

MINUTES of the Village of Montgomery Planning Board meeting held at the Village Hall Meeting Room, 133 Clinton Street, on Wednesday, February 22, 2023, at 7:30pm.

ATTENDANCE: Chrm. Conero, Mbr. Romano, Mbr. Frisbie, Mbr. Steed, Mbr. Meyer, Vlg. Atty. Midler, Vlg. Atty. Joseph McKay, Vlg. Eng. Scott Sicina of Lanc & Tully, Ross Winglovitz, PE & Jay Samuelson of Engineering Properties, Tom Olley of Olley Architects, Andrew Short of Anderson Design Group, Randi Picarello, Don Berger, Robert Williams, Vincent Satriano, Beth Selig, Mary Ann & Walt Lindner, Tina Husinko

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

ADJOURNED PUBLIC HEARINGS

RE: PATHWAY PLACE MANAGEMENT, LLC 203-1-1

A MOTION was made to OPEN THE ADJOURNED PUBLIC HEARING FOR PATHWAY PLACE MANAGEMENT, LLC 203-1-1 AT 7:32 PM by Mbr. Steed, seconded by Mbr. Meyer and carried 5 Ayes 0 Nays.

Chrm. Conero said, you have updates; questions from the public that you want to go over.

Atty. Taylor Palmer is representing the applicant. He replied, yes. He is joined by Jay Samuelson from Engineering Properties, Beth Selig of Hudson Cultural Services and the property owner, Vincent Satriano. They are before them for a continued public hearing with their applications for site plan and subdivision review. Since they were last before them on January 25th, they did prepare a supplemental submission to them dated February 10th, that did include responses to the comments. They do have written responses but he will highlight, summarize some of those comments and responses. In particular to those comments from Mr. Williams, who is the owner of the Crabtree House, at the recommendation of the Board, they did send additional correspondence to Mr. Williams by USPS in two separate attempts, and they understand the letter that they drafted and included in your submission, was delivered to Mr. Williams by email from the AHRB secretary. They did reach out that way, they offered to discuss ways that they could add additional vegetative screening across the site from the property along the property line to further minimize any potential visibility of the new structure that they are proposing on the site. They also asked to try to get permission to get on the property to take additional photographs, but again, that hasn't been allowed.

This proposal to add offsite mitigation is in addition to their already proposed onsite screening and other berm improvements. Just to summarize some of the efforts to further mitigate against any potential impacts from the project. They did throughout the nature and the long time that this project has been before you, they adjusted the size, the location of the building and the landscape berm screening. There was a question regarding the design of the building, they have adjusted the program from being at break in the parking area to garages, they updated the façade, they updated the landscaping and in keeping

with the architectural style of the structure, it also reflects the existing multifamily building immediately adjacent to the project as well as the multifamily units found at Patchett Way and Crabtree Lane.

Some of the new adjustments that they included were reflected in the County's GML 239 comments. They have provided downward facing lighting; that was a question. The project was designed in consideration that the Village may, at a future date, include sidewalks. It will not impact their project; they worked together and vice versa. They provide more than the code required off street parking and parking is not permitted along that section of Factory Street.

One of the questions the Chairman had at the last meeting included, or maybe the Board in general, was the layout, how the units are set up. The units themselves are to be offered for rent at 2,000 sq ft for each of the units with 2 bedrooms and a den. They did incorporate some responses, although they were not mandatory comments from the County, they did include responses to their GML 239 comments. This was their second round; they had provided an informal or preliminary round of comments, this was their additional round of comments. With that, they do have one other comments, they did receive Lanc & Tully's updated letter and did provide that they had no further comments. They did try to respond to all those comments, and of course they have their consultants there, if the Board or the public has any specifics regarding the...

Chrm. Conero asked, the County review letter was from January 13th? That was a second one they sent?

Atty. Palmer replied, the first one just said that they weren't at that time when it was preliminary or not, they said it was preliminary so these are their local determination comments.

Chrm. Conero said, these updated plans have not been to SHPO. The last time they heard from SHPO was in August, that they commented.

Ms. Selig said, they had the phone conversation and that was the last time they had communication with them. They did send them, after the phone conversation, the updated renderings that showed the buildings set a little further back.

Chrm. Conero replied, okay.

Mr. Samuelson said the site plans have not changed since other than some notes and amendments to correction to details to respond to Lanc & Tully.

Chrm. Conero said the downward lighting that the County had commented on, that wasn't in the plan, at the first part of the plan?

Mr. Samuelson said, no, there is no proposed new street lighting; the only lighting that is proposed will be building mounted, sconces at each door. They added a note requiring that all those sconces be downward facing so they shoot straight down.

Atty. Palmer said for the record, the back of the building is not lit.

Mr. Samuelson said there may be a couple by the back doors on the lower level but again, they will all be downward facing.

Chrm. Conero said that was a good catch for OC Planning and he thanks them for that. He asked the member of the Board if they had questions or comments for Taylor or the engineers.

Atty. Midler said her understanding was that the last submission to SHPO was not the most current, that it didn't include the shortening of the building, or the location, however you're putting it and the change in the landscape berm.

Ms. Selig said she would double-check; they had had the phone conversation, they had sent the updated rendering in September, but they had stated in August that they were not going to be providing any additional comments. They figured they had done all that they could.

Atty. Midler said, she's wondering if...maybe on the current plan they...

Atty. Palmer interrupted, SHPO's involvement...

Atty. Midler said she is fully aware and understands SHPO's role in all of this; they are an acting advisory to this Board. But this Board in every single revision of the site plan has sent, since the inception of this project, has sent every single revision to SHPO, so she wants to make sure the most recent one is sent and allow them...she thought that it did not.

Ms. Selig said it was her understanding that the most recent was sent in September but she will double check the dates and make sure it is uploaded to Chris.

Atty. Midler said that is her outstanding, to make sure that whatever SHPO's comments are are on the most recent site plan.

Chrm. Conero said, at this time they will open up to the public again, they will allow the public to speak. He doesn't think they'll have to put a time limit on it. So, go ahead, stand up, state your name and address for the record if you have comments.

Robert Williams – Just to acknowledge, he did receive a letter, Taylor, that was sent to the Planning Board, to his understanding, since they are lead agency, it's his feeling that that is how it should transpire. Go to the Planning Board, they submitted it to him and he review it. Pretty much everything that was in the letter was what you had suggested

before this Board before. The buffering be put on the Crabtree property, the ability to come and walk on the Crabtree property and take photographs and so forth which he's certainly considered. But if he were to do that, he would need permission from the applicant to go onto his property and do the same. And giving that some consideration and trying to be considerate to all parties involved here, what would really make the most sense is a non-biased third party go on both properties, take a look at them and make recommendations. Then what he would suggest is since Sarah McIver from SHPO has been involved in this, that she be the one be requested by the Board to come down and have a look at both properties and make further recommendations.

Chrm. Conero said, so he's clear, you're requesting that the Office of Historic Preservation person who wrote the letter, come on site to look at it to write a review based on what Beth is going to send to SHPO?

Mr. Williams replied, either that or have Elise Johnson do it.

Atty. Palmer said they would respond at the end.

Mr. Williams said on the renderings that were provided, it shows Factory Street being flat where the building is located but Factory Street actually crests up in the middle where this building would go and then goes down. It would actually be nice to see renderings that are a little more realistic, if you will. And to show how the building would look on the different vantage points from Factory Street. That's his comments.

Chrm. Conero said, thank you.

Don Berger – A couple of weeks ago, he went Factory from the bottom half of 17K looking up towards City Winery and what he found is how really pretty Factory Street is when you look up into there, the trees beyond the railroad tracks, the schools that are on the lower portion and he would ask that everyone be mindful about preserving some of that; he thinks it's a beautiful road.

The other part, he wants to rehash it, he knows he mentions it all the time, but he feels as if he always has to mention it. It's the safety on Factory Street; road safety, sidewalk safety. He believes at the last meeting, Kevin said he was going to look into why sidewalks haven't been put in on previous projects. You had mentioned that. He is wondering if he had done anything to that?

Chrm. Conero replied, he doesn't have any updates yet.

Mr. Berger said he thinks that all goes hand in hand with the sidewalks going up too, if this is approved, to the apartments that are being asked to be built.

The other thing, he was listening to him, the Village Planning Board doesn't have a lighting consultant?

Chrm. Conero said, they do have lighting consultants and he was a little baffled by the downward lighting not being picked up in their reviews. He's seen it quite a few times from the County and they're pushing the dark sky lighting. He know on other projects they've had it and is not sure why they missed it on this one.

Mr. Berger said a lighting consultant, as he's found through the years, is a very important instrument to be used, particularly on Factory Street and he's glad the applicant brought it up with the new type of lights that they want to put in there. He thinks it's very beneficial. He thinks, in the future, lighting consultant have to be used. Who is their lighting consultant?

Chrm. Conero said Lanc & Tully reviews the applicant's plans. The applicant would provide a lighting design plan and our engineers go over it.

Mr. Berger said, just to let you know, like the Town, has a specific lighting consultant who doesn't belong to an engineering group, he's a lighting consultant by profession. He's sure Lanc & Tully is very qualified in all that kind of stuff, but it's a very important issue throughout the Village with all the projects going on now, and he thinks they need to get that right.

Chrm. Conero said he would look into that. He asked if anyone else had a comment for the Pathway Project.

Tina Husinko – Factory Street – She said she knows this is happening, if she could stop it she would but, she wants to ask that in doing all of this and putting it in, that as much as they possibly can, maintain the beauty of that little street. That's really all she's asking. That if you're doing lights, they just don't spread out so much on that street that they just bombard you when you go out at night; maybe go down instead of out. That the building that you build has some kind of connection to what's there in terms of the beauty of that street and so it's not just a squared nothing. That's all she wanted to say since she knows it is going to happen at some point. That you just take into that this is an older street.

Mr. Williams added, as far as the style of the building is concerned, when Taylor was up a moment ago, he mentioned that the building was consistent with the apartment building that's there, that its consistent with the apartments buildings that are down behind the single-family residences on Factory Street, what he did not hear is that it blends in with those four single-family residences. That's why all along that there be a buffer between the apartment complex and the single-family residences that are on that street. He said it last meeting and he'll say it again, he'll reiterate, that the building that is presented now, in his opinion, it overpowers the street and it provides for a very abrupt transition between the high density multifamily and the low density single family. It needs to have some degree of buffer, other than putting buffer on the Crabtree property. There is more at stake here than the Crabtree property, there are three other disturbed houses.

Chrm. Conero has a few letters that were written to the Planning Board, he believes Taylor has copies of them. One specific person, William, asked him to read it into the minutes because he could not be here, so he is going to do that at this time.

“In lieu of not being at the planning board meeting on February 22nd, I wish to express my concerns over the development of property on Factory Street across from the Crabtree estate.”

“My first concern is about the steep angle of descent on the land which is being considered for a build. At the last meeting, which I attended, I did not see any rendering of how the bank will be secured and not to not allow any deterioration or collapse due to the weight of the units planned. I have looked at the area and I am convinced a robust and expensive retaining wall would have to be constructed to prevent any collapse.”

“The next concern is about the narrow width to the road at the point of construction. Construction equipment and trucks will have a hard time negotiating this road. This means a possible encroachment onto the Crabtree estate as the equipment and vehicles try to negotiate the turn onto the developing project. If encroachment occurs, this opens up a potential legal matter for all parties concerned, even perhaps the Village.”

“Based on these two situations, I respectfully request the planning board address these issues openly at the upcoming meeting and if the board has any reservations about the items mentioned, a delay or modification to the projects is wise and prudent.”

“I would also request this letter be read by the other Board members and included in the minutes.”

Chrm. Conero said, he is doing that. It is from **Bill and Roberta Geist**. There are two other letters, too, one is from **Veronica Rickerd**, she also is concerned. He will paraphrase this one:

“The old historic homes will be diminished by large scale row housing and will be out of character with the historic homes in that neighborhood. She thinks that if the front is screened, the sides or at least one side should be incorporated to create continuity for visual aesthetic value.”

Chrm. Conero said the other letter is from **Skip Chambers**. He owns the land next to you and regrets that he cannot attend the public hearing but,

“His absence in no way lessens the importance that he gives this issue. He is concerned regarding the proposed development of eight townhouses on one of the most narrow streets in the village. More importantly, he believes the current proposal lacks a harmonious blend with the upper portion of the street where a collection of single family residences survive. When he was growing up, all of these homes were occupied by the Crabtree family who made a significant contribution to our village and the homes they left behind are a vital and indelible link to our colored past.”

“He hopes the Board will work with the developer in providing for a project that better transitions into the upper portion of the street.”

“In addition, his property abuts the southwest line of the property and it has been his wish to keep his property green. Whatever is built on Factory Street, I hope you take into consideration my concerns.”

Chrm. Conero said, he thinks the question is, do they send it back to SHPO or not based on our attorney’s recommendation, they might be prudent to do that. He wants to know what the Board members think of that.

Ms. Selig said she checked with Jay, he reviewed what was submitted to SHPO and they have received the most current set of plans.

Chrm. Conero asked, they received them and didn't comment.

Atty. Palmer said they advised them at that meeting that they would not be providing further comment, even if they did. They could upload the materials to their system but they weren't going to be providing further comment.

Chrm. Conero asked, the reduced proposal that you did and the mitigation is shrunk and the screening on the northwest corner were all sent to SHPO?

Atty. Palmer said, which were all responsive to that meeting's requests.

Atty. Midler asked when they were sent to SHPO.

Ms. Selig replied, October 18, 2022.

Chrm. Conero said, it doesn't sound like they really want to get involved in this. He doesn't know if it's helpful to anyone to have SHPO respond again? Do we call them and tell them that we need them to respond again?

Atty. Palmer said they asked SHPO to do something outside the scope of their authority last time, to have that meeting. They typically don't hold those meetings where they don't have to be, the offer has to be afforded to do so, they went above and beyond their call to encourage them to participate and they welcomed it and provided those comments, just again, to reiterate, they can't overstep their...

Chrm. Conero said, they are NOT overstepping by meeting with the Planning Board because it's part of the SEQRA process, but nonetheless, they put a lot of merit into that.

Atty. Midler said they're acting as an advisory expert.

Chrm. Conero said at this point in the discussion here, do they leave the public hearing or close it and entertain a motion to vote on it or do they keep it open another month. If SHPO isn't going to respond; he doesn't need to know if they have, Mr. Williams mentioned, have our architect design person look at it, as well? He's not sure if that's going to be helpful in this situation.

Atty. Palmer said there are some comments that they can quickly respond to, just to help the Board with some of the comments this evening. Mr. Williams, they appreciate him acknowledging receipt of their letter, their client has no problem with him going to the site. They're having Beth, their consultant, take pictures from their site from areas that would be appropriate. Again, for further coloring the record, but they believe they provided sufficient site, sections and details, buffering and screening to mitigate, but they aren't objecting to that but they don't think it will materially change whether the project

will have a potentially significant adverse impact. These are further mitigations beyond what would be proposed and because it's a subdivision, as counsel can reference, they would have to have a SEQRA determination prior to closing of the subdivision public hearing. Just procedurally, if the Board might see fit, consider authorizing their attorney to draft the materials for consideration at a future meeting, that would give them the opportunity to coordinate with Mr. Williams being onsite, taking pictures to add additional color for you all prior to that meeting, where they might be able to make that SEQRA determination and/or close the public hearing at that meeting.

Atty. Midler recommends that because there are more, there would be specific findings that she would need to make and make sure the Board reviewed it prior ahead of time. If the Board wants her to draft a SEQRA determination, then she can do so for their review and they can make that for next meeting, prior to closing the public hearing.

Atty. Palmer said, keep the public hearing open where the public can provide further input and they can also submit materials responsive.

Atty. Midler said, she doesn't know what extent her Board needs to comment on what the two property owners decide on the side, unless you feel like you need to see something from that. Whatever mitigation they come up with would just be added to what they've already offered. That's up to the Board if they want to see it or not. At this point, to make a determination, they wouldn't rely on anything coming out of that meeting.

Chrm. Conero agreed. They submitted the latest plan and there's not going to be any other changes to it that they know of. After they close the public hearing, they have to render a decision within 62 days, so he's not sure if they should leave the public hearing open.

Atty. Midler replied, you have to...

Chrm. Conero said, because of SEQRA.

Atty. Midler said yes.

Chrm. Conero said, they'll leave it open. With SEQRA, they're saying that it's a negative dec with subdivision. Is that what...

Atty. Midler said, it would be the entire project; so it would be the subdivision and the site plan.

Atty. Palmer said they still have to go to the Village Board for the special permit but that only comes after preliminary...

Atty. Midler said, you need preliminary approval for that. Although, she highly recommends making that connection. You can make your submission as in, this is

forthcoming, here are our plans so they have some time to review it; just because if you want it to run on parallel tracks, they're going to need some time.

Atty. Palmer said thank you, they will do that.

Chrm. Conero asked, you're advising us to adjourn the public hearing until next month?

Atty. Midler replied, yes. At this time, she would advise adjourning and in the same motion you can put to direct to attorney to draft a SEQRA determination and she'll send it to everyone to review.

A MOTION was made to ADJOURN THE PUBLIC HEARING FOR PATHWAY PLACE MANAGEMENT, LLC 203-1-1 TO MARCH 22, 2023 AT 7:30 PM OR THEREAFTER, AND TO DIRECT ATTORNEY MIDLER TO DRAFT A SEQRA DETERMINATION by Mbr. Frisbie, seconded by Mbr. Steed and carried 5 Ayes 0 Nays.

OLD BUSINESS

RE: ZAFIR – DUNN ROAD 213-3-4.22

Tom Olley is representing the applicant. They submitted to the Village Board because it's over 4,000 sq ft, there's a provision in the code that requires the Village Board to act on it. They made a presentation last week to the Village Board. There are some questions; he thinks they mostly are all in, Stephanie's area to advise the Village Board on SEQRA matters on that section of the code. Last month you had adopted the SEQRA findings and preliminary approval for the plan and what they are here tonight to ask them for is to grant a Conditional Final Approval on that with the condition being that they receive the Village Board approval and they hope the Board sees it this way, if they don't get approval from the Village Board, then they will have their final approval since the code requires both approvals. The reason they are asking is that the one area of the, the DEC regulations of clearing of trees when there is potential of Indiana or short-nosed bat habitat. They have a blanket policy that allows for tree clearing between October and March each year that the bats are hibernating/in their nest. There is no danger to the bats for tree clearing during that period. There is another avenue for the applicant's developing the land, to take trees down outside of that window but it involves bringing in a biologist the day before getting a specific approval from the DEC and it's not unheard of, it's a common occurrence but it is costly. While the Board is meeting on the 7th...

Mbr. Romano asked, you want to clear the lot before March?

Mr. Olley replied, yes, before the end of March. If they have to come back to this Board on the 22nd, that only leaves them eight days to do it. While they would have three weeks to do it. There's not a tremendous amount of cleaning but they want to work within the DEC guidelines.

Atty. Midler said, she understands his position and that they're running up against bat season, based on what the code says, this is not the Board to grant final. She reads the code:

Applications approved by the Board of Trustees shall thereafter be subject to the final approvals of other Village agencies consistent with the approval of the Board of Trustees. No Village agency shall give final approval to an application, subject to this article unless the Board of Trustees has approved the application.

So, in terms of getting the ability to clear the lot, the final approval and preliminary is conditioned on the Board of Trustees. She recommends them ask the Board of Trustees to allow you to clear subject to their approval, whatever they want you to do and then ours. She knows they have a special meeting tomorrow; she thinks the purpose was limited.

Mr. Olley said they scheduled them for the 7th. Unless they have anything other...

Walt Lindner said, in their last Board meeting the issue didn't have to do with the tree clearing, it had to do with the landscaping was going to look into the question of landscaping. They determined that this was not a subdivision so that the whole property is in play in terms of landscaping, not just the new part. He knows it's been brought up to this Board, can something be done on the landscaping part that would benefit the existing building where it was not particularly a great landscaping job. The thought would be, since they are going to be doing approved landscaping on the new addition, why don't they correct some of the mistakes of the first one? It's just one project, not a separate subdivision that they are approving. The entire lot is what's in question. The attorney was going to check on it.

Atty. Midler said, yes, they will advise the Village Board on that question; that being said have the ask be to the Village Board to allow the tree clearance, despite their pending approval. The Planning Board is tied.

Mr. Olley asked, if they grant approval on the 7th, do they have the right to proceed with certain site improvements based on the preliminary approval? If not, they will not have that timeframe. It's usually the case but he's not that familiar with the Village code.

Atty. Midler doesn't think there is a separate tree clearing permit. She doesn't know if they do something in practice that is not written.

Chrm. Conero said, like Walt just explained to them, that was part of the issue with the Village Board not approving them. Knowing that that part of the plan is not satisfactory to them, that the landscaping, and he's asked this question before, in there negotiations about landscaping and building design, is whether they include the whole lot in the design. Somewhere in their planning, he was told now, this is just part of this building that's already approved and they can't include it. Now, they are into a situation where you want to move forward and we're taking three steps back because of the landscaping design. Really, the only issue that the Village Board had, he was at the meeting, and the only issue he saw was that they had a problem with the landscaping. Can they do a

conditional approval and let the Village Board look at the landscaping and let them decide what it is so it doesn't have to come back to them again?

Atty. Midler said, based on the code, they (the Planning Board) have done the approval that they can do at this time; they can't issue final.

Chrm. Conero said, okay.

Atty. Midler apologized to Mr. Olley. It's just the procedure, it doesn't fit with the code. Why would they send them to the Village Board if they're going to omit other sections of the code?

Mr. Olley said he understands that the code is completely wasteless on what the Village Board is to do with that review.

Chrm. Conero said, for the record, they've spent a considerable amount of time on the design of this, worked with our Architectural Landscape Design people, they've changed the color of the building, put rooflines on, the applicant has done everything that they've asked for. The only thing that they haven't done and it's a sore spot in our Village, is the front of that building. If you could come up with some kind of landscaping plan for the front of that; he knows there are some technical/engineering issues that you had...

Mr. Olley said, septic system and utility lines there.

Chrm. Conero asked, isn't there some type of compatible vegetation that you could put there to make it...

Mr. Olley said, not over the septic system, Scott will tell you you can't plant over the septic system, it will destroy the septic system. The sewer is out there.

Atty. Midler said, make that case to the Village Board, then. If it is what it is, then they need to know that in order to make their decision. Ask with the tree clearing. Reach out to her office and see what the procedure is with the building department. But the ask of tree clearing prior to final would be with the Village Board.

Mr. Olley said he knows with the case of a subdivision, you can proceed with, at preliminary, with site improvements, so that's why he asked.

Atty. Midler said, as you know, once her conditions are checked off, she's not intimately involved in that process.

Mr. Olley said he appreciates the input, though.

Chrm. Conero asked, what's the length of time that this delays your land clearing? If you don't get it done by March 31st, what's the timeframe that you'd be able to start digging again?

Mr. Olley said, just to go in there goes to November, without having it bring in a biologist and have DEC approval. It could be significant.

Chrm. Conero said, it's a significant length. He wasn't sure what it was.

Atty. Midler said, he's right, there's two routes that he can go. Scott would know more of this than her, but it's either follow the blanket policy of November to March so not until October 31st or have a biologist go in and get special permission to do it.

Mr. Olley said, first you have to make an application to the DEC, then there's a process with the DEC about getting it approved, getting a biologist out there the day before to check for habitat and signoff. The State doesn't always work the fastest.

Chrm. Conero asked approximately how many trees would they be cutting down?

Mr. Olley said probably about 20 trees that are 12" or larger. There is small stuff in the front. Where the building is going is pretty clear. They would at least cut the trees to get them down.

Chrm. Conero confirmed, you're on their agenda for the 7th?

Mr. Olley said, yes.

Chrm. Conero said he would be there.

Mr. Olley thanked everyone.

A MOTION was made to GO INTO ATTORNEY/CLIENT DISCUSSION IN THE CLERK'S OFFICE AT 8:13 PM by Chrm. Conero, seconded by Mbr. Meyer and carried 5 ayes 0 Nays.

A MOTION was made to RESUME THE PLANNING BOARD MEETING AT 8:37 PM by Chrm. Conero, seconded by Mbr. Meyer and carried 5 ayes 0 Nays.

RE: FOOD BANK 214-1-1

Chrm. Conero asked Ms. Jacobowitz to give an overview of what happened and what you're changing and go from there.

Atty. Jacobowitz said, as everyone knows, they were confronted with trying to get approval from the FAA. Due to the location and height of one particular part of the building, they were unable to do anything to mitigate short of shifting the building and sending in another amended application to the FAA. They ultimately, most recently

received a final determination that states there is no hazardous condition created and are good with the location; they have no objection, thereby allowing them to move forward. They also had to comply with NEPA (National Environmental Protection Act) which is part of the grant, and that was a big factor to get the FAA to give that final determination. So, they ended up with some creative engineering and forethought and they skewed the building a little bit, the owner of the property agrees to the changes that they've made. This is the plan that presenting to the Planning Board. They've taken measures to modify the plan and to satisfy one of the conditions of the final approval, which was compliance and approval of the FAA. This is how they met the requirements that they needed to. They would like the Board to approve and then they will be able to move forward...

Mr. Samuelson said the red on the site plan is where the original building was proposed. Then, they shifted it to here (indicates on site plan). It's further away from the road, further away from the airport. The dashed lines are the filed easement that according to the easement, they were under, according to the FAA they measure from different locations, they were not. They rotated the building and shifted it to get it out of that easement. The FAA has since approved their proposed elevations and height.

Mbr. Romano asked, has been approved by the FAA?

Mr. Samuelson said he has an extra copy he can give them.

Atty. Jacobowitz said she sent over the letter of approval.

Mr. Samuelson said he has approval for all four corners. The other changes are, they used to loop around the building with a fleet roadway; they eliminated it on one side and provided emergency access through what's called a grass free paver system. They are paver blocks that are open and allow grass to go through them but can still support the weight of a fire truck or emergency vehicle. You can still plow it without ripping them up. It looks like grass. Unless you walk on, you'd never know that it's grass free pavers. That reduced their impervious cover so now they have a separate parking lot for employees, a separate entrance for all the loading that goes on and all the volunteers that come in; separating the employees from the volunteers and the loading.

Chrm. Conero asked, there are two entrances?

Mr. Samuelson replied, two entrances off of the private common drive that was extended but overall, their impervious coverage is down, their disturbance numbers are down, they've redesigned it. He appreciates Scott's willingness to work with them and provide them with two different reviews prior to tonight. He thinks that these are all the changes that they've had.

Atty. Jacobowitz said, she thinks it works better. She wanted to thank Scott, the Board members for getting everything done so quickly. She really appreciated it.

Mr. Samuelson said they had a brief meeting with Devitt, and other people involved with the team; Joe, the mayor. They spoke about doing an additional rendering and this is the rendering from the intersection of 211 and 416. This is what it looks like today, this is what it looks like with the building there. Andrew explained it more in depth.

Andrew from Anderson Design Group showed them the view from 416...(inaudible) vantage point down from the original submission because of the building shifts to allow them to actually see what's happening with the building now. (He is showing different view sheds.) You can see the Food Bank from 211. As far as the building goes, there are absolutely no changes. They still have the terra cotta panels, the main office building, the warehouse is still in the back. The only real change is that it is one foot lower than it was last time.

Mr. Samuelson said the FAA asked them to lower it from 45' to 44' and then they would approve it. So they agreed to that one foot.

Atty. Jacobowitz wanted to mention that she spoke with the ZBA Chairman and attorney and they don't need to go back to the ZBA at all. Also, nothing was changed with regard to the design of the building architecturally.

There is discussion about the view sheds.

Mbr. Meyer asked if there was a rendering of the building going south on 211. Mr. Samuelson said they had originally, but hadn't updated it because it's further away from 211 now.

Eng. Sicina said the decision at the previous meeting, they were to provide views that were worst case scenario. That's why they chose that location.

Chrm. Conero asked what they were seeking from them tonight. We looked at three different things, special exception use, the site plan and the subdivision. The SEU hasn't changed. That leaves them with the site plan and subdivision.

Atty. McKay said, with respect to the subdivision plat, the Board has to determine whether or not if the subdivision plat has modified substantially complies with the previously approved subdivision plat and if it does, the Board can approve it with modifications or deny it.

Chrm. Conero said it hasn't substantially changed. That's been the issue they had, with the subdivision. He doesn't believe they have to have a public hearing on it. They can approve it under SEQRA as it's still a negative dec, correct?

Atty. McKay said, yes. You are going to reaffirm the negative declaration. You are not doing anything in respect to the SEU because there's been no change. With respect to the subdivision plat, the Board has decided that the plat substantially conforms to the prior plat and will be approving it with modifications that are shown on the most recent plat.

Then, with respect to the modified site plan, he knows the Board said there are no substantial changes, technically, under the code, that's not the test, but he understands the Board says there are no substantial changes in the site plan. The site plan was modified to comply with the FAA condition that this Board gave them in the past, so there is no substantial change to the site plan and the Board is going to approve this site plan as modified.

Chrm. Conero asked, does the Board have to allow the Chairman to sign it? We're allowing you to prepare these final documents. They're going to be presented to our Board, he's going to sign them. Do they have to allow him to sign them?

Atty. McKay said, as long as the Board consents because there's no further hearing required. He will prepare the drafts and send them to everyone for their comments. If anybody has any comments, he will incorporate them and if they don't then you can sign them.

There is discussion as to whether or not the modified plans have to go back to the Village Board.

Atty. McKay said he will review the code to see if it has to go back to the Village Board; he's sure the code is not going to be clear on that, look at that issue and advise the Board know what he ultimately decides.

A MOTION was made to DIRECT ATTORNEY MCKAY TO DRAFT SUBDIVISION AND SITE PLANS WITH MODIFICATIONS TO COMPLY WITH THE FAA FOR THE FOOD BANK OF THE HUDSON VALLEY 214-1-1 – AT 8:53 PM by Mbr. Frisbie, seconded by Mbr. Meyer and carried 5 Ayes 0 Nays.

RE: MINUTES

A MOTION was made to APPROVE THE JANUARY 25, 2023 MINUTES by Mbr. Steed, seconded by Mbr. Meyer and carried 5 Ayes 0 Nays.

RE: ADJOURNMENT

A MOTION was made to ADJOURN THE MEETING AT 10:10 PM by Mbr. Romano, seconded by Mbr. Steed and carried 5 Ayes 0 Nays.

Tina Murphy, Deputy Village Clerk