

**MINUTES** of the Village of Montgomery Planning Board meeting held in the Meeting Room of the Village Hall, 133 Clinton Street, on Wednesday, December 14, 2022, at 7:30pm.

**ATTENDANCE:** Chrm. Conero, Mbr. Romano, Mbr. Frisbie, Mbr. Steed, Mbr. Meyer, Vlg. Atty. Joseph McKay, Vlg. Eng. Scott Sicina of Lanc & Tully, Brian Rivenburgh, Ross Winglovitz, PE & Jay Samuelson of Engineering Properties, Marsha Jacobowitz, Tom Olley of Olley Architects, Randi Picarello, RJ Smith, Don Berger, Robert Williams, Vincent Satriano, Beth Selig

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

### **ADJOURNED PUBLIC HEARING**

**RE: ZAFIR – DUNN ROAD 213-3-4.22**

**A MOTION was made to OPEN THE ADJOURNED PUBLIC HEARING FOR ZAFIR – DUNN ROAD- 213-3-4.22 AT 7:31 PM by Chrm. Conero, seconded by Mbr. Meyer and carried 5 Ayes 0 Nays.**

**Chrm. Conero** said that they met with the design consultant. He met with Tom, his architect and our design consultant and they went over a lot of the comments that she had and Tom had made the changes; the colors, the façade, what you see now is the final product. He sent the plans to Elise and he did get an email back from her that everything looks fine, so he thinks they're good on the design part of it.

**Tom Olley** is representing the applicant. He said Elise Johnson suggested enhancing the central portion of the building, the entrance into the building. They more than doubled that in width. They changed the roofline so it's more of a gable all the way back to the main ridgeline. They also reversed the colors; the lower band being similar to what is on the building now, maybe a shade or two different. He included the color charts so that you can see, sometimes the printers have different rendering of the color. The plan outlines the colors that will be used. They went with the darker color, the bronze color, to really subdue it into the background and so that it's not standing out like the other buildings in the area; whether its on the airport or Mr. Zafir's existing building. The other thing that came out of the discussion, Kevin had made the recommendation of coming up with more landscaping in front of the building. They were able to take some of the area on the left front of the building and introduce some evergreens that they are proposing on the remainder of the property to help break up that mass, also. Now they have plantings on the right-hand side near the parking but they also have it on the left-hand side, which also reduces the amount of pavement. In the past reviews, they've added some deciduous plantings in the screening in the front, but those are the major changes. Overall, he thinks the Board would think it's a big improvement.

**Chrm. Conero** asked Eng. Sicina to go over; there's an issue on the right side of the building with the fire access.

**Eng. Sicina** said, one of the comments the Planning Board was looking to receive was a letter from the fire department and also a letter from Orange County Airport that there had been discussion. Orange County Airport, we received a letter today. As far as the fire department, they said they were fine with it as long as it met fire code. A quick review of it today that did not get in my comment letter is, you appear to just be shy of fire code, Tom. We need to be able to get a fire truck up to the right side of that building so you can get 150 ft hose length, wrap around the perimeter of the building.

**Mr. Olley** replied, okay, they will take a look at that.

**Eng. Sicina** said, we can discuss it; you will have no problem doing that. It will take a slight modification where there will be some pavement.

**Mr. Olley** said, okay, they will take a look at it.

**Chrm. Conero** asked Eng. Sicina if there anything else while you're speaking about it?

**Eng. Sicina** replied, no, he thinks that is all of their technical comments. Obviously, you guys will take a look at the architectural plans and discuss them. We received the letter from Orange County Airport basically saying they had had discussions with the applicant and are okay with everything that is proposed and that is it.

**Mr. Olley** said, one thing that he wants to point out, in the airport letter, Mr. Magryta's letter, he said that the applicant was proposing, or wording similar to that, of the solar panels. He is not proposing it but if he does decide to do it, he would absolutely work with the airport and FAA on that but it's not part of this plan at this time. We would expect that that would be part of your condition of approval.

**Chrm. Conero** said that it was good that he put it in his report, all of the items. He asked the Board if they had any questions.

**Atty. McKay** said he was looking at Stephanie's notes and she was asking about having a note on the site plan for no further development on the site. Is that on the plan or agreed to, Tom?

**Mr. Olley** said no. He thinks that, they'll have to talk about the terms of that because if he is coming in, say he needed to modify something on the building, that...

**Atty. McKay** said he's asking the question because he sees the note. He does not know if it was a discussion that was had...

**Chrm. Conero** said they were concerned with the segmentation of the project. They didn't want to have additional building going on.

**Mr. Olley** said, what he had stated at these meetings is that practically speaking, there's really no more room on the site for development but he wouldn't want to unequivocally

preclude any modifications to the building that could come before this Board and be dually approved.

**Atty. McKay** replied, the applicant is not consenting never to make any further modifications on the site or expanding. The applicant is under no obligation to maybe put something else there that looks good and can be approved by the Board, that would be the answer.

**Chrm. Conero** said he thinks it addresses some of what the neighbors had concerns about and he thinks he (the applicant) has provided screening on both sides of the property; on the east side and left side that would be screening for the house that's there. That works and he thinks it's adequate.

**Mr. Olley** said and old attorney friend of his would say, never is a very long time.

**Chrm. Conero** opened the public hearing to the public (at 7:40pm). If anyone would like to comment on Dunn Road warehouse, please state your name and address.

**Don Berger** – Village of Montgomery – At the last meeting in October, Kevin, he believes it was him, asked the applicant to enhance the landscape design in front of the original building. Has that bee addressed? Has that been agreed to? Where do you stand with that?

**Chrm. Conero** replied, he asked but it is not part of the same site plan; it's a different building, so it's not part of this plan set, he was told. He can't really enforce that. They did comply with all of the landscaping that was required at that time. We didn't have design guidelines for warehouses at the time. He totally agrees with him. Every time he drives down the road, he cannot stand looking at that building; there are no windows in it, no landscape in front of it, it's not a good thing.

**Mr. Olley** said his client has intentions down the road to improve the landscaping on that. He's responsive to that.

**Chrm. Conero** said he cannot force him.

**Mr. Berger** said he understands, it was brought up at the last meeting and he was making sure that there's still...

**Mr. Olley** said, he (Kevin followed through).

**Mr. Berger** said, 2<sup>nd</sup>, he likes the new color scheme on the applicant's new building but he's wondering how it's going to look along side the original building. There's two contrasting colors.

**Chrm. Conero** said the bottom part of that building is similar to the original building that's next to it so, those earthtones mixed in will blend in and with the site improvements it's going to look pretty good.

**Mr. Olley** said the darker tone in the field will help to blend it into the background, rather than have it stand out; they're trying to bring the elements of the existing building to tie it together in a uniform design scheme but not repeat what was done before.

**Chrm. Conero** said, before we had design guidelines, we were locked into what the applicant wanted to do.

**Chrm. Conero** asked if there were any other comments.

**A MOTION was made to CLOSE THE PUBLIC HEARING FOR ZAFIR – DUNN ROAD 213-3-4.22 AT 7:43 PM by Mbr. Romano, seconded by Mbr. Steed and carried 5 Ayes 0 Nays.**

**A MOTION was made to AUTHORIZE ATTORNEY MCKAY TO PREPARE THE NEGATIVE DECLARATION AND PRELIMINARY APPROVALS FOR ZAFIR – DUNN ROAD 213-3-4.22 AT 7:44 PM by Chrm. Conero, seconded by Mbr. Steed and carried 5 Ayes 0 Nays.**

## **PUBLIC HEARING**

**RE: 77 CLINTON STREET 202-3-7.2**

**Chrm. Conero** asked Ms. Murphy if we received the mailings; she replied, yes.

**A MOTION was made to OPEN THE PUBLIC HEARING FOR 77 CLINTON STREET 202-3-7.2 AT 7:46 PM by Chrm. Conero, seconded by Mbr. Meyer and carried 5 Ayes 0 Nays.**

**Mr. Winglovitz** is representing the applicant. He is here on behalf of 71-73 Clinton Street, LLC, was the owner of the property, it's the Devitt family. This is the property that's directly next to The Table on the east side; the vacant lawn area in front of which the band sets up for on Montgomery Day. The application is for a mixed-use building; the 1<sup>st</sup> floor is 2,160 sq ft of commercial space, the 2<sup>nd</sup> floor will be three apartments. There will be a parking lot constructed in the back with a total of 12 parking spaces; it will be reconfigured to include the neighboring property. This property has access via an easement through 88 Charles Street property that was worked out as part of the lot line change/easement adjustment. That was processed and approved as part of that application. Handicap parking as well as landscaping shown between the proposed building and The Table (71-73 Clinton). They've addressed all of the technical comments of your consultant. At the last meeting, Stephanie brought up the SEQRA issues that were triggered on the EAF. There were two; one was archeology. They went back and forth

with SHPO, ultimately, even though this site was partially disturbed, there was a building there originally, they are still looking for a Phase 1B and 1A archaeological assessment. They have retained an archeologist who is scheduling to do work for them. They do not have that yet. The other item was regarding the potential of the Indiana Bat and Bald Eagle. Everything here is within 2,000 ft of the Bald Eagle's nest. They did get correspondence back from Lisa Master, which he passed on earlier indicating a time of year restriction for the tree removal, although it is a maple tree, he doesn't think it's a roost tree of any sort that the Indiana Bat would use. They could include a time of year restriction on the plan and he thinks she agreed that as long as there is no blasting there's no impact to the Bald Eagle.

**Chrm. Conero** asked who the letter was from? The DEC?

**Mr. Winglovitz** replied, Lisa Masters, DEC.

**Atty. McKay** asked if Ross sent it around.

**Mr. Winglovitz** said, he thinks Will forwarded it. They cannot do anything on SEQRA until they get archeology, so they have a little bit of time.

**Chrm. Conero** asked if the Board members had any questions for Ross before they opened up to the public?

**Chrm. Conero** asked how many apartments were upstairs and how many square feet?

**Mr. Winglovitz** replied, 3 and 2,160 sq ft of floor area, it's a 2 ½ story like Marc did on the corner of Bridge Street. He thinks some of it will be in the attic; ½ story upstairs so they have gained some square footage, so roughly 1,000 sq ft each.

**Chrm. Conero** asked if there would be two businesses downstairs.

**Mr. Winglovitz** said there is a potential for two, one, depends how much space they want.

**Atty. McKay** said, going by Stephanie's notes, has there been any review by the AHRB?

**Mr. Winglovitz** said Marc has retained an architect to do the architecturals but they have not been in front of them (AHRB) yet. They presented a nice rendering but they needed more definitive architecture for the AHRB and they haven't gotten it completed yet. It's still outstanding.

**Chrm. Conero** said they would refer that to the AHRB.

**Ms. Murphy** said they referred it at the last meeting.

**Mr. Winglovitz** confirmed it.

**Chrm. Conero** asked if any other Board members had any questions.

**Chrm. Conero** opened the Public Hearing to the public. This is for 77 Clinton Street and if you have any comment or want to speak on this site plan, state your name and address.

**Don Berger** – Village of Montgomery – said, if he heard him (Ross) right, he has no rendering of what the building is going to look like?

**Mr. Winglovitz** replied, there was a rendering but there is no detailed architecture for the AHRB. The rendering they did, they presented to the Board.

**Chrm. Conero** said, there was a rendering that was pretty much what they wanted in downtown Village of Montgomery. It looks historic in nature but it wasn't specific. Like Ross said, it needs to be refined with an architect; this more like a conceptual.

**Jay Samuelson** said it was a rough hand-drawing that was done and presented at one of the initial meetings. There's additional architecture that needs to be done and brought to the AHRB.

**Chrm. Conero** said, it wasn't on a cocktail napkin.

Laughter

**Mr. Winglovitz** said Carl Magill was an architect in the Wallkill River School building for a while. Carl did the original sketch.

**Mr. Berger** said he has no qualms with this project, he knows Marc does quality stuff and his homes are always beautiful, he's just curious to see what it might look like. And only one little thing, you've got two buildings; your building and Marc's building and he's wondering how similar, other than the height, how similar they might look. Are they going to be compatible? What's the deal there?

**Mr. Winglovitz** said he thinks they would have historical themes for both of them. You look down the road and none of them are really similar and that's probably the charm of it, right? It'll have a historical theme to it making sure it's consistent but not being the same is part of the charm.

**Chrm. Conero** said, because its and infill development between two existing buildings it's important to get this right. Having the AHRB review that is...

**Mbr. Romano** interrupted; you don't want it to look like the National.

**Mr. Berger** said he is not insisting at all that he should have two similar buildings, he was just wondering if it was going to be kind of the same idea. It's going to be through the AHRB, right, so it'll be compliant.

**Chrm. Conero** asked if anyone else had any comments?

**Atty. McKay** had no further comments.

**Chrm. Conero** said, there's no reason that we'd have to leave it open when there's no comment?

**Mr. Winglovitz** said they would be willing to waive the 62 days for a determination in case it takes them longer than that for their archeology.

**A MOTION was made to CLOSE THE PUBLIC HEARING FOR 77 CLINTON STREET 202-3-7.2 AT 7:54 PM, by Mbr. Romano, seconded by Mbr. Meyer and carried 5 Ayes 0 Nays.**

### **OLD BUSINESS**

**RE: FOOD BANK 214-1-1 & 36-1-2.12**

**Chrm. Conero** asked why they are there for this?

**Atty. Marsha Jacobowitz** said they are there for Final Conditional Site Plan and Final Subdivision.

**Jay Samuelson** said Final Subdivision and Preliminary Site Plan.

**Atty. McKay** said, so the Board is aware, he did prepare the drafts/final conditional site plan and final conditional subdivision. The site plan was amended. It's basically, Final Conditional based on the amended site plan submission.

**Mr. Samuelson** said, since they were there last, they made some revisions to the building footprint itself and Stasch is here from Anderson Architects and he can get into it more; talk about the change to the building and why it was made. He will give the Board a brief update of how it affects the site plan. Originally, they had a 200 x 200 square, they now have a smaller bump out in the front, and Stasch will get into that. That is not the full height of the building, that is at a lower height to offset that big flat wall and he's got architectural renderings of it and he'll explain that. The changes to the site plan; there was a row of parking all the way across the building and they originally had this as land banked parking. This parking (indicates on site plan) has not changed. There is a little bump out in the back here (indicates on site plan), this is for their mechanicals; drivers' room, some rest rooms for the delivery people. The big thing that this is for is all the mechanical units; all the HVAC will be housed in the back area and not on the roof. The roof height is the roof height; there is nothing going up on top of that except for the emergency notification lights that the FAA required. The changes they made as they

modified the parking to not be land banked, to be actual parking spots. Some of them were eaten up by the land and they added additional land banked parking, over here (indicates on site plan). They've done their full design of their SWPPP's and all their layouts to include this as if it were built, but they are happy to landbank this and not build this now because they believe the amount of parking they have in the front and the amount of parking they have on the side is sufficient for all the employees, all the volunteers that come or whoever comes and drops off or picks up food. Other than that, there's been no other change to the site, other than changing this bump and a little bit of parking that is modified. Everything else has stayed the same. They've updated all of the plans; they've updated the lighting, the landscaping, all the grading and drainage. He knows there are some comments from Scott's office; he's gone through them and doesn't think there's anything major in there that they can't address.

Just to give you an update where they are with outside agencies, they've had one review by the Health Department and they had minor comments, that was resubmitted the week after Thanksgiving. The DEC with sewer; they had three of four comments that came back from them. That was resubmitted about the same time. They received a letter today, stating that they're viewing this as a self-certification project, so basically, he has to write a letter saying that the plans have been designed in accordance with all of their regulations. There's a checklist he has to go through and mark out, send it back to them and they will, in turn, send them the approval for sewer. So, that's done. The last one is the FAA; they've had a lot of conversations with the FAA, a lot of conversations with Ed Magryta from the airport. Ed is talking to the Planners for the County about one last thing; to write a letter back to the FAA. Once that letter goes, the FAA is going to issue a letter of non-significant impact, granting their approval subject to them putting the marker lights on the four corners of the building. That will be issued, they're hoping, in the next couple of weeks, at the latest.

**Chrm. Conero** asked what land banking parking was.

**Mr. Samuelson** said, land banked parking is, this is the number of spaces required by code based upon the square footage of the building, for warehouse and office. They are required to build the parking they show plus these spaces (indicates on site plan). Again, they don't feel they need those. They show them on the plan because they can be built; they've accounted for them in their design, but are asking to not build them at this point in time. They can add a section in a note, which is one of Scott's comments, to the plan stating what triggers them to actually be built. It would be the code enforcement officer determining that there is parking going on elsewhere on the site that is not in parking and additional parking is needed. He would write a letter to the Food Bank ordering them to install that parking.

**Chrm. Conero** referred to Eng. Sicina for clarification.

**Eng. Sicina** replied, that is correct in how land banking typically works, the only difference here is that there's not a provision in your code. When other municipalities allow it, there's a provision in it and that, in the code, would explain what triggers it and

how it can be enforced. The question he has is, how do you make sure this is enforceable if they do need to be constructed some time in the future?

**Chrm. Conero** asked if they need to discuss what the best way is to have those triggers defined?

**Atty. McKay** said the code doesn't allow it.

**Chrm. Conero** said you don't want to construct parking you're not going to use. That's an issue they see all over.

**Atty. Jacobowitz** said it should be left up to the determination of the building inspector.

**Mr. Samuelson** said the last plan did include land banked parking. They included 23 and this one has 26.

**Eng. Sicina** asked if the required number of parking increased.

**Mr. Samuelson** replied, yes, based upon the size of the building.

**Eng. Sicina** asked if they previously met the parking code without land banking?

**Mr. Samuelson** said, no. They were right on the number last time, they're right on the number this time, including the land banking.

**Eng. Sicina** said part of his concern with the land banking is in order to construct it, if they don't do the grading at the time of construction, a portion of the grading for the banked parking will go across the property line and require an easement for them to construct it.

**Mr. Samuelson** said the grading plan shows that can be graded now as part of the approval. This would be a flat, level area. To actually construct it, all they would have to do is strip the top soil, install the curb and pave it.

**Eng. Sicina** said if they go this route allowing land banked parking, that they should at least have to grade out the area so that there is no concern that they have to fill across the neighboring property line at the time they may need to put them in in the future.

**Chrm. Conero** asked why they don't just put the parking in.

**Mr. Samuelson** said it wouldn't be used.

**Mbr. Romano** said, you don't know.

**Mr. Samuelson** replied, based upon past usage and what they have combined at all their other facilities, they think this will be the number of parking that they need.

**Eng. Sicina** suggests, if you proceed to move forward with bank parking, they provide a letter of such stating just what Jay said, “based upon other sites that they operate, they can tell you, this is how many employees they have, this is the traffic that proceeds through the facilities, to give a justification why you’re allowing this.

**Mbr. Meyer** said, with the expansion of square footage in the warehouse, the expansion of square footage of office space, how can you tell them there wouldn’t be more employees, you would think if the office space is increasing, there might be more employees, therefore needing more spaces.

**Mr. Samuelson** replied, correct, the number of spaces they have here is based upon the number of office cubicles in this building. This plan has 4-5 more spots to be built than were in the original plan and before they added the bump out.

**Chrm. Conero** asked how many spots they are required to have.

**Mr. Samuelson** said 77. There are 26 land banked. They are building 51.

**Chrm. Conero** asked, this is based on the square footage of the building you’re building.

**Mr. Samuelson** said 77 is based on the size of the building.

**Chrm. Conero** said he likes the concept of land banking and that too bad it’s not in the code.

**Mbr. Romano** agrees with the letter and grading.

**Mr. Samuelson** said they will add notes and the letter regarding their useage/employees.

**Atty. Jacobowitz** said that next week they will get DOH, she had a verbal today.

**Mbr. Meyer** said he’s reading that initially it was 43,000 and it’s been increased to 50,000 sq feet and you mentioned the square feet of office space now with the new proposal, how much office space was previous?

**Stasch** said the offices were already included in first square footage; he doesn’t think there was that much office, they increased slightly by a couple of thousand feet, but a lot of the office space had taken up floor area of the warehouse, so it’s kind of bumped out for architectural and aesthetic purposes. This is the footprint of the first floor of the building (indicates on site plan). The back section is warehouse; these are coolers inside of the warehouse building. The exterior construction is going to pre-cast concrete panels. He will show the details when they get through this. Loading docks are in the back of the building, this is the front office section. You can see that they put it on an angle there to create some of the space that they needed. It creates an interest in the space, you can see the offices and conference room up here (indicates on site plan) and circulating stairs, as well. It’s a two-story office space. The second story has a training room, bigger

conference rooms. (Shows rendering) This is the exterior rendering showing the front side of the building. You can see the 45ft pre-cast panels, different colors, the windows on top to let light in the warehouse. This is the front office section with terra-cotta panels; a natural product that is a panelized system and then applied to the front of the building. You can see the Food Bank logo, as well. This is an extrusion of panels that are in front of the glass that let light into both stories of the two-story office space and that circulated stair in the front.

**Mr. Samuelson** said there was a meeting with Kevin, Marsha, himself and they had Elise there where they discussed a lot of this architecture with your consultant.

**Chrm. Conero** confirmed that Elise looked at that part of their warehouse design criteria. She went through that and made some suggestions with Jason but other than that, the footprint, and the way (inaudible) she's pretty happy with most of it.

**Stasch** said they added the landscaping and modified the colors slightly to bring it down a bit, based on that meeting, as well.

**Chrm. Conero** asked, the colors have been updated? It looks good like that.

**Stasch** said, this is a viewshed plan, here (indicates on site plan); they're going to start with view point 1, which is right at the intersection there. You can see the existing heavy equipment. You can't really see it because a lot of the trees on the backside of the equipment will be left there. This is view point 2 which is driving down 416 away from the Village. This is the entrance to Aden Brook there, and looking back, you can see it (indicates on site plan). This is now on 211 coming into the Village; you can see the airport on the left-hand side. This dotted line is the building in the distance in the trees. You really wouldn't see it until you got to the intersection. Here it is, this is the existing; you can barely see the roof there over the top of the trees as you're coming down 211. This is further down 211 right at the intersection of Chandler, looking back, this is the outline of where that building would be, barely shrouded by the trees. This is further up Chandler; existing and then again, with the outline of where the building would be. That's the extent of the view sheds.

**Chrm. Conero** asked to see the landscaping plan, again.

**Mr. Samuelson** said that was one of the comments they received from the owner of the Food Bank. Some of their requirements from the FDA with some of their permits, they had to modify some of the landscaping around the building, right up against the building. The FDA requires everything around the edge of the building, had to be a minimum of 3ft above the 6ft of no mulch, no landscaping so they redesigned that so the first 3ft is all river rock and the plantings are outside of that. They've redone the landscape to put some plantings along here (indicates on site plan), some along the bottom, but again, they made things low because of the change in the rendering figuring you would like to see that. They haven't completely hidden the building coming up this way but all of these trees along this property line will remain and they are supplementing. There were comments to

add more back here (indicates on site plan), they can look at adding more. He can talk to Nick Fitzpatrick and see if they can put some on his. Where the property line was drawn and the agreement made, there's a little bit of room back there, but not too much for them, but he can talk to him. This area here (indicates on site plan) is wooded so there will be limited trees that come out but this area in the back will remain. They will look at adding some here too, to shield this corner (indicates on site plan).

**Chrm. Conero** said that is the only impact you really can see, is from Chandler.

**Mr. Samuelson** said, and coming down 416 but the only time you'll see the back is looking across from Chandler Lane. There are other trees but they aren't very thick.

**Chrm. Conero** said the view sheds are really helpful.

**Mr. Samuelson** said the biggest view shed is the one coming down 416 and down 211 looking across the entrance to see the private building. That's kind of the reason why they made that change in the footprint and that façade. Those are the amended site plan changes. Everything else stayed.

**Atty. McKay** said that's not the issue. The subdivision is the same. They've gotten preliminary conditional subdivision. There's no public hearing required on that. The Board needs to consider whether or not the site plan contains substantial changes as compared to the preliminary approved site plan. If there are no substantial changes, the Board does not need to hold a public hearing.

**Mbr. Romano** expressed that she liked the new plan.

**Chrm. Conero** asked if any other members of the Board had questions and if they wanted to go to public hearing.

**Atty. McKay** drafted the final site plan/subdivision for the Board to review. What they discussed with Scott and Kristen was that there were changes to the site plan. The Board can choose to redo the neg dec but it's reaffirming the neg dec and issuing a new neg dec specifically on the amended site plan. But again, that would not need a public hearing, either. If the Board believes there are no substantial changes, then there would be no need to change the neg nec, except to include details about the new site plan. Once the Board would issue a new neg dec, then you can move forward to approve the subdivision and approve the amended site plan.

**Mbr. Romano** asked if they have to make a motion to add the amendment to the already existing neg nec?

**Chrm. Conero** said, reaffirming the neg dec.

**Atty. McKay** said, it's a new document. The one thing on the neg dec is that there is no revised EAF so if the Board wants to review the drafts that he has, the Board would have to issue a new neg dec but no public hearing; there is a parking issue.

**Eng. Sicina** said the parking issue should be discussed and however the Board chooses, should be addressed in.

**Chrm. Conero** and the Board said they definitely need the letter about the land banking, they definitely need the triggers identified. If they're going to leave the triggers that would identify the parking, at least say it's the Building Code Enforcer that would be responsible for making that determination or would it be a different type of triggers? He can't really offer what would trigger a parking situation.

**Eng. Sicina** said, typically, a lot of the municipalities would do what Jay suggested, the Building Enforcer would go out to the site, sees parking or ruts in the grass where people park, he can tell them he doesn't believe they have enough parking (26 land banked parking stalls) that you can construct at this time. Usually, there's a time period they have.

**Chrm. Conero** asked the Board if they would be okay with letting the Code Enforcer handle it. The Board said yes.

**Atty McKay** said, whether or not the Board was to approve the land banked parking, would a simple note on the plan be sufficient to bind subsequent owners, if it's used for a different purpose, would that note run with the land, bind future purchasers or whether or not they need some kind of other document recorded?

**Atty. Jacobowitz** said they would need another document, a restricted covenant.

**Atty. McKay** said, that's what he thought.

**Atty. Jacobowitz** said they are agreeable, it's not something they have an issue with; if it's something they are more comfortable with.

**Mr. Samuelson** said, he's not an attorney but if it's a different use, don't they have to come back here? If it's a similar use and the note is on the approved site plan, they're operating under that site plan which says the Code Enforcement says they have to install...he's not saying they can't..he's just throwing other ideas out there.

**Atty. Jacobowitz** said it's a filed map, though, so the note is on the map.

**Mr. Samuelson** said that wouldn't be on the subdivision.

**Chrm. Conero** asked if they have enough information to go forward.

**Atty. McKay** said the threshold issue is whether or not, the Board already determined they don't need a public hearing, and if the Board's comfortable going forward with the land banked parking, then they will work out the terminology in the final drafts. He does have drafts for the Board to look at or he can email them. The drafts are basically ready to go.

**Chrm. Conero** asked if they were prepared for the January meeting.

**Atty. McKay** replied, yes, unless the Board is looking to take final action tonight.

**Chrm. Conero** would like to move the project along.

**Atty. McKay** asked Mr. Samuelson if there would be an increase in water?

**Mr. Samuelson** asked (James) if they based it on employee or square footage?

**James** believes it was based on employee and that did not change much. It says 570 but Mr. Samuelson will verify.

**A MOTION was made to REAFFIRM THE NEGATIVE DECLARATION ON THE AMENDED SITE PLAN FOR THE FOOD BANK 214-1-1 & 36-1-2.12 AT 8:36 PM by Chrm. Conero, seconded by Mbr. Romano and carried 5 Ayes 0 Nays.**

**Atty. Jacobowitz** said if they receive final conditional site plan and they've satisfied the conditions within the next 10 days, they can go out to bid. They were set to go out to bid tomorrow, but they can't. They are trying to go out to bid on the 26<sup>th</sup> of December and bid opening in mid-February. That's where they're at. If they have final subdivision tonight, she can get the map signed, etc., and close on the property.

**A MOTION was made to APPROVE THE FINAL SUBDIVISION FOR THE FOOD BANK 214-1-1 & 36-1-2.12 AT 8:36 PM by Mbr. Romano, seconded by Chrm. Conero and carried 5 Ayes 0 Nays.**

**A MOTION was made to APPROVE THE FINAL CONDITIONAL SITE PLAN WITH THE CONDITIONS BEING, DOH, DEC, FAA, CONFIRMING AGREEABLE TRIGGER LANGUAGE WITH ACCOMPANYING LETTER FROM THE FOOD BANK WITH REGARDS TO THE LAND BANKED PARKING AND TRIGGERS FOR CODE ENFORCER AND NOTE ON MAP, FOR THE FOOD BANK 214-1-1 & 36-1-2.12 AT 8:37 PM by Mbr. Romano, seconded by Mbr. Frisbie and carried 5 Ayes 0 Nays.**

**RE: PATHWAY PLACE 203-1-1**

**Taylor Palmer** is representing the applicant. They were last here in September and have since had a Phase 4 meeting with SHPO; they do not have their typical level of review.

They have an acre of disturbance. SHPO had comments, as well at the Board. They submitted on December 2<sup>nd</sup> and are in the SEQRA process. The new townhomes are immediately adjacent to the existing apartment building have been reduced in length by 10ft.

**Mr. Samuelson** said it was reduced by 9ft, just to be clarified.

**Atty. Palmer** said, the overall length was shortened by 9ft and moved it this way by 6ft (indicates on site plan) and 15ft from where it originally was. The intent was to move it away from the Crabtree House. The vegetated berm will be larger in height and width.

**Mr. Samuelson** said on the corner (indicates on site plan). When they shrunk and shifted the building, they were able to increase the berm and plantings. They've added additional planting to screen it, as well.

**Atty. Palmer** said they were able to incorporate 2 guest parking spaces.

**Chrm. Conero** asked if the guest parking was for the new project.

**Mr. Samuelson** said the new project has single-car garages plus the driveways area minimum of 40 ft from the street, so theoretically there is room for two cars back-to-back, even though one would be in the right-of-way for a temporary guest. For normal parking, one car could be in the property and one in the garage. The two additional spaces are down here for the existing units and they relocated the dumpster to the back where the current dumpster location is.

**Atty. Palmer** said they will be able to utilize that with any type of shared parking agreement.

**Chrm. Conero** said, the dumpster is in the back now?

**Mr. Samuelson** said when you drive in between the two buildings, the dumpster will now be at the bottom level behind the building. The garbage truck will drive straight in and down to the back to be able to pick it up and back out, turn around in the parking lot and leave. The dumpster is hidden from view.

**Atty. Palmer** said the building height is 33ft 6in for the record. These changes were implemented to reduce any potentially significant adverse environmental impact to the Crabtree House. They tried to propose potential options, including off-site screening at the Crabtree House, but have had unsuccessful attempts to reach them. They did submit a letter today that will be formally submitted in January.

**Chrm. Conero** thinks there are errors on the EAF submitted today.

**Atty. Palmer** thinks it is referring to City Winery.

**Mr. Samuelson** said he will confirm. He knows Lanc & Tully had comments that he thought they responded to.

**Mbr. Meyer** had questions regarding the parking spaces. The adjacent apartments, is there open parking? How many guest parking spaces are over there? How did we come to the conclusion that two would be enough?

**Mr. Samuelson** said that project had been approved many years ago. The parking that was required then, there's 26 spaces there; two per unit that meets code. They provided a couple of extra at the end but the code is two per unit.

**Atty. Palmer** added, they are meeting code requirements, the Board had mentioned there might be visitors and have we accommodated; we added two.

**Mr. Samuelson** said that is all they could fit (two spaces). They are way down at the end of the parking lot.

**Mbr. Meyer** said, those folks won't be backing out onto the street but these units will be backing out on the street. That's his concern. There is no parking on Factory Street.

**Chrm. Conero** asked if they have an updated view shed of what it's going to look like, now that you've made changes? What is the visual impact going to be?

**Mr. Samuelson** said the view shed they originally provided from the Crabtree House, has not been updated, but could update it for the January meeting.

**Chrm. Conero** said, again, he goes back and the whole issue they are debating here is, that back in August, as Taylor knows, that SHPO had commented on that and one of the first points they made was their concern about the visibility of the development from the surrounding historic resources, especially the John Crabtree House at 15 Factory Street.

**Atty. Palmer** said that is referencing the wrong project, they were citing a project they are no longer building. They are referencing back to a project that has been updated and reduced.

**Chrm. Conero** said they are still talking about the visual impacts; the visual impacts are there. But they also submitted additional information about what you did submit.

**Atty. Palmer** said they met with them after; they haven't submitted any additional correspondence since they met with them.

**Chrm. Conero** said, since we all met on the phone.

**Atty. Palmer** said, they identified that what they proposed and how they managed that with changing the...treatment, that the additional vegetated screening, is typical of what they require on "no impact" or "no issue" letter. They identified that what they are doing,

they are trying to manage and mitigate those but those are the type of implementation measures they identified. For example, proposing off-site screening is another way to do it; it's not finding it necessary but it's a proposal and they can't force a property owner to do that especially one that would be opposed to the project.

**Chrm. Conero** said, it still remains, a visual impact to neighboring properties. You're trying to mitigate it. You've come up with some solutions and it's up to the Board to decide whether those solutions or that mitigation is sufficient enough to protect it.

**Atty. Palmer** said, at the public hearing and that way comments from the public may be incorporated. They are making that offer, verbally, in respect to that property, if that would further enhance the screening or benefit, if there's a concern of that. City Winery went through a similar process with you; a much larger project. They had a chance to look at their negative declaration and all the details that were reviewed. There were no mitigations proposed, associated with the Crabtree House.

**Chrm. Conero** said, he saw that you brought up the fact that City Winery, under SEQRA with City Winery; it's really two different projects that is really no comparison. You have a mill that was there that was already constructed and the visual impact from these other historic homes; especially the Crabtree House, that visual impact is already there.

**Atty. Plamer** replied, understood. They are making it clear that from the record and review, they've been implementing measures to mitigate against potentially significant adverse environment impacts. The traffic alone going to City Winery, to say that that was consistent with the mill, that's what's driving past the Crabtree House, now. Traffic, the cars. They are limited number of residential units adjacent to an existing multifamily development, other existing multifamily in the area that has been reduced significantly in scale, is zoning compliant, only has very limited vehicles coming to the site and it has otherwise added further mitigation to prevent against that potential visual impact. Right now, there are existing trees in there, there's no protection of that. The Crabtree House was not identified on the register for its views to the river. With respect to where it is...

**Chrm. Conero** said, no, he's not saying that. He was saying that it's a visual impact to the properties across the street and other properties in that area. Also, you bring up the street and the fact that the street's pretty narrow. It's probably going to be widened at some point, so it's going to further reduce your parking and your driveways that are in the right-of-way of the Village; he wanted to point that out. The other thing he's looking at here, again, after looking at this and the last rendering that was shown to them, he thinks they are going in the right direction with the berms, but it's still not adequate enough. It's still a noticeable impact to the historic property.

**Atty. Palmer** said, you said we didn't provide additional renderings so how could they make that clear?

**Chrm. Conero** said, other than the 10ft, it's not going to change much...

**Atty. Palmer** said they are preserving more of the existing tree clearance, how can that not be further mitigating; what you see today, now more of that will remain.

**Chrm. Conero** said, right and your garages are still visible.

**Atty. Palmer** said they will get additional renderings and show very clearly what will be where and what will be shifted to address that. They will put additional renderings in and have sections to clarify, but again, they are moving further away from Crabtree House, which is the issue they have been constantly referring back to, again, not having an impact on the Crabtree House. Visually, there are changes to that area consistent to what has already been developed on the site. It's been evaluated previously by SHPO and SHPO has comments saying that what they have incorporated actually is working to mitigate against potential impacts and that's what they've done on the façade. They're changes did respond to the comments, they hear you that you're still concerned, but they are updating that; they obviously have to provide a visual you a visual that helps reemphasize that.

**Chrm. Conero** said he went by their landscaping plan and it's a couple of sheets in. That's where he got the type of vegetation you're putting in. That's where he saw the additional plantings on the northwest corner.

**Atty. Palmer** said he thinks they are at a position with this plan and design to be able to set the hearing to discuss with the public, who will likely make comments and hopefully again, that the Crabtree House is listening about the further mitigating.

**Chrm. Conero** said the Planning Board has to take a hard look, they have to be comfortable enough with the plan to move forward to a public hearing and he is not comfortable enough with it now, the way it stands. He said there is substantial visual impact to the neighboring property and still think it's there. He doesn't think they've done enough to mitigate the problem. He thinks they are going in the right direction but the size of the building on the lot with the amount of vegetation you are proposing is just not enough.

**Atty. Palmer** said he will have to defer to their counsel for legal guidance in respect to setting the public hearing. With respect to the plan and design, it shouldn't impact the ability to have a public hearing to discuss the application itself. They are indicating that they will provide additional renderings; there is already a rendering of the building; it's not going to change the look of the building, it's going to add additional screening to what's coming from one residence that they are actively mitigating for. If they set the hearing, they will have input from the public who your Board is expressing it's concerns for.

**Chrm. Conero** asked, there is not other mitigation steps you can take to reduce the visual impact before they go to public hearing, is what you're saying?

**Atty. Palmer** said they are interested in hearing what the public is saying because the public, the individual, the homeowner that you're working to assure the impact from are not being responsive to their requests to try and provide mitigation. To answer your question, they are trying to perform mitigation, offering to provide offsite mitigation and they are not getting a response. The Board needs to understand the applicant is trying to implement all...

**Chrm. Conero** said he understands that you're trying, that's up to the owner of the property.

**Atty. Palmer** feels it shouldn't be held against the applicant.

**Chrm. Conero** asked if that's the only mitigation step you can take, is planting something on somebody else's property? Is that the only thing you can do? Perhaps you could reduce the size of it.

**Atty. Palmer** said they did reduce the size of it.

**Chrm. Conero** said, like he said, you're going in the right direction.

**Atty. Palmer** said, that shouldn't impair them from going to public hearing to discuss with the neighbors that you are concerned for, to make sure they get that input and hopefully they can come to some agreement with that neighbor or others, they've talked about this project with the Board but we haven't heard from the public about what they might suggest is appropriate with this site. That's the importance of the public hearing is to get that input now, before the Board to be able to otherwise incorporate it.

**Mr. Samuelson** said they have, if you go back to what the original application was, with the size of the building that was originally proposed and the parking that was originally proposed, this is a tremendous reduction.

**Mbr. Romano** said they can't go by that.

**Mr. Samuelson** said it has the same impact as this does.

**Mbr. Romano** said you can't compare them.

**Atty. Palmer** said, procedurally, they are in the SEQRA process so one thing that your counsel will advise you, and he's not going to put words in Joe's mouth, he can certainly say it, too, in the SEQRA process they are an unlisted action, not a type 1 action, they have no referral requirements to the AHRB because they are not abutting the Crabtree House or any historic properties, they are a standalone property that is being developed consistent with what the existing improvements are in the area. In the SEQRA process, you are considering whether or not there's a potentially significant adverse environmental impact; you're looking at traffic, you're looking at all the things that go into the SEQRA bundle. In this process, we've reached out to SHPO, they've adjusted the project, the

project was originally proposed 20 units; the project has been changed. What you're looking at is determined whether or not, if you issue a positive declaration, what additional information would you get? You'd get an alternative outlook for the project. You'd get the original proposal; you'd get all the reduction. Those are alternatives. Effectively, the only thing that would come out of issuing a positive declaration for this project and otherwise, a no-build alternative. You evaluate that. There's development rights for this site. They can build this proposal as a right, it's before you for subdivision and site plan, there are approvals necessary, as a right. There's no special permit, it's a site plan consistent with what's existing on the site today and they've reduced it. You've gone through an alternative analysis; you've implemented measures to mitigate against the environment visual and otherwise. We've reached out to the Crabtree House, they've reviewed what you analyzed for a much larger, much more significant impact, type 1 review project. That is a historic site and there was no mitigation involved relating to the Crabtree House. There's a huge parking lot, traffic, it's not just looking at something and saying there's an impact. They've incorporated that into the system, they are in the SEQRA process and he thinks it's important for the public to provide additional information. They've had that conversation with your Board and they've input that material but they're here to get more feedback from the public that might help.

**Mbr. Romano** said, if they agree with the footprint of it? She agrees that they go to public hearing.

**Chrm. Conero** said it's not complete. It's going to raise a lot of issues with the public.

**Mbr. Romano** asked what rendering they are going to use.

**Atty. Palmer** said they will update the rendering to include the change. The building itself is going to look exactly the same.

**Mr. Samuelson** said it's going to be 9 ft smaller.

**Atty. Palmer** said you will see less of it, it will be smaller and more existing vegetation.

**Mbr. Romano** would like to see the rendering.

**Mbr. Steed** said, the rendering will give them and the public a visual.

**Atty. Palmer** said they will submit it.

**Chrm. Conero** said he is pointing out that the mitigation steps they took are not satisfactory to him.

**Atty. Palmer** said they hear that but by setting a public hearing, it doesn't continue to work the project.

**Chrm. Conero** said, if they are going to go to a public hearing, he likes to have a complete plan that all the Board members are happy with and felt comfortable with before going to the public. He's voicing his opinion that he is not happy with the mitigation steps you've taken.

**Beth Selig** said, one of the questions you are saying is you don't think they've done enough in terms of mitigating the adverse impact. On their call with SHPO experts, they asked what they could give them to incorporate into the plan to reduce any potential adverse impacts and their suggestion was to move the building further back from the road to increase the screening or to put it on the other side of the property. Both which are not viable options given the steep slopes and the railroad tracks; that is why they did what they could to shift the building to make it smaller to increase the berm. The applicant is open to other suggestions about mitigation and perhaps members of the public or the owner of the Crabtree House can offer suggestions to them and the Board that they may incorporate into the plans to reduce the potential impact.

**Chrm. Conero** said, at the last meeting he asked what other potential mitigations you could provide and you suggested making the project smaller. Then you would be able to shield the north side of it and the property line.

**Mbr. Romano** said she suggested separating them to make them look like houses, it's just an idea, make them two-families.

**Ms. Selig** said if they break it down, you're still going to have...

**Atty. Palmer** said it's a permitted use in the district. They are building a much-reduced project because of the changes to the zoning. Ms. Selig said, hopefully other suggestions will come out.

**Chrm. Conero** asked Atty. McKay if they had enough to go to public hearing.

**Atty. McKay** replied, he hates to give non-answers but, there's nothing that says you have to schedule a public hearing in January and nothing that prohibits you from doing it. It sounds like you made your position very clear that you don't want to go to public hearing. He says (to Atty. Palmer), you're very confident that you have a consensus. At least it's a project that is potentially likely to be approved. (To the Board), you don't want to end up with putting the Board in a bad position...

**Atty. Palmer** interrupted, they've been in full...the problem is they are in limbo now with respect...they proposed their mitigation measures. They're trying to get additional input, the Board has made its suggestions, they've incorporated them.

**Chrm. Conero** said to Atty. McKay, this is their final mitigation they are going to do for this project and they are going to present this to the public, the public will make comments on it, we will make comments on it, if they choose so, and then they can entertain a vote. It's a process.

**Chrm. Conero** continued, he is not opposed to having a public hearing, he's opposed to having a public hearing when the project isn't complete enough to go to a public hearing. He's not totally comfortable with it.

**Atty. McKay** asked if there were artist renderings of the building?

**Eng. Sicina** said they hadn't been submitted yet; it was discussed at the September meeting. It is in his notes that they brought them but didn't submit them.

**Atty. Palmer** said they will provide them.

**Mbr. Meyer** said he is having a hard time envisioning what they are saying.

**Chrm. Conero** said, again, if it comes out in the public hearing, they'll do it then.

**A MOTION was made to SCHEDULE A PUBLIC HEARING FOR PATHWAY PLACE 203-1-1 ON JANUARY 25, 2023, AT 7:30 PM OR THEREAFTER, AT 9:14 PM by Mbr. Frisbie, seconded by Mbr. Meyer and carried 5 Ayes 0 Nays.**

**RE: ROWLEY – RAILROAD AVENUE 202-13-1.123, 202-13-5.21 & 5.22**

**Chrm. Conero** said, at the last Planning Board meeting, they asked their attorney to prepare the resolution granting preliminary subdivision approval and site plan approval. The first one is resolution granting preliminary subdivision approval.

**Atty. McKay** said it is the same one as the last meeting because he didn't receive any comments, he slightly revised it.

**A MOTION was made to APPROVE THE RESOLUTION GRANTING PRELIMINARY SUBDIVISION APPROVAL FOR A 9-LOT MIXED USE, AS WRITTEN BY ATTY. MCKAY, FOR ROWLEY DEVELOPMENT - RAILROAD AVENUE 202-13-1.123, 202-13-5.21 & 5.22 ON DECEMBER 14, 2022 AT 8:03 PM, by Chrm. Conero, seconded by Mbr. Romano and carried 5 Ayes 0 Nays.**

**Mbr. Steed** asked Mr. Winglovitz about the email he sent on October 28<sup>th</sup> and copied Chrm. Conero, as you previously stated the minutes that the title company said there was no right-of-way, the surveyor said there was no right-of-way, he asked him to please produce those documents for the Board to totally indemnify the Village. Do you have those documents?

**Mr. Winglovitz** stated they submitted indicating that based on review of all title, review of all deeds by their surveyor, there are no documents.

**Mbr. Steed** said he asked for a letter from the surveyor and the title company's insurance policy stating that there is no right-of-way. Those two documents.

**Mr. Winglovitz** said there will be a certificate of title provided with the transfer of the property to the Village. There will be a title policy provided to the Village insuring them of clear title to that property.

**Mbr. Steed** said that is in the future, he's talking about right now. Is there a reason why you can't provide those documents?

**Mr. Winglovitz** said there was no easements or any records, he believes that's what their letter certified to by their land surveyor. He doesn't know what else they can provide to you; a copy of the title policy?

**Mbr. Steed** said that would be fine.

**Mr. Winglovitz** said, you are going to get that in the condition of the approval anyway, because you are taking title to that property, you're going to be required to have it, a complete title policy certified to the Village.

**Mbr. Steed** said, he's just saying for today, to move forward, with complete confidence by the Board. Those two documents from the surveyor and the title company would make him feel a lot more comfortable.

**Mr. Winglovitz** said, you have the one from the surveyor; that was provided. The title policy to the Village will provide its condition of final approval. It will be written to you, as the Village.

**Mbr. Steed** said it would've simplified stuff if you had responded to my email of October 28<sup>th</sup>.

**Mr. Winglovitz** said, that was the letter they submitted, that's what he thought he was looking for. A title policy will be provided to the Village because you're taking title to the property. One of the requirements is going to be a certificate of title to the Village showing that there is no encumbrance. They haven't found anything, you haven't provided anything showing the contrary, they've reviewed all the deeds and the title, their surveyor has signed and sealed the map indicating that this is what the property is.

**Chrm. Conero** said he doesn't have it, either.

Ms. Murphy took the copy from the file and stated it was in their packet for October.

**Mr. Winglovitz** read the letter out loud to the Board:

Dated: October 13, 2022

Dear Chairman Conero;

We have prepared a survey sheet (RS-1) in conjunction with the current Rowley Development Corp. application being reviewed by your Board. The plan, "Realty Subdivision Plan, Rowley Development Corp. 21-29,33-39, 41-49 Railroad Avenue" dated May 13, 2022, has been thoroughly vetted

for additional easements that may encumber or benefit the property. No easements of record other than what is shown on said plan have been found by Engineering & Surveying Properties, PC or have been presented to me by an additional abstract of title by Hill-N-Dale Abstracters specifically looking for such.

We do have a notation on the plan that states “subject to any unwritten and/or written licenses, easements, restrictions, and/or agreements of record.” No such easements have been found; however, this note acknowledges that this property would certainly be subject to such if ever discovered.

If you have any additional questions and/or comments please don’t hesitate to contact this office.

Sincerely,  
Engineering & Surveying Properties, PC  
Brian Babcock, LS  
Chief Surveyor

**Mr. Winglovitz** reiterated; you’re going to get a title policy to the Village. Not only are you going to get indemnified, you’re going to get insurance regarding the ownership of that property, more that what anyone would normally get. Mbr. Steed said, he sure hopes they never have to file a claim. Mr. Winglovitz said they specifically brought this up to the title company so they looked and they couldn’t find anything.

**Mbr. Romano** said, you’re putting up a fence, she saw that letter. Mr. Winglovitz replied, yes.

**Chrm. Conero** asked Atty. McKay if there were any changes that needed to be made for the document before they vote on it.

**Atty. McKay** said in the subdivision approval documents, on page 2, just so you know, it tries to address what Tom is investing, it states, “WHEREAS, the Planning Board required, and the Applicant conducted, a thorough search of public records, to ensure that the Property is not burdened by or subject to any easements or rights of way with respect to the adjacent railroad.” So that’s a paragraph in the approval and he has that in the preliminary subdivision approval and he’s looking for it in the site plan approval and he’s not sure if...

**Mbr. Romano** interrupted regarding modifications to the parking.

**Atty. McKay** said that is a different matter. He will make sure it is in the preliminary site plan approval.

**Chrm. Conero** asked if they could approve it, pending adding that same condition.

**Atty. McKay** replied, yes.

**A MOTION was made to APPROVE THE RESOLUTION GRANTING PRELIMINARY SITE PLAN APPROVAL AND SPECIAL EXCEPTION PERMIT APPROVAL FOR A 9-LOT MIXED USE, WITH THE CONDITION REGARDING EASEMENTS AND RIGHTS-OF-WAY WITH RESPECT TO THE ADJACANT RAILROAD PROPERTY, AS WRITTEN BY ATTY. MCKAY, FOR ROWLEY DEVELOPMENT - RAILROAD AVENUE 202-13-1.123, 202-13-5.21 &**

**5.22 ON DECEMBER 14, 2022 AT 9:25 PM, by Chrm. Conero, seconded by Mbr. Romano and carried 5 Ayes 0 Nays.**

**RE: ROWLEY DEVELOPMENT – 99 CLINTON STREET 202-3-13**

**A MOTION was made to GRANT A SIX-MONTH EXTENSION TO ROWLEY DEVELOPMENT - 99 CLINTON STREET 202-3-13 AT 9:27 PM by Mbr. Romano, seconded by Mbr. Meyer and carried 5 Ayes 0 Nays.**

**RE: KSH ROUTE 211 DEVELOPMENT 211-1-29.22**

**Mr. Winglovitz** is representing the applicant. They were before the Board in October. There were a few minor comments. Landscaping, additional information on the architectural. They had a phone conference with the Village's architectural consultant and talked about colors and plantings. Stasch is there tonight to talk about it with the Board show you the changes they made and the updated view sheets.

**Chrm. Conero** said, for the record, he was on the call with the design architect. At the last Planning Board meeting, to eliminate the confusion with the architectural design person and the applicant, it would be better to have a meeting so he created it.

**Stasch** said there are slight changes of the colors; they are revised. They showed a 35ft building where the 45ft buildings were originally and showed the landscaping for 1, 5 and 10 years.

**Mr. Winglovitz** said the big change is they are darker. They were much lighter. They darkened all aspects of it and they reflect well in the renderings because it further minimizes the visibility.

**Stasch** shows the renderings to the Board. A lot of plants that go in are 5 years old. There is better screening after 10 years. They showed the options for the other buildings. The ones facing Weaver Street are just darker. The line shows where the buildings would be. They discussed this with the Board previously. From 211, you can see the 45ft tall buildings; that's what they are showing revised, 35ft based on the Board's request. If those buildings go down to 35ft, then these, which are currently 35ft will have to be enlarged to make up that additional volume that is lost in these buildings. When you look at it on Weaver, you can see it, it's just longer.

**Chrm. Conero** said, and closer to the residents on Weaver. It's a greater impact because the neighbors on Weaver if they do this expansion out.

**Mr. Winglovitz** agreed, from a SEQRA standpoint.

**Chrm. Conero** said they asked for these visuals and these points of view, as well, and because when it goes in front of the ZBA, that they're going to need that information to make a decision. They need more information; what it's going to look like at 35ft, 45ft and not just the two buildings in the front, but what it's going to like for the residents on Weaver Street with the expansion in the back. He thinks it's helpful for them to have as much information.

**Mr. Winglovitz** asked if they could go to public hearing.

**Chrm. Conero** said, in his opinion, it's very complete, they talked about this and he thinks the Board is comfortable to go to public hearing. Procedurally, do they go to public hearing because it still has to go to the ZBA for a variance.

**Atty. McKay** said, this Board should go to the next step which is a public hearing, issue your SEQRA Neg Dec and considering the entire project, essentially, it's binding on the ZBA as far as SEQRA is concerned, and they can move on to grant or deny the height.

**Mr. Winglovitz** said it was a coordinated review with an expanded EAF.

Chrm. Conero confirmed.

It is discussed that the meeting for January 25, 2023 will be held at the Montgomery Senior Center in order to accommodate any/all public comments.

**A MOTION was made to SCHEDULE A PUBLIC HEARING FOR KSH ROUTE 211 DEVELOPMENT 211-1-29.22 ON JANUARY 25, 2023, AT 7:30 PM OR THEREAFTER, AT 9:41 by Chrm. Conero, seconded by Mbr. Romano and carried 5 Ayes 0 Nays.**

#### **RE: MINUTES**

**A MOTION was made to APPROVE THE SEPTEMBER 28, 2022 MINUTES by Mbr. Romano, seconded by Chrm. Conero and carried 3 Ayes 0 Nays.**

**A MOTION was made to APPROVE THE OCTOBER 26, 2022 MINUTES by Mbr. Meyer, seconded by Mbr. Frisbie and carried 4 Ayes 0 Nays.**

#### **RE: ADJOURNMENT**

**A MOTION was made to ADJOURN THE MEETING AT 9:42 PM by Mbr. Frisbie, seconded by Mbr. Romano and carried 5 Ayes 0 Nays.**

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Tina Murphy, Deputy Village Clerk