

**MINUTES** of the Village of Montgomery Planning Board meeting held in the Meeting Room of the Village Hall, 133 Clinton Street, on Wednesday, June 22, 2022, at 7:30 pm.

**ATTENDANCE:** Chrm. Conero, Mbr. Romano (Absent), Mbr. Crowley, Mbr. Steed, Mbr. Meyer, Vlg. Atty. Stephanie Midler, Vlg. Atty. Joseph McKay, Scott Sicina of Lanc & Tully, Ross Winglovitz of Engineering Properties, Walt & Mary Ann Lindner, Marcia Jacobowitz, Esq., Jane Hoeffner, Taylor Palmer, Joe Dicesare

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

**ADJOURNED PUBLIC HEARING**

**RE: 88 Charles Street – 202-3-10.2**

**A MOTION was made to OPEN THE ADJOURNED PUBLIC HEARING FOR 88 CHARLES 202-3-10.2 AT 7:30pm by Mbr. Meyer, seconded by Mbr. Steed and carried 4 Ayes 0 Nays.**

**Chrm. Conero** asked if anyone has any comments about 88 Charles Street...

No one has anything to say about it.

**Chrm. Conero** asked Atty. Midler to walk them through the Neg Dec SEQRA documents that she prepared.

**Atty. Midler** replied, yes. First, she would recommend to the Board, there's no further public comment, that they closed the public hearing.

**A MOTION was made to CLOSE THE PUBLIC HEARING FOR 88 CHARLES STREET 202-3-10.2 at 7:31pm by Mbr. Steed, seconded by Mbr. Meyer and carried 4 Ayes 0 Nays.**

Atty. Midler said, next for the Board, she's drafted, for their consideration, the Negative Declaration in regards to this project. It is 88 AB Group LLC, seeking site plan approval and a lot line change for two commercial/mixed use properties in the B2 zoning district for the purpose of adding a 9'x11' cooler, converting the existing patio space into an outdoor seating area, reconfiguring the existing parking lot, as well as the easements for ingress and egress.

Chrm. Conero asked if this was an Unlisted Action.

Atty. Midler replied, it is an Unlisted, Uncoordinated Review because, the ZBA made a decision during the process so, all construction with regard to the project has already been completed; any easements are either partially existing or associated with other developments. Her suggestion to the Board is that no significant or adverse environmental impact would occur on any other SEQRA categories and she finds that the Board can adopt this Negative Declaration.

Chrm. Conero said he has read through the Negative Declaration and it looks clear and appropriate.

**A MOTION was made to ACCEPT THE NEGATIVE DECLARATION FOR 88 AB GROUP LLC 202-3-10.2 at 7:33pm by Chrm. Conero, seconded by Mbr. Meyer and carried Ayes 0 Nays.**

Chrm. Conero asked if they gave Preliminary Final last time? Atty. Midler said they discussed that this would be the Preliminary Approval; the last time they allowed her to look over the draft documents with the Preliminary Subdivision and Site Plan.

Chrm. Conero asked if there was anything tonight to move this process through.

Atty. Midler replied yes, she suggested adopting the Approval Resolution and the conditions that need to be satisfied can be; there isn't much for this project, as we know. If it's all in favor, we can move Final at the next meeting as long as they submit everything.

**A MOTION was made to ACCEPT THE RESOLUTION GRANTING PRELIMINARY SUBDIVISION AND SITE PLAN APPROVAL FOR 88 CHARLES STREET 202-3-10.2 at 7:34pm by Mbr. Steed, seconded by Chrm. Conero and carried 4 Ayes 0 Nays.**

## **PUBLIC HEARINGS**

**RE: KSH Route 211 Development – 211-1-29.22**

**A MOTION was made to OPEN THE PUBLIC HEARING FOR KSH ROUTE 211 DEVELOPMENT 211-1-29.22 at 7:35pm by Mbr. Steed, seconded by Mbr. Crowley and carried 4 Ayes 0 Nays.**

Chrm. Conero asked Ms. Murphy if all the mailings came back.

Ms. Murphy replied, yes.

Atty. McKay asked Ms. Murphy if the public notice was published on time.

Ms. Murphy replied, yes.

Mr. Winglovitz is representing the applicant along with Marsha Jacobowitz, counsel for the applicant. There are here before you for a very small part of this project; it's something that needs to happen that they believe is a positive thing. The owner has negotiated with Mr. Hoeffner, a lot line change in this area in yellow (indicates on site plan). It's approximately .3 acres, about 12,000 sq ft. The land would be transferred from the Hoeffner's to KSH Route 211 Development. The purpose of that transfer is to allow

the driveway to line up opposite Chandler Lane. Without it, the actual lot line between the two properties is directly opposite Chandler Lane and either of them would have to have a driveway that is offset from Chandler inherently creating a difficult situation. The applicant, KSH Route 211 Development, had been able to negotiate this lot line change so they made an application for that and they wanted the Board to consider action on that small piece of the project, whether this project goes ahead or development on the Hoeffner property, which there is none proposed go ahead, this allows a driveway to be opposite which is in the best situation that they can have for this property and the Hoeffner property.

**Chrm. Conero** said, thank you.

**Atty. Midler** said this public hearing tonight and this portion of the application is just with regard to the subdivision/lot line change, which is treated as a subdivision under the Village code, under SEQRA 17.3, if the Lead Agency believes that circumstances warrant a segmented review and must clearly state in its determination of significance and any subsequent EAF and supporting reasons and must demonstrate that such review clearly no less protective of the environment. So, that's the standard that the Board has to review. This portion, the reason that they are segmenting this portion of the review, there's correspondence from Ross's office dated June 15, 2022, along with a report from Creighton Manning, dated June 16, 2022, that outlined the considerations as to why it's no less protective of the environment and importantly, the Village traffic consultant Collier... submitted correspondence and June 17, 2022, agreeing with their conclusions in the finding that it is no less protective of the environment. That's how we're moving with this portion and this portion only and it's noted that any approvals of this portion of the application has absolutely no bearing on any other portion of the site plan, which is being done separately.

**Chrm. Conero** said, this would be to align the Chandler Lane intersection with this new egress. The applicant's engineer stated that this is going to make it cleaner and generate less traffic because of way it's configured. They took a close look at this and determined that it makes a lot of sense to have an aligned intersection for any development. The applicant was able to negotiate with the adjacent property owner to do a lot line change/subdivision of this piece of land. Does anyone else on the Board have any questions for the attorney?

**Mbr. Meyer** said this is something they have been trying to take a look at for a long time, now, so it's happened.

**Atty. Midler** said traffic was the main concern and traffic safety as being the reason and supported reason of no less protective of the environment, as well as a reduction of potential disturbances to the wetlands because of the placement. That's what's guiding this forward.

**Chrm. Conero** said at this time, he's opening up to the public. If you'd like to speak, state your name and address and keep the comments to the subdivision that we're talking

about here. We're not talking about the four warehouses that are proposed because that's still in the planning phase right now. There have been no determinations on those at all. Again, the attorney had just mentioned that this is just for the subdivision and line change only.

**Jeff Van Zandt** – 91 Weaver Street – without this road, the four warehouses potentially couldn't go in there, correct?

**Chrm. Conero** replied, no. That's not true. The traffic analysis has been done and it would still satisfy that.

**Jeff Van Zandt** asked, how the access would be?

**Chrm. Conero** said the offset between the two intersections wasn't significant. It was just enough to make it not aligned.

**Jeff Van Zandt** asked, if this was denied, where would KSH potentially put their road to access?

**Chrm. Conero** said, it would go there but it would just be an offset intersection which will be less clean. Also, as they've mentioned, it allows aligning the road in case this piece of property, the Hoeffner property, is ever developed because it is in an industrial zone, as well. There's property behind there that's in the town that this can possibly be used to access something in the town at some point. Again, this alignment of the intersection has no bearing on the traffic study that's been done, other than it's less traffic and less road improvements will be needed.

**Mbr. Crowley** said, and it's safer.

**Karina Tipton** – 225 Union Street – for the purposes considering a segmented review, she understands that they've already done a thorough review of the traffic situation. The traffic would not be evaluated if it were not for the construction of the warehouses. She understands the importance to clear up these minor concerns before they can...the final site plan process but the traffic is one of the important environmental review process of SEQRA. There are also ancillary impacts that are environmental impacts that are related to traffic so by creating a situation where you are permitting easier traffic flow, more traffic flow potentially, better access with fewer road improvements, you are permitting, with this change, a development that would have greater traffic impacts overall to the overall environment which will include not only impacts to our local infrastructure, impacts to local traffic but also impacts to pollution with having so many more trucks coming into the Village at that location. So, from that perspective, she's not sure that this can proceed as a segmented review unless you have fully considered the additional environmental impacts from the traffic that would be additional traffic that you're talking about based on the traffic review, it would be allowed by the....

**Chrm. Conero** replied, they have letters from the applicant's traffic study that indicate that there would be less traffic generated and would have no significant impacts on what they're doing.

**Ms. Tipton** – (interrupted the Chrm.) when you say less traffic generated, do you mean truck traffic?

**Chrm. Conero** replied, all traffic.

**Mr. Winglovitz** said there will be less traffic delays.

**Ms. Tipton** – less idling. The number of truck...

**Chrm. Conero** said, it's still the same. It's based on the number of bays that are proposed in this project. Again, they have the letter from the applicant's traffic analysis panelist and our own from Collier's that concurs with what the applicant's traffic analysis says. It doesn't have a bearing on the four proposed warehouses. The same amount of truck traffic is going to go through there. There will be less congestion.

**Mr. Van Zandt** asked, how there can be less congestion if there potentially...he knows they aren't talking about the four warehouses right now, but potentially there's going to be four warehouses there. He doesn't know how many of the Board members live in the Village or close to the Village, but with these two giant warehouses now abutting, Medline and Amazon, the traffic throughout the Village, and he's not saying it's all Amazon or all Medline, but he's lived here for 12 years now, he grew up in Goshen and has been here his whole life. The traffic through the Village now is horrendous. And whether any of you live up here in the Village, he doesn't know if they do or don't, it's absurd.

**Chrm. Conero** replied, we all live in the Village or we wouldn't be able to be on the Planning Board in the Village of Montgomery unless they were Village residents. When we ask for a traffic analysis, just so everybody knows, we pick the intersections and development in the area to look at what the traffic patterns are going to be. All if it is in consideration with the studies.

**Mr. Van Zandt** – when do we say it's too much? When you can't drive through the Village? When there's 150 cars at the light?

**Chrm. Conero** said these studies, these traffic analysis', these consultants, these professionals have not seen the failures in the intersections in the places that we've asked for; like Montgomery Elementary School when school is letting out or 17K and Route 211, or Medline or any other intersections that we've asked for. Some parts of the day it does come close to failing and other parts are fine. The overall is not a traffic problem.

**Mr. Van Zandt** – asked not a traffic problem for who? He's waited at the school for 10 minutes, sometimes in that.

**Mbr. Crowley** said she's lived here almost her entire life. At school time it's not the warehouses that are causing the traffic at MES.

**Mr. Van Zandt** – its commuters.

**Mbr. Crowley** said it's not the commuters, it's the people picking their kids up from school. If people would use the transportation that's provided...I know because my child went to MES and that school...

**Mr. Van Zandt** – it's all parents, there's no commuters in there...

**Mbr. Crowley** said it's not. Commuters are early hours and not during schooltime hours of 9 and 3; that's not when people are commuting. The other thing is these areas have already been zoned industrial. There is going to be industry that's going to go in there. It's already been zoned and people have the right to come in and build in the industrial zone. This is not the point to bring up this issue. If you don't want that zoning to be industrial then you've got to show up at other meetings and express that concern. She's lived here all her life; when it was a farming community, we didn't have all this industry it was farm, it was agriculture. Everything has changed tremendously. There's been good things and bad things that have changed in the Village. The downtown area looks far better than it ever did when she first moved here in the early 70's.

**Mr. Van Zandt** – He lives on Weaver Street and he's concerned with the development in his back yard. You may not live on Weaver Street, he does and he's concerned about this major development.

**Chrm. Conero** said we aren't talking about the development, we're talking about the subdivision and he knows what he's saying, he's understanding that, and what Katrina has mentioned too, your concerns are that by lining up this intersection there's going to be more traffic going into this development if it gets approved.

**Mr. Van Zandt** – he's concerned about the amount of growth. And the time frame that it's happening. It's absurd. It's like overnight.

**Chrm. Conero** said he can talk to him offline about all the changes that the Comprehensive Plan Committee has made in the last two years. They've established warehouse guidelines...

**Mr. Van Zandt** – taxes are going up and these gigantic warehouses are not paying their fair share, it's absurd. The Boards hold the power. They can pull these companies aside and say we need more money out of you. If you don't want to give more money then don't build here.

**Atty. Midler** redirected the meeting. We are here for public comment. If there's any feedback...

**Chrm. Conero** said he doesn't mind answering a few questions here and there about the traffic because it's a concern, we all live in the Village. He's more than happy to discuss it offline, too, it's an issue that they've had on the Comprehensive Plan for many years. Are there any other comments? Can we close this?

**Atty. Midler** said you still need County comment. She recommended leaving the public hearing open for that purpose and if anyone wants to comment again, they'll have that opportunity, as well.

**A MOTION was made to ADJOURN THE PUBLIC HEARING FOR A LOT LINE CHANGE BETWEEN KSH 211-1-29.22 AND THE HOFFNER PROPERTY 211-1-29.21, TO WEDNESDAY, JULY 27, 2022, AT 7:30 PM by Chrm. Conero, seconded by Mbr. Crowley and carried 4 Ayes 0 Nays.**

Atty. Midler noted that there are comments from the engineer that the general notes and location map to be updated to include the subdivision property...

Mr. Winglovitz said they will make a submission for that and address Scott's comments.

Chrm. Conero asked what else they are waiting on; just the County and the engineer's comments to be satisfied?

Atty. Midler replied, yes, to get this portion of the SEQRA done for the subdivision. If the Board wants to comment on parts of the site plan, now, you can if you'd like. Chrm. Conero said they are waiting for the applicant's architectural renderings. Mr. Winglovitz said they will address all of that. Chrm. Conero asked if it would be ready for the next meeting. Mr. Winglovitz replied, yes.

Atty. Midler said she would like to recirculate the Notice of Intent to all agencies. She will send a list to Ms. Murphy.

**RE: Food Bank of the Hudson Valley – 36-1-2.12 & 214-1-1**

Chrm. Conero asked if all filings and mailings were returned. Ms. Murphy replied, yes.

**A MOTION was made to OPEN THE PUBLIC HEARING FOR THE FOOD BANK OF THE HUDSON VALLEY – 36-1-2.12 & 214-1-1 at 7:53pm by Mbr. Meyer, seconded by Mbr. Steed and carried 4 Ayes 0 Nays.**

**Mr. Winglovitz**, along with **Marsha Jacobowitz**, is representing the applicant. They are here before you regarding the application for a 2-lot subdivision; subdividing this 27-acre parcel into 2 lots. The remaining land of 22 acres, here, and a single lot of 5 acres on that lot is a site plan for a 40,000 sq ft facility for relocation of the Hudson Valley Food Bank for their distribution of food in the area. The facility will use the existing driveway

entrance that services Aden Brook Farm, located a quarter mile past 416 & 211 on the left, the existing driveway will be upgraded for access to the facility. Parking around the building; some of it will be land banked, because they don't believe they need it all. Loading docks in the rear of the facility. The uses; a permitted use in the zone, a special permit in the zone so there's a site plan review and approval by the Planning Board. There is a height variance requested for this that is on for next week with the ZBA, that has been applied for. They are proposing a 45 ft height for the building. They do have the consultant's comments, he will answer those after the hearing. The FAA application has been made regarding the building height and they are awaiting response.

**Chrm. Conero** asked when they applied for that.

**Mr. Winglovitz** replied, a couple of weeks ago.

**Ms. Jacobowitz** said, they are on the agenda for the Town Board.

**Mr. Winglovitz** said since the driveway will be servicing more than one lot, they applied to the Town of Montgomery Town Board; their mechanism to do that is a private commercial road and that is something that is approved by the Town Board. That was submitted to the Town Board for their review and approval and that will require a maintenance agreement for the access drive between lots 1 and 2.

**Chrm. Conero** asked Mr. Winglovitz to go through the engineer's report.

#1 -there is a wetland area at the rear of the site. Their professional's opinion is that it's an isolated wetland that was created when there was a man-made excavation in that area and that wetland is not jurisdictional from either the state or the ACOE. They do not feel it requires permitting, as it was manmade.

**Atty. McKay** said, so the Board is aware, they had a phone conference this afternoon; the issue of the wetlands came up with Engineering Properties professional and Scott, who had a bit of a difference on the wetland's issues. Scott agreed to look at their professional's report and take the issue under advisement. There is no determination yet but they are working through the wetlands issue.

**Mr. Winglovitz** said there was a question as to whether Army Corps would need to provide info regarding that isolated...he doesn't think it's required by the Army Corps, if it's within their jurisdiction and they disturbed it, then they would have a permit problem with them. In order to get confirmation of that 6-month process from the ACOE, they asked if the Board and their consultants would agree, hire a wetland consultant to go out and confirm what their professional is saying regarding that. The risk is theirs.

**Mr. Sicina** said, it's not a standard practice. It's not something that he's been involved with. When he spoke with other engineers in his office and what they've dealt with before, it's standard practice that Army Corps go out and walk the wetlands to confirm, yes, it is or no, it's not. They have jurisdiction.

**Chrm. Conero** said, we all want to see this move forward but he wants it done right and appropriately; they all do.

**Mr. Winglovitz** said there is a short-cut where they can apply for a permit, even though they don't need one, but when it's an isolated wetland, they don't want you to take that short-cut. They make you get a jurisdictional determination before; the permit application forces them to make a determination within 60 days but since it's isolated, they won't make that determination in 60 days, you have to go back and get a JD regarding that and that process takes a long time. And Army Corps has not been going in the field.

**Mr. Sicina** said in some projects that they've been working with, they've had their wetlands consultant get in contact with him and they've discussed with him through emails, sending photos, information like that. That might be a route that you can take as far as getting a jurisdictional determination without him possibly going out. Mr. Winglovitz agreed and said it's still a lengthy process.

#2 -mapping should be a little bit darker, so that's no problem.

**Chrm. Conero** asked Mr. Sicina if he had drainage concerns on the project.

**Mr. Winglovits** replied, #'s 8-15 that were on the SWPPP. They are technical and have not problem addressing them in the next submission. #3 is regarding no proposed actions on remaining lands. Lot 2 has nothing proposed at this point. They needed to create a lot that was viable before the Food Bank and that's why that is being cut out and the remaining lands are being left.

**Mr. Sicina** wanted to bring up; no proposed actions on Lot 2, there is also a question in the matter of, if there is an extension made onto Lot 2 and there is a private service that comes off the main that serves the Food Bank, and then it's going to go on and serve another lot, he believes they will need a Transportation Corporation created for that private service because you're serving more than two separate parcels.

**Mr. Winglovitz** replied that that was a possibility; he thought it was four lots.

**Mr. Sicina** said it is something they should look into it because it could create more work moving forward if Lot 2 gets developed.

**Mr. Winglovitz** said this lot pays; that is in the Village, it pays Village tax but does not have access to Village water, that's part of this project (indicates on site plan) and bringing the water up 211 and into the site. They want to make water available to that remaining lands that are in the Village that are in commercial zones. If it would need to be at that point, they would have to discuss potentially dedicating that to the Village as a Village line or do a Transportation Corporation.

#4 is the water main. They sized it as an 8" main which is typical hydrant size; will provide fire service to the building, there will be sprinklers in the building. There is not a lot of domestic use. There will only be workers in the facility. They decided to provide fire protection and to provide any future service.

#5-an email from Marc Devitt -regarding the water sewer main on the abutting property owned by Devitt Management. They have agreed to provide an easement. They are aware of the location of the water/sewer mains and the concern Scott had was of one of the PDD sketch plans that they had, those water/sewer mains would impact the buildings. Marc is aware and he is acknowledging that.

**Chrm. Conero** asked, Marc is sending us a letter indicating the easements for the water/sewer lines? There's going to probably changes to his PDD based on where the easements and the water lines are going to be. He said he received an email from Marc that he responded to.

**Atty. McKay** asked Mr. Winglovitz asked if the letter could have further detail; some reference to the plan. Have they provided a draft easement?

**Ms. Jacobowitz** replied, not yet.

**Atty. McKay** continued, something that acknowledges...he'd like to reference the sketch approval and that means coming back for final site plan approval on that project and then there is a record so that if anyone looks at that issue in the future, we'll have a specific explanation as to why.

**Mr. Winglovitz** said you will need that prior to final site plan approval.

**Mr. McKay** said, sure, and when he goes back at some future time, there'll be a record in his file and some future Planning Board can take a look at that and make sure it's all good.

**Ms. Jacobowitz** said they will have the easement before the next meeting; it will be in the agreement where the lines are going to be and they will have the meets and bounds.

**Mr. McKay** asked her to send him a draft of the easement.

#6 -this location of flow meter/backflow prevention device; they will work that out with Scott and the DPW.

#7 – is in regard to silt fence be added; that's no problem.

#8-15 is for the SWPPP

#16 – long form EAF has been provided, the impact discussion should be provided on the Part 3 form; are you looking for a summary of everything they have provided for Part 3

or is this a Part 2 of Part 2 or do you want them to go through Part 2 and do a Part 3 based on that? He's not sure of the goal of that.

**Mr. Sicina** said, impacts to the aquifer, no pesticides be used on the site, just notes. Exterior bulk storage of petroleum or other hazardous waste, but he doesn't think they anticipate having on site?

**Mr. Winglovitz** replied, no.

**Mr. Sicina** said discussion of potential impact to agricultural uses of the surrounding properties.

**Mr. Winglovitz** said they typically do a Part 2 draft and Part 3 impact on land/agriculture. They can provide that.

**Chrm. Conero** asked if anyone would like to speak.

**Atty. McKay** said, there are some concerns. There were some mandatory comments that came in this afternoon from the County. He'd like the Board to be aware of them; some are advisory and several of them are mandatory. There are things that this Board is going to have to consider before issuing its negative dec/potential approval:

- They are asking for a landscaping and lighting plan.
- They're asking for an aeronautical study. He knows they've been in touch with the FAA, so you're already in that process. **Mr. Winglovitz** replied, yes, it has been filed and they are awaiting a response. **Chrm. Conero** asked, what is the specific thing they applied for? **Mr. Winglovitz** said, it is within their flight path so you have to identify the coordinates of the building and the height at each coordinate for the corners of the building. Then they ask that the building be lighted based on that. **Chrm. Conero** said the County asked about lighting on the building. **Mbr. Crowley** clarified that they are asking for both.

**Atty. McKay** said those were the two binding comments. They also indicate that we continue to coordinate with the DOT in regard to 416.

**Mr. Winglovitz** said the entrance is existing.

**Atty. McKay** wanted to let the Board know because the Board hadn't seen it.

**Mr. Winglovitz** said there is a landscaping and lighting plan in the submission package. They have applied to the FAA and covered those bases for you when you are ready to make a determination.

**Atty. McKay** said that he believes they already proposed a vegetative buffer along the side so that's already covered. And you mentioned a maintenance agreement and

easements earlier, that's in the works, as well. The wetlands were taken care of. He has one more question, ongoing comment, there has been a potential segregation since we don't know what is going to be proposed on lot 2, his notes from a few meetings ago, there was a discussion about having a call or meeting to try to work that out. Scott was focusing on water usage and sewage and his comments on that segmentation issue, and so it needs to be addressed in some way. The property owner doesn't have to commit to what the future use of that property is going to be, he can build whatever the zoning allows and that's it. He's thinking is some review, 3-4 scenarios that the Board can reviews and considers before it issues the neg dec.

**Mr. Winglovitz** said they talked about doing a Part 3 where they do a paragraph discussion, maybe they have a paragraph discussion on Lot 2 and give generic information.

**Atty. McKay** agreed. Right now, it's current use is agricultural, no change, no impact; whatever use under the industrial zone, these are the potential impacts. And the big one would be another warehouse; some bullet points about the potential impacts. If the Board reviews it, that's your obligation to avoid the segmentation. It would be a good first step. He would like to speak with Mr. Winglovitz about it. That is pretty much everything. He asked Ms. Murphy if the public hearing notice was published on time. He wants to double-check the public hearing notice to see if it was noted that it is a special exception use. Ms. Murphy gives the notice to Atty. McKay. He thinks it substantially complies; it does say subdivision and site plan. If they get to the point where we're going to hold this public hearing open, one thing he suggests is the Board republish to include the special exception language in there. He also asked the Board if they are going to refer this for architectural review?

**Chrm. Conero** replied, yes.

**Atty. McKay** asked if they already sent it for review?

**Chrm. Conero** said, no.

**Ms. Murphy** said that only Rowley's project was submitted for review.

**Chrm. Conero** said we hadn't sent it because we were waiting to hear back from the architect for a final submission before we sent it to Elise in Corning.

**Atty. McKay** said, because it is part of the approval process for the special exception use; the Board does have to make a design approval, as well, based on the warehouse criteria.

**Chrm. Conero** said we need that to move along, too. He asked if anyone wanted to speak about the Food Bank of the Hudson Valley project; just state your name and address for the record.

**Walt Lindner** – 101 Jefferson Road – has there been any further discussion with the DOT; he believes they had a meeting last month with the Town, Village and County officials talking about traffic in that area; possible extension of Dunn Road across 211 and 416 and maybe connecting to the Fitzpatrick property. Has there been any further discussion with DOT regarding that?

**Atty. McKay** said he hasn't been involved in...

**Mr. Winglovitz** said it's an existing entrance so the DOT is not involved.

**Mr. Sicina** said the DOT is requiring a roundabout design schematic.

**Mr. Winglovitz** said that is for KSH. It's part of the KSH review and comments. One of the things they want a conceptual roundabout design at the intersection of 416 and 211.

**Mr. Sicina** asked, that wouldn't include the Food Bank?

**Mr. Winglovitz** said no, it was a direct comment from the DOT regarding that intersection in their review of the KSH application.

**Ms. Tipton** asked, has the DOT requested anything along the lines of a roundabout in review for the Food Bank? She didn't bring it up for KSH because it was just a simple lot line change public hearing. It would seem applicable to both developments.

**Chrm. Conero** said the KSH project, they asked the engineers to come up with a roundabout design, he doesn't know where they are at. They are not required to have that for this warehouse for the Food Bank.

**Ms. Tipton** asked if it is because the egress is on a County Road and not a State Road?

**Mr. Winglovitz** said it's existing. Traffic from the project is primarily going to travel east/west; from 416 to Neelytown and out.

**Ms. Tipton** asked if there will be traffic restrictions...(inaudible, speaking too fast).

**Chrm. Conero** said, no, and they haven't put it as a condition. That is on Town land, too. He doesn't know whether they would in part of their review.

**Ms. Tipton** asked, the warehouse?

**Chrm. Conero** replied, the road for the project is in the Town of Montgomery.

**Ms. Tipton** said but the operational requirements on the warehouse would be your jurisdiction.

**Chrm. Conero** replied, yes. There's minimal truck traffic coming out of here. There are only 4 truck bays; the large truck bays, most of it is small so traffic impact will not be that significant with this.

**Ms. Tipton** asked if lot 2 is in the Village.

**Chrm. Conero** said lot 2 is in the Village.

**Ms. Tipton** said, so that might be part of the hypothetical evaluation that they have to do regarding the segregation?

**Chrm. Conero** replied, yes.

**RJ Smith** – 55 Main Street, Pine Bush – he is representing the property owner. The objective here is none other than to feed children. Children who might not otherwise have a meal and during the summer months when they rely on the schools, definitely don't have access to good nutrition. That's all that this is about to the extent that they can expedite...inaudible...whether it's the wetlands, the study of the adjoining property, the point is if it can be expedited, it would be appreciated.

**Chrm. Conero** said, so noted.

**Atty. McKay** said, Mr. Smith, he can assure him that they had multiple calls today and everyone wants to move the project through, in a way to comply with the code. They are all working together on this.

**Chrm. Conero** asked if there were any more comments on the Food Bank. At this time, they cannot close the public hearing; they will leave it open until next month.

**A MOTION was made to ADJOURN THE PUBLIC HEARING FOR THE FOOD BANK OF THE HUDSON VALLEY 36-1-2.12 & 214-1-1 FOR JULY 27, 2022 at 8:00pm, at 8:23pm by Chrm. Conero, seconded by Mbr. Meyer and carried 4 Ayes 0 Nays.**

Ms. Jacobowitz asked why the public hearing couldn't be closed. Is there a reason why?

Atty. McKay said his opinion this afternoon was, since they have the issue with the wetlands and they also need to review for the special exception use, they need the architectural review ASAP, that's not a contingency that is something that has to be determined within this public hearing.

Chrm. Conero said it would be the drainage, the architectural review of the warehouse and the wetlands. Those three major things is why they decided to leave it open. There is no benefit to closing, with three major things that aren't done yet. It's not delaying the project by leaving it open, you're going to have to come back next month anyway to address...they wouldn't intentionally leave it open to hold you up. They try to find

creative ways to expedite the process but unfortunately, with these three major things, they need to adjourn the public hearing. In the individual aspects of it, we need that from Jason or whoever your architect is because we need time to get that to our people to look it over and comment on it. The turnaround time with our people is pretty good, so far.

## **OLD BUSINESS**

### **RE: Rowley Development – Railroad Avenue – 202-13-1.123 & 202-13-5.21 & 5.22**

Mr. Winglovitz is representing the applicant. They've been working on the plan; trying to resolve comments. They've removed the curbing around the parking lot with a request for the Board to allow them to eliminate it; it's a waiver provision in your code. That is for the resident parking area only. This will allow the drainage to sheet flow to the rear of the property as it does today. They've done extensive work trying to identify where the drainage goes. There are several pipes that come through the Village Street onto the property. They have not identified a vault that they go to, a pipe that comes out, another pipe on the south end that ties into Clinton Street drainage system but in between. The old railroad maps do show a connection, a pipe that goes from South to North in this area (indicates on site plan), so that's what they've shown on their plans.

Mr. Winglovitz continued; they received the comments on architecture. Tina handed them out this evening. The first comment that Scott was regarding was a downstream analysis. There's a large culvert that goes underneath here (indicates on site plan). He knows Buddy has had issues with that culvert flooding. Their position is this is the 3<sup>rd</sup> site plan that's been in front of this Board; this is the least developed site plan that's been in front of the Board regarding impervious area. They are actually reducing the impervious area significantly from the existing conditions, since it is all impervious now. They believe they are reducing the flows off of the site and they have requested not requiring that because at previous times, they are developing in a less intense manner than in the past.

Mr. Sicina's concern is, he agrees with Ross that they would overall be reducing the flow off the site. There's been no confirmation that there's an actual connection of the pipes to the box culvert that runs under Clinton Street. His concern is that the railroad bed is acting as a slight ponding reservoir. There's a catch basin just inside the site, right before that. When he was onsite with Buddy, they were looking at that catch basin and it appears that when that catch basin fills up, its discharged into the railroad bed, once it fills up with water, it could get out to the actual catch basin rim in the road of Clinton Street and that's when it discharges down into the box culvert. What Ross is proposing to do is route all the drainage directly to that box culvert. The concern is they may have a potential reservoir holding back water and now everything will get there at the same time and increasing the chances of flooding on Spring Street.

Chrm. Conero said, there's a house on the corner and we don't want to cause any problems with that.

Mr. Sicina pointed out that the Village of Montgomery code states that, “subdividers and engineers shall study and submit a written report of the effect of each subdivision owning existing drainage facilities outside of the area of the subdivision the studies be subject to review by the Village engineer and the Orange County Soil, Water Conservation District where it is anticipated that the additional runoff extensive development of the subdivision will overload the existing downstream drainage facility, the Board shall notify the Village Board of such potential condition and in such case, the Board shall not approve the subdivision until provision has been made for the improvement of such potential conditions.”

Chrm. Conero said, it sounds like you’re going to have to fix the drainage down here at the north end.

Mr. Winglovitz said he thinks its just an analysis.

Mr. Sicina said he’s not saying he has to fix drainage; it would be good for him to take a look at it and see where we stand with this and are we going to make the condition worse or going to reduce what is potentially already going there. They might be able to say what we’re doing now can potentially alleviate some of the flow going in there and prove that it will not (inaudible).

Chrm. Conero said we should do that. We don’t want to cause potential problems on Spring Street. Can it happen so we can move forward with this?

Mr. Winglovitz said, yes, they can look into that. It’s already been reduced. They’re going to do an analysis and again, say they are reducing the flow and it may be undersized as it is, but they’re reducing the flow.

Chrm. Conero said, we want to be sure it’s correct and our engineer has concerns with it. He can’t imagine saying not to do it.

Mr. Winglovitz said, #2 – there is a survey update. It was done a while ago and they redid it. One of the things that Reuben noticed was that catch basin was no longer there. It had been removed by the Village at some point.

Mr. Sicina said, you will get more clarification with that when you provide the drainage analysis.

Proposed drainage easements need to be provided to match the revised drainage line on the proposed subdivision plat. Since they’ve done that plat, they’ve amended the easements.

Mr. Winglovitz said, #4 - talks about impounding water in the northeast corner of...

Mr. Sicina said there seemed to be no catch basin or anything but was still curbed.

Mr. Winglovitz stated that Scott noticed that the revised plans removed curbing from the residential parking lot, the curbed isles that previously defined the on-street parking. There were bump outs here (indicates on site plan). Discussions that the applicant had with the DPW, there were concerns with the ability to plow these; they were located at the ends of the streets (indicates where on site plan) that were removed to make it easier on the Village.

Mr. Sicina said the Village Board needs to be aware of these changes, as the Village Board approved the on-street parking. He doesn't think they will have an issue with it, they should be made aware and will be slightly different than what they looked at and approved.

Mr. Winglovitz said they could solicit comments from Buddy and copy the Village Board so that everybody is on the same page. He continued, #6- multiple trees are shown located over revised drainage trunk lines. They will see if there is anything that is large or significant that may need to be relocated, as far as trees. They may have to relocate lots 6&7 trees. The last was the railroad map and they provided that at the last meeting and there was discussion about it. They mapped it and tied it into their survey. It really wasn't too detailed.

Mr. Sicina said the Board asked for a letter on how the impacts would affect the property and that nothing would happen. The easement should also be shown on the plan.

Mr. Winglovitz replied, there is no railroad easement on the property, so it's the map that the railroad is the right of way.

Mbr. Steed said they asked for it, the overlay of the railroad's right of way onto the property.

Mr. Winglovitz said when they were preparing the survey there were no easements of record on that map that affects this property. That is the opinion of their surveyor based on the brand-new survey that he issued. He will provide a letter from the surveyor.

Chrm. Conero said, they did send the architectural out to a company that specializes in architectural design and review. They made some suggestions/clarifications. They created a narrative, as well.

Mr. Winglovitz said their architect is Kathy McWolf in Middletown.

Chrm. Conero suggested to try to expedite and work things out before the next meeting, maybe they could schedule a conference call and figure out how you want to redo the building. They (the Planning Board) are looking at this company as a guide for them, as they don't know, and they're using their expertise and using what the existing buildings are around the area.

Mr. Rivenburgh asked if the Planning Board has recently been empowered with architectural design?

Chrm. Conero replied, in the Business Zone they can under SEQRA.

Atty. McKay said, it's also a requirement for any approval for special exception use.

Mr. Rivenburgh asked if the Planning Board is dictating to him what he can build?

Chrm. Conero said, no, not at all, they are just asking him to look at other designs; you only submitted one and it's a high-profile area and they want it to look appropriate.

Mr. Rivenburgh said it's not the historic district.

Chrm. Conero said, no it's not. If it was it would be going to the AHRB.

Mr. Rivenburgh said, high profile area?

Chrm. Conero said it's a significant change in that area.

Mr. Rivenburgh said he understands and will take a look at it with his architect.

Chrm. Conero said if he makes changes, the Board will have to resubmit the designs.

Mr. Rivenburgh said he thinks they are trying to dictate designs. The building is not in the historic district. He does not see it progressing.

Chrm. Conero said he can't say what a good-looking building is, that's why he's asking the experts. So, the drainage and the architecture? It looks like it's moving forward.

### **RE: Pathway Place/Factory Street 207-1-2.212**

Taylor Palmer is representing the applicant, along with Mr. Winglovitz. The project has been significantly reduced down to 8 total townhouse units; about 65% reduction from the original proposed 22 units. The supplemental submission does include a landscaping plan. For the benefit of the Board and consultants, they provided a subdivision application form, they included a site plan and updated the EAF. They did incorporate the landscaping plan and grading and utilities plan that Lanc & Tully previously requested. They adjusted and provided details about the size of the building, locations of the garage areas, rather than a large parking lot as is the existing conditions of the adjacent parcel that will be separated from their lot. They are further reducing the visual impact, as well using their landscaping plan. The importance of these changes Hudson Cultural Services, who is their historic and cultural expert to communicate with SHPO. They did determine with their (Planning Board) counsel, the property is not subject to Certificate of Appropriateness review. It is not adjacent, as far as definition in your code, to any

historic structures. While a local historic district review isn't applicable, they are fully involved in communicating directly with SHPO and they hired a consultant to present that information. Their submission shows how the building is set into the site and reduces any offsite mitigation was submitted directly to SHPO. They haven't responded yet but have confirmed receipt. It's an unsolicited submission. They will provide what they hear from SHPO. They did submit a memo, dated June 10<sup>th</sup>, from Hudson Cultural Services, that details how the project will not have any significant adverse visual impacts to the National Registered Crabtree House, at 15 Factory Street, and/or the National Register Eligible property at 19 Factory Street.

Mr. Winglovitz will review Scott's comments. #1 is indicating that it's conforming with zoning. #2 is the separation of the existing units to the proposed units in conformance with your code requires 35 ft; it does refer to on the lot. This is going to be on a separate lot. In any event, they are going to be 57 ft apart so that is not an issue, they will label that dimension on the plan. They will add the limits of disturbance to the grading plan and provide erosion control measures. The 100-year flood plan is way down below the site because of the buffer requirements of 100 ft. They will provide the location and label that; clearly demonstrate that. Concern about some of the plantings in relationship to the utilities; they can shift some of the plantings in and some of the utilities to provide better access in the future. One of the critical things is maintaining the landscaping on this end of the site (indicates on site plan) because of its proximity to the historic structure. Two comments on the EAF that they can address; resubmit for July and a public hearing is required.

Mr. Palmer is asking to recirculate for SEQRA as the project has been significantly reduced and the impacts are reduced. If the Board would see fit, maybe circulating to the involved registered agencies, the Village Board will have review authority at some point after a preliminary approval, this project, because it is a multi-family structure, the Board can potentially recirculate for SEQRA and also potentially setting a public hearing in regard to the application.

Mbr. Meyer asked, the driveways will exit directly onto Factory Street at opposed to the other units there.

Mr. Winglovitz replied, yes, the garage units; they can park in front and in the garage at 4 locations would back up onto Factory Street.

Chrm. Conero said this project is interesting. He signed off on the original apartment building. And in the minutes it was clearly stated that there would be no future development on the property. So, that was what the Board finally agreed to and that's what the applicant agreed to; the original applicant said there would be no further development on this property. There doesn't seem to be a note on the map to reflect that but it's clearly reflected in the minutes.

Mr. Palmer said that would have been with prior counsel and there were either more units approved; it was not in the approval resolution and its not tied to the subdivision plan, there's no declaration or any other covenants associated with this property.

Chrm. Conero said you have to understand, there was a lot of talk and discussion in detail about fire access and how it would impact the fire access around here. He also has concerns with parking. Where are these people going to park, other than in the driveways when there's a guest. There's no parking along this road. You're also reducing the berm that's there. Your SEQRA person indicated that this is a significant berm that's going to be dropped down. You took a hard time demonstrating the shielding that would need to be there to satisfy some of the previous comments from SHPO.

Mr. Palmer said they submitted to SHPO so they will be commenting directly and have a landscaping plan before them when it was considered. SHPO's original comments were to incorporate landscaping which has now been submitted. Those will be provided and they will also submit copies of the City Winery traffic study showing that there would be no impact there. They can look at and identify parking areas for this location. They are talking about 2 spaces for the units on the project is significantly reduced down to 8 total units from what was previously a 22-unit proposal based on changes from the Village Board about density setbacks and other requirements. This is a significantly reduced proposal and the landscaping plan, you mentioned the reduction of the berm but the inclusion of landscaping will intensify or increase the visual buffer, not decrease it.

Chrm. Conero said, you will have to demonstrate that, what the impact would be so the historic properties on Factory Street, other than on a site plan. You would have to do it some other way where you can see the visual impact to demonstrate to our Board that that would be shielded properly. We rely on SHPO to comment on it and we've had several letters, that you have copies of, back to 2001 when they first approved this project.

Mr. Palmer stated that they have made changes based on SHPO's comments.

Atty. Midler said, SHPO's review is extremely pertinent to the Board. When she reads SHPO's letters, she's understanding it that the vegetative buffer is supposed to be in front of the building, based on this, the driveways are segmenting the buffer. They will just have to see what SHPO has to say. This does not address what SHPO has previously said in previous letters.

Mr. Palmer said that was based on a prior submission that didn't have any photographs taken by their expert that was included in the submission. SHPO was working blind from aerials.

Atty. Midler said the persons from SHPO were definitely aware of the site, if not, physically visited.

Mr. Palmer with respect to City Winery, there were other SHPO analysis.

Atty. Midler said even in regard to this specific site, she's pretty sure they came and visited the site, so she wouldn't say they based it off...her comments are that adding up with previous SHPO comments and as the Chrm. alluded, it's very difficult to determine visual impact when the pictures show how it currently looks. It's difficult to envision. Maybe future submissions should have visuals from the Crabtree House and it's view and it's part of SEQRA.

Chrm. Conero said their concern is the northern part of the project because its where these other properties are located. Having removing this berm, you're reducing the height to begin with. Even when there were more units and this was set back further...

Mr. Palmer said they would look to see if there's a potentially significant adverse environmental or visual impact. What they are proposing will mitigate any potentially significant adverse impact. That is the proposal that is before you and they have an expert opinion that has indicated they've found many reviews that this proposal and mitigation measures are typically what can be utilized to prevent there from being any such impact.

Chrm. Conero asked, since this is a subdivision, are there sidewalks proposed?

Mr. Winglovitz replied, no, not currently.

Chrm. Conero said sidewalks are required on subdivisions so he's not sure how far it is from the driveway out to, if there was a sidewalk added in there...

Mr. Winglovitz said it's over 30 ft from the face of the garage to the edge of the pavement.

Chrm. Conero said to just think of it. And FYI, they submitted this part of the project to the fire department and they wanted to see an access around this. How is this building going to impact ingress to this pathway?

Mr. Winglovitz said it's being maintained.

Chrm. Conero asked, they have the same amount of room to move around?

Mr. Palmer said that Ross is setting up a meeting with the fire department, as well. They will have a meeting about the new building.

Mbr. Crowley asked if they would be able to see how that is being maintained?

Mr. Winglovitz said, yes, here is the existing (indicates on site plan) and it's going to be relocated here to maintain access to the rear. They will show that to the fire department.

Chrm. Conero asked if there would be access to back of the proposed building?

Mr. Winglovitz replied, no.

Chrm. Conero asked if there is a retaining wall back there?

Mr. Winglovitz replied, yes.

Chrm. Conero asked, there will be no vehicles having access back there?

Mr. Winglovitz replied, no.

Chrm. Conero said, you want us to refer for SEQRA?

Mr. Palmer asked, yes, based on their full submission.

Atty. Midler said, in regard to SEQRA, you list the area of disturbance to be .603, the original project was Type I because of the area of disturbance and the proximity of the historic site. She would say that it's coordinated, unlisted. OC GIS shows that it's DEC wetlands on it, too, the river.

Mr. Winglovitz said it slopes down to the river so there can't be wetlands.

Mr. Palmer said the County and SHPO.

Atty. Midler agreed. This application, the Board will consider in lieu of parkland fees, it's ahead of ourselves but she's putting it out there; bat habitat can be dealt with, the bald eagles.

Chrm. Conero asked if they submitted architectural to SHPO?

Mr. Palmer replied, yes.

Chrm. Conero asked if they provided the design of the buildings to the Planning Board?

Mr. Palmer said, yes.

Mr. Winglovitz replied, no.

Chrm. Conero asked what the height of the buildings would be?

Mr. Winglovitz replied, 35 ft at the ridgeline.

Atty. Midler said she would like to discuss the prior, the statements made on the record during the public hearing about the limitations of the units that were going to be on the property, its something that needs to be looked into.

**A MOTION was made to DECLARE INTENT TO BE LEAD AGENCY, UNLISTED, COORDINATED ACTION, FOR PATHWAY PLACE/FACTORY**

**STREET 203-1-1 AT 9:08PM by Chrm. Conero, seconded by Mbr. Steed and carried 4 Ayes 0 Nays.**

Mr. Palmer asked if they could schedule a public hearing.

Chrm. Conero said they want to hear from SHPO first.

Atty. Midler, agreed, that it would be helpful for the discussion.

Mr. Palmer said they should have SHPO's comments by the next meeting and are willing to take the risk that if they don't have SHPO's comments or the Board doesn't have time, that they will re-notice.

Chrm, Conero said the Board is not comfortable doing that right now.

Atty. Midler said, if the Board has comments, they will want them addressed before the public hearing. Also, it would be helpful to have those visuals and architectural for the public hearing. It will be a topic of discussion for sure.

Mr. Palmer was hoping to start the process.

Atty. Midler said the Board and consultants should have the opportunity to comment on it once before the public, rather than prolonging it.

Mr. Palmer asked if they could do 239 County Referral.

Atty. Midler asked Ross if they were ready for the County? It's fine to get preliminary comments for the Board.

**A MOTION was made to REFER PATHWAY PLACE/FACTORY STREET 203-1-1 TO THE COUNTY FOR 239 REFERRAL AT 9:12PM by Chrm. Conero, seconded by Mbr. Steed and carried 4 Ayes 0 Nays.**

## **NEW BUSINESS**

### **RE: 61 Prospect Terrace 207-1-27.212**

Darren Doce is representing the applicant. They are proposing a two-lot subdivision of a .85-acre parcel at 61 Prospect Terrace. Lot 1 will be 11,000 sq ft and site of a proposed home. Lot 2 is 26,000 sq ft and has two existing garages; the rear garage will have a 2<sup>nd</sup> floor added to it to make it a single-family home.

Chrm. Conero asked where the access to this property is?

Mr. Doce said, there is an existing driveway (indicates on site plan). He goes through Lanc & Tully's comments: #1-is asking about the setbacks to the garages. He's assuming the one garage is an accessory building, as it will remain a garage. The current setback is 1.2 ft. He believes 3 ft is the requirement.

Mr. Sicina said to note it on the bulk table, preexisting, non-conforming conditions.

Mr. Doce continued, #2, the maximum building height would be maximum, per code. #3-water service to proposed dwelling on lot 2; there is a water service to lot 2 off of Valley. The water department came out to help him locate it. It's actually in here (indicates on site plan) and does extend to the Mills home 207-1-26.2. There's two lines. He will add a note. #4 mentioned utilities proposed will go to the rear garage, off Prospect because there is no sewer to Valley. #5-there are small portions of the driveway that might be encroaching; should they remove them?

Mr. Sicina is wondering if there is a plan, there was going to be a change to the driveway, to potentially address that.

Mr. Doce said the driveway on this lot is going to be left; that wraps around the property. This driveway is for this home here (indicates on site plan). There is an easement to access this building 207-1-28.5.

Mr. Sicina asked is there a plan to, this says existing gravel drive, for it to be paved?

Mr. Doce said if you're going to pave a certain amount off the road you wouldn't just extend it? He will confirm that. #6-some of those trees will have to be removed but not until November and March because of the bats. He will verify there are no eagles. #10 was discussed.

Chrm. Conero asked, does this need to be referred to OC Planning? At this time, they cannot schedule a public hearing yet.

Atty. Midler said it does not need to go to OC Planning. It's not close enough to the town/town line.

There is discussion regarding the town and where it is in reference to the project.

Atty. Midler said the preexisting/non-conformity is not being changed or no new construction on that lot is happening, it's typically not required to go to the ZBA. She will check the code.

Mr. Doce said they will be adding a second floor to that one building; it's not making the footprint bigger.

Mr. Sicina asked about proposed grading; most of it would be on lot 1. The driveway on lot 2 does not require grading; those comments are relatively minor.

**A MOTION was made to REFER 61 PROSPECT TERRACE TO THE ZBA REGARDING THE PREEXISTING/NONCONFORMING INTERPRETATION FOR THE GARAGE WITH THE PROPOSED SECOND FLOOR BY Chrm. Conero, seconded by Mbr. Crowley and carried 4 Ayes 0 Nays.**

**RE: MINUTES**

**A MOTION was made to APPROVE THE MINUTES OF MAY 25, 2022, by Chrm. Conero, seconded by Mbr. Steed and carried 3 Ayes 0 Nays.**

**RE: ADJOURNMENT**

**A MOTION was made to ADJOURN THE MEETING AT 9:30pm by Mbr. Crowley, seconded by Mbr. Steed and carried 4 Ayes 0 Nays.**

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Tina Murphy, Deputy Village Clerk