

DECEMBER 3, 2014

A Scoping meeting to discuss the positive declaration of the Cobblestone Development was held December 3, 2014 at 7:30 pm at Wheatfield Town Hall, 2800 Church Road, North Tonawanda, County of Niagara and State of New York.

PRESENT: Supervisor Robert Cliffe, Councilmen Larry Helwig, Gilbert Doucet, Arthur Gerbec, Randy Retzlaff, Town Attorney Robert O'Toole, and Town Clerk Kathleen Harrington-McDonell.

Attachments: Agenda, SEQRA Process Flowchart, Draft Scope Study for Draft Environmental Impact Statement for the proposed Cobblestone Creek

Drew Reilly, Planner/SEQRA Expert of Wendel Engineering gave an overview. In the scoping process the public gets to have input. It is part of the process to say what we are going to study in this Environmental Impact Statement. He reviewed the agenda (attached) and stated in the process of reviewing a project it is ultimately the Town Boards decision on approving a subdivision so they are what they call the SEQRA Lead Agency. They have to make the environmental decision. So based upon all the work that has been done over the last 12 months or so the information was transmitted to the Town Board and the Town Board had to make a SEQRA decision. They can make a negative declaration which means there is no significant impact and the project can move forward with an approval or in this case they made a positive declaration saying it may have an impact on the environment. With a positive declaration the first part of that process is to "scope it". It is not mandatory but is optional. A scoping document will indicate what we want done, what do we want studied, how we want it studied, and what things should we be looking at. We want to make sure the items are studied correctly. The process is a balanced process. The applicant gets to present their information to say why they don't think there is an impact on the environment.

Rosal Homes provided a Draft Scope for Draft Environmental Impact Statement (DEIS) for the proposed Cobblestone Creek (attached). This document indicates what we heard from your positive declaration and these are your concerns and what we think we should study. We will get input from the public and other agencies then the Town Board gets to make the final decision. Drew reviewed what the Final Scoping Document would include as outlined in agenda item B. 2. on the agenda. The document is an attempt to make the project better. Something simple, well written, and focused. Sometimes things are brought up at a scoping meeting that is not relevant and won't be included in the document. Property values are an example of what would not be analyzed. It is right in the law that property values can't be considered, it is not an environmental impact. You can look at character of community, aesthetics, and a wide range of other environmental issues can be included.

Resident comments:

Emily Frank – concerned about the impact on the wildlife, traffic, and city atmosphere. Mitigation suggestion is to deed land Town of Wheatfield and turn it to the Gary DiMatteo Nature Preserve.

Richard Lippes, Attorney who represents several residents around Errick Road. The Environmental Impact Statement is not a document for the applicant, who prepares the document, to say that there are no adverse environmental consequences. It's to provide information to the lead agency, The Town Board, to shine a light on any potential adverse environmental effects that may appear or result from the project and to allow the Town Board to determine if they want to approve the project. If they do they are required through the SEQRA process to assure all appropriate mitigation measures are put in place for those adverse environmental impacts that are identified. The Environmental Impact Statement (EIS) is an informational documents and it's not just to make the project better, although that is one of the potential consequences, but to also provide information at the onset to determine whether to go ahead with the project. Another point Richard Lippes does not agree with is that property values can't be considered in an EIS. Even if that was true deterioration to nearby neighborhoods and adverse effects of that should be considered. Prior to a scoping session a Draft Scope must be made available. A Draft Scope was sent to the Town Board December 1. The Draft Scope from the applicant was passed out this evening. That really does not give much time to review and respond to the Draft Scope. Richard requests a period of time left open to put in written comments concerning the Draft Scope. There will be 2-3 weeks to respond. The first issue is the

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loss of agricultural land. In an agricultural district loss of agricultural land is a very important public policy issue in New York State. New York State has lost over 50% of its agricultural land to development over the years. The Agricultural Department is careful ensuring those agricultural lands that are remaining are not lost unless there is a good reason. Besides agricultural land there is mature forest on this site. This will have an adverse effect on mature Forest land. A mature tree is a tree that is at least 100 years old. That is a loss that can't be recovered for 100 years of good growth. The next point is the loss of wetlands. For a whole range of reasons they are very important. They are important for cleaning water, avoiding flooding, and they are important for habitat. According to the current plans 24 acres of the wetlands will be lost however it is unclear if that includes buffer lands. The effects of the wetlands has to be not just the loss of the 24 acres of wetlands but what effect will there be on the remaining wetlands. Flooding which is already being considered. Pictures have been presented showing flooding without any development. There will be a retention pond as part of the project however it is unclear how the water is discharged into existing waterways and how it will avoid flooding. The EIS is not supposed to be a repackaging or remarketing of things that have already been done. Attorney Robert O'Toole asked what areas should be studied. It seems if you are going to build up the area the water has to go somewhere. There is going to be some runoff and that water will go into the backyards of these residents. Flooding was included in the scope. One of the issues dealing with the retention pond that was not included was to what extent standing water will occur in the retention pond. When you have standing water in a retention pond it creates a significant mosquito problem which can create a significant adverse health problem. Ground water is very high and this is in a 100 year flood plain. Reconson study should be done. It may have to be done over a summer, fall, and spring depending on what species are involved. Traffic is a major issue which is noted in the scope. That study was done under the assumption the target market is seniors. However there is nothing to limit the sale of patio homes to just seniors. Patio home are very much in favor of young families who have more cars and more driving and are going to be employed. So you can accept the traffic study and restrict in the findings statement to a senior community or redo the traffic study because the number of cars will not be based on senior citizens.

Scoping regulations are contained in section 617.8 of the SEQRA. When you do a Draft Scope it must contain the items F 1-5 as a minimum. It must include a reasonable range of alternatives. Those can include different designs, other sites, making the project smaller, not building it up. Once you have the alternatives in front of you the EIS should include a comparison of each of the potential adverse environmental consequences related to each adverse impact so you can see that comparison and have that information in front of you to determine which alternative you may want to choose if any. In reviewing the project you must consider any cumulative effects that include any other projects in the area that might affect that are in the pipeline for development as well as short term, long term, and secondary consequences. Secondary consequences means for example you are bringing new people to the community and what effect will that have on services, schools, employment etc.

Drew Reilly noted the 100 foot buffer applies to State wetlands not Federal wetlands.

Joe Downing stated the number one issue is flooding and drainage. In the past there is a model that suggests that there is flooding however it continues to get worse as a result of people doing things as the town approved changes that made it worse. So now there is another thing that is going to change it again which will make it worse. The model that suggests that it won't, so what am I talking about is that we provided photos that water that is best described as a retention pond, it is large which emanates from the pipe that dumps all the drainage from where Fairmount Park is the whole block that's boarder by Nash, Errick all the way around and even east of Nash. All that water drains into Dick Swift's backyard. When flooding happens which is every time there is a significant melt each January, February. The water fills up can only drain so fast so it becomes a retention pond and it eventually drains. You are going to raise the land around it and the water needs to go somewhere. A Town employee came to our house and stated if that happens it will flood your basement. When the land goes up the model suggests that the water will drain. What I am asking for is to study the fact there is a retention pond that forms and if you take 40% of the retention pond and raise it 8 feet or even 2 feet you will push that water. Where is the water going to go? It won't drain. If it could it would already drain. It will go into our basements. We tolerated these changes so now the next move is into our basements. What I would ask is to model the effects of the retention pond when if indeed the land is higher therefore the land can't be used as a retention pond. In my letter I suggested

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one potential mitigation is to not build on the retention pond. Then we would not have to worry about the water being pushed into our basements or possibly reroute the water that's dumping from that block from where Fairmount Park is east of Nash Road into our backyards. Community character should be addressed. You walk to the back of your yard you see an eight foot neighbor. The elevation issue is absurd. The development can be a nice place. I am concerned about being below

the development. Traffic issues, I don't believe was done when traffic was at its highest. St. Johnsbury Fire Hall concerns should be considered as well as the school district. Sewer capacity and where it drains should be reviewed and the impact. Greenspace Plan has a strong opinion on this and should have input. The nature of a cluster development is that there is no requirement on the town's part to accept a cluster development.

Why can't a resident raise property level why can a developer? It should be the same for both. You cannot raise your elevation and flood your neighbor whether it is a neighbor or a developer. If you want to do something you would have to do a study and prove it won't impact neighbors. If something is done wrong appropriate actions would be taken. You are not supposed to impact your neighbors.

Wheatfield does have difficult drainage issues because of the type of land and soil.

A resident spoke about how Bergholz Creek ties into Sawyer Creek. The Power Authority has elevation maps that show waterways, the Great Lakes, and how water drains. The soil coming out of the creeks is bad stuff. Minor raise in elevation is a 1 1/2 foot raise and a major raise in elevations is 6/12 feet. Ditches are full, they are covered over so they are unable to drain. When was the flow changed by the school? There used to be a ditch across from Errick Road school. It is no longer there. The ditch that used to be on Steig is filled in. Is this going to be a farming community or a residential community?

Traffic study should include data when there is an accident on Niagara Falls Boulevard. When there are activities at Errick Road school there are cars parked everywhere and traffic is a major problem. Is it possible to put a light in the area.

The soil on both sides of the Creek has eroded over the years at least 2 feet and needs to be considered.

Are there parking restrictions? If there is parking on both sides it is a problem for Fire Companies.

What a cluster development does is put the houses closer together so it gives 10 acres of open space.

Concerns that Town Code is not being enforced.

Get New York State to fix that section of Niagara Falls Boulevard which would include turn lanes. The Town has attempted to get the State to proceed with improvements. The section from Sy Road to the Stoelting bridge is on schedule to start in 2016. The other part has been removed from the schedule.

The rules change from decade to decade. What once was good should now been done differently.

Palumbo of Damon & Morey who represents Gary DiMatteo stated

The final scope must be completed in approximately 30 days.

8:55 meeting concluded.

Respectfully submitted,

Kathleen Harrington-McDonell
Town Clerk

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Cobblestone Creek Subdivision
December 3, 2014
Scoping Meeting

AGENDA

- I. Introduction / Purpose of Meeting
 - A. Status of project: Positive Declaration / EIS
 - B. Scoping
 1. Purpose / Goal: “To focus the EIS on potentially significant adverse impacts and to eliminate consideration of those impacts that are irrelevant or non-significant”.
 2. Final Scoping Document includes:
 - a. Description of action
 - b. Potentially significant adverse impacts identified in the Positive Declaration and during scoping.
 - c. Extent and quality of information needed (what to study, how to study).
 - d. Initial identification of potential mitigation measures.
 - e. Reasonable alternatives to be considered.
 - f. What information goes in the appendix versus in the DEIS itself.
 - g. Issues identified during scoping that will not be in the EIS.
- II. Process: Scoping, DEIS, FEIS, Findings.
- III. Public Input
 - Potential significant impacts from the project.
 - What you would like studied / looked at.
 - Possible mitigations needed.
 - Alternatives to be studied.
- IV. Questions on Process / Next Steps
- V. Close

State Environmental Quality Review
POSITIVE DECLARATION
Notice of Intent to Prepare a Draft EIS
Determination of Significance

Project Number _____

Date _____

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The _____ as lead agency, has determined that the proposed action described below may have a significant impact on the environment and that a Draft Environmental Impact Statement will be prepared.

Name of Action:

SEQR Status: Type 1

Unlisted

Scoping: No Yes If yes, indicate how scoping will be conducted:

Description of Action:

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

Reasons Supporting This Determination:

For Further Information:

Contact Person:

Address:

Telephone Number:

A copy of this notice must be sent to:

Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-1750

Chief Executive Officer, Town/City/Village of _____

Any person requesting a copy

All Involved agencies

Applicant (If any)

Environmental Notice Bulletin, 625 Broadway Albany NY 12233-1750