

PLANNING BOARD

Town of Lewiston 1375 Ridge Road Lewiston New York
Thursday – April 18, 2024

Agenda- VMC Group- Model City Road (A), Modern Landfill Inc- Pletcher Road (B)

Present: Burg, Baker, Conrad, Lilly, Lattanzio, Taczak, Collister

Presiding: William Burg, Chairman

Burg: I'd like to welcome everybody to the Town of Lewiston Town Planning, Thursday, April 18, 2024.

Roll Call

A motion to approve the minutes of November 16, 2023, was made by Taczak except for a few typo errors I think it's consequential I can spell them out if you want me too but I am not going to do it so I will make a motion to accept, seconded by Lilly and carried.

Burg: All in favor

Members: AYE

Collister: One abstention I was not here.

Burg: Alright first item on the agenda is VMC Group. State your name for the record.

David Giusiana. Giusiana Architects representing the owners.

Burg: Ok.

Giusiana: Hopefully this is a pretty straight forward project. We are dividing the famous 3 blue property on Model City we would like to make it two. So, we are tearing the middle house down. We did go through Zoning Board of appeals and received a variance the side yard setbacks in a industrial zone or equal to the height of the property so we meet that without doing what we show in front of you.

Burg: Ok.

Giusiana: One of the other issues that come up during the zoning variance was some of the neighbors had some and then we agreed to was providing a 6-foot fence along both the westerly and northerly property line to shield the neighbors as part of this.

Conrad: What type of fence was it?

Giusiana: 6-foot high white pvc vinyl fencing.

Burg: But we are not here to approve the fence.

Giusiana: No but we wanted to say it was one of the things the zoning variance.

Burg: Just information. I know that we had some updates to the SEQRA you saw those.

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Giusiana: I did review those with Tim earlier and I have signed the revised one. Some of the things that came up when Tim and I were talking those were populated when EAF mapping program.

Burg: Does everybody have a copy of the amendments to the SEQRA? Do I need to put that in the record?

Masters: Probably wouldn't hurt.

Serianni: You should.

Burg: The first amendment was number 2 does the proposed action require a permit approval or funding from any other government agency? It was left blank the answer is yes and it would be the Town of Lewiston. The other amendment was item 8 (b) are public transportation services available at or near the site of proposed action? It was left blank the answer is no. Are any pedestrian accommodations or bicycles routes available on or near the site of the proposed action? It was left blank the answer was no. 13 (a). Does any portion of the proposed actions, or land adjoining the proposed action, contain wetlands or other waterbodies regulated by federal, state or local agency? You checked yes, the answer is no.

Giusiana: Again, those were populated the EAF map program.

Burg: So, under sub index (b) would be proposed action physically alter or encroach into any existing wetland or waterbody? It was left blank the answer is no. And finally, number 20 has the site of the proposed action or an adjoining property been the subject of remediation ongoing or completed for hazardous waste? You answered yes but there was no description so we just added the scription that there is a capped landfill on Modern Corp property to the south of the property. Everybody got that?

Members: Yes.

Burg: Any other.

Conrad: Do we need a motion to accept that into the record?

Serianni: You could submit it into the record without taking board action.

Burg: Ok. Comments or questions from the board?

Members: No.

Taczak: I would like to make a motion that we declare it a minor subdivision.

Lilly: I will second it.

Burg: All in favor.

Members: AYE.

Burg: We need to make a declaration on the SEQRA.

Taczak: Yeah, we can add I can also make one for a negative dec on the SEQRA.

Conrad: Second.

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Serianni: First declare it as an unlisted action and then a negative dec.

Taczak: Ok.

Burg: You want to amend your motion?

Taczak: Per the attorney.

Burg: Ok.

Conrad: Second.

Burg: All in favor.

Members: AYE.

Lilly: I will make a motion for a one lot subdivision.

Burg: Ok.

Lilly: Ok alright I guess final is I will make a motion to approve it as a one lot subdivision.

Conrad: Second.

Burg: All in favor.

Members: AYE.

Burg: Thanks.

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Burg: Alright next on the agenda Modern Landfill. Please state your name for the record please.

Thank you! Mister chairman members of the board. My name is Mike McInerney I am the CEO of Modern Disposal. I am here tonight to provide clarification regarding a litter fence we plan to construct on the east side of the landfill along Porter Center Road. You all received a package with information and maps in it. So, I will paraphrase and get thought it fairly quickly. Modern currently holds an approved site plan issued in October 1995 from the Town of Lewiston to construct and operate a non- hazardous sanitary landfill and related facility permit requires Modern to comply with State and Federal regulations and permits. When they comply with the requirements set fourth in the host community agreement between Modern and the Town of Lewiston. The HCA or host community agreement provides requirements related to maximum annual tonnages total landfill foot print, maximum height, maximum slopes in the way that the host community agreement reads. Landfill cells, capping, landfill related infrastructure are designed in accordance with New York State solid waste regulations which are reviewed and approved by the New York State Department of Environmental Conservation. Modern is planning to construct a 40-foot-tall litter fence approximately 850 in length along the southeast side property boundary near Porter Center Road. Earlier this year Modern received approval from the New York State DEC to place waste in a newly constructed portion of the landfill. The litter fence was a design element of this certification report in this section of the landfill. Which again as I said was approved by the New York State DEC. The fences' primary purpose would be to contain litter and prevent it from blowing off our property. The fence will also serve as a visual screen along with they will provide support for an odor misting system to knock down any waste related odors before they migrate off our property. The fence was designed and stamped by a New York State certified professional structural engineer. The area between the fence and Modern's property line and landscape with shrubs, trees and plantings this spring or whenever the weather permits. Modern believes that the construction of this fence is beneficial to the Town of Lewiston and surrounding properties and furthers our commitment to being a good neighbor and steward to the environment. So, with that I will open it up for questions.

Conrad: Fencing material itself is it opaque or is it translucent.

McInerney: It's not translucent its solid in color.

Conrad: Ok.

Burg: Do we have a stamped drawing on the fence? A stamped?

Masters: You have a stamped drawing its just not signed.

Lilly: The litter fence that you are proposing you have other litter fences throughout the landfill existing right now, correct? That you utilize.

McInerney: We do have litter fencing nothing that is in large in scale for this size as this. We have right now we utilize portable litter fencing and then as you know the height of the properties got a 6-foot-high chain link fence.

Lilly: The odorizer is also utilized right now as well a different type of system?

McInerney: We utilized de-odor misting systems on the property for years. They have been portable in nature where we move them to where were we could expose the... and consequently some odor would result this would be a permanent system along that eastern side.

Lilly: Is that misting that you are proposing is that the same material that is used currently?

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McInerney: Actually, this is an improved material. That we can use all year round. The current misting systems have limitations when it gets extremely cold this will allow us to provide that odor knock down all year long.

Burg: And there is some kind of containment basin that holds this before it's sprayed?

McInerney: Yeah, it's a... the system itself is used in hundreds of landfills across the United States it's being used in all the landfills in Western New York and Rochester areas. It's a common device that's used in landfill operations. It's the... the actually pump and the components that power it are housed in a container sort of a small shed building and then it's plumbed and piped along the litter fence to misters. This is we are utilizing the litter fence. This is really a litter fence and we are utilizing it for a couple other reasons one that the misting system makes sense to put on the fence on that side to stop any nuisance fillers that may migrate we will utilize the fence if in fact the fence wasn't there, we would put in posts to something else to put the misting system in. But we are utilizing the design of the fence to do that.

Conrad: Was the fence the 40-foot dimension was that a design for a particular reason to be that high.

McInerney: So, if you... it was the short answer was it was designed to be that height to be able to capture any litter that blew off the landfill. You know the design of a landfill is a slope there's a higher elevation and it was designed to capture anything that got to a certain height off the landfill. Obviously, our goal is to keep that trash from going on to the street or in the trees across the road. So that's the purpose of this fence. This isn't required by permit it's not a... it's not something that the DEC requires us to do. The requirement that we have from the DEC is to prevent litter from going off our property. It doesn't designate that we need to put up a litter fence. We're doing this because we want to be proactive this is what we do in our community. We want to get ahead of this and make sure that we don't have litter and that we can continue to knock down odors before they leave our property line.

Conrad: What other options are there as far as containing litter within the landfill?

McInerney: So typically, we use portable litter fences we can station those in the direction the wind blowing and capture litter as it's coming off. But then again that will only capture so much and everyday we have people out picking litter along the roads and along the perimeter of our property. Again, it would be an increase in manageable labor to go out and do that, this is a way that we think is more effective than that.

Conrad: And the litter that is collected along that fence will that be policed up on a timely basis.

McInerney: Yes. That's part of our preventive maintenance along that, anywhere along property to make sure that litter gets taken off of the fencing and collected and disposed of properly.

Burg: And is the fence going to go all the way down to the berm or are you going to build extend the gabion that goes around the backside?

McInerney: I am confused.

Burg: You have a wall on the one side on the south side my question is as far as line of sight are the posts is the fencing going to come all the way down to ground level or are you going to extend the wall.

McInerney: The fencing will come down to ground level. Down to that berm you are referencing.

Taczak: Is there I know most of the property is that we have had over the course the time not specifically landfills but there's usually a buffer between properties. If I remember right, it is a 100-foot buffer?

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Masters: It depends on the zoning district.

Taczak: It depends on the zoning for that it should be 100 where does this these poles wind up because I drove past it now and I was shocked to see it this close to the road as it is. Where does this 100-foot buffer come in?

McInerney: So, we have a per our requirements we have 100 per foot buffer from waste placement to the edge of our property and that fence is within that 100-foot area. It's on our property it's not in Town property or anything like that it's on our property in that buffer zone.

Taczak: I realize that. What the point I am getting at is that I specifically mentioned earlier that what did some of our previous rulings over the course of the years that I have been on the Planning Board, the buffers were all in a vegetive or natural state. Now all of a sudden, we have so I am saying 75 to 100 feet between properties. Now all of sudden we have this fence coming up within I am just taking a rough guess 35-40 feet from the road. We have this 40-foot-high fence where's this buffer area of previous natural vegetation that we have always had? Correct me if I am wrong.

Burg: I think that the concern is that the fence is in located in the.

Taczak: Buffer area.

Burg: Is in the buffer area where traditionally the fence structures are beyond the buffer zone. And this being a 40-foot fence it's considered a structure. So now...

Taczak: A structure in the buffer zone.

McInerney: The existing permits which are the screening berms that have natural vegetation tree and things like that but we constructed those berms several years ago are in that buffer area and in the entire in the buffer area around the facility is are fences and other operating so it's going to be common practice to have those type of accessories as you will and in the buffer area. So again, this is a fence as far as the distance from the road I realize the size of those poles make it look.

Taczak: It's not a fence it's a structure according to the Town codes if I am correct. It's a structure. You're building something within the buffer.

McInerney: And our existing fences would be structures as well would they not.

Masters: Correct.

McInerney: So, I think again we're here to see clarification.

Burg: Where exactly is the fence located as far as how far from the setback. We have approximate dimensions or we don't have actual dimensions on this blue print. Is this on the new prints that you dropped off?

Members talking

Burg: It is a fence. But it's not showing where it is. I don't have any dimensions I have approximate 330 feet approximately 40 feet but it doesn't identify where it's located.

Alan Davis I am the vice president of operations for Modern. The one section of the fence to the south is up on a perimeter berm that you see. That section of that fence is approximately 80 feet from the property line. Which is county road Porter Center Road in to there. And then as you go to the north the fence kind of zags down a little bit

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because that berm end and then it's about 12 feet to 15 feet closer to the road from there so somewhere maybe around 70 feet. It is just roughly we can get exact dimensions obviously if we need to.

Burg: I think we would want exact dimensions. Right?

Serianni: You have authority to determine appropriate setbacks as the Planning Board I-2 zoning district. The placement of these would be subject to your purview that's correct. Now in regards to your question to the buffer zone there has been an interpretation made that with regards to the buffer requirements the structure itself does not constitute a violation buffer requirements to place the toe of the landfill against adjoining neighboring properties that's not a matter that is concerning for the board at this time based on our interpretation that we have here.

Conrad: Can you just clarify that if the fencing itself is considered a structure right and then we have required setbacks from any other structure being a building or whatever. That would have to fall or else have an area variance, correct?

Serianni: Yes, generally with the exception of I-2 zoning districts where setback requirements are specifically set forth subject to the purview of the Planning Board so there are no setback requirements like there are in residential districts or commercial districts in the town in an I-2 zoning district which is what's here the property that we are dealing with here those are just subject to your discretion.

Burg: So, what is before us is that if we think this structure is good for the Town of Lewiston?

Serianni: In addition to that you can consider the setbacks you consider any of the criteria that are also set forth in the site plan review section of the statute compatibility with the Town vehicular access light parking etc. There are 11 criteria that are in the code so you can consider those as well but certainly that's part of your analysis.

Conrad: Is there other lights on the fence at all?

McInerney: No there's no lights

Lilly: You mentioned earlier that you're building above and beyond what the DEC calls out. What does the DEC describe or what are their rules pertaining to litter fences and applying this deodorizer?

McInerney: So, the DEC requirements are that we contain any litters to the landfill and that we use our own practices and I will give examples of litter fences etc. They don't designate that we need a litter fence on that side of the property of that size shape etc. they just designate that we manage litter proper way and the same with odor.

Baker: Has there been a problem with the litter leaving the site at this location? That's prompting this 40-foot-high screen?

McInerney: This is because of the construction the recent construction is bringing the landfill closer to Porter Center Road. The landfill was never that close to Porter Center and as we've continued the developmental landfill it's moved closer to Porter Center and we're doing this to prevent any litter from going off our property that way. Previous to that we had several hundred feet of property that we could manage the litter and collect it before it left our property. Obviously, we want to keep our property neat and clean as well.

Burg: And for the record the landfill is outside of the buffer zone. The buffer zone the recommended setback the landfill is.

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McInerney: Inside of that.

Burg: Inside of that.

McInerney: Correct. So, the reason we are taking this action is as the landfill expands and develops it will be closer to Porter Center Road and we want to take steps from preventing litter from the impacting the Town.

Conrad: Is the expansion itself under consideration? Or is it just the idea of the fence?

McInerney: No, it's just the fence.

Masters: I clarified that in that letter I sent you all and said this is not considered an expansion modification or extension of the landfill itself. This is accessory to.

Burg: The only thing before us is if we allow the structure with the deodorizer on it.

Baker: I would definitely want to see the drawing corrected with all the required dimensions on it and a signature of whoever stamped whatever individual with a license stamped the drawing also because it's incomplete. Just for the record.

Burg: Sure.

Baker: Approximately doesn't work. Should be as exact as possible.

Burg: When we get back to the deodorizer. So, I understand the need for it. But as its mounted-on top of a pole as opposed to a portable unit that you currently use. Is there any preventive measures in the winter for it freezing are you going to use more deodorizer on certain days does the weather dependent.

McInerney: So, the material obviously there is a SDS sheet on this it's safe for the environment and people it's effective with knocking down trash related odors. It can be used all year long like with any system it requires preventive maintenance and we will perform that preventive maintenance to make sure that it works effectively and efficiently. As far as use the prevailing winds are in that direction it's close to the road, we determined that it would be more effective for us to put in a permanently mounted system than moving a mobile unit around. That would be direction again of the prevailing winds. So, we will continue to use our portable units in other areas. We will use it as needed. If we are disturbing trash to make upgrades or improvements, we will put the system on. If there's not a need for it, we won't run the system.

Conrad: What determines that? Is there some sort of monitors of some sort that monitors the air quality or...

McInerney: It's really much more simple than that we call it nasal chromatography. And really, it's the activities that we are conducting right. It's usually activity related.

Burg: Ok

McInerney: Were are going to dig in the trash to connect gas valves that may cause some odor anything that's usually activity related that will generate the odors.

Conrad: And the system itself how is it I have seen them in the other instances before they were utilized but is it a number of different heads that along the fence itself?

McInerney: Exactly it's like sprayers or misters there's a hose that they run through and then there are misters.

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Burg: A rendition of the mister.

Baker: I am not really familiar how do they neutralize the odor or do they mask it?

McInerney: I believe its neutralized I am not an expert on the chemistry.

Burg: Does the deodorant does it have a scent in itself?

McInerney: I don't think there is any smell.

Davis: It's a neutralizer similar to like a Febreze.

Lilly: Like what? Febreze

Davis: Similar to Febreze.

Lilly: And just as safe then as well

Davis: Absolutely. All the ingredients in there are approved by the FDA.

Conrad: Safer than Febreze then.

Davis: It's very safe.

Taczak: Once this screening goes up is it Modern responsibility to... I mean all of a sudden, you're going to have all possibility of all sorts of trash going up against this screen. Is that something that Modern is going to clean up?

McInerney: Sure, that's our responsibility to maintain it and clean it daily or more frequently if needed. That's the whole purpose of this. For us to catch that and clean it before it leaves our site.

Conrad: What if it comes from the other direction? What if it comes from the outside, I mean I got a fence in my yard and it goes on both sides.

McInerney: There's plenty of room to clean it on both sides.

Burg: Ok. Thank you! I am sure it's in here what is the fencing made out of?

McInerney: It's a vinyl type of material.

Burg: Can we see through it? Is it...are we able to see through it?

McInerney: No, you're not.

Burg: Any other questions from the board? Is there anybody here that wants to speak for or against?

Rob Morreale: I got a question on the deodorizer I haven't been a fan of it yet but I am sure a little more research. I went online and looked and I guess in it is a degreaser that's in dishwashing liquid. That's one of the things. And there is a foaming agent that's going to be also sprayed. How many gallons day is going to be sprayed?

McInerney: It would depend on the...

Talking

Davis: We buy the material in totes its concentrated we will be able to control the apps on your phones to change the dosage but it's not even... its vapor base it will be that tote we think is going to last us probably 3 months. It's a very, very small amount of this material that's concentrated that goes in there. And again, this material is so safe that it's on the FDA list generally acceptable materials it's food grade. The guy that I talked to that had... you can even eat if you wanted to, but I wouldn't recommend it. It's a very safe product. It's a very small amount.

Morreale: It's not going to affect people that have breathing

Davis: Absolutely not. Nobody will even smell it. You won't even see it. Not all the way to the top of the pole half way up probably.

Morreale: This will be a daily thing?

Davis: It will run daily it will run automatically on timer and we can control it and adjust it and it's mostly for during the day. We can control it with an app on our phone it's just a piece of orange plastic pipe that will go across there with holes in them.

Baker: You know I was thinking about this and I was wondering if there's any potential for this material to build up. I don't know how quickly it dissipates. Because you have that road there actually there's a couple pretty significant curves on that road there and if it were to build up on the road I don't know if that's really possible or not. It could present a hazard, potential hazard especially if a certain amount of precipitation or dew or whatever got on it to make things slippery out there.

Davis: That's why we chose the non-aqueous base it's a vapor base so that would not happen.

Baker: Ok

Davis: In the past the systems were aqueous base.

Baker: I thought it was concentrated and it was diluted with water

Davis: No, it's not

Lilly: And would that be installed on the inside of the fence and then you have the screening so then any mist would be difficult for it to get through the fence and make its way to the east.

Davis: Correct.

Burg: And these poles don't come any closer than 75 feet of the property line right.

Davis: That was an estimate.

Lilly: Anyone want to speak

Burg: No one wanted to speak. Nope I am sorry anybody else go ahead.

Waechter: Of course. I just had a... just for clarification you are using amino acid system so it breaks it down more than just masking it.

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Davis: Yes

Waechter: Ok great wonderful. Now I just had a couple of questions as far as there been an increase like in your organic refuse or increase in construction weights that's contributing to the odor issue?

Davis: No, it's been fairly consistent our waste mix has been consistent over the number of years. There's been no real increases or decreases.

Waechter: Ok has there been a change in how it's being ligated on the site as far as being covered at night as far the deodorizers being used just...

Davis: No, we are continuing to use the same practices and trying to improve what we do every day. No same cover processes are in place and same operation controls.

Waechter: Is it neutralized on site or are you using a deodorizer on the actual waste site itself.

Davis: We have portable misting deodorizers. Yes, they are portable misting systems.

Waechter: So, you're not putting anything.

Davis: Not on the waste itself.

Waechter: Alright then my other question is, as far as the placement of the system is there any Data that is supporting the placement as far as going down Porter Center have you identified your data that that's the best placement?

Davis: That was done thought our engineering group.

McInerney: Based on the prevailing wind direction. And the new waste sections getting close to Porter Center Road. As your waste cells it gets closer to Porter Center Road on a hot summer day let's say it comes from garbage that is maybe closer to Porter Center Road that's why we wanted to put this here.

Waechter: Have you done any smoke studies or...

Davis: No

Waechter: Ok so its just based on historical data.

McInerney: Prevailing wind direction.

Waechter: Ok and also too as far as your disbursement schedule are you going to be relying on the prevailing wind data as far as the disbursement schedule because I know in the mornings and stuff usually its typically denser.

Davis: Correct

Waechter: So, I am just wondering what data you are using.

McInerney: Your exactly right we are going to look at barometric pressure and we are going to look at weather versions in the morning and at night and then we would set it up do higher dosages during those times and will build a full weather station on your site too. So, we can adjust the dosages based on all those different factors on the weather.

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Waechter: Ok. Ok and then just a follow up questions are going to be something that's going to be placed I have to ordinate myself on the west side. Because I know as far as being in closer to the village, we've smelt it that direction rather than the other direction. So that's why my placement questions. Because we are getting down through the village.

McInerney: I think we are going to put it here first were going to see how it's effective. Then we will evaluate putting it on other sides of the facility if its effective.

Waechter: Ok. And you will be utilizing same system which will be the vapor-based system.

Collister: Sorry I don't know if you answered this but what's the height of the misters?

McInerney: The entire fence is 40 foot

Collister: So, they are at the top

McInerney: No, we are going to put it at 30 feet up

Collister: 30 foot

McInerney: Which is where it changes from the solid material to above it is mesh. The top 10 foot is more of a mesh like you see at a driving range.

Burg: Anything else.

Baker: Just to recap these poles and the screening fence and the misting equipment you intend to place them in the buffer zone now or they will eventually be in the buffer zone as the landfill sort of approaches that area?

McInerney: The ones we are here to talk about tonight are the fence will be in the buffer zone. We look at the future fencing depending on where we are may or may not be a buffer zone issue. We haven't progressed that far in our discussions yet.

Baker: Because I think that might be a hang up. Would it be possible to locate them outside the buffer zone further in?

Davis: No, the way that the buffer zone starts right at the where our waste placement ends. So, the fencing would then if we were to do that it would be in landfill not outside the landfill. And we would provide it any protection. If I am reading your question correctly.

Baker: My question is just would it be visible to locate these poles outside the buffer zone whether its inside or

Davis: Not in this area it won't be.

Waechter: How far is the cell of the landfill going to come out from the inside?

Davis: The new cell is 100 feet. The waste placement is right at the buffer

Talking

Davis: There's the property line and 100-foot buffer zone then the placement

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Waechter: So that toe is going to be maintained

Morreale: You'll have a storage container for the mister, correct? Where is that going to and how big is it going to be?

McInerney: Sea container like on a ship a big container like the one that hit the bridge. It will be behind the fence behind the berm so nobody can see it.

Morreale: No flammable

McInerney: No, its not.

Lilly: This cell is being utilized now are you currently.

McInerney: Placing waste in the cell today.

Lilly: Ok

Morreale: What do you use for daily cover Mike when you every day at the end of the day what do they use mulch do they use dirt what do they use?

McInerney: Soil and ash approved covered materials by the DEC.

Burg: Ok anything else from the Board?

Baker: Nope

Burg: Well, are next step we will need a motion. We will need a motion to recommend it for approval. To not recommend it approval, we can make a motion to table it until we get additional information right.

Serianni: Mr. Chairman the only hang up that I have here is that because the site plan based on approximations you don't have specific measurements from the road to the placement of these poles. I would suspect that Town Board would prefer to have that in their possession prior to submitting that package to them. That would be my recommendation is to table just for a modification to the overall site plan. With regards to the other concerns, I will defer to you. And then further more for the purposes of SEQRA I do believe that the applicant is correct and that their interpretation of this action is a type 2 I would just ask that the board would make the finding that it's a type 2 action for SEQRA purposes.

Taczak: I was just. You took the words almost right out of my mouth. I was going to suggest that we table this issue to get the proper setbacks from Modern. So that we can compare apples and apples and oranges and oranges. So, I will make that motion.

Baker: One more question. At some point assuming this goes forward. At some point these features will be removed I am assuming.

McInerney: As the landfill enters it closure stages yes, these features

Baker: This is important with respect to the buffer zone concept.

McInerney: That's correct. As the landfill enters various stages.

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Baker: They are not permanent structures.

McInerney: Right. If that area ultimately ends up getting filled and then capped you would remove that right it would not be there permanently.

Baker: Could that be stated on the site plan.

McInerney: That once the landfill is closed that structure comes down. We can do that.

Baker: So, it's memorialized I won't be here probably.

Talking

McInerney: We can certainly secure a cap.

Burg: Just for the pleasure of the board. I want to just make sure that everybody understands that what we are approving is if we approve it. It's can we build that structure inside that buffer zone. And the buffer zone law under the excavation law says Trees, hills, fences, berms or other natural or artificial features which are located so as to conceal or separate the excavation site and related activities from other land uses. In that interpretation you can build a fence but this is a structure. I just want everybody to be aware of that.

Lilly: I think that we established all fences are structures correct no matter what their height is so.

Burg: There's just a fence.

Lilly: So, a 6-foot fence and 40-foot fence are both considered structures.

Masters: Yeah.

Burg: Anything over.

Masters: The whole difference is all the other zoning districts are regulated with numbers. The I-2 zoning district has no numbers in it and it's up to the Planning Board and Town Board to determine.

Burg: So, I guess my point is if we're going to if the options are approved recommend to approval, recommend denial we can ask for a public hearing we can also ask to table it. But if we are going to table it then we are asking for the location of the fence understanding that we're going to allow the fence as long as the location is appropriate. Because we are not going to... I am trying to prevent reopening up the discussion if the fence is allowed or not allowed. Just by getting the location of it.

Serianni: With regards to the buffer issue. My understanding and I believe this would also be the building inspectors understanding. The buffer zone applies to the toe of the landfill and the adjacent properties. In this case it would be the cities right away. That the toe of the landfill cannot extend beyond 100 feet away from the adjacent property or in this case the right away. The question whether or not these fences can be constructed in that buffer zone is not a question that's up for debate. And it is as a matter of fact if the code enforcement believe that that was the case that this was not permitted this application would not be in front of you today. So that question is completely taken off the table for you to consider.

Burg: Ok so could we... Would we have an option to approve or deny it or approve it based upon a completed or more in-depth site plan identifying where the fence is located.

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Conrad: The details of the plan. Is there and you said it varies the placement of the fencing.

McInerney: It's kind of scattered. I could deliver that tomorrow. Obviously with all the dimensions and I will make sure it's signed we have engineers right on staff.

Serianni: If you make that approval, it's a conditional approval, I know this word is generally.

Burg: We don't make conditional approvals.

Serianni: Not a fan of conditional approvals which is why I say if you'd rather table it until next month to make that decision. I know that he says that he can turn it around right away. But you don't convene until next month. So, but of course you do have the option to make a conditional approval. But I know my board so.

Taczak: I am still going to maintain my motion. That we table it until we get the figures.

Lilly: I know you said it was approximate. What is that approximation again you have... the fence is not there but the poles are there for the fence.

McInerney: Correct. And there's two the southern section of the fence is up on the berm and then northern section of the fence is down below because the berm stops. Because that berm is a what we call cell berm it's part of the structure the landfill cell that was recently constructed as being full now. The other section of that berm will not be constructed for 6 to 8 years. Because we don't go that direction in our next cell for quite a while. So, there's about 15 foot roughly between the one poles and the other poles are. One line is 15 foot closer about than the other line. The total landfill is about 100 feet from the county right away from the road it's a county road. And then about 50 foot high. I was just estimating that upper one the first one is on this side of the berm how long the road is, is maybe around 70 feet and then the other one would be 15 feet less than that but again I don't...

Burg: We have a motion. Repeat your motion for me Bill.

Taczak: Yeah, I would like to table this until we get the figures from Modern as to exactly the distances.

Burg: So, we have a motion until we get a more detailed site plan. Identifying exactly where post and fence is in relation to what the set back is. That is the motion.

Taczak: That is the motion.

Burg: So, I have a second for that motion.

Lilly: If I could just that's the only distance or measurements that the board is looking for then? Just the fence? There are no other measurements?

Baker: Was there a discrepancy in the total acreage of the site or something? Tim didn't you think that the tax map showed...

Masters: On the SEQRA form your front page our tax map showed I think 239 acres and you had 273 acres. I just identified the discrepancy but...

Taczak: To me that doesn't

Masters: Just overall acreage was the question.

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Taczak: Yeah. Mine is specific to the...

Lilly: Distance of the fence.

Taczak: Yes

Conrad: I will second it.

Burg: Ok. All in favor

Members: AYE

Burg: Alright we are going to table it.

McInerney: Thank you for your time.

Burg: Thanks.

Bridget O' Toole: Is the board willing to take action tonight as to the SEQRA classification?

Burg: I am sorry I didn't hear the question.

Baker: You want to step up to the mic and identify yourself.

O'Toole: Sure.

Serianni: The question was whether the Board wants to take action with regards to the SEQRA classification. You certainly don't have to take that action today.

O'Toole: Bridget O'Toole for Modern. Just for the interest in of the economy given that the SEQRA issue is I think a non-controversial myself and Boards attorney are in agreement that this is a type two action. Just trying to check a box if the board feels so inclined.

Burg: I would like to see a complete set of plans. I need someone to make a motion either way. You can make a motion to...

Lilly: The Town attorney you are to the position that the SEQRA is a type 2 and is satisfactory?

Serianni: I would take that position yeah.

Lilly: If that's the case I will make a motion to approve the SEQRA.

Members: Type 2

Lilly: To declare it as a type 2.

Conrad: I would second that motion

Burg: Ok all in favor

Members: AYE

O' Toole: Thank you all!

Burg: Any other business?

Talking

Taczak: Somebody wants to speak

Burg: Yeah

Hi lady and gentleman of the board. My name is Timothy Baldwin I represent the 3 F Club. We are kind of in a grey area Presidents Park project. We were kind of wondering what was going on with that? It's off of Creek Road there's some properties that adjoin our property and we just wanted to know if there is anything moving forward with that.

Serianni: There's no application.

Burg: Currently there is no application.

Baldwin: There's no application

Masters: There's no application but I did talk to him on the telephone this morning and I think there will be an application at some point in the near future. But you definitely be notified.

Baldwin: Ok because we are in a grey area and we didn't hear any correspondence so.

Masters: He kept pulling it.

Burg: The applicant pulled. He pulled the application.

Baldwin: Ok

Masters: We don't have anything in front of us yet but I did talk to him on the telephone regarding it regarding the density issue.

Baldwin: Ok

Masters: I know it's still a viable project in his mind so.

Baldwin: Thank you for that Tim and Board of directors' you guys do a great job.

Burg: Thank you! Anything else?

Lilly: I will make a motion to adjourn the meeting

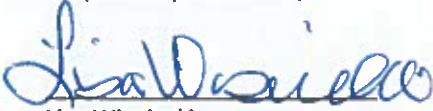
Taczak: I will second it

Burg: All in favor

Members: AYE

Burg: Thank you, folks.

Respectively submitted,



Lisa Wisnieski
Building Dept Clerk



William Burg
Planning Chairman