

Minutes of the Village of Montgomery Planning Board meeting held in the Meeting Room of the Village Hall, 133 Clinton Street, on Wednesday, August 25, 2021, at 7:30 pm.

ATTENDANCE: Chrm. Conero, Mbr. Romano, Mbr. Crowley, Mbr. Steed, Mbr. Meyer (absent), Atty. Kevin Dowd, Village Engineer Scott Sicina of Lanc & Tully, Village Clerk Rivera-Fernandez, Todd Zwigard, Kyle Bardwell, Kyle Wikel, Jim Ullrich, Angela Demaris Sofia Demaris, Nicholas Osenni, John C. Cappello.

OPEN: Chrm. Conero opened the meeting with the Pledge of Allegiance to the flag.

#### PUBLIC HEARING:

Chrm. Conero provided a synopsis for the purpose of holding this Public Hearing, which is regarding the DeMaris lot line change/subdivision for Section, Block and Lot: 206-4-4 and 206-4-6, located on Railroad Avenue. He asked the Village Clerk Rivera-Fernandez; how many of the mailings that were sent out received?

He also asked Mr. Ullrich; what date on their latest map. Mr. Ullrich replied June 6, 2021.

Village Clerk Rivera-Fernandez replied, 18 out of 23 of the mailed, certified return receipts were received for this Public Hearing.

Chrm. Conero stated we then can proceed with the Public Hearing with all of the documents on file.

#### OPEN PUBLIC HEARING

A motion was made by Mbr. Romano, seconded by Chrm. Conero, the Board opened the Public Hearing regarding the DeMaris lot line change/subdivision for SBL: 206-4-4 and 206-4-6, on Railroad Road Avenue, and carried, 4-Ayes, 0-Nays.

Mr. Ullrich from Alpine Environmental Consultants are representing the DeMaris's, for the re-subdivision of two existing lots, into three lots. They all conform with respect to area, of which there are some non-conformities with respect to setbacks of the two existing homes. The subdivision that is proposed does not increase the non-conformity. The new lot between the two existing homes will completely conform to zoning.

Chrm. Conero said he does not have his copy of the last engineer's report dated June 16<sup>th</sup>, with him; it was included in last month's packet.

We have not addressed the last round of comments, since Mr. O'Rourke said they were minor. We are waiting for additional comments at the public hearing to addresses them at one time.

Chrm. Conero felt the Board the information needed to open for public comments. He asked if anyone would like to speak, to please state your name and address for the record. We are happy to listen.

#### PUBLIC COMMENT

No public comments received.

#### CLOSE PUBLIC HEARING

Chrm. Conero made a motion to close the public hearing, seconded by Mbr. Romano. Motion carried, 4-Ayes, 0-Nays.

Minutes of the Village of Montgomery Planning Board meeting held in the Meeting Room of the Village Hall, 133 Clinton Street, on Wednesday, August 25, 2021, immediately following the Public Hearing.

ATTENDANCE: Chrm. Conero, Mbr. Romano, Mbr. Crowley, Mbr. Steed, Mbr. Meyer (absent), Atty. Kevin Dowd, Village Engineer Scott Sicina of Lanc & Tully, Village Clerk Rivera-Fernandez, Todd Zwigard, Kyle Bardwell, Kyle Wikel, Jim Ullrich, Nicholas Osenni, John C. Cappello.

DECLARATION AS LEAD AGENCY FOR LOT LINE CHANGES FOR SBL 206-4-4 AND 206-4-6

Moved by Chrm. Conero, seconded by Mbr. Steed, the Planning Board declared themselves as lead agency for the DeMaris lot line change for Section/Block/Lot: 206-4-4 and 206-4-6. Motion carried, 4-Ayes, 0-Nays.

ADOPTED A NEGATIVE DECLARATION PURSUANT TO THE SEQRA PROCESS WITH AN UNLISTED ACTION FOR THE LOT LINE CHANGES FOR SBL 206-4-4 AND 206-4-6

Moved by Chrm. Conero, seconded by Mbr. Steed, the Planning Board adopted a Negative Declaration pursuant to the SEQRA process with an unlisted action for the DeMaris lot line change for Section/Block/Lot: 206-4-4 and 206-4-6. Motion carried, 4-Ayes, 0-Nays.

CONDITIONAL APPROVAL FOR LANC & TULLY'S COMMENTS TO ADDRESSED AND ALL FEES PAID

Moved by Chrm. Conero, seconded by Mbr. Romano, the Planning Board approved the DeMaris lot line changes for SBL 206-4-4 and 206-4-6 with the conditions of addressing Lanc & Tully's comments noted in the letter dated June 18th and ensuring that all fees are paid. Motion carried, 4-Ayes, 0-Nays.

RE: OLD BUSINESS

Mbr. Romano recused herself from the Wikel lot line change due to being his neighbors.

RE: WIKEL LOT LINE CHANGE – 202-5-10

Chrm. Conero stated the Wikel lot line change does not require a public hearing. Atty. Dowd mentioned the application was changed from a subdivision to a lot line change. Chrm. Conero said there were several issues with the site plan and feel they have all be addressed. Mr. Sicina said he has not had the time to review the plan as they were received yesterday. Chrm. Conero suggested giving a conditional approval allowing for Lanc & Tully to review the updated site plan. Atty. Dowd said the letter dated August 11<sup>th</sup>, that had twelve comments from Lanc & Tully Engineering firm that have not been addressed. Mr. Sicina said they were not major issues as he recalls.

DECLARATION AS LEAD AGENCY FOR LOT LINE CHANGES FOR SBL 202-5-10

Moved by Chrm. Conero, seconded by Mbr. Steed, the Planning Board declared themselves as lead agency for SBL 202-5-10 lot line change. Motion carried, 3-Ayes, 0-Nays, 1-absention (Mbr. Romano).

## NEGATIVE DECLARATION PURSUANT TO THE SEQRA PROCESS WITH AN UNLISTED ACTION FOR SBL 202-5-10

Moved by Chrm. Conero, seconded by Mbr. Steed, the Planning Board adopted a negative declaration pursuant to the SEQRA process, with an unlisted action for SBL 202-5-10. Motion carried, 3-Ayes, 0-Nays, 1-abstention (Mbr. Romano) Motion carried, 3-Ayes, 0-Nays.

## WAIVE PUBLIC HEARING FOR SBL 202-5-10 LOT LINE CHANGE

Moved by Chrm. Conero, seconded by Mbr. Steed, the Planning Board waived a public hearing for SBL 202-5-10 lot line change. Motion carried, 3-Ayes, -0-Nays, 1- abstention (Mbr. Romano).

## CONDITIONAL FINAL APPROVAL

Moved by Mbr. Steed, seconded by Chrm. Conero, the Planning Board awarded a conditional final approval ensuring all comments are addressed and fees have been paid for SBL 202-5-10 lot line change. Motion carried, 3-Ayes, 0-Nays, 1-abstention (Mbr. Romano).

## KSH ROUTE 211 DEVELOPMENT OF SBL 211-1-29.22

Nicolas Osenni representing Engineering Properties for KSH Route 211 LLC, this is a project that has been before the Planning Board before. It has been considerable changed due to the new zoning in the Village, for the size of the warehouse's buildings and the setbacks. We are looking to obtain Village approval of a new concept plan in order to move forward with the end design. We are seeking a waiver for a secondary access, due to the size of the warehouses. Due to the request of the Village, we decided to get rid of the secondary access in the previous design concept.

Chrm. Conero said we had met with Ross and the neighbors of Weaver St. it was agreed that due to the close proximity of the warehouses to the residential homes on Weaver Street, that a natural vegetation buffer to be maintained between warehouses and homes on Weaver Street. Furthermore, it was also agreed upon two 80,000 square foot warehouses, and may another 60,000 square foot and part of that was for emergency access because of the New York State Fire Code. It has to be included in your design. Has anyone approached the DOT regarding the use of the secondary access road?

Mr. John Cappello with Jacobowitz & Gubits said the DOT has been contacted and the applicant has been working and has had site visits to come up with a plan to comply with the zoning and adopt if we can and they are willing to put in the secondary access. The other issue to address is the height of the two interior buildings of 45 feet vs 35 ft which is permitted would be part of that discussion. A conservation easement would be sought, provided any one of the surrounding areas were to have any concerns and the buffer would be forever and not be disturbed.

Chrm. Conero asked your looking for a ten-foot various on the height of the buildings. He is familiar with the disturbances, the other access road. He is not certain if the NYS fire code is going to allow that to happen.

Mr. Cappello said we will have to meet the NYS fire code for certain there may be some kind of compromise regarding the limited access for fire trucks and things of this nature. Of course, this is the first presentation of this sight plan. We are willing to sit with the Board.

Chrm. Conero asked if the limited access road were to go in, would it be gated and how would you propose it?

Mr. Cappello said we are not sure if its need it, if we do it will be limited to for emergency purposes designed with limited disturbances as possible but so that is meets with the NYS fire code if necessary.

Chrm. Conero asked about the four-building proposed to be built; only one is actually going to be built and the other three were to be phased in. If it's not built all at once, we may have to add in some phases into the plan. So, the scope of the project meets with what the Planning Board is looking at.

Mr. Sicina said is relation to the road and the surrounding buildings development can only be done on five acres in general, due to storm water run-off. There are additional things needed from the DEC also. Typically, you cannot open up more than five acres at one given time.

Chrm. Conero said we do not know what the uses are for these buildings, nor do we know what the traffic is going to be like with these other buildings. If it's phased in, with each building and they come back to the Planning Board with each phase of the plan with the details for each phase.

Atty. Dowd asked what is his intention. He wanted to build the one building initially for his operation and the others at a later time.

Mr. Cappello said for a SEQRA review we want to show you the full build out. What it would be for, and show a phasing plan and set up parameters for a full build out. In the future, in one of the phases, show the traffic for each particular building and what it is to be used for. Initially the SEQRA originated more traffic than we anticipated. In the future, we could set the parameters for development. Tonight, we want to get the plan moving forward, set a schedule, with more specific details.

Atty. Dowd asked about the secondary access road, the entrance off of Route 211. If you want to use that as the emergency access for fire trucks and the police; to gain access to the four buildings, don't you not have to cross the wetlands?

Mr. Osenni said there would be minor disturbances of the wetlands for the emergency access. We also request a waiver for this. In order to produce visual impacts to those properties and to service the wetlands.

Atty. Dowd said he is aware that the former owner did something with the wetlands years ago. The wetlands had been tampered with. In the original KSH plan submitted there was an expanded EAF for the binder, a lot of those are not going to able to be used; due to a total change of the site plan.

Mr. Cappello feels this will be less than the previous because the size of the buildings being less.

Atty. Dowd asked when are you going to submit those documents. We want to coordinate this to start the SEQRA process. You now have to go to the ZBA for the variance of the four buildings. How are you working this with the DOT, the State, and the other agencies?

Mr. Cappello replied we coordinate with SEQRA and sent it to everybody with the updated information. However, this is a concept plan to get back the Planning Board to get the initial

comment, which we have now and to refine it. The applicant is anxious to get their operations in. It is on us to move as quickly as we can.

Atty. Dowd said as you mentioned the applicant wants to build his 80,000 square foot house immediately. Is he going to have them built by specs or build them when he has someone to buy the warehouse?

Mr. Cappello said he will get clarification on that.

Atty. Dowd also asked is he going to own it and then lease.

Mr. Osenni replied, yes that is the idea.

Atty Dowd said he is now looking to find interest. So, he will own and lease and then build them, is that correct.

Mr. Cappello said yes. We will show the foot print and the traffic, as the particular users would come if they are outside of the Board uses, they would have to come back to the Planning Board to satisfy the approval.

Chrm. Conero asked what is the reason for the extra height?

Mr. Cappello said on commercial and industrial buildings to maneuver around and getting around, the 45 ft height would just make it easier for operating.

Mbr. Crowley said warehouses need the elevation for doors and equipment.

Atty. Dowd asked what is the advantage of the 45 ft height over the 35 ft, is it storage.

Mr. Cappello replied forklifts, racking and additional maneuverability.

Mbr. Crowley mentioned that was one of the questions they have with another warehouse in the Village was that warehouses aren't generally under 35 feet. They need more space than that.

Atty. Dowd mentioned some zoning codes have 50, some have 40, and 35 feet of height. The other reasoning is due to the height of the buildings is because of the Orange County Airport.

Mr. Cappello said they will check on the requirements, but your code is similar to the Town of Montgomery with the base and the height.

Atty. Dowd explained the zoning map are not correct nor was the Towns. We have asked the OC. Department of Planning to help us with this two years ago. It was due to the map being incorrect and the changes to the airport runway. We are still waiting for the updates. Obviously, we have to involve the DPW, the Airport, the FAA, and the SEQRA to make sure if you get the 45 ft approved from the ZBA, you want to make sure the FAA has signed off on this. The Village does not want to be in that situation again.

Mbr. Crowley mentioned not to forget the lighting again, no matter where the run way happens to be. Any building above the 35 ft is required to have lighting for the airplanes.

Atty. Dowd said what they are seeking is to know if there are any problems with the conceptual plan of what they are proposing, since it meets what the zoning has approved.

Mr. Sicina said the only issue that he sees is the fire code, which is significantly over than what the requirements would be and justify it.

Mr. Osenni said Ross and I were of the understanding that the Village local official would grant that.

Mbr. Crowley said it would have to the State to grant it. Furthermore, did we get DOT clarification for the main access being offset from Chandler Lane. It was one of the big issues that needed to be addressed.

Atty. Dowd mentioned they were negotiating with the Hoeffner's to try and obtain additional property to facilitate the recommendations issued by the DOT. However, they never got anywhere with that. There were DOT recommendations on the secondary access that stated it not being big enough.

Mr. Cappello said the DOT is going to have to approve this.

Mbr. Crowley said you must get DOT approval for the Planning Board to approve it also. So, which one comes first?

Mr. Cappello said it's coordinating the review and working together towards getting the approval.

Mbr. Romano said she is not ready to agree with the plan, due to other factors that need to be addressed regarding the engineer's comments with the Fire Department signing off on everything. She suggested providing the Planning Board with another site plan that meets those requirements. As it is now, it does not meet with the code. So, what would you do differently with the plan if you do not have the secondary access?

Mr. Cappello said we would design the plan to include the secondary access that meets the code.

Mbr. Romano asked what if the DOT does not approve the secondary access?

Mr. Osenni said in the last plan we had spoken with the DOT with this potential access, and they did not seem to be an issue. After discussions with the Village in order to minimize visual impact, to these residential areas and to the wetland, we were going to pursue that waiver to rid of the secondary access.

Chrm. Conero said the original plan did not have it, however, the second submissions did. He believes your Attorney is saying the same thing. At this point you cannot do anything until you go to the DOT. You are looking for the sketch plan with four big boxes on it. It is appropriate for you to go to the DOT. You are looking for us to say, if this is enough for you to go to the DOT and straighten this out.

Mr. Cappello said what we would like to do is to take this to the SEQRA process and identify all these agencies and issues as Kevin Dowd mentioned. We want the phasing issue to be approved to make sure we meet the storm water requirements from the DEC. We want everyone's input so that we the straw we use to drink is going to work.

Atty. Dowd said the applicant will update the SEQRA with the binder that was already provided based upon that sketch plan and the updated EAF, at that point once you have started the SEQRA process on that plan and further coordinating with everyone else such as the FAA, the DOT, the State building code.

Mr. Sicina said once they address the secondary access, that will affect their EAF.

Chrm. Conero said we require an expanded EAF.

Atty. Dowd said there is nothing wrong to still be doing it that way, but the documents must be in order. He asked the applicant to come back with the expanded EAF, which is almost a DEIS anyway. However, if you aren't satisfied with that they will have to go to the next step, which is what we are trying to avoid. The first step is that it is a different plan, based upon that, if everything seems to be copasetic you can start the SEQRA process anew and start submitting plans and notify all the entities that would be involved.

Mr. Cappello said I can't predict what I want you to do until I have the information.

Mbr. Romano asked the applicant is only going to build one warehouse for himself the largest build out, does it have to look that way or can the face of it change a little, meeting all the requirements. Is there a possibility for it to be smaller?

Mr. Cappello said it is a possibility, but he does not want relay that. If someone wanted to purchase a smaller facility, the owner may be amenable to it.

Chrm. Conero said what we are looking at is the maximum size that you can get on the parcel of property by conforming to zoning and that is what he feels the client is willing to do, maximizing to potential for his property. He will say that his departure from the sight visit the day we walked it. He did not hear anything about four buildings. He is throwing it out there because it was only two buildings with the possibility of three. I know this can be done according to the zoning, but that is not what was presented to the Planning Board. See where you can go with the fire access road.

Mbr. Steed said he feels what the Board is trying to tell you, no green lights until hurdles are overcome with DOT and FAA then the smoothest it will be for all of us.

Mbr. Romano urges them to keep in mind what was said to the neighbors by the owner. They will remember what was said out in the field.

Mr. Cappello said he was not present at the meeting. It's the owners prospective and waiting through the moratorium. However, he will relay what you have conveyed with his client.

Mbr Romano said he should not have made promises to the residents. She wished them good luck and will see you next time.

#### LOOSESTRIFE FILEDS PHASE II – SBL 204-1-2.22

Chrm. Conero said the next order of business is for Loosestrife Fields phase II, for SBL 204=1=2.22. This is a project that was denied by the Planning Board at one period. They reapplied for approval again. A comment letter from Lanc & Tully dated August 17, 2021. Previously there were issues

with the bridge as well as markups. He asked the representing counsel for the applicant to state their name for the record and we are happy to answer your questions.

Mr. Cappello is also representing Loosestrife Fields in the Phase II. He introduced Kyle Bardwell an engineer with the Chasen Company. He feels there was a miscommunication and answers weren't given to some of the questions that the Board had. The applicant has had a couple of meetings prior to the pandemic with consultants regarding the bridge issue, such as the design and how it would exactly be constructed. We have worked it out with a full set of plans and Kyle will go through the approvals that have now be obtained.

Chrm. Conero asked Mr. Bardwell if he is in receipt of Lanc & Tully engineering report dated August 17<sup>th</sup> and asked him to go through the report, tell the Board what has changed from the original project.

Mr. Bardwell will go through the power point to update the Board on the project. This is part two of a subdivision approved in 1996, with only phase II of subdivision that was not constructed. Therefore, we are here today resubmitting for site plan approval for phase II. Lot two is 6.6 acres of which we are proposing 38 new units, totaling 58 units on lot two. Furthermore, lot two is approved for 68 units. We have 2.3 acres of disturbance on site and 1.83 acres of proposed and impervious area. We plan on treating our storm water area impervious with our bioretention area. We also have a precast and concrete bridge that is to span and be constructed onsite. We have temporary approval from the DEC for service in the wetlands for the construction of the bridge. As well as core and directional utilities underneath the wetlands bridge. Recently the zoning change in the Village of Montgomery of which there two instances that we looked at the zoning to ensure our site plans will comply. There is no structures to be built on sloping land or within 100 feet of the bank of the Wallkill River. The Wallkill River is a substantial distance from our site and there are no structures that cover the land and soil within 20 percent of a tributary of the Wallkill River. We have approvals for temporary disturbances. We also have coordinated with the DEC on the Bald Eagle area which was determined that this site would have no impact on the Bald Eagles. We also have a plan for tree clearing to avoid the disturbance of the Indiana Bats. Our traffic study also was not adverse impact, as it relays to traffic to the site. Our last item is to show the Board the approvals obtained and what is currently being sought with the site plan amendment approval. While the DEC storm water permit is currently being sought, we do have their approval for use of the property under the NOI. Upon site plan completion for approval.

Chrm. Conero asked when that last traffic study done?

Mr. Bradwell replied that he would check the file when the last traffic numbers were produced. He imagines it is with the EAF unit numbers as we discussed.

Atty. Dowd asked if their report included City Winery in the calculations for the traffic study.

Chrm. Conero said he just wanted to know the age of the traffic study. What is the age of the EAF, was it dated in 1996 when the project was approved?

Atty. Dowd mentioned the EAF was updated as of July of this year.

Chrm. Conero asked if the traffic study was also updated.



Mr. Bradwell said they ran ID numbers with and without the trac. It was determined that there would no adverse effect with the traffic.

Chrm. Conero said there is other development in the area. Obviously, City Winery is close to your project.

Atty. Dowd mentioned the last traffic study was not approved.

Mr. Cappello said the calculation read what it would add. It was a trip generation and turning movements.

Atty. Dowd said City Winery operation had not been approved when your traffic study was done. He agrees with John that 38 units is not significant enough.

Mbr. Crowley mentioned that the traffic is also a factor to consider.

Atty. Dowd said keep in mind that the Art Building is no longer a school.

Mbr. Crowley said the Montessori school has expanded and have more classrooms. She does not feel that the commuter traffic with have any conflicts with the school traffic.

Mbr. Conero asked if in the EAF does it include the intersections in the traffic study.

Mr. Bradwell said he is not certain, but he will check. There was a traffic study that was approved, and this amended plan here has a decrease in the proposed traffic.

Chrm. Conero said there is decreased traffic from your project however the traffic has increased with the other recent developments.

Atty. Dowd suggested asking the applicant to investigate and report their findings.

Chrm. Conero asked Mr. Sicino to go through the comment letter.

Mr. Sicino said there is a total of twelve comments. He is questioning the foundation under building number 11. How is a new foundation going to be installed around building number 11? Why is the existing foundation not being removed, seeing that it is going to be in the way?

Mr. Bradwell replied is it proposed for the new foundation to ty into the existing foundation. The tenants use a portion of the existing foundation to help with the proposed foundation. So, where there is a high end of the existing foundation by removing it would affect the stability of what is going to be left in place.

Mr. Sicino asked how you're proposing the drainage to the back of the building, through the foundation walls.

Mr. Bradwell replied that the discharges would above grade and cut-in trenches for the pipe.

Mr. Sicino asked about the temporary stockpile in front of building 11, shown over the catch basin should be removed. The existing and proposed manhole that you are tying into the sewer should be provided in the utility plan. One of the biggest comments that we have is the utility crossing going

underneath the bridge. You are proposing directional drilling but there is an approved deflection in the water main pipe of which double iron pipe is being used.

Mr. Bradwell said they are going to slightly tweak that design so there are no bends underneath the bridge. It will have a different angle due to it being a little steep there. So, it is showing a joint to bring it back up to grade with the shooting sue before the bridge, reducing the angle and coming straight across.

Atty. Dowd said he is of the understanding that the bridge designs were to be submitted prior to a building permit being issued. We are going through the site plan process without a perfectly engineered bridge design that would again be prepared for the building permit.

Chrm. Conero said this is where the last submission ended.

Atty. Dowd suggested that Mr. Bradwell relay to his client that they must meet these requirements and meet with the Fire Department for their approval of the bridge designs for the load capacity of the bridge. In the event of a fire, the bridge needs to be able to withstand the weight of a tanker on the bridge. Therefore, we need to know how it is going to be constructed in detail, delineating the wight the bridge is able to hold at one given moment. This is one question that never got answered. It was said that it would be done as part of the building permit process. The Planning Board kept saying you must have the Fire Department certify all of the criteria for that bridge, to satisfy the safety conditions of getting across the bridge and fighting a fire. This is why the Planning Board ultimately denied the previous application, after repeatedly asking for this to be addressed and no responses.

Mr. Cappello said we did do substantial work with the Fire Department. Moving forward we can work on the detail of the actual, with the different companies that are going to be constructing the bridge. We will make sure to have the detailed information needed to address your concerns.

Chrm. Conero said that Lanc & Tully will have to perform their review as well.

Atty. Dowd said we held three public hearings which one was raised by the Fire Department along with the Fire Chief. At the second public hearing, it was still not addressed. This Board has to know all of the details for the approval process to be completed.

Chrm. Conero said we work closely with the Fire Department, and a few officials were present. If you ask different people with the Fire Department, you are going to get different answers. Please be sure to contact who is in charge. There is a changeover in personnel due to the terms of office. There should be a buffer included due to the new and old fire trucks varying weight. Therefore, providing the minimum and maximum weight the bridge is capable to hold, not just for a fire truck but any large equipment or vehicles.

Atty. Dowd said the other issue is for the capability for the fire trucks to be able to turn around.

Chrm. Conero said this should include turn around not just after the bridge but to the end of the apartment complex.

Mbr. Crowley mentioned they should have a fire zone.

Chrm. Conero asked Mr. Bradwell if they aren't going to design the bridge until they have a conditional approval?

Mr. Bradwell said for example, we are going to give you and Lanc & Tully whatever is needs to be able to tell you this is going to be designed safely. I'm sure the building inspector will confer with Lanc & Tully to make sure it's ok.

Mr. Cappello said his big two take-a-ways from that is to ensure with the bridge company that it can hold a substantial amount of weight, such as two fire trucks and turning around. He will speak with Brian Quinn.

Chrm. Conero suggested Loosestrife Fields Phase II comeback to the Planning Board with a completed site plan once all issues have been addressed, and with all of the details clearly stated, as we have asked.

#### CITY WINERY 204-1-1

Chrm. Conero said City Winery, 204-1-1 have submitted an amended site plan, a traffic study, and have updated their EAF. At the last meeting we were discussing the overall project regarding the Air BNB, the parking calculations, the capacity of the site. He asked Mr. Zwigard, who is representing City Winery, to provide an update on what has been accomplished thus far.

Mr. Zwigard thanked the Planning Board for having him there tonight. They are presenting the revised site plan which has a number of updated items that he'd like to go through, to make sur they are clear on what it is that they are asking for and what is being proposed.

The first item is the tent platform, as you all know that construction was done without a building permit and a stop work order is currently in place. One of their goals is to get it approved so they can continue the construction. They have addressed the issue on that with the Building Inspector. His only issue with the platform is the diameter and bracing, to resist the dynamic loads from large gatherings. They met with him on site, they looked at it and came up with a plan, of which has been added into the details. He is good with it. They are ready to do that work. There are really no other changes to the platform, the dimensions and the location are the same. They did clarify and added in this site plan, lighting, pathway lighting coming from the handicap accessible loop to the platform. This is one item that was not in the previous site plan. Its low-level lighting, low wattage, lighting for safety purposes. Are there any questions with the tent, before moving on to the next item?

Mr. Sicina asked if there is any lighting proposed around the tent. What type of lighting does the tent have?

Mr. Zwigard replied, there is no current lighting on the platform, everyone at the event will bring their own lighting. This is how he understands it to be. The gathering is part of the tent. The tent is not permanently fixed to the platform and the same goes for the lighting.

Mbr. Crowley asked, you'll have to adjust the lighting each time you have an event?

Mr. Zwigard said normally, when you see a list of materials for an event, you can get it with or without lighting; there is power, but obviously there is no permanent lighting.

Mbr. Crowley asked who owns the tent?

Mr. Zwigard said at this point, the Winery does not plan on purchasing a tent. It will be a leased/rental for an event.

Mbr. Crowley asked for clarification. You have the platform and obviously people are not bringing their own tent. You are going to own the tent and lease it to whoever is having the event? So, whoever is renting the platform is also renting the lighting?

Mr. Zwigard replied, City Winery will be renting the tent with the lighting for the platform. City Winery is not going to purchase a tent at this time. If it becomes a successful thing and proves to be financially feasible, maybe. However, he is not aware of it.

Mbr. Crowley asked who would own the lighting.

Mr. Zwigard said the lighting would be owned by the tent company.

Mbr. Crowley said she is confused and help her out regarding the lighting. She is thinking about the lighting inside and outside of the tent. She understands the lighting inside of the tent; however, she is more concerned about the lighting outside the tent and the disturbance to the neighbors with regard to the outside lighting. She also has concerns regarding the safety of the people coming from the tent. She has visited the site and her estimation is it is far from any lighting. She is concerned about the light in that area and people walking to be attending an even, which there will obviously be drinking due to it being City Winery. If you are thinking, coming from the platform, which is wooded or has a lot of growth, how is the lighting going to be set up? Are you going to have some sort of spot lighting in order for people to safely get from there to the parking?

Mr. Zwigard said there is not going to be any overhead high lighting. We are going to light the pathway with low pathway lighting. It will not be solar but permanent powered lighting that gets you from the parking area to the platform area and to the tent area. We are not proposing large area overhead lighting as you would light up a parking lot.

Mbr. Crowley also asked about the lighting to the restrooms.

Mr. Zwigard said yes, the pathway lighting also pertains to the restrooms.

Mbr. Crowley said at one point previously, the restrooms were said to not be portable, but located inside the main structure of City Winery/

Mr. Zwigard said there are restrooms that are attached and accessible from the exterior.

Mbr. Crowley asked, were these restrooms included in the original site plan?

Atty. Dowd said these restrooms were for the patrons of the outdoor seating events.

Mbr. Crowley said she was told that patron attending an outdoor event would be using the restroom located in the main building. When she visited the site, she saw restrooms accessible from the exterior, facing where the outdoor music would be. She does not recall these restrooms in the original site plan, but the restrooms on the interior of the building. She does recall asking this very question regarding the restrooms. It was also asked how many restrooms were inside the event hall. No one mentioned there were exterior bathrooms for outdoor events.

Mbr. Romano recalls that that was not mentioned. What is the capacity of the event? What are you proposing to host there, an outdoor wedding reception?

Mr. Zwigard replied, the capacity of the tent is (looking at the chart), 450 people.

Mbr. Crowley said it went up again.

Mbr. Romano said 450 people for the tent?

Mr. Zwigard said it's 6,000 sq. ft.

Mr. Sicina asked, do you have enough parking according to the DEC tabulation? He reads that 500 is the maximum number of persons, from the DEC, with the amended resolution agreed to by CWHV and the Village. The reason he brings it up, because it says the maximum number of persons exceeded in the resolution: was that for the site or particularly for the outdoor event?

Chrm. Conero said that number of persons was for the whole site.

Mbr. Crowley said the original number of persons for the site was 350, and for the music, which was to be light acoustic or light jazz type of music. The number change for the building to be 400 seating capacity and the lawn and the exterior concrete platform stage as they call it, would be 400 under the tent. The concern was having 1,200 people which they do not have parking for 1,200 people, meaning they would have three events running all at once.

Mbr. Romano said we have to treat it as if there are three events running at once.

Atty Dowd said if you read the report, their engineer who did the traffic and parking analysis, he basically said they cannot handle the parking with simultaneous events. He suggested that any approval to the site plan or amendments be conditional with the language to include, no simultaneous events running at once.

Mbr. Crowley is also concerned about the strain on the sewer system, as well as for the volume of traffic, including the parking, they cannot accommodate 1,200 people.

Chrm. Conero said why can't they reduce the number of tickets for an event; so, it's in line with the original resolution that was agreed upon? The outdoor event was supposed to be for a very small gathering for music and the type of music was to be very specific. We did not get into the decibels there but the type of music was certainly in the agreement. It seems this is a departure from the agreement, too.

Atty. Dowd said there was no decibels noted in the resolution, however, the type of music is.

Mbr. Crowley said they lead us to believe there was not going to be platform seating, lawn chair seating or picnic table with food being served.

Chrm. Conero said this is different from what was originally proposed. The resolution states what is allowable. This is a big difference between having a vineyard with walking paths and hosting a small outdoor gathering for the number as expected. Now they are talking about 400 people outside on the platform and then there is the issue of the tent. He appreciates the parking calculations which is helpful but again, looking at the entire site; let's get back to what was originally proposed.

Atty. Dowd said, let's look at the concern Mbr. Crowley raised about the outdoor restrooms. Looking at the original plan, he doesn't see any outdoor restrooms.

Mbr. Romano agreed, there are no outdoor restrooms.

Mbr. Crowley also brought up about whether or not there is to be catering, with regards to a pizza oven located outdoors.

Mr. Zwigard said these at the engineering plans.

Atty. Dowd asked if the site plan that was approved has outdoor restrooms?

Mr. Zwigard said no, yes, it is but not labeled. He showed the Board where it is on the approved site plans.

Atty. Dowd looked at the location Mr. Zwigard pointed out; the outdoor restrooms are off the distillery.

Mr. Zwigard replied yes.

Atty. Dowd said, okay.

Mr. Zwigard said they are backed into what would be allowable based on the amount of parking that is on-site. It has become very clear that you have to have restrictions by agreement. We have proposed these five different cinerous and City Winery is willing to sign a resolution with the Village saying yes, they will limit certain events happening at once, or have 50% of the one and 100% on the other. They can not do anything that exceeds 259 parking spaces, taking the maximum which is 317 and looking at the permitted uses, always having to allow for the total 58 parking spaces.

Chrm. Conero said 58 parking spaces have to be held for the normal operations or City Winery.

Mr. Zwigard said correct.

Chrm. Conero said that leaves them with 259 for parking.

Mr. Zwigard said they have come up with six cinerous, with the first being a concert only, the second is an outdoor event with a tent only, the third is an indoor event only, the last three are a combination of a full capacity event indoors and the smaller capacity event of 50% in the tent, which comes to 220 parking spaces. This is the basic idea as long as they limit by ticket sales, and every event has guards to control the traffic. Things is how things would be limited.

Mbr. Romano asked how are you supposed to be monitored since you plan to erect a 10,000 sq. ft. tent? How are thy going to adhere to the resolution? The platform as already been built voicing her personal feelings regarding the platform to be removed. The platform should not be there but beautiful trees, instead. Did the first parking lot ever get paved?

Mbr. Crowley said the first parking lot has a surface paving application applied.

Mbr. Romano asked if the second parking lot was put in?

Mr. Zwigard replied, no.

Chrm. Conero advised staying focused on what they are proposing to do. They have only gone through half of Lanc & Tully's comments.

Atty. Dowd said the proposal regarding the parking has to go back to the Village Board. They are the ones who authorized the PDD and set conditions for it, also. Once the Village Board accepts the proposal, the Planning Board would have to look at the parking and the site improvements that have to be made. How it is to going to be enforced, he does not know. The Planning Board received the PDD from the Village Board, approved with the conditions and approved the site. Now, they are trying to amend the site, it also falls on the original PDD approval with the conditions of how many events and how many people can be there at one given time.

Mbr. Romano asked, what do they want from the Planning Board at this point?

Atty. Dowd said what needs to be seen, is have all the issues addressed by the engineer to the plans. Before the Planning Board approves the site plans, they are going to have to go back to the Village Board because they cannot possibly run two or three events simultaneously and still accommodate the parking. If the Village Board accepts it, they would amend the resolution and only then are they to come back to the Planning Board for final site plan amendments, based on the code. Logically, this is the only way to handle this. We may as well get through the comments so that Mr. Zwigard knows what the issues are and the Planning Board can figure this out the best way possible.

Chrm. Conero agreed, the PDD needs to be changed from what was originally proposed. Getting back to the list of comments, resuming with the platform.

Mr. Zwigard continues, the next item is what they refer to as the viewing platform. It is constructed with pressure treated wood decking essentially, of which he showed the Board a scaled drawing of the deck. The viewing platform is located into the crook of the berm. He explains the location of the parking lot and the privacy berm next to a buffer of the trees. At the base of the berm and at the top of the lawn is where the reviewing platform would be. He describes it as a long and narrow deck that has a direct access path leading from the parking lot, which is designed as handicap accessible with seating, in addition to two audio sound stages at the center, between the proposed tent platform and reviewing platform. The reviewing platform is for people who cannot or wish not to sit on the lawn. It offers a different type of viewing.

Chrm. Conero asked, what is the capacity of the reviewing platform?

Mr. Zwigard said the capacity for the reviewing platform is...that's a good question...it is considered the same as the lawn area, which is not fixed seating that equates to 40 sq. ft. per parking space. The reviewing platform is 2,000 sq. ft.

Atty. Dowd asked, what is the weight capacity of the reviewing platform? If it's not built correctly, it could collapse with a lot of weight.

Mr. Zwigard replied, that would be part of the specs for the building department to review. They will be certain that the engineers include the live load.

Atty. Dowd asked again, how many people sitting on the viewing platform hold?

Mbr. Romano said, according to the engineering and design specifications, it ready that the viewing platform can seat 500 people.

Chrm. Conero asked Mr. Zwigard to get clarification about how many people can be on the reviewing platform. Lanc & Tully and the Building Department will also need this information.

Mr. Sicina said that there is one thing he'd like to point out. They have on accessible path that goes off to the side that then leads to stairs, both below and above the path.

Mr. Zwigard said the accessible route is highlighted along the paved road where there is a crosswalk.

Mr. Sicina asked Mr. Zwigard to explain, using the topographical sketch plan, what seems to be steps along the path.

Mr. Zwigard said they are not steps.

Mr. Sicina said this seems to be an accessible path with stairs above and below it.

Mr. Zwigard said he sees what Mr. Sicina is talking about and will have to fix it. He explains where the steps actually are. Inaudible...voices whispering.

Chrm. Conero asked if there are any further questions on the viewing platform.

Mbr. Crowley asked for clarification about the viewing platform, it eliminates people on the lawn or are they expecting to have people on the platform and grassy area.

Mr. Zwigard said, there will be people in both areas.

Chrm. Conero asked, is that going to be based on a total number of 400 people?

Mbr. Crowley also asked if the reviewing platform would have chairs.

Mr. Zwigard replied, the chairs are not fixed, not permanent.

Mbr. Crowley and Mbr. Romano both said that you have lawn chairs there now.

Mr. Zwigard said the reviewing platform is just a platform fixed to the ground.

Chrm. Conero said its for people who do not want to sit on the ground. Moving to the next item, regarding the wetland in relation to the tent platform.

Mr. Sicina said it appears to be minimal portions of the tent platform located within wetlands.

Atty. Dowd said the 4<sup>th</sup> item states, "While the wooden platform appears to fall outside of the federal wetlands as the cover letter states, proposed fences and the stage platform appear to be located within the wetlands."

Mr. Sicina said these comments were completed prior to the additional concrete slabs, as shown around it. It was just showing the box and based upon photos we had, it appears to be essentially in the wetlands. There also had been a discussion of doing a site walk to confirm the wetlands and he believes, about the fence location. This was going to be a revised site plan and narrative once



submitted, the code enforcement officers would perform a site visit to confirm the plans, the wetlands, fence and security.

Chrm. Conero asked if any of those items happened?

Mr. Sicina replied, no.

Chrm. Conero said a full set of plans are needed to perform a site walk/inspection.

Mbr. Crowley asked if the overflow parking, approved in the original site plans, that is not in the wetlands?

Inaudible...too many people speaking at once.

Mr. Sicina said he was not involved in the original site plan decisions.

Mr. Zwigard said the border of the wetlands is shown in the plan. They are taking advantage of the areas that are not in the wetlands to do these things. They are allowed a certain percentage of intrusion into the wetlands; this falls within those parameters.

Chrm. Conero said it must be okay because the Planning Board approved it.

Mr. Sicina said the tent platform that was built does appear, although minor, some corners are in the intrusion into the wetlands. In addition, there were questions regarding the improvements around the stage, with the installation of concrete pads for the AV equipment. It is very hard to determine with the 60 scaled map.

Chrm. Conero asked if there were any questions about the fence.

Mr. Sicina said no, the fence was determined by the material, which was supposed to be a very specific type of material used.

Mbr. Crowley mentioned it was not supposed to be pressure treated lumber.

Mr. Sicina said pressure treated is what was used.

Chrm Conero said a lot of these things are going to be determined by the Village Board; if they are going to ask for something to amend the PDD, however, the Village Board is going to want to know about all of this before voting on any changes. We had spoken about this earlier, regarding the Village Board amending the PDD, and making sure they are aware of all details, such as the site walk has not happened yet. He asked Mr. Zwigard if he had any questions before continuing with the engineering report.

Mr. Zwigard said no. The Board already discussed the three-staging area around the stage, that are now shown, they are already built. Now, it's a matter of legalization. He is not aware, last time, until he checked that the sewage pump for the Bridal Suite Barn, was already approved in the previous plan. Now, they just have to do it and thought it was part of the change, but it's not. So, the pumping of sewage and abandoning the drainage field, this issue is going to go away and we are going to install the pump.

Chrm. Conero asked, so the sewage pump was listed in the original plan?

Atty. Dowd asked, that was never built, right?

M. Zwigard said it was never built.

Atty. Dowd said that was what some of the problems were with the septic system. Has it been resolved?

Mr. Zwigard replied, they are going to build it. They had a meeting with the DEP, which they walked it, talked about it.

Mb. Crowley said it was part of the original site plan? Why wouldn't it be built?

Mr. Zwigard replied, it's going to be built when we are allowed, there are certain restrictions.

Mr. Sicina mentioned there are restrictions...inaudible, too many speaking at once.

Mr. Zwigard said the other reason for the delay in building, is due to expenses and there was an existing drain field there. So, they thought they would just use that, but it's not working.

Mbr. Romano asked for clarification. These things are expensive for you? However, you built a 10,000 sq. ft. platform, as well as other things, but not doing what is required in the site plan?

Chrm. Conero said they do not have a Certificate of Occupancy for most of the site. Therefore, a lot of the things that are proposed have not been done.

Mbr. Romano asked why haven't they done the parking lot or the bridal suite, instead of building a platform? They claim not having money to do what was outlined in the original site plan. It is very frustrating.

Chrm. Conero said he is not here to discuss financial issues. Inaudible...too many people speaking at once. We are here to go over what is in the site plan. He was not aware of the sewer pump being listed in the original site plan. They should not be operating an Air BNB there.

Atty. Dowd said they are not operating the Air BNB now, due to the stop work order.

Mr. Sicina said there also may be comments about restrictions to structure. He read, any outdoor construction on or the immediate vicinity of the building labeled "Bridal Suite," shall occur during the months of October through December. A three-month window of when work can be done.

Mr. Zwigard asked what the reason for that was? Inaudible...too many people speaking at once.

Mr. Romano said it's due to the Indiana Bat.

Mr. Zwigard said when he did the EAF long form on the tracker, certain questions are automatically filled in and when they are, you are locked out of it and no modifications are allowed. So, when it came to endangered species, it automatically fills in Bald Eagle and it did not fill in the Indiana Bat. He tried to make it fill in because he thought it was the correct answer.

Mr. Sicina said he is able to confirm that because he experienced the same issue.

Mr. Zwigard asked if the restriction still applies.

Atty. Dowd replied that you cannot knock down any trees between April 1<sup>st</sup> and October 31<sup>st</sup>.

Chrm. Conero said, getting back to reviewing the comments, we are at the point regarding the fence details and they should be provided. All of these things need to be addressed, which were not addressed. Be sure it's in the next submission to the Planning Board. The new comments were for the parking in front of the bridal suite. There are 11 parking spots with a planter located in the middle to the parking lot, which Scott had pointed out as being an issue. The engineer should revise the proposed layout or provide turning motions showing no conflicts would occur when entering or exiting the proposed parking stalls.

Mr. Zwigard said he will circle back and ask Sciarabba about that. He looked at all of the parking.

Mbr. Crowley commented that the parking looked very tight.

Chrm. Conero asked if their engineer included the bridal suite parking spaces into the overall parking calculation.

Mr. Zwigard replied yes, it is parking on the site.

Atty. Dowd said that was part of the permanent parking. It has to be there for the bridal suite itself.

Mr. Sicina said there is different parking.

Mbr. Crowley said this is added parking for the bridal suite.

Mbr. Romano said it was supposed to be a bridal suite and now it's a hotel.

Mbr. Crowley asked if the bridal suite only has three units, why are eleven parking spaces needed?

Atty. Dowd said there were eight parking spaces on the original plan, now they're proposing eleven.

Chrm. Conero said, if they went back to the original plan, does it say how many units there are at the bridal suite.

Mr. Sicina said the maximum number of rooms between the hotel and bridal suite is supposed to be sixteen.

Mbr. Crowley said she understood there is to be twelve rooms in the hotel.

Atty. Dowd commented that there is to be fourteen rooms between the hotel and bridal suite.

Chrm. Conero said he believes the bridal suite was only to be two rooms.

Mr. Zwigard stated, the hotel was reduced by two rooms for a total of fourteen bedrooms, from sixteen.

Chrm. Conero said if they had the bridal suite with three units and two parking spaces per unit, there are two extra parking spaces.

Atty. Dowd asked if the hotel has been completed.

Mr. Zwigard said no.

Mbr. Crowley asked for clarification, to be sure there are only twelve units in the hotel now.

Mr. Zwigard said there are only eleven units in the hotel.

Mbr. Crowley further asked, there are three units in the bridal suite?

Mr. Zwigard said the number of rooms between the bridal suite and the hotel are to be a total of fourteen of overnight accommodations, with three rooms at the bridal suite and eleven rooms at the hotel.

Chrm. Conero asked if they are going back to the eight parking spaces at the bridal suite that was originally approved.

Mbr. Romano feels they have increased the parking for possibly overflow of the main hotel accommodations.

Chrm. Conero said if they are going to make changes to the parking, they must document all of the maneuverability. Moving onto the next item, it is unclear on the plans what is existing and what is proposed for this submission. This should be clarified, existing should be shown in a gray with proposed in black. For example, the previous applicant's site plan used a color shading delineating the changes from what was previously proposed approved. It made it easier to review for a smoother process.

Mr. Zwigard said we typically use the bubble and revision dates.

Chrm. Conero said show what are the specific changes.

Mr. Sicina said highlight anything you want approvals on. So, the things we are here to discuss stand out. The only thing with the next item, are the changes to the parking near the bridal suite. If there are no other proposed changes for the parking, they have to indicate striping details, handicap stall details and handicap signage details.

Mr. Zwigard said he does not have a copy of what is being reviewed.

Chrm. Conero said we will make you a copy.

Mr. Sicina said we on the second page of Lanc & Tully's comments dated August 17, 2021.

Mr. Zwigard said he has not seen Lanc & Tully's comment letter.

Mr. Sicina asked if any of the previously proposed stormwater management areas have been constructed? He sees that there are a couple by the additional parking area and there seems to be one near the area of the hotel.

Mr. Zwigard said yes, they have been all installed and inspected by the Building Inspector. He imagines they have been taken down now.

Mr. Sicina said the stormwater management areas should not be taken down.

Mr. Zwigard said he thought Mr. Sicina was referring to the storm fence.

Chrm. Conero continued with the project description in the EAF. It should include proposed modifications to parking and utilities. The applicant has provided a parking analysis that demonstrates that the site does not provide enough parking for the stage and tent areas to operate at full capacity with the restaurant open. While the applicant had stated it is unlikely that uses would be scheduled at the same time and the capacity of the stage and tent events can be limited to ensure parking is adequate, we are concerned with how limits on ticket sales or number of cars on the site will be enforced.

One mitigation offered by the applicant is parking attendants to be onsite to assist with event parking. This should be a condition of any approval. With no ticket gate or means of site access control, how will the applicant stop vehicles from entering the site when an event is sold out or when the parking lot has reached capacity? Has there been any thoughts about satellite parking and shuttles or incentivizing carpools for large events?

This concludes our review of this plan at this time. We urge you to revise the site plan as we have stated and all of the comments be addressed.

Mr. Zwigard said he will take this and be sure to address the comments.

#### MINUTES

Moved by Mbr. Steed, seconded by Chrm. Conero, the Board approved the minutes of June 26, 2021. Motion carried, 4-Ayes, 0-Nays.

#### ADJOURNMENT

Moved by Mbr. Romano, seconded by Mbr. Steed, the Board adjourned the meeting of August 25, 2021, at 9:31 pm.

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Monserrate Rivera-Fernandez, Village Clerk