

STATE OF NEW YORK : COUNTY OF ROCKLAND

TOWN OF STONY POINT : PLANNING BOARD

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IN THE MATTER

OF

THE BREAKERS

- - - - - X

Town of Stony Point  
RHO Building  
5 Clubhouse Lane  
Stony Point, New York  
February 25, 2016  
7:00 p.m.

BEFORE:

THOMAS GUBITOSA, CHAIRMAN  
PETER MULLER, VICE-CHAIRMAN  
MICHAEL FERGUSON, BOARD MEMBER  
ERIC JASLOW, BOARD MEMBER  
EUGENE KRAESE, BOARD MEMBER  
JERRY ROGERS, BOARD MEMBER

APPEARANCES:

STEPHEN M. HONAN, ESQ., Special Counsel  
MAX STACH, Town Planner  
AMY MELE, ESQ., Attorney for Applicant  
JOHN O'ROURKE, P.L.S., Town Engineer  
WILLIAM SHEEHAN, Building Inspector  
MARY PAGANO, Clerk to the Planning Board

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3 CHAIRMAN GUBITOSA: Please stand for the  
4 Pledge.

5 (Whereupon, the Pledge of Allegiance was  
6 recited.)

7 CHAIRMAN GUBITOSA: Mary, please call  
8 the roll.

9 PLANNING BOARD CLERK: Mr. Jaslow?

10 BOARD MEMBER JASLOW: Here.

11 PLANNING BOARD CLERK: Mr. Muller?

12 VICE-CHAIRMAN MULLER: Here.

13 PLANNING BOARD CLERK: Mr. Ferguson?

14 BOARD MEMBER FERGUSON: Here.

15 PLANNING BOARD CLERK: Mr. Rogers?

16 BOARD MEMBER ROGERS: Here.

17 PLANNING BOARD CLERK: Mr. Kraese?

18 BOARD MEMBER KRAESE: Here.

19 PLANNING BOARD CLERK: Chairman  
20 Gubitosa?

21 CHAIRMAN GUBITOSA: Here. All right,  
22 before we get started, if you have your cell  
23 phone, just put it on vibrate.

24 First item on the agenda is The  
25 Breakers. This is a Site Plan Conditional

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2 Use located on the North End of Hudson Drive  
3 600 feet north of Tomkins Avenue, part of the  
4 review of the scoping documents.

5 If you'd like to give us a quick update.

6 MS. MELE: Good evening, Mr. Chairman,  
7 Members of the Board, members of the public.  
8 Yes, we've been working hard on addressing  
9 the comments received in response to the  
10 draft scope. We received quite a few  
11 comments, all very thoughtful comments that  
12 we're trying to address one by one.

13 We have updated the scope to address the  
14 majority of the comments. However, there  
15 were some comments received from the DEC, I  
16 believe it was just yesterday or the day  
17 before, that we have not had the opportunity  
18 to incorporate it in the document yet.

19 I had a conversation with Mr. Stach  
20 today about the content of our response, and  
21 some areas where the draft scope would be  
22 elaborated upon a little bit. And I had  
23 given a sort of digested version of the  
24 comments with where he referenced them in the  
25 scope.

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2 And Mr. Stach indicated that he would  
3 prefer to see them referenced in the actual  
4 comment letters themselves. So in other  
5 words, we would reproduce all the comment  
6 letters, and next to each comment, we would  
7 have a reference. You know, see Comment  
8 Number One, let's say. And then we'd have an  
9 attachment that would address the particular  
10 comment raised in that letter.

11 We would also in the letter underline  
12 the meat of the comments so that you know  
13 exactly what we were responding to, so that  
14 you had an actual verbatim listing of every  
15 comment that you could attach to your final  
16 scope for the public to view.

17 So in order to get that done, what we  
18 had spoken about was I could get that done by  
19 March 3rd. We were requesting that the Board  
20 set a special meeting for March 10th, at  
21 which time we could go through the scope  
22 literally comment by comment, if the Board  
23 wishes, to try and finalize it.

24 CHAIRMAN GUBITOSA: Very good, thank  
25 you.

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2 MS. MELE: You're welcome.

3 CHAIRMAN GUBITOSA: Max, can you give us  
4 a quick update?

5 MR. STACH: Sure. So I think Amy  
6 covered a lot of our discussions earlier  
7 today. As you know, there's been extensive  
8 comments on the scope so far. That all needs  
9 to be incorporated or addressed, one or the  
10 other, in the final scoping document.

11 The draft scope that was placed on the  
12 internet, as you recall, is the product of  
13 the project sponsor. The final scope has to  
14 be a project of this Board. So this Board  
15 has to be happy with this document.

16 In order to get there, I felt that there  
17 had to be a lot more clear relationship to  
18 what are we going to change in this scope,  
19 and what was the comment that caused us to  
20 change that in the scope. Additionally,  
21 there's likely to be some changes that you  
22 all believe need to be made, and I have some  
23 comments that I think I'd like incorporated  
24 as well.

25 So in order to get there, as Amy said,

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2 she's going to get me a draft that they  
3 believe addresses all the comments by the  
4 third. I believe I can turn around by the  
5 seventh a draft that I believe reflects my  
6 comments on what has to be improved in the  
7 draft scope, and addresses all the comments.

8 And then I think that will give you an  
9 opportunity to review it before the 10th,  
10 which, by the way, I think you need to extend  
11 our time period to respond. We had  
12 originally extended it to tonight. I believe  
13 tonight we're going to need to get an  
14 additional extension on the time to adopt the  
15 final scope.

16 MS. MELE: The applicant would agree to  
17 that.

18 MR. STACH: Okay, great.

19 CHAIRMAN GUBITOSA: Thank you.

20 MR. STACH: And then I've also told, or  
21 it was my suggestion to Ms. Mele, that at  
22 that meeting, you all may have additional  
23 comments or additional changes that you want  
24 in the scope. So while it is our objective  
25 to have a special meeting and get this

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2   adopted there, it may even require an  
3   additional extension, I would suggest at the  
4   regular meeting in March.

5           It's very important that this document  
6   reflect this Board's desires for the final  
7   scope. Once that's done, the applicant can  
8   begin to prepare the DEIS, can begin to  
9   prepare their own plan materials and develop  
10   them; things like elevations, visual  
11   simulations, all of those items that will be  
12   necessary to convey the plan to the public  
13   and to foster comments on the plan and its  
14   analyses.

15           So that's sort of an update. What  
16   you've seen today is kind of like a  
17   simplified version of responses to comments.  
18   It paraphrases these comments very heavily.  
19   I think that needs to be expanded a little  
20   bit more so that some of the nuance in each  
21   comment is present, and I believe that the  
22   project sponsor's counsel agrees with me on  
23   that.

24           CHAIRMAN GUBITOSA: All right, thanks,  
25   Max. Just, I guess put it in layman's terms,

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2 the scope, the draft scope is just -- you  
3 know, we take the comments from the public,  
4 from the Board, from all the agencies.

5 These are our concerns, give it back to  
6 the applicant, they say all right, we  
7 understand your concerns, we're going to  
8 answer your questions, how we're going to  
9 address them.

10 MR. STACH: The drafts, in layman's  
11 terms, in the simplest of layman's terms, the  
12 draft scope is the applicant's suggestion of  
13 what they're going to put in the DEIS.

14 CHAIRMAN GUBITOSA: Okay.

15 MR. STACH: Then the Planning Board, as  
16 lead agency, needs to agree with it, or  
17 change it and give it back to the applicant,  
18 and say here's what we want to see in the  
19 DEIS.

20 CHAIRMAN GUBITOSA: Right.

21 MR. STACH: Between the two, you need to  
22 send it out to all the involved agencies and  
23 allow the public to comment on it. So not  
24 only do you need to consider what you would  
25 like to change, but what all the involved



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2 agencies and the public need to change.

3 But basically it's, applicant says  
4 here's what I'd like to put in the DEIS; you  
5 say no, applicant, this is what you're going  
6 to put in the DEIS.

7 CHAIRMAN GUBITOSA: Right. And then  
8 later down the line, since this is, like,  
9 we're still in the beginning stages, later  
10 down the line, would we get anything set up?  
11 You know, the applicant's going to give a  
12 full presentation of the project.

13 MR. STACH: Yeah, so they're going to  
14 have to prepare the Draft Environmental  
15 Impact Statement, which will be a fairly  
16 voluminous document.

17 CHAIRMAN GUBITOSA: Right.

18 MR. STACH: The first chapter of which  
19 will be a fairly detailed description of the  
20 project.

21 CHAIRMAN GUBITOSA: Right, okay.

22 MR. STACH: And that document will be  
23 made available to the public for review, and  
24 this applicant will need to present the  
25 project and the document together. In other

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2 words, the site -- the public hearing on the  
3 site plan --

4 CHAIRMAN GUBITOSA: Right.

5 MR. STACH: -- and the public hearing on  
6 the EIS will be on the same date. So they  
7 will have to present both the plan and the  
8 document to the public to foster comment.

9 Now it's even -- in discussions with the  
10 project sponsor, it's my understanding that  
11 they, before that DEIS is completed, are  
12 contemplating going out and doing some  
13 outreach with the public. That's not part of  
14 the SEQRA process, that's not part of the  
15 Planning Board process. But I do agree it's  
16 good planning for them to do that.

17 CHAIRMAN GUBITOSA: Right. Because I  
18 know there was like -- and I've heard from  
19 people there was a misconception that hey, we  
20 don't know what's going on down there, why  
21 are you throwing this all of a sudden? But  
22 it's coming down the line as, we're just --  
23 these are the steps we're getting to get to  
24 that stage where hey, now we're ready,  
25 they're going to give a presentation of what

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2 they want to do down there based on  
3 everyone's comments.

4 MR. STACH: I think that's a good  
5 categorization of it, yes.

6 CHAIRMAN GUBITOSA: I just want to make  
7 sure, because there's been a lot of  
8 misconception out there, misleading. And I  
9 want to let the public know that, you know,  
10 this is just the beginning. There's going to  
11 be further steps down the line, where you're  
12 going to see a full presentation. There's  
13 going to be, you know, the applicant is going  
14 to present.

15 You know, I've heard comments from last  
16 time that, you know, we didn't see anything.  
17 Well, that's not what the scoping was from  
18 the beginning.

19 MR. STACH: Yeah, because I think part  
20 of what you establish in the scope is how  
21 much detail the applicant has to develop and  
22 provide to this Board and to the community  
23 about their project.

24 CHAIRMAN GUBITOSA: Okay.

25 MR. STACH: You are going to have, when

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2 this final scope is done -- and the other  
3 thing to realize is the draft scope was  
4 prepared by the project sponsor. We did give  
5 them some suggestions, but it's the project  
6 sponsor's document. And it is therefore --  
7 it's very simple, it's very basic.

8 CHAIRMAN GUBITOSA: Right.

9 MR. STACH: The final scope is going to  
10 have a lot more detail in it as to what you  
11 want to see in the DEIS.

12 CHAIRMAN GUBITOSA: Okay.

13 MR. STACH: For example, with visual  
14 simulations that are going to be prepared,  
15 what perspectives do you want to be taken?  
16 Do they have to consider -- well, they'll  
17 have to consider from the battlefield, that  
18 was in the scope.

19 But there has been some suggestions that  
20 they might need to include visual simulations  
21 from Hunter Place. They may have to consider  
22 it from the middle of the Hudson River.

23 CHAIRMAN GUBITOSA: Right.

24 MR. STACH: So you're going to have to  
25 specify that in the final document, and

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2 they're going to have to provide that  
3 information for review by the public.

4 CHAIRMAN GUBITOSA: Good, good. Thank  
5 you.

6 PUBLIC SPEAKER: Is there a timetable  
7 for this?

8 CHAIRMAN GUBITOSA: John, any comments?

9 MR. O'ROURKE: No, we've been  
10 coordinating with Max for comments into the  
11 scope.

12 CHAIRMAN GUBITOSA: Bill, any comments?

13 MR. SHEEHAN: No, same thing. We've  
14 been going back and forth, still going back  
15 and forth.

16 CHAIRMAN GUBITOSA: Steve, anything?

17 MR. HONAN: No, no comments.

18 CHAIRMAN GUBITOSA: All right. What I'll  
19 do is --

20 BOARD MEMBER KRAESE: Can I just say  
21 something?

22 CHAIRMAN GUBITOSA: Yeah, yeah.

23 BOARD MEMBER KRAESE: So we extended  
24 this time period to yesterday or today?

25 MR. STACH: Today.

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2 BOARD MEMBER KRAESE: And now you want  
3 to extend it to December 10th?

4 MR. STACH: March 10th.

5 BOARD MEMBER KRAESE: I'm sorry.

6 MR. SHEEHAN: Not for public, for --

7 CHAIRMAN GUBITOSA: Just for us.

8 BOARD MEMBER KRAESE: I understand that.  
9 Reading off what I've gotten in the last week  
10 or two from all these agencies, what happens  
11 if we're not satisfied on March 10th -- why  
12 do I keep saying December -- on March 10th?

13 MR. STACH: The way the SEQRA process  
14 works is that you're required to adopt a  
15 final scope within 60 days. If you don't  
16 adopt the scope within 60 days, this  
17 applicant is authorized to submit an EIS that  
18 doesn't meet that scope.

19 They can prepare a EIS of their own sort  
20 of content, using their own sort of guide  
21 without consideration of the scope. You  
22 still get to say whether that EIS is  
23 sufficient or not. You just won't have a  
24 scope to guide you in that discussion. So  
25 it's --

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2 BOARD MEMBER KRAESE: So I feel at this  
3 point I'm being pushed by a time constraint,  
4 when we're trying to solve some of these --  
5 there's a lot of issues here. And none  
6 brought up by me, brought up by everybody  
7 else. You know what I'm saying?

8 I just don't feel that -- I don't know  
9 if I'm stepping out of bounds -- I don't feel  
10 we should be pushed into making a decision.  
11 And all I'm asking for is what if March 10th,  
12 we don't have that -- someone here is not  
13 happy with what's going on?

14 MR. STACH: You can ask the applicant to  
15 extend it.

16 BOARD MEMBER KRAESE: And if he doesn't  
17 want to do it?

18 MR. STACH: Then he can submit an EIS  
19 without a scope.

20 BOARD MEMBER KRAESE: Who decided this  
21 on March 10th?

22 MR. STACH: The March 10th date was  
23 established at the TAC meeting as a date when  
24 the public, when this Board could meet.

25 BOARD MEMBER KRAESE: I'm just not

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2 comfortable, to be honest with you.

3 MR. STACH: Now it's --

4 BOARD MEMBER KRAESE: Only because of  
5 the volume of stuff that's been presented to  
6 this Board, to me personally, and the rest of  
7 the Board. The volume that we have, there's  
8 a lot of questions. We've gotten nowhere  
9 tonight, in my opinion.

10 MR. STACH: I agree.

11 BOARD MEMBER KRAESE: So now you just  
12 want to go off for a couple weeks, which is  
13 about 11 more days, and nothing's been  
14 answered to begin with.

15 MR. STACH: I think you have to  
16 recognize some things, you're not looking for  
17 answers. You're looking for questions. The  
18 only thing you have to decide is the  
19 questions that you've received from the  
20 public, if those questions have to go in the  
21 scope or not. You're not looking to answer  
22 them.

23 BOARD MEMBER KRAESE: I understand that.  
24 But we didn't get that far yet. That's 11  
25 more days, you're looking for us to make a



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2 decision.

3 MR. SHEEHAN: No, I think what's going  
4 to happen, Gene, is on the tenth, you're  
5 going to get another scope.

6 BOARD MEMBER KRAESE: Correct, I  
7 understand that.

8 MR. SHEEHAN: If you're satisfied at  
9 that point that all your questions that have  
10 been submitted are satisfactory in the scope,  
11 then you can adopt it. If not, or if the  
12 Board's not happy with it, I think you're  
13 going to have to ask the applicant for an  
14 extension.

15 BOARD MEMBER KRAESE: That was the  
16 question I wanted to bring out, thank you.  
17 That was a long way of me doing it. But you  
18 understand what I'm saying.

19 I don't know what these gentlemen feel  
20 next to me, but I actually read most of  
21 these. A lot of repetition, a lot of the  
22 same issues. And a lot of issues, more than  
23 I thought we had to begin with. I just want  
24 to be comfortable that the first step is the  
25 right step.

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2 MR. STACH: And the most significant one  
3 we got was yesterday, frankly. The DEC  
4 letter had a lot of content in it. And  
5 that's why it's almost not worth going  
6 through what we've already gotten tonight  
7 because -- and the other thing I think,  
8 frankly, is the format that the applicant has  
9 provided. It really doesn't foster a lot of  
10 understanding, and how are we addressing  
11 these questions.

12 I think how the applicant gives you the  
13 next draft on the third, after I look at it,  
14 is going to be much clearer as okay, here's a  
15 comment, here's what the draft scope used to  
16 say, here's what it now says, in order to  
17 address this comment.

18 And it will be much easier for you to go  
19 through comment by comment, through the -- we  
20 probably have about 30 pages of comments now  
21 to go through, and say yes, we hit every  
22 comment that was of substance that needs to  
23 result in a change to the scope.

24 BOARD MEMBER KRAESE: All right. I just  
25 wanted to get the impression that we're

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2 coming back on March 10th, and this is going  
3 to be it because --

4 MR. STACH: No. And frankly, you know,  
5 even if the applicant doesn't extend your  
6 time period -- I mean, the law says you  
7 should try and get it done within the time  
8 frame.

9 But even if this applicant -- I  
10 apologize to you, Amy -- even if this  
11 applicant decides not to extend the time  
12 period, you will still ultimately have a say  
13 on whether the DEIS that they prepare is  
14 complete or not.

15 BOARD MEMBER KRAESE: All right.

16 CHAIRMAN GUBITOSA: All right, thank  
17 you.

18 MR. STACH: Is that good?

19 BOARD MEMBER KRAESE: It's good enough  
20 for now.

21 MR. SHEEHAN: I think, Gene, I think  
22 what really needs to happen is that it's up  
23 to the applicant to put a document together  
24 that satisfies this Board, that every comment  
25 has been incorporated, or if not, why, in a

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2 format that everybody can understand. And if  
3 that's achieved by the applicant, then the  
4 Board might not have an issue on the 10th.

5 BOARD MEMBER KRAESE: I'm not saying the  
6 Board is going to have an issue.

7 MR. SHEEHAN: I know.

8 BOARD MEMBER KRAESE: All I'm saying is  
9 it's been extended from the 9th to the 24th  
10 to the 25th.

11 MR. SHEEHAN: What I'm trying to say is  
12 the onus is on the applicant to provide all  
13 that information to satisfy the Board that  
14 all the comments have been incorporated, or  
15 if not, why not.

16 BOARD MEMBER KRAESE: It appears to me  
17 that if the way Max put it out, the  
18 clarification would be acceptable to the rest  
19 of the Board, or to me, or to whoever. But  
20 like I said, you went from the 9th to the  
21 24th, and we didn't do anything tonight,  
22 except get letters.

23 So it's really not been addressed. My  
24 only concern was -- I'm not saying right or  
25 wrong -- my only concern was it's only about

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2 11 days. And we're going to have a lot of  
3 stuff done in 11 days. Stuff keeps coming in  
4 every day of the week.

5 MR. SHEEHAN: Well, they can't come in  
6 anymore. The comment period's closed.

7 MR. STACH: The other thing I wanted to  
8 stress here to the Board is that if you have  
9 comments on the draft scope, those also need  
10 to be addressed.

11 And that's the one piece that we haven't  
12 talked about here, is you have comments from  
13 the public on how they think the scope needs  
14 to be changed. But you guys ultimately  
15 decide what's in the scope. You may have  
16 personal feelings on things that need to go  
17 into the scope.

18 I think you can bring them up on the  
19 10th. But I think it's even better if you  
20 guys had some ideas on what needs to be  
21 changed in the scope that you start to let us  
22 know, so that when we get to the 10th, we  
23 have those in mind, and we can incorporate  
24 them.

25 BOARD MEMBER KRAESE: I'm not trying to

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2 change something I didn't hear about. Their  
3 answers may be sufficient for me, or for  
4 anybody.

5 MR. STACH: No, what I'm saying, the  
6 public gave us 30 pages of comments, but they  
7 may have missed something that you thought  
8 of.

9 BOARD MEMBER KRAESE: I don't think they  
10 missed very much. And that's a great thing,  
11 that's good, don't get me wrong. I'm not  
12 trying to stall this any further.

13 MR. STACH: Understood.

14 CHAIRMAN GUBITOSA: Any other Board  
15 members?

16 All right, so what I'll do is, I need a  
17 motion to set a meeting March 10th for --  
18 what are we going to call it, a special  
19 meeting to review the scoping?

20 VICE-CHAIRMAN MULLER: I'll make that  
21 motion.

22 BOARD MEMBER FERGUSON: I'll second it.

23 CHAIRMAN GUBITOSA: All in favor?

24 (Response of aye was given.)

25 CHAIRMAN GUBITOSA: Opposed?

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2 So we'll set for March 10th, 7:00, this  
3 building. We'll get it posted on the website  
4 and see if we get it in one of the papers.

5 But March 10th, and we'll just -- this  
6 is where we'll go over the scope. Right,  
7 Max?

8 MR. STACH: Yup.

9 CHAIRMAN GUBITOSA: And this is just a  
10 review, it's not a public hearing; right?

11 MR. STACH: Yeah, this is a -- I would  
12 say this is a meeting to consider a final  
13 scope.

14 CHAIRMAN GUBITOSA: Right. All right.

15 MR. STACH: Okay.

16 CHAIRMAN GUBITOSA: So we'll see you on  
17 the 10th.

18 MS. MELE: Thank you.

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THE FOREGOING IS CERTIFIED to be a true  
and correct transcription of the original  
stenographic minutes to the best of my ability.

  
\_\_\_\_\_  
Jennifer L. Johnson

