

**TOWN OF EAST FISHKILL
PLANNING BOARD MEETING
MARCH 20, 2018**

Lori Gee called the meeting to order.

Members present:

John Eickman, Steve Caswell, Michael O'Brien, Lori Gee, John Cutler, Craig Smith; Alternate Ed Miyoshi; Tom Wood, Attorney; Michelle Robbins, Planner; Scott Bryant, Engineer. Staff: Pam Baier, Clerk; Julie Beyer, Meeting Secretary.

The meeting began with the Pledge of Allegiance.

CHAIRPERSON COMMENTS

Ms. Gee announced that the next two dates were Tuesday, April 17th, 2018 and Tuesday, May 15th, 2018.

APPROVAL OF MINUTES OF MEETINGS HELD:

December 19, 2017

MOTION made by Steve Caswell, seconded by John Eickman, to approve the December 19, 2017 meeting minutes. John Cutler abstained. All others voted aye and carried.

DISCUSSION:

Stewart's Amended Site Plan, Route 376.

Marcus Andrews was present.

Mr. Andrews stated they are looking to remove the concrete curbing near the entrance. This is the shop located at 860 Route 376 in Wappingers falls. They would be replacing that front planter area to go flush all the way around. They would put in a concrete ramp. There would be an addition of two 4-inch steel bollards with plastic covers to protect the entrance from incoming traffic. They would keep the traffic lane the same width. They are also proposing filling the current planters with concrete. They have become ashtrays over time and they are difficult to clean out. They will concrete them flush to match the sidewalk elevation.

Ms. Robbins stated that a lot of the improvements will help with ADA accessibility. They will keep the 24 spaces they currently have and the one handicap space and they are compliant with the ADA requirements. They would be removing some landscaping. The Building Department went out to the site, they are not currently compliant with the site plan on file in regards to the landscaping on file. The Planning Board may want to consider seeing if the applicant is willing to put in additional landscaping on the site. Ms. Gee stated it appeared there was a picnic table where there should have been another planting. Mr. Andrews stated he is not sure what happened as both sides ended up being stamped concrete. Ms. Gee asked if they were planning on leaving the tables where they are. Mr. Andrews stated there might be room for two. They are trying to get rid of trip hazards. Engineer Bryant stated at least with the curbing there the picnic table has

slight protection from an oncoming car. Mr. Andrews stated that is why they were proposing bollards. Engineer Bryant stated they might want to consider one in the middle. Mr. Andrews stated cars have jumped the curb to other sites and hit the buildings. Their alternative would be to remove the picnic tables completely. Ms. Gee asked Ms. Robbins if there was anywhere else that landscaping could be added. Ms. Robbins did not think there was a lot of area they could add landscaping back in. She just wanted it noted that it was removed from the original site plan. Ms. Robbins stated the parking is not changing so it remains in compliance. They will be re-striping the handicap area. Engineer Bryant stated he had heard there was a potential issue with cars going through the adjoining plaza. He asked if Mr. Andrews was aware of any of those issues and if they would consider a speed bump between the two parcels. Mr. Andrews said he was not aware of any issues. Mr. Smith stated the issue coming into that site is that the land is depressed and slopes downward. It is safer to leave the site on the Eastern side of the property. The line of sight is poor to your left so people will cut through the other property because it is higher and easier to see out of. He is unsure if they could put additional asphalt in to raise the area Engineer Bryant asked if it was the adjoining property's landscaping causing line of sight issues. Mr. Smith said the Stewart's property is approximately 2 feet lower and that is the problem. He stated if you have a low profile car it is a dangerous left turn out of the site. Mr. Andrews stated he is not familiar enough with the site to be aware of all of the issues. He did state that raising the site would be an intensive process. He stated they could look at it but he could not promise an easy answer. Engineer Bryant stated they would not ask the applicant to re-grade the entire site. If they can find a simple fix they will request it. They will be reasonable. They could possibly put

in a no left turn sign but then that would force more people to cut through the adjoining property.

Ms. Gee stated this appears to be a fairly minor site plan change. Mr. O'Brien asked that it could prove to be a substantial change that the applicant come back before the Board. Engineer Bryant stated they would have to check the curb line of the drainage. If the applicant could bring in 5 ton of blacktop to raise the elevation at the entrance, it would be reasonable. Mr. O'Brien asked if they could separate the two issues. Mr. Andrews stated the entrances were approved by DOT. Engineer Bryant stated it is a concern that was raised so he feels they should look into it.

MOTION made by Craig Smith, seconded by Michael O'Brien, to approve minor site plan improvements as follows: removing the existing front entrance curb ramp and replacing it with stamped concrete, installing two bollards at the end of the stamped concrete area, filling in the planters on the side walk with concrete, and removing the picnic tables from the site. That is subject to an Engineering Department review of the egress. Any significant changes required to the plan due to that will require the applicant come back before the Board. Voted and carried unanimously.

Engineer Bryant stated he could meet the applicant Thursday or Friday of this week. Mr. Andrews said Friday might work.

DISCUSSIONS:

Eye Tooth Amended Site Plan, Route 82.

Bob Hamill was present.

Mr. Hamill stated that in April of last year he presented an application to construct a 17 PW ground mount system in the rear of the property. It was discovered at that time the client did not have approval for the parking lot that was in the rear of the property. He has subsequently found out that there are a few other items outstanding. There is a charging station on the property that never obtained a permit. There is ADA work to be done in the front of the building. There is some signage that was changed without appropriate notice. There is also a boat stored in the back of the property. All of these issues are being addressed. He asked if they could separate the issue of installing solar while they are working on approval of the changes to the site plan. Mr. O'Brien stated he believes one of the other issues was the solar farm being on the septic. Mr. Hamill stated it is not shown on the site plan he had with him. It is shown on older versions and it is located in the southern part of the property. It is not underneath where the solar farm will be going. This system will be a ballasted above ground mount system. It is sitting on a concrete piers above ground. They are poured in place foundation that sits on the top of the ground. They are constructed for flexibility to accommodate the movement of frost. Mr. O'Brien asked if the system could be moved easily and Mr. Hamill said theoretically, yes. Ms. Baier stated the charging station does have a building permit. It was taken out in the fall of last year. It is not closed. Mr. Hamill stated he also believes there is a fourth AC unit that is not shown. He believes it was an oversight and should have been shown on the original plan. There has been no addition of an AC unit since original construction.

Ms. Gee asked Ms. Robbins to walk the board through the parking on the site. Ms. Robbins stated the applicant is not in compliance with the approved site plan. A parking lot was constructed sometime between 2004 to 2009. It may have originally been gravel and then paved but she could not tell. There is one-way access to it and it is relatively narrow. She does believe it is used for employee parking. It runs along the side of the property and into the back. The solar panels themselves would be treated as a structure and would meet all of the setbacks. They are located behind a medical office building and would not be visible. The parking in the front seems to meet the requirements for patients but not for the employees. They do need that access parking in the back for employees. Mr. O'Brien asked how many spots they needed versus how many spots they had. Ms. Robbins stated she could get that for the Board to review. They will have enough as long as they incorporate the spots in the back. Ms. Gee stated on other sites they have designated difficult to reach spots as employee only spots. Ms. Robbins stated she does believe there is a sign restricting that area to employee parking only. Mr. Hamill stated he believes they should include signs on both ends of the building to restrict it to one-way access. Mr. Bryant asked if there was going to be a glare issue at eye level. He asked if screening would be appropriate. Mr. Hamill stated there would be no glare. They are at a 35° angle facing south so it is at the opposite end of the parking lot. The property is surrounded by shrubs and trees so neighboring homes will not have a view. Ms. Gee asked if there was still enough clearance for the sun to get to the panels and Mr. Hamill said yes. One of the first things they do when proposing solar panels is a solar radiance report to make sure they're getting at least 80% of the sun's potential for the site. Ms. Gee asked if the screening was evergreen or deciduous and Mr.

O'Brien stated he believed it was evergreen. Mr. Hamill said summer evergreens on the north side and the west side. There's a mix. Ms. Robbins stated the closest residential property is separated by mostly evergreens. The rest is a mixture of deciduous and evergreen. There is also a shed that blocks part of the view. Mr. Hamill stated the full height of the system is approximately 10 feet. The leading edge is 3 feet off the ground.

Ms. Gee asked if the next step would be to have the applicant address the out of compliance issues more formally. Ms. Robbins stated the Building Department has noted the violations and requested corrections. She stated that the survey recently provided is supposed to be an as built, but did not show the septic and an AC unit and the charging station. Mr. Hamill stated he would update it. Ms. Gee stated they also need to show the parking in the back and the signage. Mr. Hamill stated they would also denote the ADA parking.

Ms. Gee asked Engineer Bryant if there were any additional things that needed to be discussed. Engineer Bryant asked if there was a resolution on the boat. Mr. Hamill stated the boat would be removed from the site. Ms. Gee stated these issues will need to be addressed before they bring the applicant back for a Public Hearing. Engineer Bryant asked if there was a pump station on the backside of the lot. Mr. Hamill stated he has not noticed one.

Ms. Gee stated this application would have to come back for discussion before the board one more time with the adjustments shown so they can set it for Public Hearing.

DISCUSSIONS:

Hopewell Sports Dome Site Plan, Route 52.

Dave Vada and Chris Lapine were present.

Mr. Vada read from a prepared statement regarding their plan for going forward. They are working on comments plus plan on going forward working on any comments from tonight. They're working towards an official site plan. They are hoping for approval between September and October. Some life safety concerns and prior comments have already been addressed. They are hoping that their building permit can be issued concurrently with the approved site plan.

Mr. Lapine stated that site plan subdivision approval was granted in October of 2014. The subdivision plan was filed in June of 2015 and site work began in March of 2015. Foundation work began in October of 2016. All the while the team was still trying to address comments related to site plan approval. The construction has not gone as expected. There were a number of unexpected setbacks that were encountered. The partners have worked diligently to address those. They do have a schedule for moving forward and they expect this to be completed by the end of this year. There have been some changes made to the plan. The size of the dome has not changed. It is almost 8 acres. Parking has not changed for the site. There will still be 312 on-site

spots and 500 off-site spots. There were outstanding comments from Morris Associates regarding the Storm Water Pollution Prevention Plan and the Erosion Control Plans. There are some minor tweaks per Mr. Setera's office but nothing that will change the basic design that has been set forth. Ms. Gee asked if they had a SWPPP that was being submitted and Mr. Lapine said yes. There are a few minor comments to be addressed before it gets submitted.

Mr. Lapine stated some of the minor changes for this plan are really insignificant to the overall plan. The project was originally proposed with asphalt curbing throughout the entire project. Based on the extensive maintenance that will take place for snow removal, the applicant has decided to switch to concrete for longevity and durability. On the northwest corner originally the roof dropped down to a paved area and parking. One of the changes is an introduction of a couple of catch basins. The parking has shifted to the west a bit and the previously proposed impervious area has been opened up to be a bio-retention area. They will also be able to incorporate additional landscaping. This will help address some of the concerns raised by Morris Associates regarding runoff. They propose running a sidewalk along the corridor and to break up the pavement sections between the two. They have introduced a stamped pavement section to navigate the pedestrians from the overflow parking. They have made some similar modifications to the Southwest corner. Originally parking was up against the building with no green area. There was a concrete paved island between the parking areas serving as a sidewalk. They shifted the parking to the West. The storm water was flowing towards the dome itself so they incorporated another bio retention area with additional landscaping. They moved a sidewalk

away from the parking and closer to the building. There was some collaboration between the client and Royal Carting. It was recommended that they add a compactor into the project area. There is a slight modification to the refuse enclosure area and there will also be recycling bins. It will be on a concrete surface and not asphalt for the compactor. There were concerns raised in regards to the storm water management basins located in the front and on the western side. Some of the slopes are proposed to be stabilized with riprap or stone and they were concerned about the aesthetics. The client was able to re-grade some of the slopes that can be established with grass and an erosion control mat. The plan previously had islands in the front with concrete sidewalks within. There was limited landscaping. They were approximately 5 feet wide but with cars parking into the curb it would reduce them to 3 to 4 feet wide. Most people tend to walk up the center drive aisle as opposed to on the concrete curbs so they eliminated the concrete curb, which reduced the impervious surface in the front of the site by over 6000 feet. On the east side, for field three and field four, there is a topographic difference that had to be achieved by use of a retaining wall. They have presented a modular block design for this area. There was concern regarding the front portion of the extended retention basins due to the steep slopes on South Drive and Research Drive. They have introduced guardrails to prevent cars from going down the steep slopes. Each one of these ponds is fully enclosed with a post-and-rail fence and a steel mesh black coated 1 in.² going around it to prevent animals or guests from going down into the pond. Mr. O'Brien asked if that was close to what was out there now. Mr. Lapine stated some of them have been impacted during the course of construction. They have had to re-grade the pond and the engineer's recommendation was guardrails against that corridor. The guardrails on the

west side are going to be installed to DOT standards in the event that the Town takes ownership of the road. Another slight modification was at the airlock area. They shifted the low point away so no ponding occurs adjacent to the airlock area. Different pavement patterns were provided for this plan. There is heavy-duty pavement in areas where they expect loading from fire trucks for snowplowing. There is a light to the pavement section for where there will be general parking. There are also concrete sections. Ms. Gee asked if they had any calculations for the impervious surface reduction. Mr. Lapine stated it is down 6000 ft.² in the front. On the sides is probably a 5000 ft.² reduction.

Engineer Bryant stated there are a few additional changes. The original resolution included the import of 7000 yards of fill. It is evident now that they will have access fill on the site. They will probably have to amend the permit to include export fill. Ms. Gee asked additional fill was brought on site in anticipation. Mr. Lapine stated fill was brought on site for the bedding under the footings and foundation under the flooring. Engineer Bryant stated that structural fill is exempt from the calculations. Engineer Bryant stated they will need to export it and the Town will be interested to know where it will be going and how many trucks per day. Mr. Lapine stated they would run a new calculation for cut and fill as they have done some re-grading. They also discussed tightening up the lighting plan. Ms. Robbins stated there are two staircases that lead back towards the overflow parking and they want appropriate lighting for safety. Along the side of the dome from the parking area towards the front entrance there was inadequate lighting so something needs to be added there. There were bollards proposed and they need a better sense

of the illumination levels from those. They need to make sure there is no lighting glare. They had streetlamp lights in other locations. Mr. Lapine stated they were along the Route 52 corridor and coming into the site. There are small-scale bollards along the pedestrian path. The Town has asked them to get the photo metrics for the previous lighting plan going to the overflow parking and they are working on that with Muscow lighting fixtures. Ms. Robbins stated when they need to use the overflow area they will bring in temporary lights and the Town would like details of those lights. Mr. Lapine stated the lighting for the ball fields outside would be part of Phase 2. They will be using the similar style fixtures for the parking lot to eliminate that walkway. Engineer Bryant asked if the ball field lights would be on in the winter time. Mr. Lapine stated that was the original plan. Ms. Gee asked if the phasing had changed since the original plan. Mr. Lapine stated Phase 1 is the dome and all of the associated parking. Phase 2 is the outdoor fields and installation of the artificial turf. He stated one other thing they are working on has to do with the water line mentioned in the original resolution. It was something the Town wanted to look at to see if it was viable for future use. This line has been damaged during construction. There are discussions about placing a future line as part of Phase 1 construction. Engineer Bryant stated it is the pipes that came from the old IBM well field and went back towards the storage tanks in the rear of the property. It was not part of the recent water project. Engineer Bryant stated they are looking at the overall water plan to see what they can do to incorporate that in.

Engineer Bryant stated originally there was a cattle crossing similar to Hopewell Glen across South Drive. The applicant has presented some ideas regarding an overhead structure. They were

also discussing an at-grade crossing similar to what is between the Town Hall and the Mews. They are trying to incorporate more of a red light future instead of a flashing light feature. There is a fixed distance you have to be off of a DOT road and they do believe they can achieve that. If they do that, they would also add one at Auditorium Drive and Research Drive. The tunnel idea was never engineered completely and there are some elevation issues with it. Mr. Lapine stated they will have water being brought in and electrical being brought in so there are distances and heights that would need to have been met for the tunnel idea. He stated one of the benefits of an at-grade crossing gains distance to the light, which would allow queuing on the property. Engineer Bryant stated that DOT does want to reactivate the light as part of this project. Mr. Lapine stated that the DOT wants the traffic light reactivated and they asked if the signal loops could be replaced. That particular light is owned by IBM and was transferred to Preferred Development, which is the current owner of that light. The owner of the light is responsible for making the changes and for paying the electric and the maintenance for it. That has not been paid to the DOT in the last 12 or 13 years. The DOT will allow the sports dome to do the work on the lights, pay the maintenance on it, and pay the electric for it. They are trying to work on the complications of when the rear of the parcel develops in determining who pays for the light and who will be responsible for any additional maintenance and energy charges. It is in the applicant's legal counsel's hands at this point. Ms. Gee stated it is not unusual to do some sort of a shared agreement. Engineer Bryant stated he believes that as long as it is only the sports dome using that signal they will bear the brunt of the costs. At the point in the future where their other parcels developed and using it then they would all share in it and the Town would get involved

with it at that point. Mr. Lapine stated they are working with the Department of Health. They have received five additional comments and three of them they have answers from the engineer to supply. One is a labeling issue and the last is they have asked for a Hydro test to be conducted out on Route 52. The last ones that were conducted were from 2014. That cannot be conducted until it warms up in April time frame. Engineer Bryant stated that at the time of the original approval there was no connection point for the sewer. Now the pump station is constructed and they have a certificate of completion from the Department of Health and they are ready to operate.

Ms. Gee stated she believed there were some changes in the doors as well. She thought there were some that were originally not going to be constructed. Mr. Vada stated all of the doors will be installed immediately. Ms. Gee stated that the purpose of these doors would be for egress for special permit events or turnover of teams. She wanted the applicant to be aware that they would still have to come before the Town for a special permit to be issued. Mr. Vada said they were aware of that and ready to comply with it. There is nothing booked at this point. This dome is bigger than people can imagine and it will have tremendous effects on East Fishkill and the State of New York.

Engineer Bryant stated at the last construction meeting, there was discussion regarding a construction shed along the side of the building. He asked if there was any further discussion on that since then. Mr. Lapine stated they are discussing putting one away from all the activity at the

front of the building.

Ms. Gee stated that from what she's hearing none of these changes are alarming and all seem to be helping the site to run more efficiently. She does like the reduction in the impervious surface. She asked when the applicant would have a final plan resubmitted. It will need to go out again for Public Hearing. Mr. Lapine stated all the changes that he spoke of earlier were all part of the submission package. He stated they are probably three weeks away from having everything summed up. Engineer Bryant stated he did not know if they were beyond the limits of a minor amendment considering the magnitude of the project. They did discuss the traffic light during the SEQRA process and are just moving it ahead a little bit. He does not know if changing a cattle crossing to an at-grade crossing would constitute a Public Hearing. A lot of the changes were due to comments from his department and Morris Associates. Ms. Gee asked if anything needed to be re-circulated due to changes in the bio retention. Ms. Robbins stated the area has already been shown as disturbed area. If anything, the bio-retention brings it back to a more natural state than the impervious surface. Ms. Gee asked how they revise a cut and fill permit without having a Public Hearing. Attorney Wood stated he would have to review the cut and fill permit. He stated that with respect to the other changes, on a smaller project they would seem substantial but on a project of this scale they are minor details. Ms. Gee stated there is removal of sidewalks from parking areas. She stated she has personally no issues but there are changes to the plans and she believes they need to see it in its totality. Engineer Bryant stated as it pertains to the excavation and mining permit, typically if a project is before the Planning Board the Planning Board can

issue the permit. If it is not before the Planning Board than the Building Department or the Zoning Department can issue that permit. It may be a while before they have a final number on the dirt to be removed. Mr. Lapine stated they did have an excavation in this location that will take away from some of the fill material on site. He stated they can show the signal for the pedestrian crossings. Ms. Gee stated the next meeting is April 17 and if the applicant could have things submitted within two weeks they could make that requirement. If it's going to be three or four weeks the Board could consider holding an extra meeting on the first Tuesday in May. Engineer Bryant stated he did not believe they would have the crosswalk nailed down in two weeks. Engineer Bryant stated the Town was fine with a cattle crossing in the beginning. When the applicant suggested an overhead structure there are some challenges presented with that. The Town Board would need to approve an overhead walkway over a Town road. That would add a lot of time for that approval. The at-grade crossing is the simplest solution. People are also going to want to walk the shortest distance and that will be it also. They just need to get together with DOT and a traffic consultant to make it work. Mr. Lapine stated some of the crossings are already at grade crossings. All they would be doing is adding signalizations. Ms. Gee asked if it would be a pedestrian controlled signalization and Mr. Lapine said yes. Engineer Bryant stated that the applicant has also stated for large events they would also have traffic control people in addition to the signals. Ms. Gee stated that it seems like the at-grade crossing, as long as it can be signalized, is the least invasive solution. Mr. Lapine stated they would also be incorporating a fence to channelize all of the pedestrians and keep them from cutting across somewhere else.

Engineer Bryant stated that the Community Use Agreement still needs to be finalized also.

Ms. Gee thanks the applicant for providing the update. It sounds like they are making progress and the updates seem to make the site more usable.

Mr. Lapine stated that they will do the cultural analysis this week and submit it on Tuesday.

DISCUSSIONS:

Copart Site Plan and Special Permit, Route 216.

Richard O'Rourke, Tom Smith, Jeff Contelmo, and Kathleen Snyder were present.

Copart is a contract vendor for 416 Route 216, commonly known as the flea market and airport property. In November/December they submitted information to the Board. There is an application processing law and unfortunately the property owner had not paid the taxes. Copart has stepped in and made an arrangement with the property owner. This is a state-of-the-art kind of company. It is an online auction company. The assets are such that this is not something where mass people show up and there's an auction on site. There are no operations on weekends, and very little during the week. It is an 8 to 5 operation. The organization works very closely with FEMA and first responders. It played an instrumental role after Hurricane Sandy. You have to understand what the process is. This is not a junkyard. There is no stacking, no crushing, no

dismantling, and no selling of parts. The vehicles are there for a period of 50 or 60 days and they are sold. They are sold via Internet. The applicant does recognize the process is foreign to this particular area. Mr. O'Brien asked if there was a maximum date at which stuff gets moved off of site.

Tom Smith stated he is a property manager for Copart. He's been with them for about 23 years. He read the Statement of Operations for Copart, which is attached to the file. It is believed that it speaks to some of the concerns regarding the facilities. They deal with insurance companies and total loss vehicles. It can be anything from a theft, fire, or collision. During Hurricane Harvey they were deployed for eight weeks where they processed vehicles damaged from catastrophes and disasters. The primary source of their inventory is insurance company vehicles. They are also international as far as sales. There are no auction trucks or loudspeaker systems. They have close to 200 facilities throughout the states. There is potentially 35 to 40 sales per day and no noise associated with it. They market to lending institutions, used car franchised dealers, municipalities, various large fleet companies, and anybody that has end-of-life fleet vehicles they want to get rid of. They do not normally deal in drivable cars. The company was founded in 1982. This is a publicly traded company since 1994 on NASDAQ. They have 41 facilities. They sell in 200 locations worldwide. Ms. Gee asked if they were selling cars one-by-one or by lots. Mr. Smith said a typical facility such as this one will pick up inventory throughout the week, 30 to 40 cars a day. That inventory will build up. During that time they are processing the titles and get a solid certificate from the state. As soon as they have that, they put the vehicle in the next

available sale. Typically the sales at individual facilities will occur weekly. They are selling cars one at a time. The website is fairly unique. It is a live auction online. There is a "buy it here" component, but the live sale is better. They like to try to sell at least what is being brought in to keep the inventory constant each week. Engineer Bryant asked if these were reserve auctions. Mr. Smith stated that would depend on who the seller is. He stated they do not take ownership of the vehicles. They sell them under the direction of the owners. It will depend on the contract with the customer. Everything sells. There are times when people put unrealistic values as to what something is worth. They can usually see after two or three weeks whether or not it's going to move. He stated they very seldom have to make a decision regarding a car price. Engineer Bryant asked if they reached a point where if the sale price is not realistic, does Copart make them take the car back. Mr. Smith stated that they watch the cars very carefully and they can pretty well predict whether or not someone's expectations are reasonable. Mr. O'Brien asked if groups are trading cars amongst themselves. Mr. Smith said no. He stated the sources of the cars are usually insurance companies, charities, dealerships, etc. Each state law dictates who can buy salvaged vehicles. Typically most of the cars go to auto wreckers and junkyards. Mr. O'Rourke asked what happens if someone comes in with high bid for vehicle, gets to the site, and decides he just wants the bumper. Mr. Smith stated he has to take the whole car. They are not allowed to dismantle vehicles on site. Mr. O'Brien asked if it is usually individual cars leaving at one time or multiple vehicles leaving at one time. He wanted to know what the size of the trucks coming in and off-site would be. Mr. Miyoshi stated going down Old 52 through Stormville will not make residents happy and going down Route 52 to Route 216 will be an impossible right-hand

turn. Ms. Gee asked how they allow customers to make a pre-bids on vehicles. She stated there is a reference in the paperwork to customers coming into kiosks on-site. Mr. Smith stated it is infrequent, but there are some people that are not comfortable buying online without seeing something. They may come into the facility at one of their computers to enter a maximum bid. Ms. Gee asked how much time passes between the actual auction and when these pre-bids are allowed. Mr. Smith stated when the title work gets back to them it gets entered into their computer system. The sales will enter weekly. When they enter a car into the sale they may not want to put into the first sale because it won't have time to be viewed. They will have a 1 to 2 week timeframe between when the paper work is received and when the car goes on sale. When you go online to view you will be able to see the very next sale and a few of the upcoming sales as well. Ms. Gee asked if consumers are allowed to walk the site. Mr. Smith stated there is a designated walk area that has sale cars in it. They will not be allowed to walk the entire property. They will be escorted around. Ms. Gee asked what the timeline was from when the auction ends to when the car is sold. Mr. Smith said it would be just a couple of hours. Buyers have three days to pick up the car before they institute a storage policy. Ms. Gee asked if it was a drivable car could they drive it out. Mr. Smith said in that case yes they could, with dealer plates on it. Mr. Eickman asked if fluids would be put back in the vehicles. Mr. Smith said they don't fill anything up with fluids. There is a large spectrum of what an insurance company will total. There are some instances where a car can be put back into the next sale if there are extenuating circumstances where it is not picked up. There is a small percentage of vehicles that get stuck in litigation and are not picked up. Ms. Gee asked if the facility being proposed is comparable in

size to other locations. Mr. Smith stated it would be in the larger third of the spectrum. It will be smaller than Albany but comparable to Brookhaven. This will be 2 1/2 to 3 times larger than the facility in Newburgh. Engineer Bryant asked if it was the same model as the Newburgh facility and Mr. Smith said yes. Attorney Wood asked if vehicles come in in bulk and how do they leave the site. Mr. Smith stated they try to bring them in in groups of 2 to 4 cars at a time. They are usually on a flatbed or hook. If someone buys 4 - 5 cars they usually try to bring them all out at one time also. Attorney Wood asked if that was the average most of the members purchase at the time. Mr. Smith said yes. Most of them have their own vehicle to take them off-site with. There are some trucks that do some hauling for other buyers. You will not see 50 individual trucks coming in for the purchasing of 50 vehicles a day. They're usually in groups of two and four. Mr. O'Brien asked if international sales vehicles had to one specific point that they get sent to. Mr. Smith said he was not sure how the process worked. Mr. Craig Smith asked if the Newburgh facility was going to stay operational. Mr. Smith stated probably 40 to 50% of Newburgh business would be brought here to start. Everything east of the Hudson River and in western Connecticut would come here. Their next closest facility is in Hartford and they are trying to find something in between Newburgh in Hartford.

Jeff Contelmo stated they have submitted a concept plan and realize that it is fairly basic. He knows the Board is fairly familiar with the property and its history. The active part of the facility is comprised of a 14,400 ft.² building. There will be 30+ employees working there. That will be office people, people photographing and processing for the online cars as well as customer

service people. In front of that is a 90-car parking lot similar to any parking lot for a commercial facility. It will have pertinent landscaping, lighting, and a new entry drive, which will be established off of Route 216. The other driveways on the property will be eliminated. They may want to add one back in based on comments from the Fire Advisory Board. Off to the west is the pickup/drop-off area. The remainder of the property will be an entirely fenced in, secure area without lighting. It will be a gravel surface where the assets will be stored. Ms. Gee stated they originally said they would have around 350 cars on site but yet they are fencing in the entire property. Mr. Contelmo stated they would fence in the entire property that will be for storage. Ms. Gee stated what they showed on the map was everything outside of the wetland buffer to be fenced in. That is approximately 75 acres. Mr. Contelmo stated they would fence in everything that is already disturbed and/or developed. Mr. O'Brien asked if the entire area would be covered with cars. Mr. Smith stated it could be. He stated that although you are bringing in 30 to 40 cars a day with the time lag your inventory would continue to build. He stated they do expect this facility to support them in catastrophe response. They do not expect to fill the site up completely with cars. They do expect to build an inventory, which may be 40 to 50 acres. They want to keep some space that they can develop. The catastrophes seem to cycle in 5 to 7 years and they have not been equipped to handle the increased storage. In Houston they ended up leasing a couple hundred acres to process the salvage that came from there. He stated when an insurance company calls you can't say no to them, you have to be able to handle their inventory. They are trying to factor that into this facility. They do intend to fence the entire property and develop a gravel parking lot. They anticipate half of it being full and in 2 to 3 years the entire area being full. He

stated they can get approximately 135 to 140 cars per acre. He stated he has been told it will take half of Marlboro's business and they process 100 cars a day so that is where he is getting his 50 cars a day figure. There will be organic growth population increases but he does not anticipate it becoming a 100-acre facility in 2 to 3 years. Mr. O'Brien asked that since all of these cars are in a database could they run something to figure out the average amount of days a car is on site. Mr. Smith stated he could probably get that information. Ms. Gee stated they are stating the cars don't sit there very long and that they are not drained. The longer a car sits on a piece of property the higher the chances are that something will rust and give way. The numbers they are being given and the acreage they are using is not matching up yet. They need to know what the maximum capacity is, how it will be used, and how it will look. That way they also will have an average of what to expect for truck traffic. Mr. Smith stated they do want to develop the whole property and he was told the intent is to have capacity for storms. It will primarily, initially function to process half of the inventory in Marlboro. Ms. Gee stated they want to understand the expected averages daily, not for the catastrophic events. They want to know what it is expected to look like five years in and what a typical eight week time period will look like at that point.

Engineer Bryant stated they have parking for 30 employees and 92 spaces. Mr. Smith stated that is taking into account extra parking for additional employees when a catastrophe does happen. There are catastrophe teams they bring in. Engineer Bryant asked if that was strictly for employees. Mr. Smith stated that during catastrophes there are also insurance adjusters that come in and they would use these spaces also.

Mr. Contelmo stated that it would be employees, some customer parking, and client parking. He stated this is a 151-acre site. The fenced in area is approximately 80 acres. They have attempted to stay out of the wetland buffer and work within the areas that have already been disturbed. They have allocated significant area for storm water management with six storm water basins where the main portion of the property will drain to. They have provided preliminary ideas for screening. A full EAF has been submitted but it will need to be advanced with further detail. In support of the EAF they have submitted a preliminary traffic report based on counts from the Brookhaven facility, which is slightly larger than this one. Ms. Gee stated they need to understand the difference between the two facilities. They need to know the size of both offices, the number of employees, and the number of cars so they can compare it to what is proposed for this specific facility.

Mr. Miyoshi asked what traffic routes they would be using. Mr. Contelmo stated the traffic distribution would be discussed by their traffic engineer. Mr. Contelmo stated if they come off Exit 17 they would probably be going down Route 52 to Old Route 52 to Route 216. Attorney Wood stated that Old Route 52 is a Town road. If they were coming from the southwest, they would get off at Lime Kiln. They could also come from Route 55 to Route 216. It will be refined as they move forward. Mr. Miyoshi stated that in either direction there are bad turns on Route 216 that could prove difficult for a good sized truck. Ms. Gee stated that she understands most traffic reports are done during peak hours but in this case it might be better to understand the total amount of vehicles in per day. She also asked if the cars are coming in 24 hours a day or

just during normal business hours. Mr. Contelmo stated that counts taken do affect their daily traffic. The hours of operation are between 8 AM to 5 PM and there are no off-hour activities except during a catastrophe. They do understand that the state controls much of the network of vehicles they will be using. The trucks do use those roads now and for one or two vehicle transportations they would most likely be flatbed trucks. Attorney Wood stated that he believes Old Route 52 should be off the table as it is a town road in a residential area. Ms. Gee stated that there are comments from the Fire Advisory Board, Conservation Advisory Council notes, a memo from Ms. Robbins and from Morris Associates. If they have not received them yet they will be receiving them soon. Mr. Contelmo stated they also got something from Dutchess County Planning. Ms. Gee stated that Dutchess County Planning did express some concerns and request more information.

Mr. O'Rourke stated he has reviewed the Town Zoning Ordinances for this particular zone. There is a lot of truck traffic whether it has to do with manufacturing, cold storage plants, creamery's plants, baking plants, bottling works, and major truck traffic uses. This is just one of many that is permitted in this zone. He stated that at this point there is not a full application. They are trying to give the board a sense of what this application is about. One of the threshold issues is whether or not this is a use that is permitted within this zone. He read the permitted uses from the ordinances. He stated their use is not that far off. He stated the use that is permitted in this zone includes contractor equipment storage yards, landscaping material sales, and building materials sales and lumberyards. Merchandise in and merchandise out. Big trucks in and big

trucks out. Small trucks in and small trucks out. He respectfully argues that their use is consistent with other uses in the same zone. They probably have less traffic coming in than many of the uses in that zone. They're looking for a sense of whether or not this application should move forward.

Ms. Gee stated she understands the area of the code that he is referencing. She's not sure the examples that he cited have the same character as this application. At this point they have not talked about the care for the vehicles. The fact that the applicant does not drain the vehicles and that the assumption is that all the fluids are drained at the site of the incident. She does not believe that to be true. They need to have a better understanding of the potentially hazardous materials and how they will manage them. There is a reference to a Drip Prevention Plan. It is not a control plan but does state that they use this to address any spills that happen on site. The Board will need to understand if there are special steps and measures that are used when vehicles come in from a catastrophe where cars may have been in places where they absorbed hazardous materials. She stated that as far as the use of property, this board usually defers to the Zoning Board to make any code judgments. She asked if there were any recommendations as to whether the description that allows other similar uses is close enough to this or should it be referred to the Zoning Board for final determination. Ms. Robbins stated that originally this application came in for zoning verification. They gave a very small description of their use. At that point she would have stated it does not meet the code. This is an I-1S district. An I-1S is almost identical to an I-1 except for an I-1S allows for airport uses. There are two issues. There is one to determine if the

proposed use would be consistent with the generally accepted definition of the term "light industry" and they also have to make a judgment as to whether or not they think it is beneficial to the town as a whole. That is the criteria to meet for a special permit. This is not an as of right use. Ms. Gee stated that in regards to hazardous material anyone who wants to develop this site would be asked the same questions. They need to understand this process better as they have said there are no fluids on-site and yet provide a drip prevention plan for dealing with small incidents. She asked Engineer Bryant if it was even possible on a site like this to build drainage that would have some sort of separator to keep chemicals in the soil. Engineer Bryant stated the easiest way would be to have an employee do visual inspections and have a specific area for processing any vehicles that could have leaks. Then once it's cleaned it could be taken to the storage area. They don't want to contaminate 75 acres with issues all over the site. They should be confined to one area. Mr. O'Rourke stated that at most scenes of accidents they were leaking fluids. Then it is picked up and brought someplace else for a few days. It is a period of approximately 5 to 7 days before it gets to the Copart facility. Usually any fluids that are leaking will be done by then. Mr. Smith stated the tow companies clean up the fluids that leak out at an accident scene. The vehicles will be there for a period of 3 to 4 days after which the insurance company would call to have Copart come and pick it up. He stated they do a visual inspection to check for drips when a vehicle comes in. They do have a drip protocol and an accident spill response. There is an inspection process when each car comes in and the inspectors note if a vehicle is leaking. They will take steps to stop it from leaking at that point. All cars get a drip pan underneath them that stays with them until the car leaves. Then fluids are disposed of by a vendor who does that. They

don't do anything to vehicle on their site to agitate any fluid situation. Ms. Gee asked how the vehicles were moved and Mr. Smith said with a forklift. Engineer Bryant stated theoretically a forklift could puncture a radiator or oil pan. Ms. Gee stated the Board would need to understand what their spill response measures are and what their spill prevention measures are and how drips on sites are managed. Ms. Robbins stated that in the EAF mapper, the site is over an aquifer and that is an added level of concern. It is very sensitive and they do not want to have any contamination on the site.

Ms. Gee asked Ms. Robbins to outline the next steps with regards to determination of permitted use for the site. Ms. Robbins stated she would defer to Attorney Wood because she believes they need some interpretation of whether or not this use is considered light industrial. Then it would be up to the Planning Board to determine if this is beneficial to the Town as a whole. Mr. O'Brien asked if there were any of the zoning codes in town where this would not require a special permit. Ms. Robbins stated this use is not contemplated anywhere in the list of permitted uses, in large part because this is a new type of use. It's not likely to be permitted anywhere because of that. Attorney Wood stated that, in his opinion, they need to analyze the information they've received tonight to make a determination as to how to advise the applicant. Either that it would be before this Board to determine that they would grant the special permit or; to go to the Zoning Board for an interpretation.

Ms. Gee asked the Town Professionals if there was anything else that they would need from the

applicant to take into consideration. Ms. Robbins stated she did give them a letter with some things they needed. She asked if any of the existing buildings were going to be reused for any purpose. Mr. Contelmo stated that they would raze all of the structures on the property except for one middle building that will be used for some storage. Mr. O'Rourke stated they looked at Section 194 – 28 of the Code or 194-32 having to do with special permit conditions. From his perspective that is not the issue. He does believe they can satisfy all of those. The issue is the use. He does feel they fall into the provision in the code. Mr. Contelmo stated they would put together the environmental protocols and some of the broader issues that they believe are associated with the use and resubmit it. He asked if it was fair to assume they would be able to get clear direction on what the next steps would be if they had everything presented for the next meeting. Ms. Gee stated if they had an answer before that they would also let them know and not wait until the next meeting.

DISCUSSIONS:

Gasland East Fishkill Site Plan, Route 82.

Chris LaPine was present.

Mr. Lapine stated Gasland Petroleum owns the 1.33-acre parcel located on Route 82 at the northeast intersection of Taconic State Parkway and Route 82. The site is located within the G1 Business District and contains an existing 3600 square-foot garage that was formally a service

station. According to county records it was constructed in 1950. There is an existing open spill number from December 6, 1999. There was another documented spill December 26, 2017. The second spill was closed the day after with the DEC. It was related to test pits that were conducted and the fact that there was contamination from the previous spill. DEC kept only one spill number open. The site is located within an existing floodplain and is bordered by the Whortlekill Creek on the northern side. The proposal is for the construction of a 2000 ft.² convenience store and three pump islands with eight parking spaces. The development would take place under Section 194 – 85 Gasoline Filling Stations which provide specific requirements for former gas stations in need of remediation and a special use permit is not required for sight that requires mediation as long as the proposed site plan does not increase the nonconformities associated with it's project. The on site stream was delineated and there is a letter report that accompanies the applicant's EAF that there are no on-site wetlands within this 1.33 acre parcel. The access would be on Route 82 and would be limited to a right in right out only. There is no left turn lane proposed on Route 82 at this time. DOT has given a conceptual approval of the right turn in and out only. They have raised the building 2 feet above the floodplain. They are showing retaining walls and proposed grading on the northern side. There's also additional grading proposed on the eastern side. That is being done for compensatory volumes. It is a FEMA requirement to do a balance cut and fill in a floodplain. The water for the site will come from a well and they have already proposed to the DEC for a SPDES permit. There will be a small on-site package plant for the treatment of wastewater generated from the convenient store. They have gotten some DEC feedback and they have been asked to combine their submittal for a stream disturbance permits

with their SPDES permit for outfall. They have a meeting with the DEC on site to verify that there are no wetlands on their site. If that is verified then they will need a Stream Disturbance Permit and a permit to work within their 50-foot buffer along with the SPDES Permit. The town regulates the 50-foot buffer along the Whortlekill Creek and they will be seeking a permit from the town as well. Ms. Gee stated there is usually some measure of wetland along stream ways. Mr. Lapine stated there are steep banks along the Creek. Ms. Robbins stated this particular stream is also a trout stream so there still is regulated area on both sides of it. It is Class CT. Mr. O'Brien asked how bad the contamination is. Mr. Lapine stated without doing the whole environmental investigation they really don't know. Mr. Nesheiwat stated they had a 300-gallon spill at the Blue Hill station and it is costing them \$1.3 million to do the cleanup. You can't tell how much it is until you open up the ground. As an owner he's not going to open up the ground unless he's able to do construction. Cars were stored there and repaired there for years. They really don't know how deep they're going to have to go. Mr. O'Brien stated the report said there is no record that the actual tanks have been removed. Mr. Nesheiwat stated he did do some digging because he was told the tanks had not been moved also. He did not see any tanks. He does not believe DEC even went inside the building to see if there were issues with fluids inside the building. The spill is for outside the building. Engineer Bryant asked if the treatment plan had been submitted to the Department of Health as well as the DEC. Mr. Lapine said they are trying to get a criteria on their affluent levels so they can select the proper unit to meet those criteria. Ms. Gee asked if going into the stream buffer area was allowed if it was necessary for the cleanup. Mr. Lapine said it is allowed, but would require a permit. He stated they would not

know that degree of excavation until they are actually in the ground removing the soil. Mr. Nesheiwat stated a DEC representative would be on site daily during the cleanup. Mr. O'Brien asked about their proposal for a well. Mr. Lapine stated there is a well on the site not in use. They would be drilling a new one. They will put in at least 100 to 150 feet of casing as well. It will be a convenience store. It will not be a full-scale deli but might offer breakfast. Mr. Eickman asked about access being only right in and right out. Mr. Lapine stated if they come off Taconic they will most likely turnaround in the existing Dunkin' Donuts parking lot. There will be signage prohibiting a left-hand turn into the site. Mr. Eickman asked if they needed any permission from the owner of the parking lot. Mr. Lapine stated they do not have the ability to cater to that traffic.

Mr. Lapine stated they have incorporated some storm water features called media filters. They selected one that focuses on heavy metals, oils, greases, and organic compounds associated with this particular use.

Ms. Gee stated the law that allows them to build this is currently under litigation. Attorney Wood stated there is a challenge to it but there is no stay so they are free to proceed. Ms. Gee stated they want the applicant to understand that the litigation is pending and if it is successful the law could be repealed. Mr. Nesheiwat stated he is well aware of that.

Mr. Lapine stated they do meet the 100-foot Taconic State Parkway buffer. Ms. Gee asked if that

included the exit ramps because she's not sure they have 100 feet from the exit ramps. Mr. Lapine is not sure if the driveway is considered a structure. Ms. Robbins will review it with him. Engineer Bryant asked if they were expanding the impervious surface or were they in the original paved surface. Mr. Lapine said they are probably within 1 foot. Ms. Robbins stated they may need to stay within the original footprint as the language lets them be grandfathered in. Ms. Gee stated they would like to see an overlay to make sure they are staying within the original footprint. Mr. Lapine said they could do that.

Ms. Gee asked about the number of parking spots as it relates to the square footage of the building. Ms. Robbins stated eight spots plus the six filling positions is equal to 14 spots. It technically meets the requirements. It is tight for parking going by other sites. The code says one space for every 250 ft.². There is no aside for employee parking for this particular use. Ms. Gee asked where the ADA spaces were and Mr. Lapine stated they are adjacent to the building. Ms. Gee asked if there was any other place on site to put additional parking. Mr. Lapine stated they will talk to the DEC about the possibility of some parallel parking on-site. It will encroach within their 50-foot buffer area and would extend the pavement out past where it currently is. Engineer Bryant asked if there was a curb along that edge and Mr. Lapine said yes.

Mr. Smith asked if this would be a 24-hour operation. Mr. Nesheiwat said he would like it to be. Mr. Lapine said that is how they did propose it.

Ms. Gee asked if they had the lighting plan submitted and if they were following Greenway for the canopy. Mr. Lapine said yes. Ms. Robbins stated she knows they are doing assessment for the Indiana Bat and she requested that they provide as much shielding for the lighting as possible to prevent light spillage to the stream.

Ms. Gee asked if the applicant has received the comments from the Conservation Advisory Council and Mr. Lapine said yes. He also has the FAB comments. He spoke with CAC and he will follow up with them after the DEC meeting as well. He does not have a Hudson Valley engineering letter but he does have a Morris Associates letter.

Ms. Robbins stated that in regards to traffic this site was reviewed during the Arthursburg Corners project. This was included in the build out when they reviewed the traffic light installation and this site helped meet the requirements. Mr. O'Brien asked about the net gain of 30 cars for the site. Mr. Lapine explained the anticipated traffic and the pass by traffic for the site. Ms. Robbins stated they are concerned about the location of the refuse container. She thinks it will be very difficult for a truck to maneuver, especially with people at the pumps. Mr. Lapine stated the location works for the Royal Carting vehicles. The refuse container would be approximately 5 feet and the recycling would be a small unit. There will be less than 1000 ft.² of retail space after you take out space for the coolers and storage. Engineer Bryant asked about a grease dumpster. Mr. Lapine stated there would be a grease trap outside the building. There will not be hot food at this location. Mr. Nesheiwat stated there may be a grease holder underneath a

three bay sink Ms. Robbins asked if they could get a floor plan of their proposal. Engineer Bryant asked if there was going to be an air pump or vacuum. He asked if they were going to be selling propane tanks or firewood. He said these things tend to pop up after the fact. Mr. Lapine stated they are putting it on the plans. They will be selling propane but not firewood. Engineer Bryant stated that needs to be shown on the plans.

Ms. Gee asked about the habitat study and Mr. Lapine stated it was completed and they are ready to submit it. Ms. Gee stated they need to update the narrative of the application. Ms. Robbins stated the Board will need to declare lead agency at some point. Mr. Lapine stated they would have the revised plans by Thursday of next week.

Engineer Bryant stated they did a preliminary look at the floodplain development. He will supply a copy of the letter and all of the comments to Mr. Lapine. He stated they should be able to issue the permit as long as all of the issues are met. The applicant is looking for a Floodplain Development Permit.

MOTION made by John Cutler, seconded by Michael O'Brien, to circulate for lead agency. Voted and carried unanimously.

Ms. Gee stated they need to see all of the revised plans before they can schedule this application for a Public Hearing. Mr. Lapine asked if they want to show the two additional spaces. Ms. G

stated it could be shown marked pending approval. Engineer Bryant asked if they had done the circulation calculation to make sure that a fuel truck can negotiate the site without having to back out onto Route 82. Mr. Lapine said yes.

Mr. Nesheiwat stated that as a smaller gas station, this would have just a small grease trap, possibly under the sink. Engineer Bryant stated that will be an issue for the Department of Health and the DEC to determine. He stated if they were connecting into a municipal sewer the Town would review it but the applicant is not.

ADJOURNMENT

MOTION made by Michael O'Brien, seconded by John Eickman, to adjourn the Planning Board meeting. Voted and carried unanimously.

Respectfully submitted:

Julie J. Beyer, Meeting Secretary
East Fishkill Planning Board