

## **Town of Eden - Planning Board Minutes**

February 1, 2023 7:00 pm

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**MEMBERS** Brian Reed, Chairman

**PRESENT:** Marc Timblin

Joe Eppolito

Andy Tarasek

Katrina Schmitt-Ruof

Frank Meyer, DDS

Bill Zittel

**EXCUSED:** Andy Romanowski

Larry Dibble

**OTHERS:** Town Council - Susan Wilhelm & Rich Ventry

Code Enforcement Officer – Dave Rice

Hawk's Landing Frisbee Golf – Doug Opiela, Andy Desmond

Engineer for Hawk's Landing – Jim Hannon

Neighbor of Hawk's Landing – Joe & Kristin Pinker

Neighbor of Hawk's Landing – Frank & Carol Shattuck

Mr. Reed called the meeting to order at 7:00pm and asked for comments on the January minutes.

**Mr. Tarasek made a motion to approve the minutes from the January 4, 2023 meeting. Seconded by Mr. Eppolito; Motion approved unanimously.**

### **Hawk's Landing Frisbee Golf Course, Site Plan Review for Course Expansion at 9198 Sauer Road**

Doug Opiela, owner of Hawk's Landing, has submitted an updated site plan for his proposed disc golf course expansion. Jim Hannon, Engineer for Hawk's Landing, was present to answer questions from the Board. Mr. Hannon noted that an application has been filed with the Army Corps of Engineers. Mr. Reed asked about the proposed parking lot for the rear course. It seems to be oversized; can we recalculate some numbers to see how many parking spaces would be sufficient? Mr. Rice noted that the Board had previously requested the applicant to allow for 10 parking spaces per hole/basket as stated in the Town Code. Mr. Rice added that the existing course has 45 parking spaces, which equates to 2 ½ spaces per hole/basket. There has not been any issues with people parking on the street since the course opened. Mr. Reed added that the Planning Board has the ability to alter required parking spaces as they determine appropriate, or the Board can recommend that the applicant pursue a variance for the required number of parking spaces. Mr. Reed asked for comments from the Board. Ms. Schmitt-Ruof asked how long it typically takes to complete a game on the front course. Mr. Opiela replied, it takes roughly 1½-2½ hours on average. Mrs. Schmitt-Ruof asked how many customers play daily. Mr. Opiela responded with 30 people maximum on a busy day. Mrs. Schmitt-Ruof questioned the time of play with the expanded course. Mr. Opiela explained that the expansion would be a separate course. Additional questions were asked about parking on the roadway within the property. Mr. Rice explained that this would be a Fire Code violation. Mr. Reed noted that if the parking requirements on the rear course were similar to the front course, we could consider 3 spaces per hole. This would be 55 spaces total and would result in less soil disturbance. Additional suggestions were made to consider adding a row of evergreens on the North edge of the parking lot. This would prevent headlights from shining onto the neighbor's property.

Mr. Rice was asked if the current course is compliant with the original approved site plan. Mr. Rice responded that there is one tee box that is setback 579' and the original approved site plan shows 508'. Mr. Rice added that they are fully compliant with the 50' buffers on the North and South property lines.

Mr. Reed read the following introduction to the Town Code for Site Plan Review:

"...the Board shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the proposed development and of the immediate neighborhood in particular and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives in particular..."

Discussion continued regarding the glow-in-the-dark golf request. Mr. Rice noted that according to Town Code, lighting would be permitted until 10:00pm. Any lighting after 10:00pm would require doubling the setbacks to 100'. The applicant could apply for a variance at the 50' setback or they could relocate the baskets to a 100' setback. Mr. Opiela confirmed that he is proposing glow-in-the-dark golf on both courses.

In 2010, the Planning Board approved the site plan for frisbee golf with daytime play only. Mr. Rice noted that the applicant can request a code interpretation for lighting from the Zoning Board of Appeals. The Board asked Mr. Opiela additional questions about night golf. Mr. Opiela stated that night golf would be Fridays, Saturdays and Sundays during the fall months, possibly some winter months (depending on snowfall), and spring months. This Planning Board could amend the 2010 Planning Board decision regarding day time play only. Mr. Hannon stated that he does not believe the Planning Board has the authority to control the hours of a business. Mr. Havens responded that we will consult legal counsel for an answer to that question. Mr. Rice noted that the business would be required to follow Chapter 225-32, Lighting Code and the Town Noise Ordinance.

Mr. Reed asked how wide the course paths will be and how many trees would need to be removed for the course expansion. Mr. Opiela stated that he will be removing as few trees as possible. The course paths are 10'-20' wide. The mature trees (8-10" in diameter) will be preserved. Mr. Hannon added that they will be selectively removing an estimated 10% of trees and all of the details are in the narrative that we provided.

Mr. Reed stated that tonight's meeting is a public meeting, not a public hearing. The Planning Board will give residents the courtesy to speak briefly tonight about their concerns, and they will have an opportunity to speak at the public hearing if one is set. Frank Shattuck, neighbor to the South, spoke in opposition of the course expansion. He stated that the Opielas have never been in compliance with the original approved site plan. The course is 579' deep and the approved site plan was set at 508' deep. There is no natural buffer at some of the baskets. There is a bridge at #16 and the grass is being cut at #15. Joe Pinker, neighbor to the North, also spoke in opposition of the course expansion. The Opielas never obtained a building permit for converting their barn into a pro-shop or for when they added restrooms to the back of their house. Mr. Rice noted that historically, the Town of Eden would not have required a permit for alterations where the square footage doesn't change. Mr. Rice further explained that he cannot change history or change decisions that were made by previous Code Enforcement Officers. To date, I have inspected the pro-shop building to ensure it is compliant with Fire Safety and egress requirements. Furthermore, the Opielas have installed portable bathrooms to comply with ADA regulations. Mr. Pinker continued expressing his frustration with customers trespassing on his property. Mr.

Timblin stated that trespassing issues are not the Planning Board's jurisdiction. You should be contacting the police with any trespassing concerns. Mr. Shattuck began asking additional questions about the SEQR process. Mr. Reed replied that we will get to that and please save any additional comments or questions for the public hearing.

\*\*\*The attached documents were received from Michael Schiavone, attorney for Joe and Kristen Pinker and a letter received from Frank and Carol Shattuck.

Board members discussed options for a public hearing. **Mr. Zittel made a motion to set the public hearing for Wednesday March 1<sup>st</sup> at 7:30pm, seconded by Dr. Meyer. Motion approved unanimously.**

Mr. Reed explained that the Board has received an updated Short Environmental Assessment Form from the applicant. He requested that Mr. Opiela change his response to question #17 to yes, as the action will create non-point stormwater discharge from the expanded parking lot and driveway. Mr. Opiela agreed to the change. Mr. Reed added that the Board will complete parts 2 and 3 of the SEAF at the next meeting.

Mr. Reed read the following:

**RESOLUTION OF THE EDEN PLANNING BOARD**  
**Declaring Intent for Lead Agency Status for Site Plan Review at 9198 Sauer Road**

**WHEREAS**, the Eden Planning Board has received a Site Plan from Doug Opiela, Tribal Flyers Frisbee Golf, for course expansion at 9198 Sauer Road in the Town of Eden, and

**WHEREAS**, based upon the review by the Planning Board, it was determined that the proposed project be declared an Unlisted Action under 6 NYCRR Part 617 (SEQR), with a coordinated review notifying involved agencies.

**NOW, THEREFORE, IT IS RESOLVED**, that the Eden Planning Board does hereby declare intent to be Lead Agency under SEQR

**Mr. Zittel motioned to approve the resolution, seconded by Dr. Meyer. Motion approved unanimously.**

**Mr. Zittel motioned to adjourn the Planning Board meeting at 8:05pm. Seconded by Mr. Eppolito; Motion approved unanimously.**

The next meeting is tentatively scheduled for March 1, 2023 at 7:00 pm.

Respectfully submitted,  
Jen Crowe, Secretary



# Lipsitz Green Scime Cambria LLP

Attorneys at Law

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January 31, 2023

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Barry Nelson Coverl  
Robert L. Boreanaz  
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7 Oregon  
8 Massachusetts  
9 Connecticut

## VIA EMAIL – Jen Crowe – jen@edenny.gov

Town of Eden Planning Board

Attn: William Mahoney, Chairman

Attn: Andrew Romanowski, Vice Chairman

Attn: Brian Reed

Attn: Joseph Eppolito

Attn: Bill Zittel

Attn: Frank Meyer, DDS

Attn: David Brodzinski

Attn: Andrew Tarasek

Attn: Marc Timblin

2795 East Church Street

Eden, New York 14057

Town of Eden Building Department

Attn: David Rice, Code Enforcer

2795 East Church Street

Eden, New York 14057

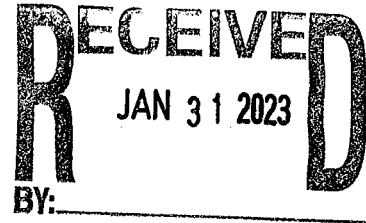
Re: February 1, 2023 Planning Board Meeting Concerning Review of Site Plan for Expansion of Hawks Landing Frisbee Golf Course, Douglas Opiela – 9198 Sauer Road

Ladies and Gentlemen:

As you are aware, this office represents Joseph and Kristen Pinker, owners of property located at 9086 Sauer Road, Eden, New York. The Pinker's home is adjacent to the proposed expansion of the Hawks Landing Frisbee Golf Course, submitted by Douglas Opiela, and located at 9198 Sauer Road (the "Course"). I was previously advised by Town of Eden representatives that my October 5, 2022 letter outlining, among other things, (i) the Course's various violations of current Board conditions and Town of Eden approvals, (ii) instances of the Course's operation violating New York laws, (iii) the Course's current layout not adhering to its approved site plan, and (iv) the federal and state environmental and legal requirements that have been neglected in connection with the proposed expansion of the Course (the "Letter") would not be accepted in the record of the Board's October 5, 2022 meeting because the Letter was not submitted to the Board's secretary at least fifteen days prior to the date of that meeting.

It has also come to my attention that the Town of Eden Planning Board (the "Board") has set a date for a public meeting to occur on Wednesday, February 1, 2023 for review of the Course's expansion project site plan (the "Plan"). A copy of the Letter is enclosed herewith as **Exhibit A**; we request that the Letter be inserted into the record of the Board's upcoming February 1<sup>st</sup> meeting and is considered in the review of the proposed Plan with the understanding that its contents still apply to the proposed expansion of the Course.

In anticipation of any attempted refusal by the Board to accept the Letter for consideration in its review of the Plan and incorporate it into the February 1<sup>st</sup> Board meeting minutes, I have reviewed



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the Town of Eden's Town Code (the "Code") concerning the requirements for site plans review by the Board.

## **I. Requirements - Town of Eden Notice for Site Plan Review Meetings.**

Section 225-30 of the Code provides the rules related to the Board's review of site plans. Specifically, section 225-30(C) provides the procedure for review and approval of site plans with the first step being the applicant meeting in person with the Board prior to submission of the site plan application, with subsection (C)(2) stating:

Within six months following the presubmission conference, the site plan and application materials, together with the required fee from the Standard Schedule of Fees of the Town of Eden, shall be submitted to the Secretary of the Planning Board in triplicate and copies of all materials sent to the Building and Zoning Inspector and Board's consultants, if any. Materials must be submitted in proper form at least 15 days prior to the Board meeting at which the plan is to be reviewed

Section 225-30(C)(5) provides that once all required documents are received by the Board, the Board shall "fix a date for a public hearing on the proposed use." Once this date has been set the Code goes on to state that:

**The applicant shall send notice of the public hearing** stating the date, place and substance of the hearing to all owners of property abutting the proposed use and directly across any adjoining street, as the names of said owners appear on the last complete assessment roll of the town. **Such notice shall be sent by mail, return receipt requested, and a list of the owners to whom notice has been sent, together with certified mail receipts, shall be filed with the Planning Board at least 10 days prior to the date of public hearing. Not less than 10 days prior to the public hearing, notice of the same shall be published at the expense of the applicant in the official newspaper.** (Emphasis added).

To summarize, the Code states that in the case of a public meeting related to site plan review, (1) the Board must set a date for the public meeting, (2) the applicant must notify the surrounding landowners via mailed written notice, (3) the applicant must send a list of the notified residents to the Board at least ten days before the meeting, and (4) the applicant must publish notice of the meeting in the official newspaper at least ten days before the meeting.

The date for the February 1, 2023 Board meeting was set by the Board in a document published on its website at the web address: <https://edenny.gov/wp-content/uploads/2023/01/Agenda-2-1-2023.pdf>. The landing page for the referenced web address brings up a PDF document (the "Document") titled "Agenda – Town of Eden Planning Board Meeting February 1, 2023", a copy of the Document is also enclosed as **Exhibit B** for reference purposes. Upon review of the Document's properties and metadata, the creation date of the Document was January 23, 2023 at 9:54 AM, meaning, the Document serving as the initial notification to the public as to the date for the meeting to review the Plan was published, at the earliest, no more than nine days before the



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date of the meeting. A copy of a screenshot showing the Document's properties and metadata is enclosed as **Exhibit C** for reference purposes. In view of the Code, this means that the Course, as applicant, would have had to notify all of the owners of land surrounding the Course of the meeting in writing via mail, received the return receipt from each such landowner, compiled and sent a list of all the notified landowners to the Board, and published notice in a local newspaper all the day before Document was published in order to meet the requirements of section 225-30(C)(5) in order to be in compliance. The Pinkers, as owners of land surrounding the Course, did not receive any such notice, and we have yet to see any notice published in a local Eden newspaper related to the February 1<sup>st</sup> meeting or its agenda. Therefore, section 225-30(C)(5)'s procedures and requirements concerning public notice of the meeting to review the site plan for the proposed expansion of the Course have not been met.

As shown in the meeting minutes from the October 5, 2022 Board meeting, the Board took the position that the site plan review meeting was "not a public hearing." While the Board failed to present a specific definition or elements of what constitutes a "public hearing", two items later on the agenda for the October 5, 2022 meeting regarding the "Sunset Custom Homes – Major Subdivision at 8310 Evelyn Drive", the Board went on to motion and approve to "waive a **second** public hearing as all comments and feedback have been addressed." At the October 5, 2022 meeting the Board stated for one item on the Agenda that the site plan review was not a public hearing, and at the same meeting, concluded that all public comments and feedback were addressed and no **second** public hearing was required for subsequent site plan review; this shows that the Board exercised broad unilateral powers and that the review of the Plan that day was a public hearing only if the Board considered it to be a public hearing. Based on the inconsistent treatment of agenda items, and the Board's own conclusion that the October 5, 2022 meeting was, in fact, a public hearing, section 225-30(C)(5)'s notice requirements were not met by the Course as applicant.

## **II. Fifteen Day Material Submission Deadline Arbitrary and Capricious.**

As highlighted above and cited by the Board in October as the reason for refusing the Letter's admission into the review process for the Course's site plan, the Board has imposed a requirement that all materials be submitted to the Board's secretary at least fifteen days before a meeting of the Board (the "Rule"). The Rule appears to be a derivative of the section 225-30(C)(2) requirement for site plan application materials requiring they be submitted at least fifteen days prior to a Board meeting to review the site plan. The Town of Eden website page for the Board states that *all* materials must be submitted to the Board's secretary at least fifteen days prior to a Board meeting; and therefore the Rule is inconsistent with the language of the Code in that the Code applies this requirement to site plan review **application materials**, not all materials. Consequently, the Code does not impose a requirement related to materials to be reviewed by the Board other than **application materials in connection with the application for a site plan review**.

Regardless of the lack of statutory support for the Rule, as mentioned in Section I above, the Board established the date and agenda for the February 1<sup>st</sup> meeting no earlier than January 23, 2023, with the Document that was published only nine days before the proposed meeting. This means that by the time the Pinkers, or other Eden residents, could have been made aware of the date of the February 1, 2023 meeting or its agenda, the deadline imposed by the Rule had already elapsed. Accordingly, the Rule and its application to keep the Letter out of the Board's meeting minutes and



## Lipsitz Green Scime Cambria<sup>LLP</sup>

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records is arbitrary, capricious, and raises potential due process issues for the residents of Eden because it is not possible for Rule's requirements to have been met.

### **III. Short Form Environmental Assessment Form Inappropriate.**

As highlighted in the Letter, Mr. Opiela's submission of a Short Form Environmental Assessment Form (the "Short Form") is not appropriate for the proposed expansion of the Course. The Short Form includes answers stating that less than one acre of the land will be disturbed, while listing an area of 28.04 acres of "forest" as the proposed Course expansion range. In looking at the Survey of the proposed site plan (enclosed as **Exhibit D**), General Note 2 states that the "proposed [expansion] area is heavily covered with a variety of mature deciduous and evergreen trees." With the proposed expansion area being "heavily covered" with "mature" trees, it does not seem likely that alteration of less than four percent of the 28.04-acre area is plausible to allow for the forest's use as a disc golf course. Therefore, not only is the Short Form not appropriate for an adequate environmental review as required under New York state law, but the answers submitted do not appear to be an accurate representation of the true expansion and deforestation activities that will occur at the Course in expanding based on the proposed site plan. The deforestation that would allow for the proposed expansion of the Course requires further environmental review consistent with the other aspects of the expansion requiring further environmental review and attention as set forth in the Letter.

Based on the foregoing, we demand (i) that the Letter and this correspondence be accepted, incorporated into the Boards review of the Course's proposed expansion site plan at the February 1, 2023 Board meeting; (ii) that this submission be deemed part of the official record of proceedings in connection with the subject application; and (iii) that based on the information above and the Letter, the pending application be rejected in its entirety and that the applicant be required to revise and file a full environmental impact statement addressing all of the issues contained in the Letter and highlighted above as well as the possible erosion of wetlands and drainage onto my client's property.

Very truly yours,

**Lipsitz Green Scime Cambria LLP**

By: Michael Schiavone

MS:gb

Enc.

cc: Joseph and Kristen Pinker (*via email*)

Melissa Hartman, Town Supervisor (*Hand Delivery & Email*)

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October 5, 2022

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8 Massachusetts  
9 Connecticut

## **VIA EMAIL – Jen Crowe – jen@edenny.gov**

Town of Eden Planning Board

Attn: William Mahoney, Chairman

Attn: Andrew Romanowski, Vice Chairman

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2795 East Church Street

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Town of Eden Building Department

Attn: David Rice, Code Enforcer

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Re: Hawks Landing Frisbee Golf Course, Douglas Opiela – 9198 Sauer Road

Ladies and Gentlemen:

This office represents Joseph and Kristen Pinker, owners of property located at 9086 Sauer Road, Eden, New York. The Pinker's home is adjacent to the proposed expansion of the Hawks Landing Frisbee Golf Course, submitted by Douglas Opiela, and located at 9198 Sauer Road (the "Course"). Over the years, the Pinkers have attended numerous Planning Board meetings to express their concerns that the operation of the Course has not be in compliance with the Town's prior approvals. The Course now seeks to expand, and ostensibly continue, its tradition of non-compliance. At the outset, there are a number of areas where the Course has violated previously approved Planning Board conditions, including:

- Not adhering to the previously approved site plan in that the Course not be extended beyond 10 acres;
- Removal of natural screening in connection with prior expansions;
- Allowing night time play (which was previously prohibited) and not adhering to applicable setbacks with regard to lighting (setbacks are doubled);
- Permitting onsite camping, with no special permit or facilities as required by applicable NYS Department of Health regulations;

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LOS ANGELES





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- Holding outdoor events, including big screen TV presentations, not consistent or compatible with the operation of a golf course and clearly not permitted under the Town's zoning code;
- Permitting Disorderly conduct including harassment of neighbors, and use of obscene language, and failing to control public urination by patrons;
- Failing to control trespassing by patrons on adjoining properties;
- The proposed expansion of parking facilities encroaches on the 50 foot setback required for the operation of the Course. Once again, if night play and lighting is permitted, the setback must be doubled to 100 feet.

While the foregoing aspects are likely to constitute a nuisance, of greater concern is the scope of misrepresentations by Mr. Opiela in his previously filed short form environmental assessment form, a copy of which is attached as Exhibit A (the "EAF"). The EAF filed by Mr. Opiela claims that while the entire sight is comprised of 41 acres, the impacted area is less than 1 acre (See answer 3.b.).

DEC guidelines require that the impacted area be calculated based upon what is physically altered. The regulations define physical alteration as:

"Physical alteration includes, but is not limited to, the following activities: vegetation removal, demolition, stockpiling materials, grading and other forms of earthwork, dumping, filling or depositing, discharges to air or water, excavation or trenching, application of pesticides, herbicides, or other chemicals, application of sewage sludge, dredging, flooding, draining or dewatering, paving, construction of buildings, structures or facilities, and extraction, injection or recharge of resources below ground." N.Y. Comp. Codes R. & Regs. tit. 6, § 617.2

Removing trees and vegetation and creating trails for the actual golf course would seem to fit into that definition, and thereby making the project much larger.

Moreover, the phased development approach propounded by Mr. Opiela constitutes impermissible segmentation requiring an assessment of the entire project, both the existing improvements and what is now being proposed for the new project. The DEC Handbook underscores that pursuant to 6 NYCRR 617.2(ah) segmentation is "the division of the environmental review of an action so that various activities or stages are addressed as though they were independent, unrelated activities needing individual determinations of significance. Except in special circumstances, considering only a part, or segment, of an overall action is contrary to the intent of SEQR."

See [https://www.dec.ny.gov/docs/permits\\_ej\\_operations\\_pdf/seqrhandbook.pdf](https://www.dec.ny.gov/docs/permits_ej_operations_pdf/seqrhandbook.pdf).

Moreover, "[t]here are two types of situations where segmentation typically occurs. One is where a project sponsor attempts to avoid a thorough environmental review (often an EIS) of a whole action by splitting a project into two or more smaller projects. The second is where activities that may be occurring at different times or places are excluded from the scope of the environmental



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review. By excluding subsequent phases or associated project components from the environmental review, the project may appear more acceptable to the reviewing agencies and the public.” *Id. See also, Iorio v. Town of Mount Pleasant*, 131 Misc. 2d 395, 500 N.Y.S.2d 935 (Westchester Cnty 1986) (Holding that for the purpose of determining whether project or action involves physical alteration requiring an environmental impact statement, the total area to be affected by the project).

Finally, the proposed site plan filed by the Opielas together with the “as-built map” (a copy of which is attached hereto as Exhibit “B”) clearly demonstrates that the proposed expansion of the Course impacts an area in excess of 10 acres. In fact, while the Opiela’s parcel is approximately 40 acres in land area, the Course operations cover approximately 23 acres! As such, the proposed expansion constitutes a Type I action under SEQRA requiring the filing of a long form EAF and an environmental impact statement. Given that the area consists of wetlands, the DEC should be involved in any review.

Based on the foregoing, we demand that the pending application be rejected in its entirety and that the applicant be required to file a full environmental impact statement addressing all of the issues contained herein as well as the possible erosion of wetlands and drainage onto my client’s property.

Very truly yours,

**Lipsitz Green Scime Cambria LLP**

By: Michael Schiavone

MS:gb

Enc.

cc: Joseph and Kristen Pinker (via email)

Writer’s Extension: 309

Writer’s Direct Line: (716) 844-3500

Writer’s Fax Line: (716) 854-3013

Writer’s Email: [mschiavone@lglaw.com](mailto:mschiavone@lglaw.com)

# Short Environmental Assessment Form

## Part 1 - Project Information

### Instructions for Completing

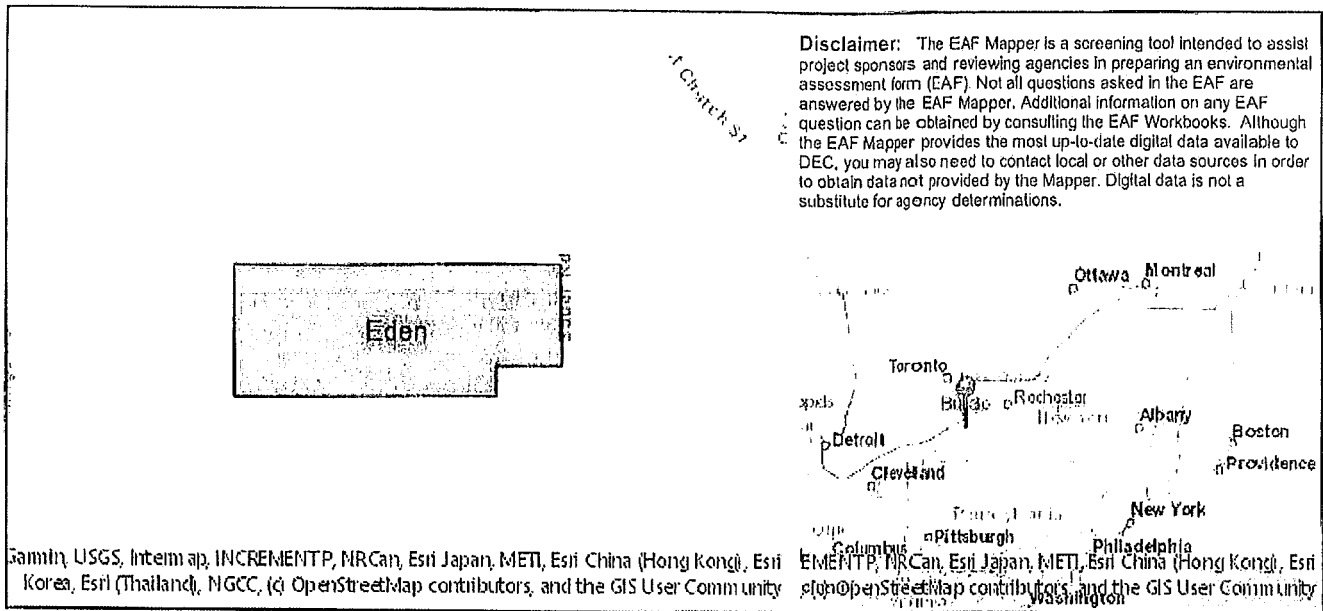
Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

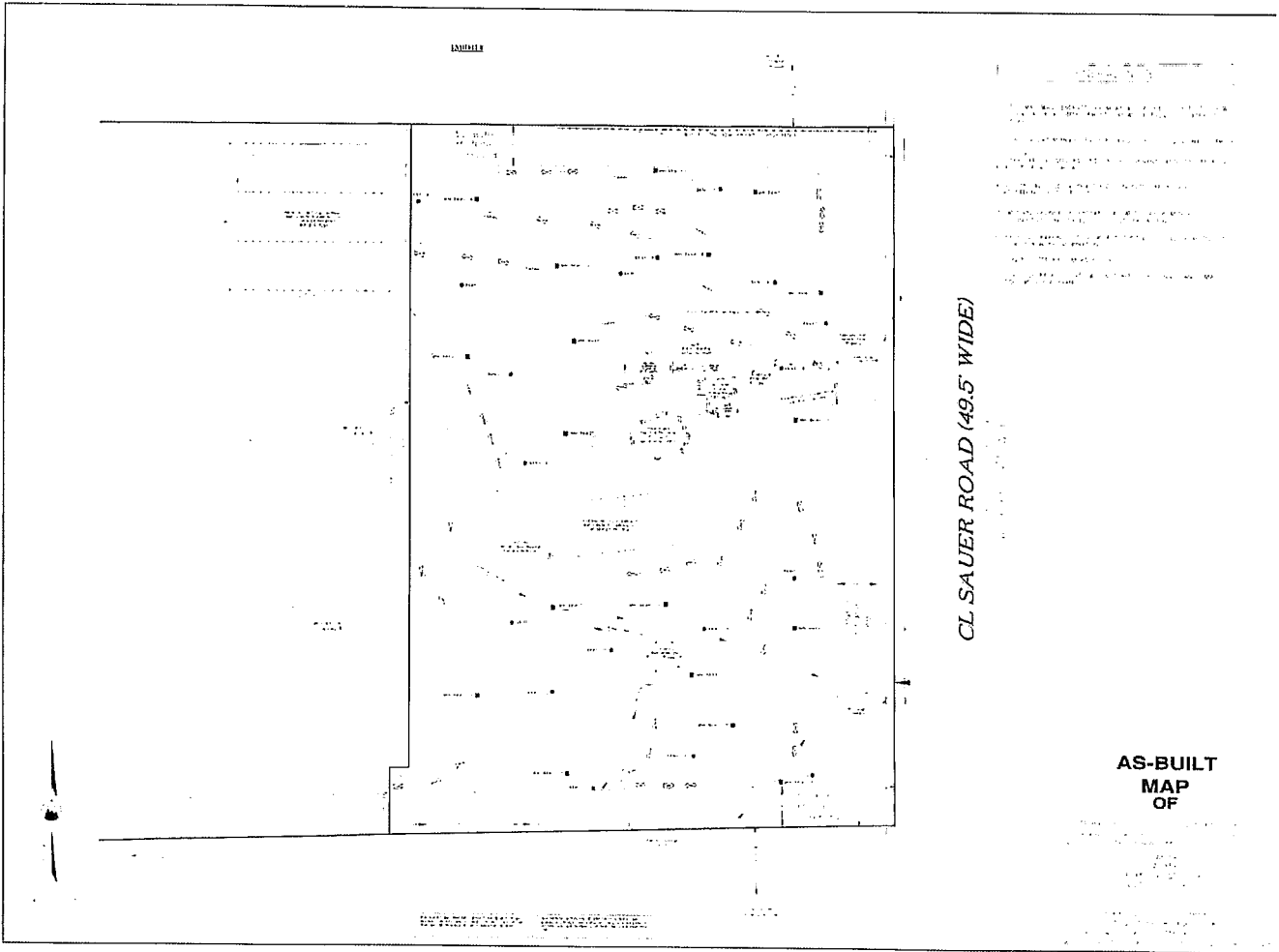
<b>Part 1 – Project and Sponsor Information</b>			
Disc Golf Course			
Name of Action or Project:			
9198 Saver Rd.			
Project Location (describe, and attach a location map):			
Building a 18 hole Disc Golf Course			
Brief Description of Proposed Action:			
Name of Applicant or Sponsor: Douglas Opiela		Telephone: (716) 992-4374	
Address: 9198 Saver Rd.		E-Mail: Tribalflyer@gmail.com	
City/PO: Eden		State: N.Y.	Zip Code: 14057
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?		NO	YES
If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency?		NO	YES
If Yes, list agency(s) name and permit or approval:		<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		41 acres	
b. Total acreage to be physically disturbed?		less than 1 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		41 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: less than 1/10 Acre _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input checked="" type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>Douglas Opiela</u> Date: <u>8/24/22</u> Signature: <u>Douglas Opiela</u> Title: <u>Owner</u>		



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No



PROJECT:	1824
DATE:	08/22/10
SURVEYOR:	JAG
DRAWN BY:	JAG

GENZEL LAND SURVEYING, P.C.

PROJECT:	AS-BUILT MAP OF 9198 SAUER ROAD
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Sheet	1
of	1





# Lipsitz Green Scime Cambria<sup>LLP</sup>

January 31, 2023

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## Exhibit B

Document

Agenda – Town of Eden Planning Board Meeting February 1, 2023

4983654v1 - 036899.0006

BUFFALO

AMHERST

LOS ANGELES

NEW YORK

AGENDA - TOWN OF EDEN  
PLANNING BOARD MEETING  
February 1, 2023 @ 7:00pm

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1. Approval of Minutes from the January 4, 2023 Planning Board Meeting
2. Hawk's Landing Frisbee Golf Course, Doug Opiela – 9198 Sauer Road
  - Site Plan Review for Course Expansion

The next meeting is tentatively scheduled for March 1, 2023 @ 7:00 pm.

Respectfully submitted,

Jen Crowe



# Lipsitz Green Scime Cambria<sup>LLP</sup>

January 31, 2023

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## Exhibit C

Screenshot

Agenda – Town of Eden Planning Board Meeting February 1, 2023  
Document Properties and Metadata

4983654v1 - 036899.0006

BUFFALO

AMHERST

LOS ANGELES

AMSTERDAM

### Document properties

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Keywords: Not available  
Created on: 1/23/2023, 9:54:23 AM  
Modified on: 1/23/2023, 9:54:23 AM  
Creator: Microsoft® Word 2016

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PDF producer: Microsoft® Word 2016  
PDF version: 1.7  
Location: <https://fedenny.gov/wp-content/upload...>  
Page count: 1  
Page size: 11.33 × 14.67 in (portrait)  
Fast web view: No

Close

1. Approval of Minutes

2. Hawk's Landing Farm

- Site Plan Review

The next meeting is ten

Respectfully submitted

Jen Crowe

Meeting

ier Road

0 pm.



# Lipsitz Green Scime Cambria<sup>LLC</sup>

January 31, 2023

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## Exhibit D

Site Plan Survey

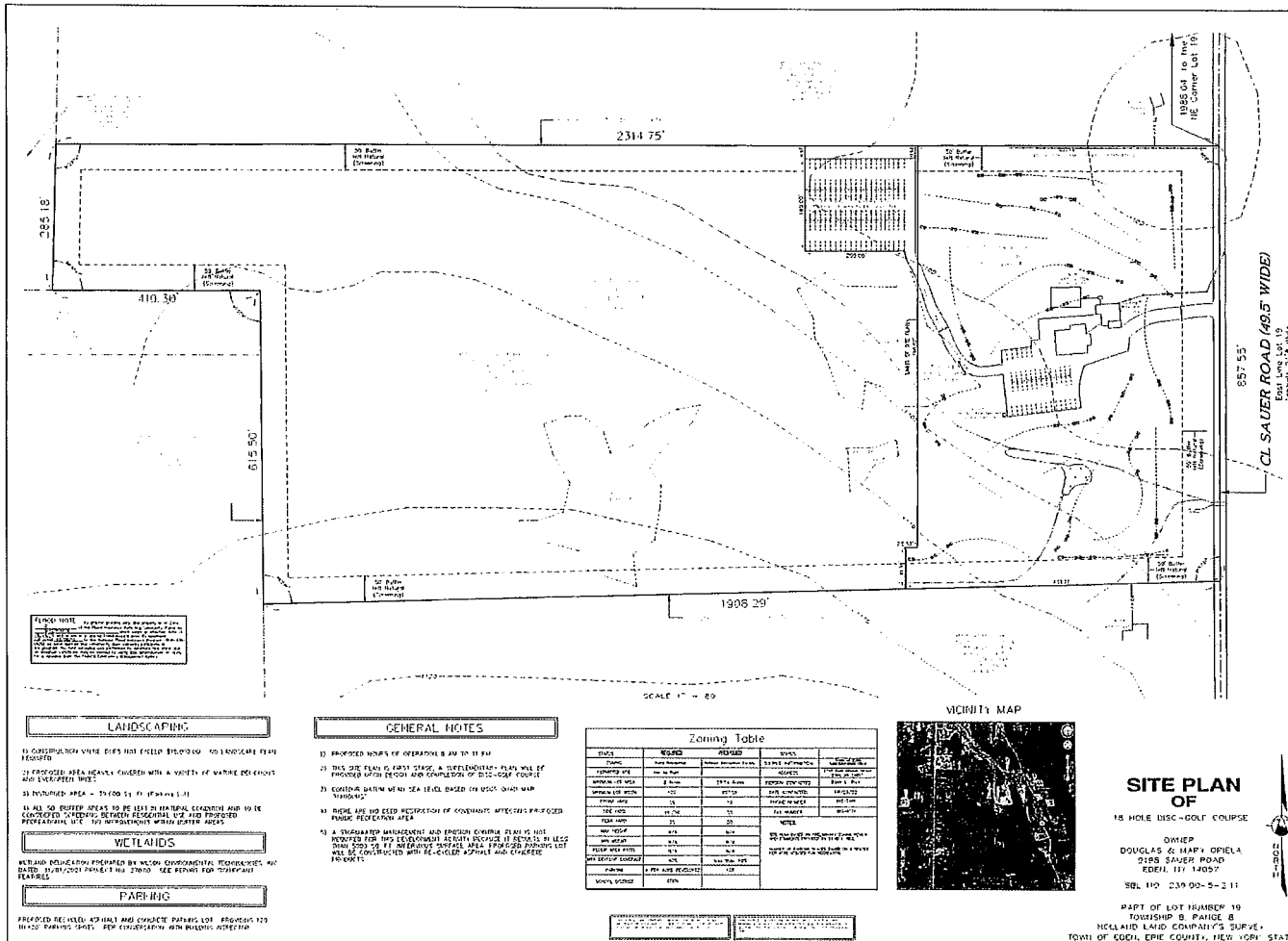
4983654v1 - 036899.0006

BUFFALO

AMHERST

LOS ANGELES





PROJECT: 1824  
DATE: 08/07/22  
SURVEYOR: JAG  
DRAWN BY: JAG

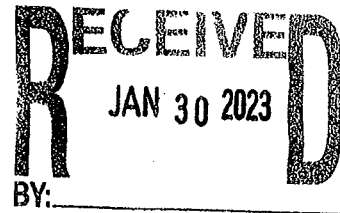
GENZEL LAND SURVEYING, P.C.  
7033 COLE ROAD COLDEN, NEW YORK 14033  
PH: (716) 667-9733 EMAIL: jay@genzelsurvey.com

PROJECT: SITE PLAN  
OF  
9198 SAUER ROAD

Sheet 1  
of 1

9288 Sauer Rd.  
Eden, New York  
January 27, 2023

Town of Eden  
Planning Board  
2795 Church Street  
Eden, New York 14057



Dear Eden Planning Board Members:

This letter is in regard to the Hawk's Landing Disc Golf (HLDG) course located at 9198 Sauer Road. Our property is located directly to the south of this facility.

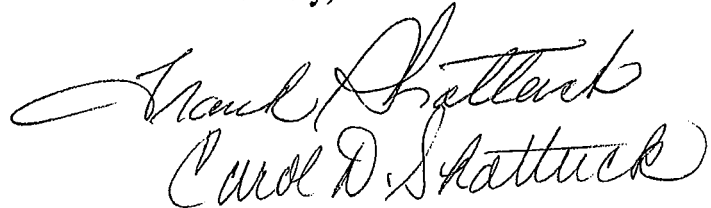
On October 5, 2022 we attended a Planning Board meeting which included a discussion of the HLDG facility. During the meeting Board President Mahoney asked the Eden Code Enforcement Officer (ECEO) whether the HLDG was in compliance with the original approved plans. The ECEO stated it was. Later Board member, Joseph Eppolito, asked the ECEO if the course was 100 percent in compliance ( not included in the minutes). Again the ECEO stated it was.

We have written to the Board in the past identifying numerous violations at this site (ie. November 2, 2021). Several of these violations remain unaddressed. We will not belabor the issues in our letter. However, we would like to elaborate on the location of tee box #13, which was discuss at the meeting. In the being of November 2022 we use a measuring tape to determine the distance of the front property line to the back of #13 concrete pad. The distance from the front property stake to the end of the pad measured approximately 579 feet. The plans limit the play area to 508 feet. This does not even take into consideration the 50 foot buffer zone. The Town 's Engineer could easily verify this. Why wasn't the applicant's NYS License Engineer asked to verify that this facility was constructed in accordance with the plans? Just another example of non-compliance.

We do not believe the Board should allow the applicant to move forward with an expansion considering their compliance status.

We thank the Board for considering our comments and their decision to disallow the glow-in-the-dark request by the applicant.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carol D. Shattuck". The signature is written in black ink and is positioned below the word "Sincerely,".

Carol and Frank Shattuck