

## Town of Eden - Planning Board Minutes

March 1, 2023 7:00 pm

**MEMBERS** Brian Reed, Chairman

**PRESENT:** Joe Eppolito

Marc Timblin

Andy Tarasek

Katrina Schmitt-Ruof

Frank Meyer, DDS

Bill Zittel

Andy Romanowski

**EXCUSED:** Larry Dibble

**OTHERS:** Town Council - Susan Wilhelm

Code Enforcement Officer – Dave Rice

Town Engineer – Justin Steinbach

Rayzor's Dawg House – Jared Walker

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

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

**Mr. Zittel made a motion to approve the minutes from the February 1, 2023 meeting. Seconded by Dr. Meyer; Motion approved unanimously.**

### **Rayzor's Dawg House, Jeff Walker, Pre-Submission for Miniature Golf at 8178 N. Main Street**

Jared Walker, son of Jeff Walker, was present to represent Rayzor's Dawg House and to explain the miniature golf course proposal. Mr. Walker began by stating that the 50' buffer is not realistic, we are requesting that the Planning Board make a recommendation to the Zoning Board of Appeals to allow us to construct the course with less of a buffer. He further explained that he felt there should be a separate code for miniature golf, they should not have to follow the code for a regular golf course, "this is like comparing a semi to a tricycle". Mr. Walker presented a proposed plan of a 9-hole course built to the property line. He suggested that the course could be reconfigured to accommodate a 10' buffer. He also stated that they plan to install a row of pine bushes to create a barrier. They are working with a reputable company and plan to build in 2024, "this will allow time for us to work with the Town". Mr. Eppolito asked if they have communicated their plans with the neighbors. Mr. Walker responded that they had not. He questioned why they can build a pavilion on the property line, but need a 50' buffer for a mini golf course. This course will not fit with a 50' buffer. Mr. Eppolito questioned why they don't move the course to the north side of the property. Mr. Walker replied that it is not possible. That is where we have a storage shed, fence and a corn hole game set up. We are not purchasing any more property. Mr. Reed noted that this is a pre-submission conference and we will need more details in order to provide any recommendation to the Zoning Board of Appeals. Mr. Tarasek added that a survey with property lines and measurements of the proposed course would be a good start. Mr. Eppolito added that a variance from a 50' to a 10' buffer is substantial. Mr. Reed suggested that the Walkers review Town Code 225-12 and 225-30 and then provide a detailed site plan showing measurements, screening, drainage and run-off details. There will be an impact to parking and this should also be noted on the site plan. Mr. Rice added that once the site plan is submitted and there is less than a 50' buffer, the Planning Board would deny the site plan because it doesn't meet code, and the Walkers can then apply for an area variance with the Zoning Board of Appeals.

**Hawk's Landing Frisbee Golf Course, Public Hearing for Course Expansion at 9198 Sauer Road**

The board requested that the applicant provide the Long Environmental Assessment Form. Mr. Reed noted that the intent is to provide additional information about the project. To date, the Town has not received a response from the Army Corps of Engineers. The deadline of the request for feedback is March 7<sup>th</sup>.

**Dr. Meyer made a motion to start the public hearing at 7:30pm, seconded by Mr. Tarasek. Motion approved unanimously.**

**Mr. Reed announced the format of the public hearing and read the legal notice as published in the Hamburg Sun.**

**Pursuant to Town Law, Zoning Local Law and Town Code Chapter 225 of the Town of Eden, notice is hereby given of a PUBLIC HEARING by the Planning Board of the Town of Eden, Erie County, New York to be held on Wednesday March 1<sup>st</sup> at 7:30 p.m. local time at the Eden Town Hall, 2795 East Church Street Eden, New York to consider the following:**

**Application of Tribal Flyers Frisbee Golf Course for site plan approval for course expansion located at 9198 Sauer Road, Town of Eden, State of New York.**

**ALL INTERESTED PARTIES may attend and be heard.**

The following residents provided comments regarding the proposed frisbee golf course expansion:

- Wesley Schunk 9203 Sauer Road Eden
- Joe Pinker 9086 Sauer Road Eden
- Andy Desmond 7446 Heinrich Road Hamburg
- Mike Schiavone, attorney for Joe & Kristen Pinker 9086 Sauer Road Eden
- Doug Opiela 9198 Sauer Road Eden
- Shannon Stetzko 9110 Sauer Road Eden
- David Dolan 9198 Sauer Road Eden
- Carol Shattuck 9288 Sauer Road Eden
- Jeannine VanWey 9207 Sauer Road Eden
- Fran Opiela 4000 Franklin Street Hamburg
- Mary Opiela 9198 Sauer Road Eden
- Eileen Mikulec 207 Cass Ave. Cheektowaga
- Carol Opiela 4000 Franklin Street Hamburg

**The following comments were made in opposition to the course expansion:**

There are concerns with the existing course and playing within the 50' buffer. In the past, the Opielas were in violation of the original approved site plan. Who's going to stop them from just doing what they want on the rear course? A mark-up of the proposed site plan (attached) was presented to the board.

The fencing was installed last fall, but is now laying on the ground in the mud. The fence is not being maintained.

The applicant stated that the maximum number of guests is 200 people. Do the available restrooms support that many people?

The area of land to accommodate the rain garden results in over 1 acre of disturbance. The site plan claims there will be less than 1 acre of disturbance.

The site plan states the cost of this project will not exceed \$15,000. That is impossible.

There has been a history of players disrespecting the neighbors; swearing, trespassing and urinating in public. This behavior will continue with an expanded course. We were told to call the police when it happens, but the police can't do anything unless they catch them in the act.

According to SEQR guidelines, this is clearly a Type 1 Action as more than 10 acres will be disturbed. The Engineer's Report states that the only disturbance is the area where trees will be removed, that simply isn't true. The Engineer's Report also states that the property is zoning compliant, a frisbee golf course is an allowed use. The code references golf courses, not frisbee golf courses. They are two completely different things; golf is not played at night. The proposed parking for the rear course is not compliant, it is less than what is required by code. We don't wish to keep them from running their business, but the Planning Board should follow the SEQR process and reconsider this as a Type I Action.

We were never made aware of the proposed frisbee golf course back in 2010. The Opielas built a pro shop without any permits and did not build the original course in accordance to the site plan. They will just continue to do whatever they want. This used to be a quiet neighborhood. We are frustrated and disgusted with the Town for not doing anything about it.

**The following comments were made in favor of the course expansion:**

Sauer Road is a friendly neighborhood. Doug and Mary are kind, friendly and helpful neighbors. They have helped several neighbors with snow removal and cutting up fallen trees. They host youth group events and kids' birthday parties. The only noise we ever hear is the occasional clinking of chains from the baskets.

There was an incident where a neighbor was attacked by a dog and two players on the course rescued her. Neighbors should be looking out for each other. We appreciate the Opielas and support their business.

The Disc Golf Association has more than 250,000 members and continues to grow. The Opielas are compassionate and empathetic. They promote a sport that gives back to the community and its players. They have hosted numerous fundraisers to support local people and organizations in need. There is a community of frisbee golf players that enjoy the sport and enjoy the Opiela's course. The Opielas have established rules and boundaries for the course. How can they be expected to control every human they encounter?

The Engineers have stated that this is an Unlisted Action, they are the experts. Their decisions should be respected. Others may have opinions, they are not SEQR experts. Why are we nitpicking over opinions?

Doug Opiela is a hardworking man and he is very proud of the business he has established. He has designed and installed frisbee golf courses for over 40 years, including Chestnut Ridge and Evangola State Park. He has

the knowledge and experience to successfully run his business and do it well. Frisbee golf is an inexpensive hobby that is enjoyed by players age 5-85.

At the last Planning Board meeting the Opielas were asked to reduce the size of the rear parking lot in order to preserve the land and lessen the environmental impact. There has been no on-street parking since the course opened in 2011. The rear parking lot will still have adequate parking spaces. The Opielas have tried their best to accommodate all of the neighbors by relocating tee boxes and adding the fencing. They also asked neighbors to call them if there is any issue with a player trespassing or being disrespectful, they would address it immediately.

It seems that the Town has spent a lot of time and money on reviewing a frisbee golf course. The Opielas have done everything requested of them. It seems that every month the Planning Board is asking them for more. The Opielas have gone above and beyond to accommodate and communicate with the neighbors. The Opielas and their employees have provided their personal cell phone numbers to the neighbors and requested a phone call if and when they should experience any disrespect or trespassing. The Opielas have put up posted signs and added instructions to the play cards in regards to stray frisbees that may cross the property line. The rules of the course are clearly communicated to all players. They are told not to cross the property line to retrieve frisbees. Only Doug and Mary Opiela are permitted to retrieve stray frisbees. The Opielas also spoke to the neighbors and requested an agreed upon weekly time slot for them to retrieve frisbees that may cross the property line.

Glow golf uses non-invasive lighting and a glow-in-the-dark disc. The lighting is similar to solar lights and uses a downward facing light directed towards the baskets.

Part of the fencing did come down during last week's snow storm. Doug will have it fixed before the course is open to the public.

In 2010 the Opielas worked closely with the previous Code Enforcement Officer. They felt he was very strict and they did everything they were told. They were never asked to notify the neighbors and there wasn't a public hearing. The Opielas wish to promote growth of the sport. They host many leagues including a women's league. Their goal is to provide an outlet for team building.

Mr. Reed asked if there were any additional comments, there were none. He thanked everyone for their comments and for taking the time to attend the public hearing.

Letters received regarding the public hearing are attached to these minutes.

**Mr. Tarasek motioned to close the public hearing at 8:15pm, seconded by Mr. Zittel; Motion approved unanimously.**

**Dr. Meyer motioned to adjourn the Planning Board meeting, seconded by Mr. Romanowski; Motion approved unanimously.**

The next meeting is tentatively scheduled for April 5, 2023 at 7:00 pm.

Respectfully submitted,  
Jen Crowe, Secretary



# Lipsitz Green Scime Cambria

Attorneys at Law

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February 14, 2023

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Michael Schiavone  
Richard P. Weisbeck, Jr.  
Mark L. Stulmaker  
Barry Nelson Covert  
Robert L. Boreanaz  
Thomas M. Mercure  
John A. Collins  
Michael P. Stuermer<sup>2,5</sup>  
Jeffrey F. Reina  
Cherie L. Peterson  
Joseph J. Manno  
William P. Moore  
Thomas C. Burnham  
Jonathan W. Brown<sup>3</sup>  
Diane M. Perri Roberts  
Matthew B. Morey  
Sharon M. Heim  
Paul J. Cieslik  
Gregory P. Krull  
Robert E. Ziske  
Patrick J. Mackey<sup>4</sup>  
Max Humann  
Justin D. Ginter  
Erin McCampbell Paris  
Lynn M. Bochenek  
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Melissa D. Wischerath<sup>7</sup>  
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Richard D. Furlong  
Scott M. Schwartz  
Robert A. Scallione<sup>2</sup>

ALSO ADMITTED IN  
1 District of Columbia  
2 Florida  
3 California  
4 Illinois  
5 Pennsylvania  
6 New Jersey  
7 Oregon  
8 Massachusetts  
9 Connecticut

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

Town of Eden Planning Board

Attn: Brian Reed, Chairman

Attn: Andrew Romanowski, Vice Chairman

Attn: Frank Meyer, DDS

Attn: Joseph Eppolito

Attn: William Zittel

Attn: Andrew Tarasek

Attn: Marc Timblin

Attn: Larry Dibble

Attn: Katrina Schmitt-Ruof

Attn: Jen Crowe

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 Town of Eden Planning Board (the “Board”) Meeting - Review of Site Plan for Expansion of Hawks Landing Frisbee Golf Course, Douglas Opiela – 9198 Sauer Road**

Ladies and Gentlemen:

On behalf of Joseph and Kristen Pinker, the owners of property located at 9086 Sauer Road, in the Town of Eden (the “Town”) we have reviewed the minutes to the February 1, 2023 Board Meeting (the “Meeting”) regarding the site plan (the “Plan”) for the proposed expansion of the Hawks Landing Frisbee Golf Course, submitted by Douglas Opiela, and located at 9198 Sauer Road (the “Course”). The Pinkers wish to direct your attention to important points of consideration concerning the Plan and the Course.

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

As summarized in my previous January 31, 2023 letter that was hand delivered to your office before the Meeting, there are three main concerns related to the procedural requirements surrounding the scheduling and occurrence of the Meeting: (i) the manner in which the Meeting was scheduled; (ii) the lack of adequate notice concerning the Meeting as required by § 225-30(C) of the Town of Eden Town Code (the “Code”); and (iii) the arbitrary and capricious process relating to the admission of outside materials into the record of the Meeting. To reiterate, the Board did not follow the procedural requirements of the Code, in that it did not post notice of the meeting or require that the applicant meet the Code’s notice requirements. Moreover compliance with the Board’s requirement to have all materials submitted at least fifteen days prior to the public Board meeting was impossible as the Meeting date was set nine days before the Meeting occurred.

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

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Since the Board failed to meet all procedural and notice requirements in connection with the February 1, 2023 Board meeting, the Meeting was a nullity and all decisions and actions taken by the Board at or arising from that Meeting should be deemed void.

## II. New York Law: State Environmental Quality Review.

Although the Code provides local law for the Board to follow concerning the review of site plans, New York Town Law § 274-a, renders the Code subordinate as to requirements for the review of site plans. § 274-a provides that agencies may approve site plans and specifically requires:

The authorized board shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations.

New York Town Law § 274-a (10.) Compliance with state environmental quality review act.

Therefore, the Board **must** comply with applicable law as set forth under the state environmental quality review act.

The New York State Environmental Quality Review Act (the “SEQR”) is a product of §§ 3-0301(1)(b), (2)(m) and 8-0113 of the Environmental Conservation Law and is enumerated as Title of the Compilation of Codes, Rules and Regulations of the State of New York, Chapter VI, Part 617. SEQR provides administrative procedures that agencies, including local government agencies, must follow. Specifically, § 617.3 of SEQR provides that “[n]o agency involved in an action may . . . approve the action until it has complied with the provisions of SEQR.”

SEQR goes on to require that an application for agency approval of a Type I or Unlisted action will not be complete until (i) a negative declaration has been issued; or (ii) “a draft EIS has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy[.]” and the agency will make every reasonable effort to involve the public in the SEQR process. Furthermore, SEQR requires the completion of an Environmental Assessment Form (“EAF”) (as defined in § 617.2(m)) to allow an agency to assist in determining the environmental significance of actions. **SEQR requires that all “Type I” actions require a Full EAF, or a long form EAF.** See § 617.6(b) and <https://www.dec.ny.gov/permits/93240.html>. Agencies are to determine whether an action it proposes to evaluate and approve is a Type I, Type II, or Unlisted action “as early as possible” in the review process. § 617.6(a). Section 617.4 states that “a project or action that involves the physical alteration of 10 acres” that is (i) an expansion of existing nonresidential facilities by more than 50 percent, or (ii) a project that is not the construction of residential facilities, is a Type I action.

Following the review of the applicant’s short form EAF, the minutes of the Meeting, and the Plan, it is clear that the deforestation and land-altering activities required to complete the Course’s proposed expansion involves the alteration of at least 10 acres of land. The Course currently uses an area of 12.12 acres and the Plan shows a proposed expansion area of 28.04 acres that is noted by the surveyor as “heavily covered with a variety of mature deciduous and evergreen trees.” Furthermore, the applicant admitted that it intends to remove 10% of the trees on that 28.04-acre



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area. It is important to note that the SEQR does not provide its alteration requirement based on density of the proposed alteration actions, but that alterations occur to an area of a given number of acres. Here, SEQR requirement is set to include an alteration of a 10-acre area, which represents a third of the area that the Course proposes to alter. Consequently, regardless of the percentage of trees removed from those acres, the area of the proposed parking lot, the proposed driveway, and the tree removal activities total will likely alter an area equal to or exceeding 10 acres thereby elevating the activities to a Type I action. Based on the Plan, the short form EAF, and the discussion at the Meeting, applicant has shown it intends to alter an area of 10 acres at the minimum.

**The Plan's contemplated expansion activities clearly constitutes a Type I action as the Plan involves (i) an expansion of existing nonresidential facilities by more than 50 percent that is (ii) not the construction of residential facilities, and (iii) involves the physical alteration of 10 acres.** Based on the foregoing, the Board must require the applicant to submit a Full EAF in order to authorize any expansion activities or the Board will fail to comply with New York Town Law § 274-a. Furthermore, the full EAF must also determine the effect to the drainage and runoff from the Course to the surrounding properties as related to the resurfacing for the parking lot, the addition of the driveway, and the removal of 10% of the trees in an area that includes wetlands as raised in my previous correspondence to your office.

The Plan is a Type I action and requires a Full EAF to determine the impact of the deforestation activities and the impact as to the area's drainage and wetlands to the surrounding properties, the application currently only includes a short form EAF which is not in compliance with the SEQR. As highlighted above, the Board is mandated by law to comply with this requirement of the SEQR.

Based on the foregoing, we demand (i) that the Mr. Opeila's application for review of the site plan for the Course's expansion be rejected because as a Type I action, the application requires a Full EAF as required by New York state law, and (ii) the actions and decisions arising from the February 1, 2023 meeting be deemed void for the failure by required parties to comply with applicable notice and procedural requirements.

Very truly yours,

Lipsitz Green Scime Cambria LLP

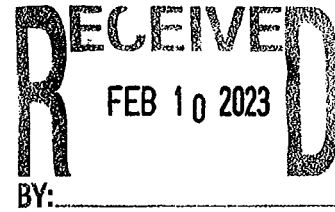
By: Michael Schiavone  
MS:gb

cc: Joseph and Kristen Pinker (via email)  
Melissa Hartman, Town Supervisor (Hand Delivery & Email)

Writer's Extension: 309/ Writer's Direct Line: (716) 844-3500  
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February 7, 2023

Town of Eden Planning Board  
2795 Church Street  
Eden, NY 14057  
RE: Sauer Road Frisbee Golf Course



Dear Board Members:

My property is located at 9217 Jennings Rd, and shares our rear property line with the Sauer Road Frisbee Golf Course. I have been informed that the owners of the Golf Course are proposing an additional 18 hole expansion of their current golf course and have submitted a request to expand their operating hours.

As a neighbor, I would like to express some concerns:

1. My neighbors and I have several acres of unmarked woods between Jennings and Sauer Roads. If the property boundaries are not fenced, it would be easy for golfers to become lost in the woods
2. I am a hunter and occasionally cut large trees from my rear property.  
Should any golfers stray onto my property and be injured, I would be concerned about the liability
3. I am concerned about noise levels in the evening. I am also concerned about trespassing, underage drinking and littering on my property.

While I do not mind at all that our neighbors have this business on their property and I have never had any issues on my property; I have heard that there have been several code violations and could envision issues should their business expand.

I will be out of town for your next meeting on March 1, therefore I am writing to express my concerns. I plan to attend the following meeting.

Regards,

A handwritten signature in cursive script that reads "Joseph T. Fatta".

Joseph T. Fatta



RE: Tribal Flyers Frisbee Golf Course, 9198 Sauer Road, Eden, NY

TO:

Planning Board, Town of Eden  
Brian Reed, Chairman

I have property on Jennings Road that abuts the Opiela property which is the subject of a Planning Board public meeting scheduled for 3/1/23 at 7:30pm at the Eden town hall. Subject of the meeting is an expansion of the Frisbee golf course owned by the Opielas at 9198 Sauer Road.

I have the same concerns about the expansion impacting my property, as already expressed in the letter to the Planning Board submitted on 11/2/21 by Frank & Carol Shattuck, residing at 9288 Sauer Road and adjacent to the Opiela property.

Over the course of over a year since the Shattucks submitted their concerns about the Frisbee Golf course, many of the concerns expressed have become reality regarding the Opiela property.

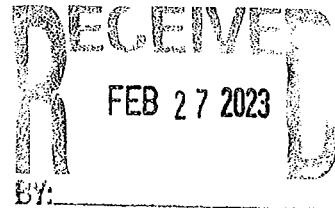
Due to a scheduled surgery, I will not be able to attend the 3/1/23 public meeting, but appoint the Shattucks as my spokespersons on any issues relating to adjoining properties and the apparent failure of the Opielas to abide by the conditions under which their original and any subsequent expansions were granted. Implied also is the Town's failure to enforce conditions under which the original and subsequent permits were granted.

Sincerely,

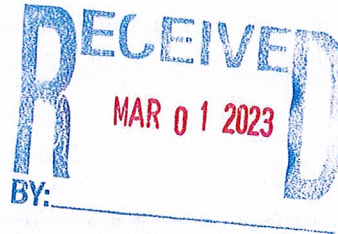
*Don Williams*

Don Williams  
9151 Jennings Road  
Eden, NY 14057  
716-992-9151

*cc. Frank Shattuck*



February 28, 2023



Town of Eden Planning Board/  
David Rice, Code Enforcement Officer  
2795 East Church Street  
Eden, New York 14057

Dear Planning Board Members,

Thank you for the opportunity to express my views about the expansion of the Frisbee Golf Course, which is located next to my residence at 9110 Sauer Road. I am the neighbor directly to the north of the Course. During the past three years that I have lived here, I have experienced many problems with the operation of this business that have negatively impacted the quality of life for myself and my family. The expansion of this course will only intensify these problems.

It should be noted that I was not directly informed by the Opiela about this public hearing, even though my home is 75 feet from this business. It seems strange that one of the closest neighbors was left off the list of those who had to be notified by mail.

Shortly after moving to Sauer Road, it became clear that the Opiela's were operating their business in a way that was inconsistent with the plan that this Planning Board approved and outside the rules of the town. The course was operating well past dark. There have been many occasions where people are playing past 11pm. At times there is heavy machinery operating all day long. Loud music, shouting and profanity accompany leagues and tournaments, where nearly 100 players arrive before 8am and stay until past 5pm.

We have regularly experienced trespassers who venture onto our property to retrieve their discs. We have approached them and told them that they are not allowed on our property. They are undeterred and sometimes aggressive. I have been shouted at and taunted by men while they are playing on the course. I was not standing at the property line watching them. I was sitting on the back patio in my own yard. We have heard from some of their customers that the Opiela have told them that we are trying to shut them down. This may explain some of the aggressive behavior toward us.

I'd like to mention that the fence that has been discussed in these meetings is not really a fence. It is a piece of cloth, held up with small stakes. Right now it is laying in the mud in big sections. It is not a deterrent. It does not provide privacy. It does not keep discs from flying into my yard. In fact, this is such a common occurrence that Mary Opiela asked me if Doug could come over every week to retrieve the discs that have come over the fence. Maybe if the course was built according to plans, and the 50 foot buffer zone was not used as a playing area, this wouldn't be happening so regularly.

We have unleashed dogs in our yard, despite the town leash law. We have had someone urinating in our yard, in full view of my young daughter. My children are afraid to be outside. I am afraid of what

they will see and hear. We should be able to enjoy our home just as much as our neighbors. It seems that this business has been given priority over the homes that surround it.

I have called the police about of these issues. An officer responded and came to the house. He spoke with me at length and then went next door to talk to the Opieles. A Police Report was filed. Later that day, he called me and said that after speaking to the Chief of Police and the Code Enforcement Officer that they weren't going to do anything. He suggested that we 'work it out' with the neighbors.

I understand that the Planning Board is not responsible for enforcing the code or the laws of the town. But my attempts to reach out to those authorities for help did nothing. The actions and decisions of this board open the door for these activities to become even more of a detriment to the neighbors.

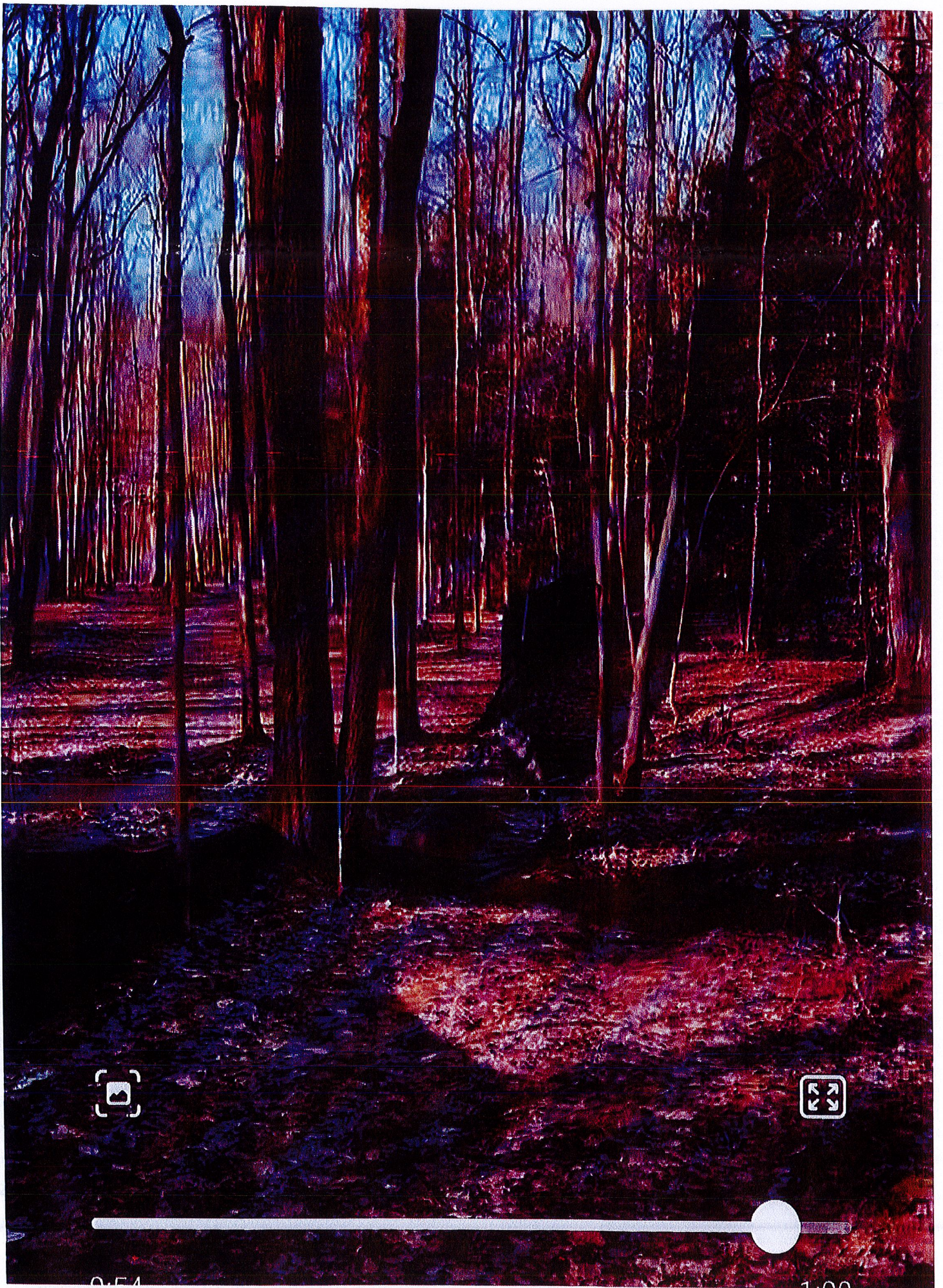
The best predictor of future behavior is past behavior. The Opieles have shown that they will agree to build within the plans they have submitted and within the boundaries of the law. But once they receive the approval to expand their course from the planning board they will do whatever they want when no one is looking.

We should be able to enjoy our home peacefully. I assure you that this is difficult to do with the current golf course next door. I ask that you please consider the impact that this business is having on the neighbors today when deciding whether to allow them to expand.

Thank you for your time,

Shannon Stetzko

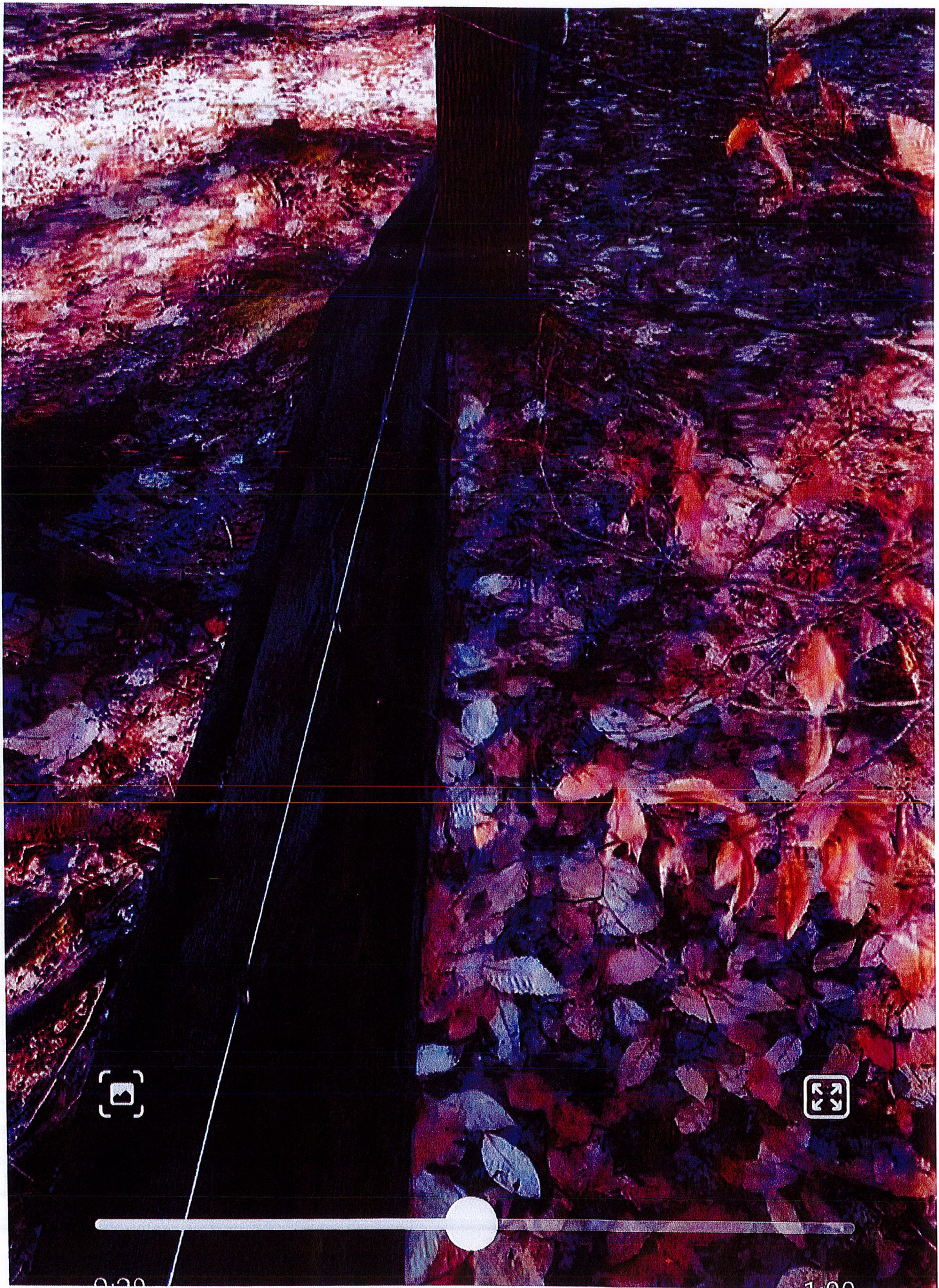




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Comments Presented at the March 1, 2023 Public  
Hearing Regarding the Tribal Flyers Frisbee Golf Course  
Prepared by Carol & Frank Shattuck

Carol and Frank Shattuck residing at 9288 Sauer Rd., Eden, N.Y. would like our written comments entered into the public hearing record held March 1, 2023. We have lived at this address since May 1991. Our property is located directly to the south of the Frisbee golf course. There are three issues which we would like to address: 1) procedurally how the Town of Eden, as lead agency, handled the original application and is currently handling the recent application in accordance with the State Environmental Quality Review Act (SEQRA), 2) violations/problems that have occurred over the last 12 years which should be given consideration, and 3) comments on the proposed application under consideration:

- 1) SEQRA – In 2010 the Opeila's applied for and received a permit to operate an 18 hole frisbee golf course. The Town of Eden acted as the Lead Agency. As part of the application, the Opeilas were allowed to submit a Short Environmental Assessment Form (SEAF). The form listed that out of 12 acres, 10 acres would be affected. The form did not indicate that any future development would occur when asked what the ultimate acreage would be. Furthermore, when the Town completed Part II of SEAF they failed to answer important questions: whether any adverse effects could occur (IE. air quality). The applicant during construction, proceeded to dispose of trees, branches and debris from the course by open burning. This method of disposal has continued for the last 12 years and affected the neighbors. We believe that since the project was 10 acres, it should have been considered a Type I action ( one that could have a significant impact ). This does not include the modifications they recently made to relocate tee pads, fairways and putting areas out of the buffer zone. Type I actions require a Full Environmental Assessment Form (FEAF). Instead the Town considered the project to be a Type II action ( one not expected to cause any significant impacts ). Now the Opeilas have come back with an application to build another 18 hole frisbee course on the remaining 28 acres of their property. Again, they submitted a SEAF which doesn't show any adverse impacts. The completed form does raise some red flags. Question 11 asks whether the proposed action will connect to existing waste water utilities. The applicant answers no, but fails to answer what method of waste water treatment is provided. They fail to mention that over 200 people could be on the site on a busy day and they only have a septic system designed for a single family house. They claim, in application, that out of the 28 acres less that one arce will be physically altered. SEQRA defines a physically altered area as one that “ ...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,..". Clearing trees and brush will result in a physical alteration. This will affect over 10 acres, not to mention the original 10 acre course which should be included. Adding the first 18 holes is appropriate because the project would not be segmented - which SEQRA does not permit. It is reasonable to expect that low spots will be filled with soil and wood chips which was done on the first 18 holes. This further adds to the alteration. We believe the Town considers this project an unlisted action. They could have asked for a FEAF which would have better defined potential impacts. We believe that Town of Eden has compromised the SEQRA process.

## 2) Violations/Problems

-The Opielas operate a disc golf pro shop. We brought this issue to the Planning Board on July 27, 2010. The Chairman of the Planning Board stated that "... at this time they (Opielas) are not planning on a pro shop, but they are thinking about it in the future and if and when they do, they will need to see the building inspector to get proper permits." This statement is in the minutes of the meeting. This issue was brought up at the October 5, 2022 Planning Board meeting. The Code Enforcement Officer stated that the matter had been taken care of. Our neighbor, Kristen Pinker requested to see the files under the freedom of Information Act. She indicated that a permit for the pro shop wasn't in the file. The pro shop is located in an old barn and in all likelihood wouldn't meet building codes. An application for a building permit should be included with this project along with a statement from a NYS licensed/registered professional engineer certifying that the building is in compliance with code. Resolution of this matter would be beneficial to the Town. Property assessments usually change when a permit is issued.

- The first 18 hole course was not built in accordance with the site plan. Fairways, starting pads and tees were not in correct locations. Some pads and tees were even in the 50 foot buffer zone. Most of these pads and tees have been relocated. However pad number 13 is approximately 580 feet from the front survey stake. The approved play field only allows them to go back 508 feet from the survey stake. There are a couple of other areas where the 50 foot buffer has been encroached upon. There is a small wooden bridge near basket #16, 10-15 feet from my property line. The grass is cut 10-15 feet from our property line where basket #15 is located.

-Disc golf players trespass on our property which is posted. Frank noticed 3 or 4 players retrieving a disc on our property on the 4<sup>th</sup> of July 2022. I called the Opielas about this matter. Since I didn't get an answer I left a message and asked for a call back. No one ever called. On another occasion a dog coming from the frisbee course came over and got into our flower beds. A player realized what was

happening and called the dog back. My neighbor has also had trouble with the frisbee course players trespassing. Town officials realized trespassing could be an issue and asked for a 50 foot buffer zone which is not always effective. At one of the more recent Planning Board meetings, board members asked the Opielas to install a fence along our property line near our home. Around Oct/Nov 2022, a 360 foot nylon fence was erected along our NE property line. We do appreciate this effort. However, the fence seems to require a lot of maintenance. A large section was blow down for a couple of weeks in December. It was repaired, but the bottom fasteners came off in January 2023. When the wind blows it looks like a bedsheets blowing horizontally. It still hasn't been repaired. Our gas well which is 640 feet back from my front property line is at risk and should be fenced too.

-As far back as 2010 we have periodically been bothered by smoke from open burning brush, limbs, debris,etc.. Several years ago during a very dry summer period, the Opeilas were open burning 200 feet from my gas well in a wooded area. We felt that this was very risky. They open burn sporadically every year.

-Noise from the site is an issue. The course is allowed to be open seven days a week, year round. Players can be very noisy, especially during tournaments. Equipment is frequently running. One year they ran a noisy gas powered pump for three days straight to drain the pond. They were retrieving frisbees. We complained to the Town but got no satisfaction. In June 2021 a bulldozer was operated for a several days as late as midnight making it difficult to sleep. They have operated noisy equipment on Sundays. For example,we reported to the Town that a portable saw mill and related equipment was being operated on Sunday, December 12, 2021.

- In the past, we have seen people playing frisbee golf as late as 11:00 P.M. on Fridays.

The conditions above demonstrate that the frisbee course has a significant impact. An expansion will only make the situation worse.

### 3) Comments on the Proposed Expansion Under Consideration

-From the documents that we have seen the application is not complete. An application for a pro shop is not included. As stated before by the chairman of the Planning Board, the Opielas need to submit an application for pro shop which they are currently operating. It's been over 10 years and they still have not applied for a permit. It's advantageous for the town to have this building permitted not only to ensure the shop meets current codes, and will also increase the assessed value of the property.

-A FEAF should have been filed because this project is a Type I action. It is stated in the application that less than one acre will be physically altered. The applicant, however, has not considered that physical alterations (defined in SEQRA) include vegetation removal, dumping, filling or depositing, etc. They have not considered the 54 putting areas which are typically 10 meters in diameter They haven't accurately included the vegetation removed in the fairways. They have failed to



mention that truck loads of wood chips from tree service companies are constantly coming into the course, and dumped to fill low spots. Since SEQRA does not allow segmentation, the impact of the front 18 hole has to be considered too. Therefore, we believe the application exceeds the 10 acre threshold.

- "As built" plans should be included since the first 18 holes were not built in accordance with the site plan.

- We also believe that the Opeilas have already started some construction of the proposed course. A bulldozer was being operated in June 2021 for several days. My neighbor and I saw the bulldozer and measured from the front boundary line- it was approximately 700 feet from the front property line. The existing permit has a 508 feet limit. We've seen baskets as far back as 1000' feet from the front property line. Frank heard what sounded like a chain saw being operated 700 feet from the front stake as recently as February 16, 2023. SEQRA 617.3(a) provides that a project sponsor may not commence any physical alterations related to the action until all provisions of SEQRA have been complied with.

- An acceptable/approved septic system needs to be installed. The facility is allowed to operate seven days a week, 365 days a year. Now they want to operate from 8:00 A.M. until 11:00 P.M. As many as two hundred people could be at the site on a busy day. It's time to require adequate restrooms with a properly designed septic system- not one that is designed for a single family home. They also need to provide potable water.

- Will debris from clearing the course be open burned? Although DEC does allow some open burning during certain months, with pile size restrictions, it seems a better option should be considered. They need wood chips to fill low and muddy areas. They have them brought in by tree service companies. Why don't they chip the branches, brush, etc. they generate and eliminate a nuisance from the smoke?

- We are against playing disc golf after dark. How will the players be prevented from trespassing? They have a problem during the day. The only effective way is to erect a fence along the south, west and north boundaries of the course. How will players know where the 100 foot buffer zone is? Will play be prohibited on courses that are closer than 100' from the boundary? 225-32(3) states that if they use lighting after 10:00 PM, it is not to be visible at the source from any adjoining property.

- We have seen people with tents and campers, a large screen which appears to be an outdoor theater and we think players share food. These issues should be evaluated to ensure they are compliant.

- The addition of disturbed areas ( parking turn around, rain garden, removal of vegetation) will necessitate a landscaping plan.

Before the Town moves ahead with its evaluation, the existing operation should be brought into complete compliance and the application for the expansion should be

completed.

Previously the course was referred to as Hawks Landing. Now they refer to it as Tribal Flyers. What's the reason?

Carol and Frank Shattuck

*Frank Shattuck*  
*Carol Shattuck*





WE ARE HERE TO SUPPORT OUR SON DOUG AND HIS ENDEAVOUR TO CREATE A DISC GOLF COURSE. IT HAS BEEN A DIFFICULT EFFORT FOR HIM FOR FAR TOO LONG. HE HAS ADJUSTED SEVERAL AREAS TO ACCOMMODATE <sup>ALL THE</sup> CONCERNS OF SOME NEIGHBORS - ACTUALLY HE HAS BENT OVER BACKWARDS.

DOUG HAS BEEN INVOLVED WITH DISC GOLF ACTIVITY FOR OVER 4 DECADES NOW. HE HAS DESIGNED AND INSTALLED QUITE A FEW DISC GOLF COURSES IN WNY - LIKE AT CHESTNUT RIDGE PARK, EVANGELIST STATE PARK, BEAVER ISLAND STATE PARK, AND MORE. SO, THIS IS NOT AN AMATEUR-ISH PROJECT.

THE PROPOSED DISC GOLF COURSE DOES COMPLY WITH ALL TOWN AND STATE REGULATIONS. IT PROVIDES A RECREATION AREA THAT ANY TOWN WOULD BE PROUD TO HAVE.

THE KNOWLEDGE AND EXPERIENCE OF THE INVOLVED ENGINEERS SHOULD BE HELD SUPERIOR TO <sup>BIASED</sup> ATTORNEY SPECULATION.

DISC GOLF CAN BE ENJOYED BY  
PEOPLE FROM 5 TO 85. INDEED,  
I HAVE PLAYED WITH A 92 & 91 YEAR  
OLD COUPLE SEVERAL TIMES, AND I  
STARTED PLAYING IN MY 60'S.

THIS IS A HEALTHY ACTIVITY AND  
BECAUSE IT IS INEXPENSIVE, IT  
ATTRACTS ALL AGES. THE PROPOSED  
DISC GOLF COURSE SHOULD BE  
EMBRACED AS AN ASSET TO THE  
TOWN OF EDEN.

F. OPIELA

*F. Opiela*

4-1-23