassi probably has that in the original PUD application. The Board makes a judgment based off that list.

Ms. Purdue states the application does not provide the level of detail needed for it to be complete.

Mrs. Mathias states she doesn't feel like the application is complete, she says they should provide more of a narrative that goes beyond what has taken place in the last year.

Mr. Grassi states he believes they have met all of the criteria. He asks the Board if there is anything that the Board can identify that has not been submitted.

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Ms. Purdue says they have an overall site plan, the sketch plan requires much more detail than has been provided to the Board.

Chairperson Arnold states its his position that the application would need more information.

Mr. Grassi clarifies with the Board if they are looking for more information based on the sketch plan.

Chairperson Arnold states a PUD is used for particular projects that are unique and a huge benefit to the community and do not fit in a current zone. He doesn't feel the application is in line with the PUD requirements.

Chairperson Arnold asks the Board if they have enough information to make a recommendation to the Town Board and if not list specific requirements needed from the applicant for them to come back with a complete PUD application.

Mr. Bergman states in keep with the same train of thought that the Board did with the Solar application, he would like to see some form of housing, this is in the definition of the PUD.

Mr. Grassi states he believes the application as it existed has what is required.

Ms. Purdue asks the applicant to add the location, uses, and ownership of abutting land on the site plan.

Mr. Martin states for the record as part of the code the Chairman of the Planning Board shall certify when all necessary application material has been represented. Which in his opinion, reads as the Chairman's certification reflects the overall certification of the Board.

Ms. Purdue asks Mr. Grassi to take a look at the code provision and draw a map to where it is in the application the information has been provided that's required by code.

Mr. Martin suggests an itemized check list.

Mr. Grassi reviews what the Board specifies is needed for the next submission. Abutting lands, owners and uses, and a general overview as to how the code for purposes of a PUD relates to the proposed used on the application.

Mr. Martin recommends the applicant pull the language out and develop an itemized check list and under each individual item specify where exactly it is located within the application.

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Mr. Grassi confirms this can be done and thanks the Board.

The Board thanks and dismisses the applicant

Saratoga BioChar Solutions LLC
Raymond Apy
2-12 Electric Drive, Moreau Industrial Park
Review / Discussion

Project Description: The applicant is proposing to construct a new building consisting of 34,100 sq. ft. for a carbon fertilizer manufacturing facility on a two, existing and adjoining lots totaling 5.89± acres. A stormwater pollution prevention plan (SWPPP) is required. The following two permits from the NYS Department of Environmental Conservation are also required: A Solid Waste Management Facility Permit; and an Air State Facility Permit.

Mr. Apy Thanks the Board and gives a quick overview on the project.

Ms. Purdue states the following:

Like many of you, I was initially intrigued by the technology that the applicant presented. My perspective changed as more facts came to light. In this regard, I would like to review the history of this project since December of last year.

- In December, we reviewed the applicants EAF and determined that there were a number of moderate to large negative impacts, many of which we felt that we didn't have the expertise to assess. We passed a motion by unanimous vote to retain a consultant to assist the Board. Subject to a scope of work to be developed by Jim Martin, the applicant agreed that it would fund the cost of that consultant.
- On January 12th, we had an hour-long call with a few of the folks at DEC who would review the applicants' permits. It was strictly an informational meeting and not intended to supplant the need for a consultant.
- At our January 24th meeting, it was noted that the applicants' application was not completed in accordance with the Board's requirements and included inconsistent and incomplete plans. A few days later Jim Martin followed up with the applicant to require that the applicant address those deficiencies. Mid-February, Jim advised me that he was still working on the scope of work for a consultant, but he wanted first to see the additional information to be produced by the applicant.

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- The applicant did provide additional documentation during the month of February, including an updated EAF and site plans. Given the volume to the materials, Jim recommended that we hold a special meeting March 7th to consider the project.
- At our March 7th meeting,
 - The Board found numerous changes made to the information originally included in the July 2021 EAF, I reiterate my concerns about the potential impacts of the project, which we might better assess with the assistance of an independent consultant. Jim Martin said he had been waiting for this meeting to see how the Board wanted to proceed before providing a draft scope of work.
 - However, the majority of the Board determined that they would deem the negative impacts mitigated by the issuance of DEC permits for the project. I reminded the board that the DEC has advised the Board in January that its permit process was not a substitute for the Boards SEQR assessment. The permits are, in effect, licenses to pollute. As lead agency, the Planning Board’s responsibility is to assess whether those permitted levels of pollution and the activities related to the project negatively impact the community.
 - Chairperson Jensen reminded the Board that a public hearing would be required as the SEQR assessment had not been closed as the last hearing in December. Comments made in the past month that the second hearing was unnecessary are incorrect. A public hearing was scheduled and rescheduled for May 12.
- At the public hearing, we heard from many residents, most of whom object strongly to this project due to the potential environmental impacts to their community, including noise, odor, truck traffic, and air pollution. Many called for independent review of the project and expressed concern that the Board did not have the expertise to assess the impacts of the project.
 - I made a motion to rescind the prior SEQR determination based on new information that became evident following the Board’s determination in March. Specifically, the failure of the applicant to disclose on its EAF that it would be permitted to emit up to 100 tons of Nitrogen Dioxides, that it would store liquid nitrogen on site, that DEC would require higher stacks in order to better disperse air contaminants for the facility, potential fire risk associated with storage of biochar on site. That motion failed.
 - I then made a motion to retain an independent expert to assist the Board in its assessment of the project’s impacts. This motion was unanimously approved, and discussion followed as to the scope of the experts work. Jim Martin suggested, and the Board agreed that it would submit items it wanted to review to Mr. Martin by May 27th. Consideration would be given to those items at the next meeting on June 6th.
- At the June 6th meeting, we reviewed the only proposal – one that I had submitted. There was general concurrence that the scope was appropriate, but that Jim Martin would make revisions based on some specific concerns expressed at the time. Jim provided us with a revised scope and the Town Attorney advised incorrectly to the Board that the preliminary site plan for the project was “deemed” approved due to its failure to act on the plan in February. I disputed that position then, but the advice was only recently corrected.

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- The majority of the Board was then persuaded that there was nothing to be gained from the advice of independent experts. Among other things, it was asserted that there was no way to objectively measure or monitor odors. If we had expert advice on this issue, we would have learned that there are dozens of companies that provide equipment and services to monitor odors. I believe that an expert could shed light on a number of other impacts of this project- including the risks and whether there are other means of mitigation available.
- My motion to proceed with the procurement of an independent consultant firm in accord with the scope of work, as revised by Jim Martin and the Town Attorney, was not seconded.
- So I remain deeply concerned that the Board has not given due consideration to the impacts of this project on our community.
 - It is the first of its kind – to be built and operated by a company that has never built or operated a solid waste facility of any kind.
 - The project may process up to 15% of the state’s biosolids for New York City, Long Island, and Western Connecticut and Massachusetts.
 - Biosolids are known to be contaminated by PFAS – the forever chemical – that the EPA has indicated is linked to increased health risks – cancer, autoimmune and cardiac disease, low birth weight.
 - In fact, the EPA is now so concerned about PFAS contamination of drinking water that it has recently revised its guidance on acceptable PFAS limits from 70 ppt to 00.4 ppt.
 - At this time, the water that the Town of Moreau draws from the Saratoga County Water Authority already exceeds this limit according to its most recent water quality report.
 - So, why would the Town of Moreau allow the creation of a new source of PFAS pollution to our region?
 - The applicant acknowledges in its most recent air emissions permit application that biosolids are known to be contaminated with PFAS. It notes that the “ current understanding of the fate of PFAS compounds during thermal treatment is evolving”. The applicant does not promise to destroy PFAS, but it will be allowed to emit PFAS into our air up to the limits allowed by the DEC permit
- The Time Union reported this weekend that residents of Hoosick Falls are about to receive payments of up to \$65 million for the damages done to their properties by industries that contaminated them with PFOA — one of the PFAS chemicals. The settlement includes health monitoring of residents who have been exposed to the chemicals. Is this the future you want for the Town of Moreau — your children and grandchildren.
- Regarding air emissions, we cannot minimize the impact of greenhouse gases, such as nitrogen oxide, sulfur dioxide and carbon dioxide. If they don't make you immediately ill, they will and continue to have increasingly negative impacts on our climate. And there are other air emissions from this project that are not fully understood, such as methane and particulate matter.
 - Regarding the applicant's claim that it will be subject to stricter limits on emissions and PFAS if adopted by the EPA or DEC, note that they may not be required to comply until their permits come up for renewal — perhaps 10 years from their initial permit. It may also be a year or more before the regulation of PFAS catches up with the hazards they present.

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- o Regarding the applicant's claim that it will be a good neighbor, the applicant recently minimized its neighbors as a small group of 150 to 200 people, only a few of which are outspoken.

In sum, I am going to ask the Board to reconsider its SEQR determination as well as its decision to forego the advice of an independent consultant. I know that this is hard work. We have been presented with a lot of documentation, much of which we cannot be expected to understand. But we owe it to our community to proceed with extreme care

Chairperson Arnold states this public is welcome at the Planning Board meeting it is not a public hearing, but it is a public meeting. He asks if the Board would like to do something. He states at the last meeting the Board had counsel write up a resolution for approval, there was no request for a resolution for disapproval.

Mr. Shaver states he is not sure if the Board asked for an approval or a disapproval.

Mrs. Buettner confirms she specifically requested at the last Planning Board meeting if the Board wanted her to draft an approval resolution and a denial resolution to present to the Board. She states the direction to her was to draft an approval resolution, with all the conditions that were discussed at that meeting.

Chairperson Arnold states he accepted or was given a motion for the approval resolution to be done and did not get a motion for denial. The drafted resolution is

- in front of the Board as a working paper.

Mrs. Buettner adds she received comments on revision from three other Board members today.

Mr. Shaver states he also has some comments but hasn't gotten them to council yet.

Chairperson Arnold states what they have in front of them is a draft approval resolution. He asks the Board what they would like to do.

Mr. Shaver states he thinks the resolution needs some revisions, as it stands it doesn't work for him. He specifies there needs to be language on odor.

Mrs. Buettner states just for point of order, this submitted resolution is a draft. Her understanding from the Boards directive from the last meeting was for council to prepare a draft for the Board so the board could go through the draft during this meeting and identify the things the Board likes and dislike and whether the Board moves forward. Procedurally the Board needs to have a motion and a seconds and after there would be discussion.

Chairperson Arnold states the floor is open for a motion.

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Ms. Purdue states she would like to make a motion. The motion is as follows:

“The project is the first of its kind and will be built by a company that has never built such a facility.

Once permitted, it may be difficult to reverse and may not be monitored as closely as the board would hope.

The project warrants careful review to ensure that we don't jeopardize our community's health and that the community can rely on our findings.

The prior negative SEQR declaration was made, without the benefit of independent expert advice despite the complicated nature of the project and its potential negative impacts.

Since the SEQR declaration on March 7, 2022, new information has become known that supports the rescission of that declaration, including the following:

- Saratoga Biochar will process up to 15% of the biosolids generated in the State of New York. According to the applicant's Petition for beneficial use of its biochar, the biosolids will be sourced from New York City, Long Island, Western Connecticut, Western Massachusetts, and the Hudson Valley.
- Biosolids may include PFAS, heavy metals and dioxins. Applicant has confirmed that these chemicals may not be destroyed by the biochar process and may result in other unknown derivative compounds. Consequently, these substances may enter our air and water, resulting in the potential for harmful exposure to the local community.
- On June 14, 2022, the EPA has issued guidance substantially reducing the limits on safe concentrations of PFAS in drinking water, due to concerns that higher concentration would increase health risks, including cancer, low birth weight, autoimmune disease, and cardiovascular disease. EPA recommends limits of .004 ppt of PFOA and .02ppt PFOS (as compared to prior advisory of 70 ppt). Town of Moreau's Water Quality Report for 2021 shows water sourced from Saratoga County Water Authority exceeds these new limits PFOA 0.612 and PFOS 0.504 ppt.
- The project has the potential to increase odors in the community. Although considered in connection with DEC permits, there are no specific limitations or restrictions to ensure that the odors are not offensive.
- The project will use wastewater and water capacity in excess of the thresholds established by the Industrial Park's 1991 GEIS. The GEIS calls for further study in that event.
- The project presents unique fire risks associated with the storage and handling of biochar on site as noted in the water engineering report dated March 30, 2022, and the applicant's revised air emissions permit application. Biochar stored in silos are combustible, requiring the use of liquid nitrogen to deprive the silos of oxygen.
- Per the revised air emissions permit application (June 13, 2022),
 - the project may be permitted to emit Nitrogen Dioxide (up to 100 tons per year).
 - liquid nitrogen will be stored on site for purging oxygen from biochar storage silos to minimize risk of combustion; and
 - the project will entail the storage of debris retrieved from the biosolids.
- Per the attachments to the solid waste management permit application (October 2021 – Facility Manual), which were not previously provided to the Board or disclosed in the EAF, the project may receive and store on site unauthorized waste, including radioactive and hazardous waste.

RESOLVED that the Board:

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Determine to rescind the prior negative declaration issued by the Board based on new information; and

Notify the other cooperating agencies and applicant of that rescission and allow the applicant an opportunity to respond; and

Retain an independent expert to assist it in consideration of this project and its impacts.”

Chairperson Arnold asks Ms. Purdue if that was a motion.

Ms. Purdue confirms yes this is a motion. She hopes that reciting this information better informs the Board on the concerns.

Chairperson Arnold clarifies with Ms. Purdue the motion is to rescind SEQR and to retain an independent review.

Ms. Purdue confirms.

Chairperson Arnold states there is a motion on the floor, is there a second.

The Board does not second the motion.

Mr. Bergman states he is not prepared to discuss the resolution, he did not see the draft until this afternoon. He doesn't feel good about discussing the draft that he wrote a number of comments on rapidly.

Mrs. Buettner states that is up to the Board. She adds the Town code specifically states that the Board needs a decision in a certain number of days after the close of the public hearing which passed last week. She states that the applicant is aware of this as well. She states for the record that she as their attorney is advising the Planning Board as to what the Town code says in the respect of the timing of the Board's decision.

Mr. Shaver asks Mrs. Buettner is she is telling them they have to vote on this resolution tonight.

Mrs. Buettner states she is not telling the Board they have to do anything. She is telling the Board what the Town code says. She states the code says within 45 days of the close of the public hearing the Planning Board needs to make a determination, or it is seen as an approval.

Chairperson Arnold asks moving forward no matter which resolution the Board chooses can the Board incorporate limitations or submissions that would mitigate those concerns.

Ms. Purdue states she thinks the best approach is the Board to move forward with the resolution is to have an independent third-party review. She brings up odor and the question of what sort of equipment is needed for monitoring she also talks about ammonia and sulfur monitoring.

Mr. Shaver states the odor aspect is what he wants to see in the resolution.

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Mr. Martin states at the bottom of page 6 in the draft there is a reference to all of that.

Mrs. Buettner makes a legal suggestion to the Board. She states pursuant to the Town code, the Planning Board has the right on written notice to the applicant to request an additional 45 days to make the determination.

Mr. Shaver states in the section Mr. Martin pointed out in the draft there are no specifics on odor. He states he asked at the last meeting for that to be included in the resolution draft.

Mr. Martin states what the draft resolution has there is a start, if there is particular language the Board members would like to see they can submit it for a revision, but the subject is broached.

Ms. Purdue makes a motion to ask the applicant for a 45-day extension for adopting a resolution denying approval based on ongoing concerns about the impacts of this project and how they mitigate or monitor them.

The Board does not second.

Mr. Shaver states he believes the draft resolution as of now needs a lot of work.

Chairperson Arnold states the Board has two options they can ask for a 45-day extension for further review or they can choose to not move on and motion to deny. He asks if a member of the Board has a motion to make.

Mr. Shaver states if there is no language on odor in the resolution the Board will not get a Yes from him.

Mr. Bergman states the 45 days is needed minimum for him to review the language.

Mrs. Buettner states the language has nothing to do with the resolution. She explains the language states in 149-43A in the Town code an additional 45-day period for review may be allowed on written notice to the applicant and building inspector and/or code enforcement officer stating the reasons for such delay. Failure to act on the final site plan within the prescribed time shall constitute tacit approval.

Ms. Purdue states the Board can give written notice tonight.

Mrs. Buettner states they must give reasons for the delay.

Mr. Bergman states the reasons for the delay are the Board is trying to work on the resolution.

Mr. Shaver states the reason they are delayed is because the Board is working on the resolution.

Mrs. Buettner clarifies to the Board that the resolution has been drafted, they are not working on the resolution they are reviewing the documents that will come to their determination.

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Chairperson Arnold states the reason why they need the 45 days is to have time to review the documents and supported materials.

Ms. Purdue states if the Board is unable to derive a resolution within the period the Board can make a motion to deny.

Chairperson Arnold recommends this course of action.

Mrs. Buettner states the Board always has an option to make a motion to deny or a motion to approve. She recommends the Board speak to the applicant.

Chairperson Arnold asks the applicant for an extension of 45-days to allow the Board to review supporting documents and information to inform the decision of the Board.

Mr. Dumas introduces himself as the applicant's attorney and states he understands what the Board is trying to do. He states the position the applicant takes is based upon 149-43 of the Town code he states there has been a tacit approval of the project already. He adds the applicant respects the Boards desire to go through the process to set forth reasonable conditions that the applicant has already agreed to, in its application materials and in its presentations. They are here this evening in an effort to accommodate that desire and accommodate reasonable conditions to the approval. He addresses Mr. Shaver's concerns about odors. He states there is absolutely no reason why the Board couldn't approve condition to the resolution this evening that dealt with the question of odors, he suggest an odor monitoring agency acceptable to the Planning Board and code enforcement. He adds there is a document the Board can work with this evening. He reminds the Board they are here for site plan approval and the applicant submitted a completed application long ago and the 45 days to act on that has passed. He states they are here to try and do the right thing by virtue of the desire of the Boards process. He states if the Board is to make a request for the 45 days he thinks the Board needs to be very specific as to what they are looking for by way of additional analysis or conditions to append to the Boards resolution.

Chairperson Arnold states what he is asking the applicant for is a 45-day extension what he is hearing is there is disinterest from the applicant on that.

Mr. Dumas states there is a disinterest because the applicant takes the position that the project is already tacitly approved without condition. He clarifies if the Board chooses to give a written request then there should be specific details and elements the Board is looking into and as to why the Board is to request the time.

Mr. Bergman asks council about the language in the Town code 149-43A the word *may* in her opinion.

Mrs. Buettner states the way she reads the code is that the additional 45-days is in the code because it allows the Board to have that additional 45-days. It doesn't say you have to have it, the code says you may have it.

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Chairperson Arnold asks the Board if there is a motion as far as what the Board would like to do. He asks what the Board will be writing the request for and if the Chairman is going to write a request for the 45-days.

Mr. Shaver states the draft resolution needs to be worked on.

Mr. Bergman states it would be 45-days to work on drafting acceptable language for the resolution.

Mrs. Buettner states the Board is notifying the applicant that they are taking an additional 45-days to, with the Board's description.

Mr. Dumas adds that it would be useful to share the draft resolution with the applicant as to the acceptability of language and conditions.

Mrs. Buettner states that is allowed.

Chairperson Arnold states it's his impression from the Board that they would like him to write a letter to notify the applicant of a 45-day extension for review.

Mrs. Buettner states this has to be done now or the Board has to do a resolution.

Chairperson Arnold states to the applicant the Board is taking a reasonable 45-days to consider how they would like to formulate the decision on this particular project.

Mr. Dumas asks the Board when the 45-days would be measured from.

Mrs. Buettner states the 45-days would be measured from when the Chairperson submits the written request.

Chairperson Arnold states he will write it today.

Mr. Dumas asks as the resolution the Board is crafting evolves, will that be shared with the applicant.

Mrs. Buettner states she would like to speak to this, she proposes that the Board provides the applicant with the original draft without the changes right now and the draft that will be presented to the Board when they are going to vote on it.

Chairperson Arnold asks how do they know what the final draft is.

Mrs. Buettner states the Board will decide that version is the draft resolution that will be submitted on the agenda.

Chairperson Arnold states to the applicant he will be sending a written notice to them to notify them on the 45-day extension to formulate the decision and the reasons why.

The Board thanks and dismisses the applicant

Mr. Shaver makes a motion to adjourn tonight's Planning Board meeting of July 18, 2022.

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Mr. Bergman seconds the motion.

Chairperson Arnold asks the Board if all in favor say Aye.

Results as follows

Mike Shaver	Aye
Ann Purdue	Aye
Erik Bergman	Aye
Adam Seybolt	Aye
Meredithe Mathias	Aye
John Arnold	Aye

All in favor, none oppose, no abstentions, motion carries

A motion was made by Mr. Shaver to adjourn the Planning Board meeting of July 18, 2022 and seconded by Mr. Bergman.

Meeting was adjourned at 10.05pm

Respectfully submitted,

Katrina Flexon