

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

**ATTENDANCE:** Chrm. Conero, Mbr. Romano, Mbr. Crowley, Mbr. Steed, Mbr. Meyer, Vlg. Atty. Stephanie Tunic, Vlg. Atty. Joseph McKay, Vlg. Eng. Scott Sicina of Lanc & Tully, Ross Winglovitz of Engineering Properties, Tom Olley of Olley Architects, John Cappella, David Dublirer of Tower Management, Brian Rivenburgh, Walt & Mary Ann Lindner, Don Berger, Nina Snyder.

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

**RE: ADJOURNED PUBLIC HEARINGS**

**RE: LOOSESTRIFE FIELDS PHASE II 204-1-2.22**

**A MOTION was made to OPEN THE ADJOURNED PUBLIC HEARING FOR LOOSESTRIFE FIELDS PHASE II 204-1-2.22 at 7:32pm by Mbr. Steed, seconded by Mbr. Romano and carried 5 Ayes 0 Nays.**

**David Dublirer** is the owner and is representing Tower Management.

**Chrm. Conero** said there was an item that was added in. There were comments from Orange County Planning Department as well as the Village Engineer, Lanc & Tully, dated November 8<sup>th</sup>; those items were fixed on the site plan. They were minor but they were fixed. Lanc & Tully did send back their engineering report saying the note was added to the plan as requested and that has been checked off. At this time, we will open to the public. If you have a comment, just state your name and address and we will comment on Loosestrife Fields.

**Chrm. Conero** said, there are no questions from the public and asked if any Board members had questions for David.

All Board members responded, no.

**A MOTION was made to CLOSE THE PUBLIC HEARING FOR LOOSESTRIFE FIELDS PHASE II 204-1-2.22 at 7:32pm by Chrm. Conero, seconded by Mbr. Crowley and carried 5 Ayes 0 Nays.**

Chrm. Conero said, in anticipation of this, the applicant did send the Neg Dec under SEQRA. He feels the Board covered all points as far as the environment goes, the Bald Eagle issues, impact on ground water and flooding, surface water, the applicant did due diligence in this. We are good with the negative dec.

Atty. Tunic said, so we're all clear, she had help from the applicant's attorney in drafting the negative declaration just because of her late time in coming into the application, she thought it would be more efficient use of everybody's time in making sure that all the points were hit. For them to do the initial draft, she reviewed it, was going through all the

files, Scott reviewed it and she sent it to the Board for their review. Any comments from Scott were only on the resolution. She would recommend to the Board that it is appropriate to vote on a proving the negative declaration under SEQRA and closing out the SEQRA process for this.

**A MOTION was made to DECLARE A NEGATIVE DECLARATION, UNLISTED ACTION, FOR LOOSESTRIFE FIELDS, by Chrm. Conero, seconded by Mbr. Steed and carried 5 Ayes 0 Nays.**

Chrm. Conero said the other one is the resolution for the final site plan approval which our attorney has gone through with the Engineer's help and listed all the requirements and some of the conditions; landscaping, parking area kept maintained as required by Village Code, snow plowed, lighting, fencing, dumpster. Other requirements were the construction in phasing and the big one that we all had was the bridge construction and engineering design, which at the time that you don't have the final engineering of the bridge so that is a condition of the approval which would be that: a building permit shall be contingent upon the proposed vehicle bridge receiving full and final approval from the Village Planning Board Engineer. It shall conform if design plans of the subject bridge with any/all requirements issued by the Village Planning Board Engineer. We are okay with that and that's a condition in the final resolution, as well. The bonding and fees are all listed, as well.

**A MOTION was made to APPROVE LOOSESTRIFE FIELDS SITE PLAN APPLICATION by Chrm. Conero, seconded by Mbr. Romano and carried 5 Ayes 0 Nays.**

**RE: KAMP PROPERTIES 207-1-34**

**A MOTION was made to OPEN THE ADJOURNED PUBLIC HEARING FOR KAMP PROPERTIES 207-1-34 at 7:38pm by Mbr. Romano, seconded by Mbr. Steed and carried 5 Ayes 0 Nays.**

**Chrm. Conero** asked Mr. Olley to give a brief description of what has changed since the last plan.

**Thomas Olley** said, sure. The two things that changed on the plan: 1) They changed the design of the grinder pump station based on some of the comments that Lanc & Tully had in their last letter and 2) on December 2<sup>nd</sup> they had a meeting on site with DPW Superintendent Buddy Nelson, Engineer O'Rourke and yourself (Chrm. Conero) to take a look at the location of the entrances and to see if there should be some mitigation because of the site distance out there. What they concluded was that, a vehicle pulling out for the Board's benefit and the public's benefit is that a vehicle pulling out didn't have a problem seeing approaching traffic but where a hazard could develop would be a southbound car on Goodwill may not readily see that vehicle coming out of the driveway. Northbound was okay. They decided that they would add a hidden driveway sign a

couple hundred feet up Goodwill Road that would warn drivers that would be approaching that there is a driveway there on that side. No other changes to the plan. He does have one comment on the Lanc & Tully letter that is just a logistics thing, that Lanc & Tully is recommending that they indicate an easement on the plan which was a note or easement was requested regarding the co-maintenance of the driveway. He said filing an easement in advance of a subdivision plan is a little tricky because there are no lots to refer to. They propose to file it at the same time. You have your attorney review the easement documents and as soon as the maps get filed, they can add the map number to the easement paperwork and then immediately file that afterward in the Clerk's office. They will have a title company do that.

**Chrm. Conero** asked Atty. Tunic if they could make that a condition?

**Atty. Tunic** said they could make it a specific requirement.

**Chrm. Conero** asked what the reason for that was?

**Mr. Sicina** said they wanted to make sure the easement was added...

**Mr. Olley** said it's just working out the logistics of it; trying to file something to a lot that doesn't exist becomes difficult.

**Atty. Tunic** said she'd be comfortable working with the applicant to make sure the easement gets filed correctly. She asks Mr. Olley to forward it to her for review.

**Mr. Olley** said they haven't had one drafted but will have the applicant's attorney draft one and send it over.

**Chrm. Conero** said number 4, there is subdivision for parkland fees; in lieu of parkland fees, he knows it's only a two-lot subdivision but there is in lieu of parkland fees. He asks the Board if they want to waive the parkland fees or do they feel comfortable adding them on to the condition, as well?

**Mbr. Steed** asked how much they are.

**Chrm. Conero** said he believes they are about \$250 for each lot. The park could use the money.

**Atty. Tunic** said they are \$250 for each additional lot created.

**Mr. Olley** said the question they raised is that for major subdivisions, it's required. Its moot on the minor. They are creating one additional lot, \$250 fee. They just wanted clarification.

**Atty. Tunic** said they are correct; it is listed on the major subdivision application but Village Law does allow whether minor or major for the rec fees to apply. In this case it

would be a matter of the Village Board amending the fee schedule. They would ask the applicants accept the \$250 per additional lot. You cannot locate appropriate recreation for the additional lot on the property so you're accepting payment in lieu.

**Chrm. Conero** said he wanted to clear that up. He asks Mr. Olley if he decided where he was going to put the sign for the hidden driveway?

**Mr. Olley** said they located it here (indicates on site plan) but as recommended by John O'Rourke, that they also put a note there that the placement would be confirmed with the DPW prior to installation. One other item is street trees.

**Mr. Sicina** said he is requesting that we waive street trees and given the limitations due to site distance it would be wise; avoid obstructions.

**Mr. Olley** said for the record, #1, Scott was right. They were off 100 feet on the numbers on the detail. He will clarify #2 offline with him.

**Chrm. Conero** opened the Public Hearing to the public. State your name and address for the record, if you have any comments on the site plan for Kamp Properties, two-lot subdivision.

**A MOTION was made to CLOSE THE PUBLIC HEARING FOR KAMP PROPERTIES 207-1-34 at 7:45PM by Mbr. Steed, seconded by Mbr. Meyer and carried 5 Ayes 0 Nays.**

**Atty. Tunic said** if the Board is comfortable, they can direct her to draft SEQRA documentation based upon what has been discussed along with the resolution for the Board to review. She can have that for the next meeting.

The Board approved.

Chrm. Conero rearranged the agenda due to the two different attorney's and what projects they are handling.

### **RE: OLD BUSINESS**

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

Ross Winglovitz is representing the applicant, along with John Cappello and Zack Szabo. They were here in September regarding the concept and layout of the project. The concept was accepted at that time and they have prepared more details, engineering plans and updated the Environmental Assessment Form Part III. That was previously submitted with the old configuration, so they updated traffic and stormwater to be consistent with the new layout and new square footage of the buildings. They received the comments from the consultants. One of the things, big picture is the phasing and conservation easement.

Two buildings in the back are 60,000 sq. feet each; those are proposed at 35 high. Upon completion of SEQRA is a referral to the ZBA for the front two buildings, they are proposing 45ft. high. The smaller buildings will be closer to the residential and the slightly taller buildings will be further away from that. They are proposing a conservation easement that will go entirely around the property; so behind the residential and along the frontage of the property all the way up 211. That would be conserved from future development. There is a wetland mitigation area and emergency access drive. The access drive has a water connection and a sewer connection. There will be no further development in that.

Chrm. Conero asked, your wetland mitigation in the back, is that because you're putting the road through the wetlands or how much disturbance do you have on wetlands up to the road, the emergency access road? Mr. Winglovitz said the total wetlands disturbance is .25 acres, this will be about half an acre of wetlands mitigation. A large portion of that is for the emergency access. They'd be over the tenth without it so there's a couple of thresholds; if below, you don't need to do anything other than provide notice, if you're over you have do mitigation. They are over a tenth just with the disturbance here (indicates on site plan). Mbr. Crowley asked if that was the only wetland disturbance there? Mr. Winglovitz said no, there's several. There's a small disturbance here at the entrance; there was an old disturbance when they graveled the driveway that was put in there 10 years ago. They actually had a permit for that. There's a disturbance there. Now, this is going to be wider, so slightly more disturbance there. There's a disturbance at the rear of what we are going to call Phase II. And then a disturbance for the crossing. Mbr. Crowley said she thought there was more in the middle. Mr. Winglovitz said temporary service for the sewer main connection.

Mr. Winglovitz said they looked at the plan to see how phasing would work for the project. The first building in would be KSH's building, Phase I, so they could start the access drive. They would need to construct both of these ponds and then a water line would be connected to a connection here (indicates on site plan), sewer main connection, sewer here.

Phase II would be the emergency access. They're not required to have the emergency access until they get over a certain square foot so they will install the road, 60,000 sq. ft. building as well as the wetland mitigation.

Chrm. Conero asked if they would be clearing any land at all during Phase II, III or IV or are you just talking about buildout? Mr. Winglovitz said buildout. Phase II completes the water main loop through the site, Phase III will be the front of the building and Phase IV encapsulates the loading area with the front of the building facing the conservation area. They intend to detail that in the EAF; they hadn't gotten that far. Mbr. Crowley asked, with Phase II and III, the front would be toward the conservation area so the back loading docks would be facing each other. So, if they do Phase I, their building, and they have no takers to lease 2,3 & 4, then you wouldn't see the docks...Chrm. Conero said, you wouldn't see it until Phase III. Mbr. Crowley said Phase I would block out Phase II, you'd see a little, but not much. Chrm. Conero said there's a lot of vegetation back there,

too. Mbr. Romano asked, so the timeline of the buildout depends on whether the other 3 buildings get rented or sold? Mr. Winglovitz said, yes.

Mbr. Meyer said there was some discussion at an earlier meeting about the entrance road not aligning with Chandler, he thought they left that point open; was there going to be any further discussion on it? Mr. Winglovitz said there had been discussion between their client and the land owner west. They haven't come to any agreements on...straight down Chandler Lane, that's where the property line is. Half of the property line is on their client's site and half of it on Mr. Hoeffner's site. Mbr. Meyer asked, that was discussed between the property owners, is that traffic pattern that would or would not be created included in the traffic analysis? Mr. Winglovitz said it was. Not a line, it's just what was studied. Mbr. Meyer asked, there hasn't been any further analysis? Mr. Winglovitz said, lining it up hasn't been analyzed because there hasn't been permission from the west, to do that. They continue to analyze what it is, it's slightly offset by about 50 ft. That's what was submitted to DOT and updated in this traffic study. '

Chrm. Conero asked if they got notification back from DOT? Mr. Winglovitz replied, no. It was submitted previously with the old scenario; they never finalized their review before. The project stopped and they had revised. Mbr. Crowley asked, that takes into account the other development on the other side of 211? Mr. Winglovitz said yes, as far as capacity, future traffic, buildout of this site, Medline, Chandler, a number of developments they included from Scott's office; the school zones, 17K. Mbr. Crowley asked if the emergency access was still going to need approval from DOT? Mr. Winglovitz said, yes. They typically do a paver driveway entrance so it doesn't look like a commercial entrance and people don't mistakenly pull into it. And 25ft back they do a chain or something so no one could get in, just fire department and whatever they prefer.

Chrm. Conero thanked Mr. Winglovitz for the phasing. That was a big concern of the Planning Board. The items on Lanc & Tully's review, he asked if Mr. Winglovitz wanted to go through them? Mr. Winglovitz said he received a message from Scott, today, about stormwater that they're grappling with. The DEC is considering loading areas hot spots so they will have to do additional treatment or not do infiltration. They will address that. This site has great soil for infiltration and some of it they won't be able to infiltrate. Chrm. Conero asked about comment #4, your architectural drawings and renderings. Mr. Winglovitz said the landscaping plan, now that they have Scott's initial comments back, they don't think there are any great changes as far as the design and grading. They will send out that plan for landscaping. They will have Steve Esposito, who did their last one, do it. And Jason Anderson had done the architectural elevations for the previous one. They will send it out to have for the next meeting. Chrm. Conero said with the new laws that were passed, regarding design, the Planning Board has to review the color, materials, design of all structures including the roof pits, visibility from public roads, scenic areas, consistency with the community character. The same with the landscaping. It will provide aesthetically pleasing well landscaped, well-maintained facility, parking and loading areas will require yards shall be landscaped. Mr. Winglovitz asked if it were in the site plan regulations? Chrm. Conero said yes. It will be different for the Planning Board because we usually don't look at the design guidelines or design of the buildings, so

we're really looking forward to seeing what the architect comes up with and we'll probably have to refer it to Lanc & Tully for now. We are working toward getting a formal design guideline architect. Mr. Winglovitz said, you will be forwarding it to your architects to critique it and provide comment. Chrm. Conero said, yes. He asked about #18, the utility pole. Mr. Winglovitz said it's supporting a pole at the corner of Chandler so they will move it to behind their guiderail at the entrance. They can add additional water valves. He asks Scott about the code and will discuss with him. Chrm. Conero told Atty. Tunic that the applicant wants to do a conservation easement with the residents of Weaver Street. Mr. Cappello said they can, as part of the Part III EAF submit a draft model for Atty. Tunic to review during the SEQRA process. Mr. Winglovitz said the comments on the SWIPP are technical and they will address. Mbr. Crowley asked about the zoning, #6; will you seek approval for buildings 3 & 4 now? Mr. Winglovitz said yes, for the height variance. They will also get the architectural and landscape designs underway.

Mbr. Crowley asked if they had approached the county regarding the airport. Mr. Winglovitz said they had done an analysis and referral to the FAA previously but they will update that. They aren't on the flight plan and don't think they need lights but will reaffirm that based on the new configuration. Mbr. Crowley is making sure that the County updated the flight pattern.

Atty. Tunic said, procedurally speaking, 10-24-21 was establishing their intent to be lead agency as a coordinated review; there is a bigger variance involved, is the applicant ok with the Board waiving time and declaring itself to be lead agency since it hasn't been done yet? Mr. Winglovitz said, that is fine.

**A MOTION was made to DECLARE LEAD AGENCY FOR KSH ROUTE 211 DEVELOPMENT 211-1-29.22 by Mbr. Romano, seconded by Mbr. Steed and carried 5 Ayes 0 Nays.**

### **RE: PUBLIC HEARING**

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

Chrm. Conero asked if all the mailings went out and were returned. Ms. Murphy said, yes.

**A MOTION was made to OPEN THE PUBLIC HEARING FOR ROWLEY DEVELOPMENT – 99 CLINTON STREET 202-3-13 by Chrm. Conero, seconded by Mbr. Crowley and carried 5 Ayes 0 Nays.**

Mr. Winglovitz is representing the applicant along with Brian Rivenburgh. The site is the corner of Clinton and Union Street. It is the former Walden Savings Bank site and currently that Rowley Development bought and currently houses their office on the 2<sup>nd</sup> floor. There is a large parking lot in the rear. They are looking to do a two-lot

subdivision; subdividing off the building in front which is Keller/Williams Realty. What they'd be looking to do is on the second lot build a new building. This building was in front of the ZBA for a height variances and for use for a number of apartments above commercial. There will be four residential apartments on the 2<sup>nd</sup> floor, so it's a 2 ½ story building. From street side, there will be access to the building and parking underneath in the rear, so part of that requirement from the ZBA was to provide 8 parking spots for lot 2 and those would be garage parking. Each unit will get 2 garage parking spaces. There will be a main entrance in the front on Union Street; handicap, as well as stairs to a central location with two doors and two commercial units. The existing parking lot will be reconfigured. The parking along the building will stay with some slight modifications, handicapped parking space up to code and 5 parking spots opposite that on the other side. They've added foundation plantings around the building. Lighting isn't shown in the rear for the building and in the front along the street. The existing parking lot is lit off the existing building. He'll be glad to answer any questions.

Chrm. Conero asked if the Board had any questions?

Chrm. Conero opened the public hearing to public. Please state your name and address if you have any comments on this site plan.

Don Berger, Village of Montgomery – He thinks the project is a great project; he thinks it's really needed; it's going to be a symbol in the Village in that area. He says he's speaking on behalf of the owner of Copperfield's. He had a few questions, he's out of town.

Mr. Rivenburgh said his people aren't going to be able to park in that parking lot anymore. (laughter)

Mr. Berger asked, during the construction phase, not quite sure when it's going to start, but Copperfield's has outdoor eating there, which will directly behind the project. Also, you are aware, and he's not speaking for 88 Charles Street, but they're also going to have outdoor dining. During the construction phase, the owner of Copperfield's wanted him to ask is there going to be anything done for dust construction materials that would interrupt the fine dining at Copperfield's or will there be some sort of barrier put up or a canvas put up, something put up, particularly he was concerned during the dinner hour. He understands that you have business going on during the lunch hour and stuff like that during the outside dining. He was asking what the hours of operation as far as construction, how late into the night he was concerned with. His dinner hour is typically around 5 o'clock. He was hoping that construction wouldn't be at 5 o'clock or beyond because of the impact of his business. Those are the two questions that he has and whatever you guys come up with that he would appreciate that something is done to protect the business. He has, for himself one question, the back behind the building, there's a fence there now, is it going to remain there or is it going to be bolstered?

Mr. Winglovitz said it is not proposed to be removed. There is no construction beyond that existing curb line that is there and the fence is behind it; there's no proposed construction behind it.

Mr. Berger asked, are you going to enhance the fence?

Chrm. Conero asked, who's fence is it?

Mr. Rivenburgh said, he thinks it's his fence because he owns the easement behind it.

Mr. Winglovitz said, behind there is Copperfield's for pedestrian access.

Mr. Rivenburgh said, it's Copperfield's easement but his property.

Mr. Winglovitz said, it's your fence.

Chrm. Conero said, the fence provides shielding to...

Mr. Winglovitz said, it's a chain link fence.

Mr. Rivenburgh said, originally it provided protection for the bank parking lot. The fence is probably going to get trashed, anyway. In answer to your question, he doesn't know, yet. It's also the fence between 88 Charles Street. It's more 88 Charles and a little bit Copperfield's.

Mr. Berger said you're going to put a beautiful building up it would be nice that you had a nice fence up.

Mbr. Romano said, a privacy fence would be awesome.

Chrm. Conero said, you brought up good points about the dust and hours of construction. Is there, Scott, anything that you can put in there?

Mr. Rivenburgh asked, how is this handled when there's construction going on at the other end of town, right now? How is dust handled there?

Chrm. Conero said, they bring up valid points about having outdoor dining, especially with a lot of outdoor dining going on that we might need to have some type of control mechanism for the hours of construction that you will be building and also the dust. He thinks there is a way they can do this without being intrusive on your project. But it also needs to be done.

Mr. Rivenburgh said, when it comes to other restaurants that didn't have a permit for outdoor dining...

Chrm. Conero said, for that, you would need to go to the Building Inspector or the Village Board. He believes Copperfield's is. Because of the proximity to all of the...it's right in the middle of town.

Mr. Winglovitz said, you are expecting the normal hours not to exceed 5 o'clock, but there could be times where certain days during the week when they have to get something done.

Mr. Rivenburgh said, especially in the summertime when it's light out until 8:00pm. And then they'd go by the Village bylaws say...

Atty. McKay said, the Village Code, I'm sure, has starting and ending times for construction.

Walt Lindner – 101 Jefferson – with the garbage pickup, will it be on 211 and also on Charles?

Mr. Winglovitz said, the residential will be on Charles and garbage pickup for the businesses will be on 211. The residential receptacles will be in the basement that will be out of site. They can take them curbside for garbage pickup on Charles.

Chrm. Conero said they did provide architectural, as well.

Atty. McKay asked, there are new and proposed sidewalks, here?

Mr. Winglovitz said there is a sidewalk and a ramp that's within the Village right-of-way so the existing sidewalk will remain but there is a new ramp that is proposed in front of the building, which is now a green space, that would access the building.

Atty. McKay said, so the existing sidewalk is going to remain during the construction? It's not going to be damaged by the construction at all?

Mr. Winglovitz said there's about a 5-7-foot green space between the old foundation wall and the front. He thinks they could save it. There will be excavation next to it. They will deal with the DPW and provide a safety fence for it.

Atty. McKay said, so other than the connections themselves, there's no off-site improvements?

Mr. Winglovitz said, they are on Charles. The sewer and water would be on Charles.

Mbr. Crowley asked, and during construction, you mentioned, because the sidewalks are right there, there would be some sort of barrier for pedestrians?

Mr. Winglovitz said, yes, they'd still have to meet with Buddy and go through what he wants and make sure they're protected; construction fencing.

Mbr. Romano asked, what is the timeline for building it?

Mr. Rivenburgh said, they are not sure yet, it has to get approved first. They don't know yet; the lumber prices are 90% up and continue to escalate right now. They are waiting and evaluating costs.

Chrm. Conero said, the letter from Lanc & Tully, one of them was about the ADA slope.

Mr. Winglovitz said he believes Scott is talking about the cross-slope. The proposed spot was 2.2%.

Mr. Sicina said, it was slightly off going across.

Mr. Rivenburgh said, that space was there forever. They aren't going anywhere near that but all this talk...

Mr. Winglovitz said it has to be brought up to conformance. Compact car space? He wasn't here for that discussion. That's no problem. They can sign that accordingly. County Planning Comments.

Atty. McKay said you addressed them in your response. Indicating snow area, storage.

Chrm. Conero asked where do they go from here.

Atty. McKay said, the Board has a few options. Since he's new he's not really sure what their standard procedures are. Right now, the public hearing is still open. If the Board is comfortable, they could make a motion for a negative dec under SEQRA or has happened in the prior application, the Board can direct counsel, or the applicant to prepare a neg dec for review before final vote. The Board can do it that way or make a motion with respect to a negative declaration. Then, the Board has the option to approve tonight, by voting or again, like the prior application, authorizing counsel to prepare the draft approval resolution of some of the conditions that would satisfy the engineer's comments and some of the Board member comments. You can keep the public hearing open while those documents are being prepared or you can close the public hearing and issue a neg dec...

Chrm. Conero said, no, he wants to address the noise and dust if it's a local Village ordinance, he wants to look into that, so maybe they should leave the public hearing open tonight and wait until next month and then you can prepare the neg decs.

**A MOTION was made to ADJOURN THE PUBLIC HEARING FOR ROWLEY DEVELOPMENT – 99 CLINTON STREET 202-3-13, TO JANUARY 26, 2022, by Chrm. Conero, seconded by Mbr. Meyer and carried 5 Ayes 0 Nays.**

Chrm. Conero said they will vote on the SEQRA next month.

Mr. Winglovitz asked if the Board would consider a conditional approval next month?

Atty. McKay said his intent is to provide draft resolution for review; the Board can continue the public hearing, close it; and take whatever steps they want to take at that time.

**RE: OLD BUSINESS**

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

Mr. Winglovitz is representing the applicant along with Brian Rivenburgh. They were before them in October with this mixed-use project. They are proposing 7 duplexes. It was rezoned to R6 on the south end of the former Brescia Lumber site. The north end remained B2; what is proposed there is a mixed-use building with 12 apartments over 6,000 sq of commercial space. In addition, there will be a lot dedicated to the Village for public parking which will have access off of Clinton Street, as well as the development of a more formalized on-street parking along Clinton Street. Trying to clean up what is going on there now and try to make it aesthetically and functionally part of the site. It will service both this building and the commercial buildings on the opposite side of Clinton Street. Between the duplexes and mixed-use buildings, the parking lot will be dedicated just to the residents, so they have 24 parking spots as required by code for the residents. There will be a loading space there to service the commercial on the first floor. Since they presented this originally, they had prepared more detailed engineering documents, plans, drainage plans, utilities, for the entire site; the 7 lots and mixed-use projects. They wanted the Board's initial feedback. They have comments from Lanc & Tully and will go through them with the Board. Mr. Rivenburgh hands out architectural drawings of the duplexes.

Chrm. Conero said, #2, parking calculations have been provided which breaks down parking by use. It says the commercial uses will utilize the parking lot proposed to be dedicated to the Village. His concern is the parking lot is going to be dedicated to the Village. If the Village doesn't make any improvements to it, where are people going to park when they have businesses? Mr. Rivenburgh said the Village is going to make improvements to it. Chrm. Conero asked, immediately when they build the building? At some point, the Village will have to construct a parking lot. Why are we not having onsite parking for the businesses that will be in there, as well, based on the square footage? Mr. Winglovitz said they talked about that as part of the rezoning. They worked out a dedication of a public parking lot to benefit everybody, not just this building. Chrm. Conero said we don't normally do that. When he saw it on the comment letter, he was wondering why that was. The commercial aspects of it, and we don't know what the commercial aspects are of that, we know we need a certain number of spots per square footage on the commercial side. Mr. Rivenburgh said the commercial aspect will be the on-street parking and the public parking lot. Chrm. Conero asked how many spots they are proposing to use in the new public parking lot with the businesses? Mr. Winglovitz said, depending on the what the use is, obviously it varies. If it were offices, 200 sq. ft., it

would be 30 spaces required by code, without the waiver. 250 sq. ft. if it's service. Chrm. Conero said, you're saying that you will be occupying 30 spots in the new parking lot. Mr. Winglovitz said, for the 1<sup>st</sup> floor businesses, it would be up to 30, as per code. Chrm. Conero asked how many spots were in the parking lot. Mr. Winglovitz said 19 in the public parking lot and 14 additional on the street; so, 33 spots. Mbr. Crowley said it might not be a public parking lot because it's really for the commercial space. Mr. Rivenburgh said the people that would be parking there in the public parking lot would be the people that would be frequenting the businesses, just like if they were frequenting downtown. That's what a public parking lot is for. Mbr. Crowley said there's a problem with parking in the Village because there's so many businesses that are close to the municipal parking lot. Everyone who develops the commercial space says we're in proximity of the municipal parking lot by no means meets the demands of the commercial space in the Village of Montgomery, especially if you drive through on a Friday or Saturday night, with no parking. So, when you say it's a public parking lot, it's might not be a public parking lot because you are responsible for providing parking for commercial parking. It's not public parking, it's most likely going to be for that commercial business that's there. Mr. Rivenburgh said, during business hours. Chrm. Conero said, if you have an event going on in the Village and they park in your parking lot, where are your people going to park? You asked what we require people to have onsite parking, we do as much as we can. Unless you're within 500 ft of the municipal parking lot and everybody uses that as a scapegoat. Mr. Sicina asked if there has been any discussion about the parking lot. Mr. Winglovitz said they haven't been to the Village Board formally. Atty. McKay asked how far they got informally? Chrm. Conero said, informally, they rezoned this piece of industrial land. Mr. Winglovitz said, there have been discussions but not formal with the Village Board members; not a full presentation. That is their next step since it's coming out here with your comment and Scott's comments specifically regarding on street parking. It's really their next stop. Atty. McKay said you want to know where this is going, you don't want to waste a lot of fees here. Chrm. Conero said, and the Village Board would want to know so they can figure it into their budget (to Walt..laughter). Mr. Sicina said one this that was discussed was that the municipality was going to construct the parking lot; the maintenance, snow removal, it's a big burden that the Village might have to take on. They need to plan. Mbr. Crowley said, especially if it's not really municipal parking; parking for that commercial business. Chrm. Conero said maybe we can refer the municipal parking lot to the Village Board, with a letter from the Planning Board stating what they are proposing to do and they need their input. Atty. McKay said it's a referral but it should be the applicant providing an informational packet to the Village Board. Chrm. Conero said, they do have a parking problem in the Village so...Atty. McKay said, even with the snow plowing and the maintenance, the Village Board may very well want the additional parking. Mbr. Crowley said that parking down there isn't necessarily going to help their problems in the downtown area.

Mbr. Crowley asked, above the commercial property, is there one floor above the commercial. Mr. Winglovitz said, 6,000 sq ft 1<sup>st</sup> floor, the 2<sup>nd</sup> floor is 6,000 sq ft broken up into 6 apts and the 3<sup>rd</sup> floor will be 6,000 sq ft will be broken up into 6 apts. Mbr. Crowley asked the Chrm., she thought that above commercial you could only have one

level of residential. Chrm. Conero said it has been revised. And the Board rezoned the original I zone properties into R6, that's where the 7 units came from. The Comprehensive Plan Committee had meet about this property a number of times because it's an industrial piece of property in the middle of the Village. Right in the middle of a residential area. A lot of people were not in favor of the type of businesses that could go in there, truck traffic; it's a neighborhood.

Mbr. Crowley asked if the train still goes through there? There seems to be limited site distance and seeing the train coming through. Chrm. Conero asked, on the back side of the duplexes? Mbr. Crowley said yes, on Clinton. You cannot see the train. Just a concern since there will be more traffic going through there.

Mr. Winglovitz said street trees for the residential portion are required every 40 feet; based on this layout it wouldn't be a consistent 40 feet. They could get them at the property corners, which is about every 58 feet. They could put two closer to the driveway. One on each property corner.

Mr. Winglovitz said Scott mentioned that Buddy said there's some kind of Village drainage trunk line was previously on a site plan for a different use on this property, that never came up before. He has no idea where it is. Mr. Sicina said Buddy was pretty adamant that he thought there was a drainage line there but there is not easement over it. Mr. Winglovitz said there are a number of pipes that do come into the site that they are picking up as part of their drainage. Scott picked up one that's coming across, it's an 8-inch pipe. Everything that they are aware of. They will touch base with Buddy.

Mr. Winglovitz said they will prepare a SWIPP, this is a redevelopment site. They will provide a lot more green space than what exists.

Can the Board declare intent to be lead agency?

Atty. McKay said it's up to Board.

**A MOTION was made to DECLARE INTENT TO BE LEAD AGENCY, UNCOORDINATED, FOR ROWLEY DEVELOPMENT – RAILROAD AVENUE 202-13-1.123, 202-13-5.21 & 5.22 by Chrm. Conero, seconded by Mbr. Romano and carried 5 Ayes 0 Nays.**

Mr. Rivenburgh hands out architectural to the Board.

#### **RE: CITY WINERY 204-1-1**

Michael Dorf and Hayyim Danzig are representing City Winery. Mr. Danzig said they received the comment letter from Lanc & Tully, dated 12/15/21. Chrm. Conero clarified that this comment letter is in response to City Winery's letter from December 8<sup>th</sup>. There is also a revised site plan from December 8<sup>th</sup>, as well as comments from September 2021.

Mr. Danzig said this site plan shows several changes; the removal of the viewing platform (the tent was supposed to go on it). #3, the site plan amendment refers to the extensive clearing associated with the deer fence that was put in. This is associated with the hotel, the east side, based on the previous approval with land use and original site plan approval. Mbr. Romano said the pool was not on the original site plan. Chrm. Conero said it is being proposed. Mr. Sicina said part of it is currently shown over stormwater management area. That still needs to be constructed as part of your original approval. Mr. Danzig said it was. Mr. Sicina said it cannot be removed, either. You are showing part of...Mr. Danzig said it is not being removed, that rectangle is a fence and the stormwater management is to remain. Mr. Sicina said the fence can't go through the stormwater management area. Mbr. Romano asked how they will sturdy the fence? Mr. Danzig said he's not sure. Mr. Sicina said nothing can sit in the stormwater management area; something can get caught under there and impede flow from one side of the fence to the other. It shouldn't be a massive change; the fence just needs to be realigned to stay out of the stormwater management area. Another thing that happens with a pool is, there's going to be some outside permitting needed for this. One of the them is the Historic District, recontact SHPO and make sure it's allowable on a historic site. Mr. Danzig asked what documentation SHPO would need. Mr. Sicina said to contact them with what you are proposing to do; that hasn't been discussed with them. Let them know what you are doing, send them a site plan. They will comment on it. Chrm. Conero asked, that's because it's in the historic district? Mr. Sicina replied, yes. Chrm. Conero asked, the pool, this whole additional thing that wasn't on the original site plan, does it need to be changed at the Village Board level for approval? Or is it significant given it's a PDD? It wasn't proposed when you did it. Is it a departure from the original approval? Can the Planning Board just go ahead and process the pool and hot tub? Atty. McKay said normally, it would be an amendment but because of the PDD. He will have to look into it. Chrm. Conero said they need clarification. Mr. Sicina said this is a commercial site so the DOH will have to be contacted in reference to the pool. Water for the pool would have to be brought in. #4, federal wetland disturbance. They had a nationwide permit at the crossing between the parking lot and overflow parking lot and was closed out prior to the agricultural deer fence going in. The agricultural deer fence is strictly to impede deer from eating their grapes, that's why it is there. They've had two seasons of growth that has been eaten by deer. Is there an agricultural exemption for that? Mr. Sicina said it would be on them to prove that they meet the requirements. There is discussion about disturbing the wetlands due to the underside of the poles being in the ground. Mr. Damzig doesn't understand how this can legitimately be a disturbance of the wetlands considering there is an agricultural fence running through it. He will look for the exemptions and try to bring it back. Mbr. Crowley said when this came up before, the fence was not supposed to be made with pressure treated wood in the wetlands and it was said that it wasn't pressure treated wood and it came out that it was pressure treated wood. Mr. Danzig said he looked in to it and the DEC makes mention of pressure treated and it gives a specific ground contact rating that's required. He doesn't see anywhere in the DEC guidelines regarding wetlands that pressure treated lumber cannot be used. Chrm. Conero said it was discussed at their last meeting. Mr. Sicina said, yes, it's only a pole in the ground but when the fence, there is more disturbance that happens as you're installing it. Mr. Danzig said there was no excavation done, no soil removed, no grading

and no digging for the poles. Brush was cut for a bobcat to get through and hammer posts in. Mr. Sicina said what you described, while not a permanent disturbance, it's disturbance to the wetlands; the vehicles went through there, vehicles have a width wider than the fence itself (4-inch posts and the bobcat is probably 5 ft wide). It has to be accounted for. It takes more to put it in than what the final outcome is. Mr. Danzig asked what he should do if he cannot find any documentation. Mr. Sicina said he should refer to the attorney; they will have to look into what the next step is. Right now, it's been constructed with no permit and what may have covered you was closed. The southwest corner of the property seemed to have disturbance, as well. Only indicate what was actually disturbed. #6 the project needs to go to OC Department of Planning. Chrm. Conero said when they feel comfortable with this being the final plan; you don't want to send something to the County and then change something. He recommends getting everything straightened out; everything on Lanc & Tully's last two comment letters, just to make sure everything is correct. And we still aren't sure if, because this is a PDD, that you have to come back to Planning or the Village Board. We have to check on that. Mr. Danzig said the plan shows striping ADA spaces in the main parking lot and could they use previous detail, certification would have to be provided by licensed professional, would this be the building inspector? Mr. Sicina said it would be your engineer. They would basically go out there, take measurements provide us with certifications, a letter stating all handicapped stalls have installed incompliance to ADA guidelines. #9 does it matter who submits a narrative for SEQRA? Atty. McKay said you or your architect. Mr. Danzig said they will address these and respond to everything they can.

Chrm. Conero asked if they filed an amended site plan application? Mr. Danzig said no. Chrm. Conero said that is another step. It does need to be filed, as well. Atty. McKay said this is a circular issue, this Board and Planning Board. These look like Planning Board issues but because of the PDD, he will clarify where they need to go so there's no bouncing around. Chrm. Conero said there is no standardized zoning on this because it's a special zone. We haven't even figured out the parking calculations, yet. Mr. Sicina said it seems that Todd has just crossed off the tent calculations on the parking table calculations. It should be updated numbers on the site plan. Chrm. Conero said the plan says 500 people and that was added on. It wasn't on the final site plan. The Village Board is going to have to consider if they want 500 people there for a concert when according to the minutes provided, it should have only been 200. It's another consideration they will have to make based on what was the original scope of the project. It's not a Planning Board prevue to say. These are the type of things that they need clarification on before the Planning Board can even consider what they are trying to do here. Mr. Danzig asked where to find the PDD info. He's directed to the Village website. Mr. Dorf wanted to know who to go to regarding the pool? Chrm. Conero said they need to specify all the changes on the site plan that you're making. Mr. Dorf said everything is specified on the site plan. They removed a tent platform, at great expense. They aired in not getting previous approval. All they are adding is an amenity to a 13-room hotel that was approved. We can move that fence around the stormwater and its not part of zoning to see if they can add a pool to the hotel grounds. Mbr. Romano said it's a PDD. Mr. Dorf said it's an amenity to the hotel which was approved and for a year they've been getting a run around...Chrm. Conero said you're not getting a run around. Mr. Dorf said they've back

and forth between the Boards. Chrm. Conero said you were here the prior month and there was no pool, no fence in the stormwater. When you were here Sept or Oct, this wasn't here. This is new. He wants to be clear, its something that's new. He's looking for direction from out engineer and the attorney.

Walt Lindner said the PDD is its own zoning. What they created to allow this to take place is the zone. The original document that we have in the office. After that, they came in because of the building inspector seeing the platform by the river. And the work behind the bridal suite, you were expanding the sewer system there. Those are things that were not part of the original plan. You did come to the Village Board but not with anything formal, or amended site plan that becomes part of the PDD. Changes were made that were not approved. Chrm. Conero said moving forward, fill out the application with everything you are trying to do. Mr. Danzig said they will do what they have to do. Atty. McKay said they need to determine which Board handles what.

Chrm. Conero asked if the sewer issues were resolved? Mr. Danzig said it was completed and tied in and inspected by Lanc & Tully. Mr. Sicina said there was a guy there and inspected the connection to the sewer forced main. Nobody was there to see the operation of the pump station itself. Chrm. Conero said they need verification.

There is discussion of when they will have answers to who handles what.

Mr. Danzig asked if they had comments regarding the viewing platform that was submitted. Chrm. Conero said he didn't have comments. Mr. Sicina said the only comment they had was for handicap ramps; ADA accessible ramps. Mbr. Crowley said it's pretty large. Mr. Dorf said it's along the berm, they are elevating 10 feet wide...there's a fence, will they be able to see? Mr. Danzig said yes. The railing is required for safety.

Atty. McKay asked if the signed site plan was approved by this Board or the Village Board. Chrm. Conero said the PDD was approved by the Village Board, the site plan was approved by the Planning Board.

Chrm. Conero said, when you updated the parking, you had an engineer do the parking calculations; let's update the calculations without the tent event which would simplify...Mr. Sicina said, how many people are allowed to be at an outdoor event. If that goes down several hundred people, it will affect the whole parking calculation. Chrm. Conero said put down as many people as you want for the outdoor event because without guidance from the Village Board and a PDD update, then they have to go by...the PDD has nothing specific about number of people. Mr. Danzig said the overflow parking lot cannot be used toward parking calculations? Chrm. Conero said it can but if its used as part of the parking calculations, it needs to constructed and striped. Once in a while overflow. Mr. Dorf asked what the definition of once in a while is? Mr. Sicina said usually holiday shopping, maybe used about 4 times a year. For you, if you have concerts, determine how many times you had to use the lot? There were overflow parking issues, as well. Chrm. Conero said yes.

Atty. McKay asked Mr. Danzig & Mr. Dorf to send him a narrative of everything they're doing so that he can research the proposed changes. Mr. Dorf said there are two changes, they added a pool and a viewing platform. That's it. They aren't changing the parking. They don't want to change a thing.

There is discussion regarding the outdoor events and the number of people has increased by over 200 people. Chrm. Conero advised that attendance is a Village Board issue.

Mr. Sicina said anything that was not on the original site plan that was approved, needs to be included in the amended site plan when they come back. Once they submit it, Mr. McKay can refer to the Trustees for a comparison and clarify what they (the Planning Board) can/can't do.

**RE: MINUTES**

**A MOTION was made to APPROVE THE MINUTES OF NOVEMBER 17, 2021 by Mbr. Romano, seconded by Mbr. Steed and carried 5 Ayes 0 Nays.**

**RE: ADJOURNMENT:**

**A MOTION was made to ADJOURN THE MEETING AT 9:53pm by Chrm. Conero, seconded by Mbr. Crowley and carried 5 Ayes 0 Nays.**

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Tina Murphy, Deputy Village Clerk