

Minutes of the **Regular Meeting** of the Planning Board of the Village/Town of Mount Kisco held on **Tuesday, November 10, 2020** at 7:35 pm via Zoom Teleconference

Members Present: Doug Hertz, Chairman
John Bainlardi, Acting Chair
Ralph Vigliotti
Michael Bonforte
William Polese
Crystal Pickard
John Hochstein

Staff Present: Jan K. Johannessen, Village Planner
Peter J. Miley, Building Inspector
Anthony Oliveri, Village Engineer
Whitney Singleton, Village Attorney

Chairman Hertz stated Alright. Welcome everyone, this is the Mount Kisco Planning Board. This is our regular session. It's Tuesday, November 10, 2020. We've just concluded our work session and this begins our regular meeting. The first item on the agenda is the continuation of a public hearing for PL Property Management Corporation for both 18 Britton Lane and 20 Stewart Place. The public hearing is regards site plan and also steep slopes. So, Jan would you just give us a quick update as to where we are, this application or this public hearing I should say has been adjourned a few times at the request of the applicant. And we have some new plans in front of us.

**A. PL Property Management Corp. – 18 Britton Lane
PB2017-0340, SBL 80.24-2-1
Site Plan**

**PL Property Management – 20 Stewart Place
PB2019-0379, SBL 80.24-2-2
Site Plan**

Mr. Len Brandes and Mr. Gustave Levy were present.

Jan Johannessen stated correct, the applications for subdivision, site plan and change of use permit. The public hearing being on the subdivision, I guess the site plan and the change of use was included but mainly for the subdivision. Amidst of a public hearing there's been some outstanding Staff comments that I think now have been whittled down, so just a few technical items. I think the main item discussed the last meeting was the lighting plan. The A plan has revised that plan and has reduced the illuminance levels and has adjusted the type of pole and fixture to be compliant with the Village standards. So, you know, with the exception of a couple of minor items, my perspective the comments have largely been addressed, so that's kind of where we stand.

Chairman Hertz stated okay, so, I know that we had a number of questions. There were some revisions on the lighting plan. Jan, have you reviewed this or Anthony to determine whether it's in compliance with our code?

Jan Johannessen stated yeah, I did. And I'm sure Anthony did as well. They had, the prior plan was really, you know, the levels were very, very high. And they had a 150-Watt LED lights that were like a 400-Watt equivalent. They had fixtures that were able to be angled. So, there was some noncompliance there and that the light levels were just kind of exceeded the Village requirements. And they've reduced that, they've gone down to, you know, 105-Watt bulb and they have adjusted the fixture. So, I don't think we have any lights spill over. I think that the footcandles underneath the lights are probably in the 6 to 7 range, and when you get out to the middle of the drive aisle probably 1.5. So, you know, I think it's come a long way I believe it's compliant. There's some details that they've provided to us in like cut sheet form from the manufacturer that we want shown on the site plan and some tables that need to be provided to help demonstrate compliance, but I think we're largely there.

Chairman Hertz stated okay. So, you know, Len, one of the comments or the discussion that you probably heard in the work session was to make sure. And then Jan just reiterated was to make sure that well we have lots and lots of pages of specifications of lighting and that specific units that you're using and specific specifications, all be incorporated into one including the photometrics and all the details be included into one master set that would be attached to the site plan so, that these things all get recorded as a single.

Mr. Brandes stated the items been listed on the lighting plan, the individual life fixtures, the model numbers, etcetera, are listed on that. And you had received us spec sheets previously but I can resubmit that and put additional notes on the drawings for you.

Anthony Oliveri stated I think the idea is to really put those details on the plan. You know, the light pole, the light fixtures should be on the plan.

Mr. Brandes stated certainly.

Anthony Oliveri stated we had asked for the concrete pedestal should be two feet above grade.

Mr. Brandes stated right, and I had specified concrete pedestal.

Anthony Oliveri stated I think you might have noted it. Right, right so we need that detail.

Mr. Brandes stated I also submitted a plan cut sheet.

Anthony Oliveri stated there may be a cut sheet to effect, right?

Mr. Brandes stated I did give you a cut sheet previously. I can resubmit it if you'd like, that's not a problem, I'll get it on the drawing itself.

Chairman Hertz stated yeah, if all those cut sheets can be incorporated on detailed plans, all the pieces so that, you know, when we plan out details, you know, as we often do so that those could be incorporated together. Okay.

Anthony Oliveri stated one other thing just add to that Doug, on the details, this should be a detail in the pervious pavers. just for future. Just to define that for the land bank spaces. Really, that needs to be, has to be on the plan.

Mr. Brandes stated I'll select one and specify that on the drawing itself.

Anthony Oliveri stated we might want to have a little offline conversation, Jan, myself and you maybe just to get those get all the details straight.

Jan Johannessen stated yup.

Mr. Brandes stated sounds good.

Jan Johannessen stated and Len you have our latest comment memo, November 5th?

Mr. Brandes I don't think I received one today.

Jan Johannessen stated okay, follow up with Michelle if you haven't received it.

Mr. Brandes stated okay.

Chairman Hertz stated yeah, it is the November 5th, the November 5th memo. Okay. Are there questions from Board members, comments from Board members? Okay, then we've seen this application before. It's been moving forward. We're at a pretty good place so that I think other than the comments that you've heard, it sounds like most of the members are comfortable that we're moving us in the right direction. Were there a variances related to this application Jan?

Jan Johannessen stated let's see.

Mr. Miley stated there were variances.

Jan Johannessen stated there were variances...

Mr. Miley stated and they received them in September.

Chairman Hertz stated okay, all right. So, it sounds to me like if there's no substantive information, now, this is a public hearing so I do need to mentioned the public. And this hearing has been adjourned a few times. So, this is the, I don't know, the second or third or fourth night where this application has been

heard. But there are methods, if you wish to comment tonight, Peter can you go through the phone number and the other methods please?

Mr. Miley stated yah. We do have somebody raising their hand on the Zoom, John Rhodes like to speak. And then, you want to hear him or you want me to go over all the methods?

Chairman Hertz stated tell the public all the methods and then we'll get to the individual responses.

Mr. Miley Okay. So, we're monitoring Facebook live, any comments we could read into the record. In addition, we have the cell phone number is 914-420-0383, people could call in. And the last method is be at Zoom, if you raise your hand Michelle will be able to get you live. So, John Rhodes is on standby. So, whenever you're ready Chairman.

Chairman Hertz stated okay. And I should, probably should have made this comment at the beginning of the meeting. But I will, I've been attending a number of Planning Board sessions of other municipalities around the county. And one of the things that I've been seeing which is interesting, which we don't do here in Mount Kisco or haven't done very long time is limit people's time to generally a single session and as long as nothing substantive has changed. And generally, in other municipalities there's a three minute time clock on the substantive issues, maybe we could go beyond that. But I think it would make sense. Why we want to hear the information from the public, generally what we find is that much of the information becomes supportive with a little bit of information coming out, and then quite a number of people coming out with similar comments or supporting comments or comments in the other direction. So, what we want to hear everyone, what we really want to hear is substantive information. So, rather than speechifying I think it's respectful of everyone's time and energy to keep your comments short and concise. And when those comments are extensive, to put them in writing and make them available so that they can, if you do have a long legal brief or detailed report, that's better absorbed I think through written comment that could be shared with everyone and we can dig into it subsequently. So, with that comment, and I think not that we're creating policy tonight, but I think it's worth this Board having a discussion about how we'd like to proceed on public hearings in general in the future. But with that being said, John Rhodes you have the floor.

John Rhodes stated oh, hi. Am I, I guess my videos not on, okay that's cool. Yes, first of all, I'd like to thank you all again for all the hard work you're doing. I know from the last week when I was looking at the car dealership application I realized that there were 1100 pages of a flood data on that. And I really appreciate you guys taking the work to go overall that information and make sure that things are being done correctly. Sometimes it's not simple as looking at one diagram or reading a letter. That being said, just and this particular issue, I just have a couple of questions and comments to make and things like that and they are things as a neighborhood resident nothing to do with the CAC here because the CAC hasn't really discussed this but I live across the street from this proposed development here. I live at 25 Stewart Place. So, when I look, you know, look out my window or look from my terrace I see this, you know, see this site. And a couple of concerns that I talked to a few other people, you know, in our development and our co-op about this and none of them knew that it was going on. So, I don't know what the policy is in terms of notification when it concerns, you know, co-ops and condos that are nearby or next door to a proposed development. But if there's a hearing I would guess that it's probably just sent to the managing agent in which case that almost guarantees that the most of the people are not going to actually see it or hear about it. And because usually I think those notifications were sent to the person who pays the bills there, at least that's been my experience. And so, most of the neighbors of this not that this is a particularly unusual or high impact development but most of the neighbors of it don't even know that it's happening so, that's one point. The second thing is something was mentioned by one of the Board members and that was, you know, the removal of trees. This is a, you know, a very pleasant tree lined street, that a lot of people walk up the hill past this to the, you know, from the train station and so on. And the removal of any trees, you know, bordering the road, and I couldn't really tell from the initial thing, I apologize. If the tree removal is going to be on Stewart Place or if they were on the back part of the property near the trains, but like a clarification on that. And also to say that if the trees are going to be removed on Stewart Place that that would really negatively affect the character of the neighborhood. The other thing was I noticed and again, I may be wrong and I appreciate if someone would correct me and provide the correct information that they are increasing the impermeable surface in this request. And this is, you know, right on the edge of a floodplain and a flood zone. So, I think that that needs to be looked at very carefully. I noticed they're using, proposing the use of some permeable surface for their land bank. I would question that if they are actually increasing the surface with macadam that the Board might think about asking them to use permeable paving for the parking lot. And there has been a lot of discussion about that in the Village Board about changing the building code to correspond to that. And it would just seem to be a neighborly thing to do for them to move in that direction. I don't know if the Planning Board has any powers to request that. And you know, basically that's, you know, those are my only questions. I believe that Jan made some comment before about the additional traffic here. And I'm sure you guys will go over that and make sure

that it's not having a negative impact on the street, just to remind you that people walk up and down the street probably somewhere in the neighbor there are about 100 families that live on the block in the multi family dwelling and there is not a sidewalk there. So, any additional traffic should take into consideration the fact that people would be walking in twilight up the street as I did for several years, you know, to these Stewart Heights development in the road, not on the sidewalk because there really isn't any sidewalk there. So, your considerations as to what should be done, you know, with the driveway should take that into consideration the fact that there's a lot of pedestrian traffic and it is in the road not on the sidewalk. And I think that are all my comments. And thank you for your time and thank you for the work on this.

Chairman Hertz stated thank you. Okay, Len I'm going to open it up to you, maybe you can answer...

Mr. Brandes stated san I share my screen then?

Chairman Hertz stated sure, when you can answer the specific question about where trees are coming down and you may indeed share your screen.

Mr. Brandes okay, everybody see that image? We have no trees coming down actually. The only additional impervious surface is the area over here in the parking lot. I think it was about 150 square feet area over here actually not even, it's a four by eighteen area. So, it's less than 100 square feet of additional impervious surface over here. The land bank we will use pervious and as we discussed earlier I will work that out with Jan, and Anthony will get the right product that they're both comfortable with. So, we are sure that if we ever do use the land banked, we are use these parking spots we will take care of that and make sure that it is pervious. We are adding plantings across the front and around the back area on both sides. So, we're adding plantings. And so, we're not taking away and we're not taking away any trees. The building is not going to be really getting addition, that much additional use we are adding one small apartment and one bedroom apartment on the bottom was proposed that's part of with this parking lot areas for. And it's not really going to be much more traffic. So, we're not making a major change to the house to the neighborhood at all.

Chairman Hertz stated thank you Len. Okay, at this point I think Peter are there any other people who wanted to comment from the public?

Mr. Miley stated I will check.

The Secretary stated there are no other hands raised.

Mr. Miley stated there are none.

Chairman Hertz stated thank you very much. All right, so this public hearing having been open now for multiple months. We've gotten input from one resident I believe, Mr. Rhodes. So, I think it's time to close this public hearing. Would someone make a motion to close the public hearing?

Mr. Bainlardi stated I make a motion we close the public hearing, keep it open for 10 days written comment. And this is for 20 Stewart, 18 Britton Lane PB 2017-0340 and PB 2018-0379.

Chairman Hertz stated thank you. Do have a second?

Mr. Polese stated I'll second that motion.

Chairman Hertz stated all right, Michelle poll the Board please.

UPON ROLL CALL VOTE:

Mr. Bainlardi	-	aye
Mr. Polese	-	aye
Mr. Hochstein	-	aye
Ms. Pickard	-	aye
Mr. Bonforte	-	aye
Mr. Vigliotti	-	aye
Chairman Hertz	-	aye

The motion carried by a vote of 7 to 0.

Chairman Hertz stated all right. So, we're going to need a resolution of approval. There are a number of items. So, it sounds like course of action here is for the applicant to have a meeting with Village Planner,

Village Engineer and get the rest of these details ironed out. We're conceptually agreed on what should go on here but we need to memorialize everything properly and get everything properly document. So, if you could schedule that meeting, revise your documents accordingly, I think we're very, very close. And I would ask the Planner to draft the resolution for the next meeting that incorporates substantially everything that we've discussed here. Are there any comments from member, Board members or Staff?

Anthony Oliveri stated just a note following up with Mr. Rhodes was saying, I just double checked the property is not in a floodplain, the floodplain ends in South Moger lot to the north. And in terms of the impervious surface being added the policy that we have it's not codified to require a stormwater detention for this type of minor addition of impervious surface. There is a policy when it hits about 400 square feet to provide detention at that point. So, this didn't trigger that, just an FYI.

Chairman Hertz stated thank you Anthony. Are there any other procedural matters Jan, that we need to do here?

Jan Johannessen stated I don't think so. I'll have a draft resolution for the 24th meeting.

Chairman Hertz stated thank you very much.

Mr. Brandes stated thank you very much, I appreciate it.

Chairman Hertz stated thank you Len.

Mr. Levy stated thank you.

**B. Fortunato Cambareri – 52 W. Main Street
PB2020-0404, SBL 69.80-4-2
Site Plan**

Mr. Roger van Loveren, architect, was present.

Chairman Hertz stated okay, so that includes the public hearing section of tonight's meeting. We now go into formal applications. We have two new formal applications before us neither which has gone through conceptual. The first item on the agenda then is Fortunato Cambareri 52 West Main Street PB2020-0404. Here for site plan and I understand there also be steep slopes and some other things. So, Jan and Pete if you can do a quick introduction and then we'll turn it over to the applicants to present their project.

Mr. Miley stated Jan, you want to start or you want me to start?

Jan Johannessen stated I'll start.

Mr. Miley stated okay.

Jan Johannessen stated this is a site plan application submitted formal for a property that's 0.37 acres, 52 West Main Street in the RT-6 zone, the property's developed with 2.5 story multi-family residence. An asphalt parking lot, well, it's about 10 parking spaces that are not code compliant parking spaces but there are 10 parking spaces on the site now. The application involves the use of the third floor space for residential use which triggered site plan approval before the Board. The application involves a reconfiguration of the parking area, a reduction of parking spaces from 10 to 6 code compliance spaces, removal parking spaces along the side of the driveway which would be, you know, viewable from West Main Street and the expansion of the parking lot towards the rear. So, that's the crux of the application. It's involves the use and occupancy of the third floor for residential use and expansion of the parking lot to accommodate the type two action under seeker.

Chairman Hertz stated thank you Jan. Peter, you want to give a little history here?

Mr. Miley stated yeah, sure. The house is a non-conforming, noncompliant with regard to dimensional serve located at RT six zone. There are four apartments that was constructed around 1918 at a period of time when parking was not, well, there was no codes of parking since it was not required. I misspoke earlier about the requirement for two space is the actual based on a new code requirements only one additional space so, not the two additional spaces. However, they're proposing reconfiguration of the lot to include six compliant spaces with the addition of some impervious and realigning and adding to their existing retaining wall to accommodate proper ingress and egress of the parking spaces. We have not done a full code review with regard to fire safety as Mr. Vigliotti brought that up but that will be included as far as, you know, part prior to the issuance of a permit. The third floor does include four bedrooms, they do

have a four family CO. However, the CO is restricted thereby not permitting third floor occupancy. I don't see anything legally that would restrict that other than the requirements for fire safety with respect second means of egress, sprinkler systems or anything of that nature. And that's pretty much sums it up. It's been there for a long time, the home, this is definitely in my eyes an improvement especially for the parking area which will now put parking, cars that are parking on the side. They are set back in the rear of the property and removing an old dilapidated garbage/refuse area that you could see from the street.

Chairman Hertz stated thank you very much. All right, is the applicant...?

Mr. van Loveren stated I'm here, good evening Mr. Chairman, Roger van Loveren, architect. How are you?

Chairman Hertz stated good.

Mr. van Loveren stated sorry, I checked in early and I caught the both of your discussions, earlier discussions. So, I have my work cut out for me to, have all your comments. My apology on some of the un-clarity. I realized too late before the submission that some of these things were missing. And that's easily fixed. But what I'm a little puzzled about is that I had thought that the steep slope trigger was for steep slope area disturbed under, over 100 square feet. And I tried to do my best here to keep it to an absolute minimum. So, I'd like some clarification on that. Also with the news that maybe we only need five parking spaces that might maybe solve the question about the parking space by the stairs to the basement. Although those stairs are merely for service access, and none of the basement spaces are accessible to the tenant. It's a boiler, it's electrical, and that's it. So, I don't think it would change the layout but it might help maybe not marking that first space as a parking space. The applicants experience actually Mr. Nat Cambareri, is that as we've seen with so many new small apartments in the various towns that he's never seen a lot of parking in his parking lot anyway. So, he doesn't even think that that would be an issue at all. So, leave that to the Board to maybe discuss. Other than that, the landscape plan I heard your comment, Mr. Chairman about doing some landscaping in the front. Just so it happens that Mr. Cambareri is a landscape contractor. So, I don't think he will have any problem doing some stuff to improve the site. He's just been waiting on seeing what the verdict was on his whole status of the property since he's been in wrangling some legal issues as he took the property over from his father. And he's been trying to untangle all that stuff. And that's why we're here tonight to resolve and improve the parking and make it code compliant.

Chairman Hertz stated, okay well, let's untangle one or two of the things you brought up. So first, with regards to steep slopes, yes, I believe there is a threshold below which we're not going to have a steep slopes permit requirement. And someone stop me if I'm wrong on this but I don't see on the plan while I see small areas called out, I don't see anywhere in the table that says disturbance in areas of various, in other words a slopes analysis and where the – So, Jan do you, off the top of your head do you know what the trigger is?

Anthony Oliveri stated yeah 100 square feet, I think continuous 100 square feet.

Mr. Miley stated so to remove that you would just need to demonstrate that, you know, at or below.

Mr. van Loveren stated okay.

Anthony Oliveri stated yeah, I think that wasn't clear to me either. And I think if you kind of define your limit of disturbance and just give us your areas, you know, on the table that could clear that issue. If that's the case, then you wouldn't really need to go through all the steep slope criteria and address all those criteria obviously.

Mr. Miley stated right.

Jan Johannessen stated is there, if the code only requires one parking space and you're saying that none of the spaces that are there don't generally get used that often, and you're expanding the parking lot to accommodate six legitimate parking spaces. Is that expansion necessary in your mind Roger?

Mr. van Loveren stated yeah, for the applicant, no, I don't think so. I mean we can easily show here that it is easy to expand the parking further back but he certainly doesn't want to because but it makes it harder for him to actually keep unwanted cars from entering the property. That's been actually his biggest, biggest issue. He comes by and then he sees cars that he doesn't know in the parking lot. It's a convenient location close to the train station, close to town.

Mr. Miley stated I just want to interject, Chairman on the parking. So, with regard to parking at the time that a major renovation, I can't recall the date, the requirement was only one space per apartment. The

additional space is coming from the expansion from what I see is four additional bedrooms. So, anything three or more requires 1.75 parking space thereby triggering one extra space. So, five would be the bare minimum I would recommend for that area. I don't think you get out four family house with zero parking or with just one space.

Chairman Hertz stated and I would concur on that. I think we would want to make sure that there was adequate parking because, you know, but I understand it. And so, I think but I think you are removing, you know, significance in, you know, including the parking in the front. So, it would require a certain level of knowledge of what's going on behind there to have the audacity to illegally park for an entire day.

Jan Johannessen stated there's also a retaining wall I believe that's getting relocated to achieve the required driveway aisle between the parking space and that wall. Is that correct Roger?

Mr. van Loveren stated yeah, that first parking spaces with the 25 feet offset kind of triggers that curving retaining wall indeed.

Jan Johannessen stated and that's a, what type of wall is that?

Mr. van Loveren stated it's just, it would be a heavy dry set wall. We're not talking about a lot of retainage, we're talking about, you know, 1.5 foot to 3 foot.

Jan Johannessen stated there's an existing wall now that's getting pushed back. Is that right or there's no wall there?

Mr. van Loveren stated yes, yes, by about 3 feet in the middle just to make that 25 foot.

Jan Johannessen stated so what type of wall is there now? It's a masonry wall?

Mr. van Loveren stated yes.

Jan Johannessen stated okay.

Mr. van Loveren stated yeah.

Anthony Oliveri stated was there also another little, at the opposite corner there another piece of wall that I think kind of got lost in the drawing a little bit but...

Mr. van Loveren stated no, yes, I introduced that wall at the corner to not only, you know, minimize the steep slope disturbance but it actually by not doing it, you set yourself up for a lot of disturbance. So, by keeping it a short 2.5, less than max 2.5, less than 2.5 most of it the wall we're still safe in terms of, you know, elevation difference but it just helps keeping the corner.

Anthony Oliveri stated so, just make sure if we're going to show that you're under that threshold that there's a clear limited disturbance and mark on the plan that it's to be marked in the field, because the last thing you want is to not get the steep slope permit and then disturbed too much steep slopes out there in building this little corner wall and gets, you know, and the job gets stopped. So, let's make sure we're not doing, you know, going beyond that 100 square feet.

Mr. van Loveren stated yup.

Chairman Hertz stated all right, let's talk for a minute about – So, a Planning Board members, love you all to weigh in and what we want to see down Main Street, you know, what are the possibilities for that 600 square feet area of asphalt because right now it says seed new lawn. So, thoughts or suggestions for what we're looking for in that space?

Mr. Bainlardi stated Doug, I could just, I want to ask a question first before I respond to that. Peter just I want to make sure I understand the application. So, this is preexisting non-conforming structure, right? So, the building itself is not conforming because of its proximity to Main Street, it doesn't meet the setback. It was preexisting non-conforming.

Mr. Miley stated its nonconforming with regard to use, it's a two-family zoning district. It's non-compliant with regard to the front yard setback.

Mr. Bainlardi stated okay and, but the, it's nonconforming as to use, but it has a four-family certificate of occupancy. The reason why this application is before us is to legalize the residential space in the third floor.

Mr. Miley stated ah yes, well, two things, it's before us to modify the parking area for the site plan. There is no site plan of record and the expansion to the third floor which was prohibited by the CO, I believe it was in the fifties and sixties, I can't recall. So, its expansion with regard to number of bedrooms, they went from zero bedrooms to four additional bedrooms on the third floor.

Mr. Bainlardi stated okay and so, to modify the parking, is that been offered kind of in consideration for what they're looking for in legalization of the third floor? Otherwise they wouldn't be before, right?

Mr. Miley stated correct, what I recall when I spoke to Mr. Cambareri, he wants it because he said that people parking that didn't belong at that location, who didn't live at that location, so he wanted to restrict it and put the parking [indiscernible] but provide parking at least the minimum number of parking spaces. The site plan or expansion of the use would trigger the one additional space but they already had a room actually not legal room because it wasn't divided up properly. But they had a bunch of parking, you know, cars parking on the parking lot that shouldn't be parking certain areas.

Mr. Bainlardi stated okay, I understand. So, I mean obviously the benefit here is getting, you know, as you're coming from west to east into the Village on Main Street, this property is on the right hand side and the parking is on the right hand side of the building and is visible, you know, clearly visible from the street. So, the benefit is this parking goes in the rear is hidden from the street for the most part and we get to reclaim some asphalt in the front and create some planting or some beautification. I think that's the upshot.

Mr. Miley stated yeah, John, I think the biggest improvement is the way cars ingress and egress, no backing out onto the, you know, very busy street.

Mr. Bainlardi stated right, so by my observation of that area is on the western side of the property, there's a lot of tree growth that I think is on this property already on the other side of the masonry wall that exists. And I don't think it gets a lot of sunlight. So, whatever is going to be selected plant material wise to go, they're going to need some thought about what can grow there and, you know, what I could tell, but maybe other parts of the day it does get sun but it seems to me for the most important to be kind of shaded area. And I guess in looking at the at the site plan we're simply talking about the recapture of that section of macadam between what will be the western edge of the new drive of the driveway to remain and the retaining wall, correct?

Mr. van Loveren stated correct.

Mr. Bainlardi stated I think this is one where a landscape architect needs to, you know, where a landscaper needs to, you know, is that the area to determine what makes sense there, what's going to survive. You know, it is in close proximity to Main Street. So, you know, with plowing and snow and whatever coming through and then the asphalt driveway. But it's definitely an area that could become green in some fashion.

Chairman Hertz stated yeah, thank you, yeah, it does appear, you know, looking at, looking at street photos and it may be on your property just above the existing retaining wall. I don't know, you know, if those trees are on subject property or on the neighbors, neighboring property. But there is a good, you know, there's a good wall of trees between two -- between this property and property to the West.

Mr. Polese stated yeah

Chairman Hertz stated so I agree, we need some, you need to look at this carefully and present something that's thoughtful and that'll look good but survive in that corridor, you know, in the, in that somewhat sheltered valley between the house, you know, and the tall trees and the house to the West. I don't think there's a lot else going on here. Everything going on interior wise is subject to Mr. Miley's purview when it comes to life safety issues. So obviously you're going to need to comply with all that to be able to properly and safely use the third floor. But that's, that's not really the subject of this application in any extreme measure. Really I think for us it's how does the site function, what are the visual issues, what if any are storm water slopes issues would seem to be fairly minimal and it sounds like you'll provide information that that's not going to be something that we're going to delve into. So I think at this point what I'd like to see is two things really. I'd like to see, you know, a detailed landscaping the plan for the property. I'd like to understand your thoughts, if not see a completed thing for lighting and in safety. So you're going to have a, you're going to have an area where people are going to pull in into the back. You want to make sure that that's safely lit but not, you know, not going to be intrusive. And that could be things that are very, very minimal. But I think it needs to be determined what that's going to be and got

and put on the site plan. The rest of it is some tabular information that we don't have yet and I have --think having a conversation with Jan with, you know, with regards to what else wants to go on a plan. Peter then with regards to anything else on the use part of this. Are we imagining that the variance, does it look like there's any large -- any variances here?

Mr. Miley stated there is one, Chairman.

Chairman Hertz stated which is?

Mr. Miley stated that's the expansion or the alteration of the nonconforming use.

Chairman Hertz stated so that will, that will by definition has to go before the ZBA.

Mr. Miley stated correct.

Chairman Hertz stated it's just literally changing that, the use of that third floor.

Mr. Miley stated correct.

Chairman Hertz stated okay.

Mr. Miley stated well, there's a number criteria. It's an alteration as well, have a nonconforming this expansion of the nonconforming use.

Chairman Hertz stated okay and can they pursue that simultaneous pursuing this action before us?

Mr. Miley stated you broke up a little. Doug. Can you say that again?

Chairman Hertz stated can they -- can the applicant pursue their variances simultaneously to their action before us?

Mr. Miley stated that's a Whitney question.

Whitney Singleton stated the answer to the, to the question is yes, they can. As a matter of fact they will need to because this is not the Type II action under SEQRA. So your Board will have to act under SEQRA before, before the applicant is entitled to any vote from the Zoning Board of Appeals.

Chairman Hertz stated so they could begin their...

Whitney Singleton stated yeah.

Chairman Hertz stated action but they can't get a vote from them.

Whitney Singleton stated yeah and I don't mean to rain on anyone's parade. But I mean, they're, you know, they're a couple of you that are pretty familiar with the Zoning process. This is an expansion of a nonconforming use. It is not an area variance. And creation, self-created hardship is fatal to your application. So, you know, while I understand and this is a significant improvement it's something that will need to be discussed on an administrative level because I want to make sure that everyone's on the same page. It's terrific that everyone likes it and I hope that it can happen. But we need to evaluate whether the nature of the variance granted and whether the applicant is capable of being issued that type of release. And I don't know about the application to comment on it more particularly tonight.

Mr. van Loveren stated if I may, the third floor as it is as been in existence since '54 probably, just after the particulars of that I think 52 language where it would have given them relief under the fire protection. So we are going through steps to get. We had a whole fire sprinkler system designed for that purpose, so.

Whitney Singleton stated no, Roger, I appreciate that. I'll, you know, I think we haven't just study, we have a discussion on this on Thursday, correct. Or is that a different property?

Mr. Miley stated that's a different. Chairman and Whitney, I think, the reason this was flagged again we go way back was it was a fire inspection and there is a CO for four family. However the CO restricts third floor use. So and there is no permit or CO the third floor, that's how this whole process started.

Whitney Singleton stated okay and any information we get from Roger would probably be very helpful and maybe we can have a discussion, Peter and I could have a discussion with him prior to any application for the ZBA.

Mr. Miley stated okay.

Chairman Hertz stated okay. So it sounds like you have some, you know, possible challenges to overcome on Zoning in terms of this Board's actions with regards to site plan. Clearly we would like to see the site plan moving in the direction that you're currently proposing and mainly what it gets us obviously, is the obvious which is moving parking beyond the building, and creating some more green space and tidying up the view of the Village without hardship in other ways from our perspective. That are required just a little bit of site lighting but it doesn't look like you have an obstacle with reverses steep slopes or other things back there. So, you know, it looks like this would be a win. But obviously there are other issues which I think are outside of this Board's purview. So with that I think it would make sense for you to delve into these issues with Whitney and Jan and Pete and get some clarity around, around those issues. And then I think you've heard from us what we're looking for. Any other comments from Board members because we haven't had a conceptual here. You know, the applicant hasn't had the opportunity to hear the kinds of things that we would normally tell an applicant so I would encourage everyone to -- if you don't think the comments have been made tonight to voice your opinion now so that if those hurdles can be over, can be met and overcome [inaudible] a successful application. So any comments from Board members while we have the opportunity.

Mr. Polese stated well I would just reiterate what's been said before. I've walked to the train for 10 years, I know the property well. So I think the parking, proposed parking is welcome. I do think the landscape is a challenge. But so, you know, give that some thought. As John Bainlardi had mentioned. But, you know, generally it seems like it's a step in the right direction.

Chairman Hertz stated thank you Bill. Anyone else?

Mr. Bainlardi stated I guess the only other thing I'll throw out there and to double edged sword, I don't suggest to go looking for problems for issues. But you do have some neighboring properties that are around you. But I don't know to what extent there's been any discussion with anyone. But at some point in time particularly if there's a steep slopes public hearing for this to, you know, folks will be able to have an opportunity to come out and comment. So I leave it to, to you as to what extent you want to get in front of that.

Chairman Hertz stated okay, if there's nothing else than in this application it sounds like you're a little bit of homework to do and we'll see you back when your next ready.

Mr. van Loveren stated thank you Mr. Chairman. Thank you very much Board members.

**C. ARC Westchester – 699 Main Street
PB2020-0405, SBL 80.72-4-19
Site Plan**

Ms. Dawn McKenzie of Insite Engineering was present.

Chairman Hertz stated all right. The next, let me just close this one, the next item on the our agenda is ARC Westchester 699 Main Street, PB 2020-0405, here for site plan revisions. Jan, would you just introduce this and then we'll let the applicants presents.

Jan Johannessen stated this is on for a site plan formal application and a steep slopes permit. its just over four acres of land at 699 Main Street and the OG Zoning District. The property is developed that contains an adult daycare and the basement is least I understand to a second party for record storage. The applicant proposing to expand the parking area, the parking lot. Construct a new entrance vestibule, cover drop off area, and upgrade the lighting, associated storm water management facilities, landscaping plan, an outdoor patio in the front and the non-site trail system. It's an unlisted action under SEQRA. Again it's before the Board for cycling and a steep slopes permit the steep slopes permit requires a public hearing. ARB approvals required for the building modification. There's a referral that's required to County Planning to the proximity to a State road and a coverage under the SPDES general permit for stormwater discharges because of the extent of land disturbance.

Chairman Hertz stated thank you. All right. Dawn, are you presenting for the applicant?

Ms. McKenzie stated I believe Ian is going to start from the architect's office, Ian.

Chairman Hertz stated great.

Mr. Mueller stated yeah. Hi. Good evening everybody. Thank you. So, yeah. The and the, the general goal of the project is to better serve Westchester ARC's Day program location here in Mount Kisco which is, largely serves adults 25 to almost 80 years old. And these individuals are all have some disability and it's a day program center. So the individuals arrive around about nine and leave by about three. It's a serves a range of activities from, you know, some kind of physical activity and like Yoga, Tai chi, not treatment, physical therapy. Like a physical therapist office. You know, art programs they use some limited portion of the land for planting for flowerbeds. They bring in volunteers to run small workshops and classes with the individuals. And this renovation came about because they noticed they were losing some of their senior population that was basically aging out of the kind of level of services that they could offer. And by scrutinizing their services in a kind of curriculum perspective they also realized they could much better utilize the site which would include some of the renovations that we're showing, which is the patio outside and the walking path. But also expand the parking to better serve what is a congested parking lot. There's some minor building renovations expanding the vestibule which currently is a brutal in the winter, so they want a double door and lets AC escape in the summer, to they want to, you know, better, better trap in their condition there. You know, the small innovations like the windows need to be replaced and they could use a new roof. But the bulk of the project is related to the exterior, kind of landscape renovations that Dawn will to speak about further.

Chairman Hertz stated thank you.

Ms. McKenzie stated okay, thank you Ian's the architect for the project. So I'll share my screen, put the site plan up. Screen two. Okay. Everyone see that?

Chairman Hertz stated yes.

Ms. McKenzie stated okay, well now so we've got up on the screen Dawn McKenzie from Insite Engineering Surveying and Landscape Architecture. So what I've got up on the screen is the existing conditions plan for those of you who have never been to the site. Basically we've got East Main Street on the North side so the property is on the south side of East Main Street. And there are commercial properties to the east and we are just west of the intersection with Lexington Avenue over in this area here, the residential properties to the west and to the south. And as you can see from the existing conditions plan there is a driveway that heads up the hill. The building is generally located towards the Eastern side of the property of the site. This dash line right here, if you can see where my hand is moving around. That is actually the, on basement portion of the building that is below grade that extends out beyond the ground floor level of the building. Just to give you an idea, you know, this underground space is probably about twice the size of the, what you have at the first floor level. And right now the existing conditions of that area. This area here is actually lawn, there's a good size lawn along the front of the site. There are gardens, they utilize garden space so there's a garden here. There's another community garden in this location and there's a smaller garden over in this location with a couple of small shed outbuildings on the site. And there is a new existing fence area that it has abandoned mechanical equipment from the previous chiller system here on the site. And that's what a lot of this underground piping is associated with that and that's also been abandoned. So it just gives you a general overview what the site is. The parking is in the back and the entrance to the building is right here at the Southeast corner of the building that Ian was talking about. So let's just move on to the site plan. So what we're looking to do is reconfigure and expand the existing parking area, will push out a little bit over here on the west and put a new parking lot up in the back. So currently there are four, 34 parking spaces at the site. And in this proposed condition there would be 65 parking spaces. And according to the parking requirements for the uses at the site which is the adult daycare and the storage facility, at the underground storage facility, we will be required to provide 65 parking spaces. And, you know, one of the reasons for the improvement, in addition to providing the outdoor wellness areas that Ian was talking about to provide better programming at the site ARC could also determine that they need additional parking. What they have right now is inadequate and expanding the parking facilities based on the requirements of the Code would meet their needs and allow them a little, you know, some wiggle room. You know, one of the things that, you know, at this point we don't know is, you know, maybe someday the storage use goes away and they have the opportunity to expand the program and it allows them more parking because right now the storage they don't actually utilize any parking. They show up at the site, they pull up to the loading dock, they either drop off, collect records and then they leave. They don't actually have any active staff at the site. They just come in occasionally and use that. So really the parking on the site is supporting the staff for ARC and any visitors that they may get. So, let's see, the site generally slopes from south down to north. It's downhill, going down to the road. There's an existing stonewall along the front of the property if you ever drive by. And one of the things we were proposing is to utilize underground infiltration area for the parking lot and an

underground infiltration area to pick up the runoff from this area and any impervious on this side of the site. The front of the site would end up going into that area in the front. Now we've done stormwater testing and determined that infiltration is not going to work for this site or we don't have suitable soils here. So we are reworking the stormwater pollution prevention plan to address that, it's on that. So, you know, what we're going -- what we're looking to do is provide a different types of porous pavements potentially for the path system and we're not sure what that's going to be as we developed the stormwater pollution prevention plan. And the stormwater design will determine what percentages of those or what areas of those can be what type of surface. But it could be and, you know, we're still working through the [inaudible] and the design of the wellness areas and the path system with ARC Westchester, so we don't, you know, some of the past will be accessible or have a higher level of accessibility. And some of them may be less formal, could be wood chips. You know, we may end up doing some sort of porous asphalt or other type of porous pavement for this path system. But we're working through that. And as we develop the swift you know they'll kind of inform each other. So we could meet the programming needs that they have and get them what they're looking for to utilize the site and meet the requirements of DEC stormwater design manual and the construction activity general permit, so. In addition to that we are going to come back and provide lighting for the new parking lot and demonstrate site lighting compliance based on the Village Code. So we'll put that together and when we re submit we'll have that for you as well as the redesigned sweat. I don't if anyone ha any questions at this point or if I missed anything you wanted to hear about, so.

Chairman Hertz stated well, thank you Dawn and thank you, Ian. Let me -- while you were still sharing your screen Dawn, could you where -- during the work session which I know you were listening to there were two -- well, they're more than two items. But a few items were brought up. One of which had they and they both had to do with the removal of trees.

Ms. McKenzie stated yes.

Chairman Hertz stated so the first one, there's a fifty inch maple, if you go the earlier plan, you're existing conditions plan...

Ms. McKenzie stated yes.

Chairman Hertz stated and that...

Ms. McKenzie stated that should be right here.

Chairman Hertz stated right, so from what I can see my guess is you're removing that fifty inch maple because of the infiltration system in your plan. If that's now going to change do you think there's a possibility that that maple could be, could be saved?

Ms. McKenzie stated so you're correct. That was being impacted by the underground infiltration areas. So I do think there may be potential to save that tree and we will certainly keep that in mind when we're developing the path system. You know, circulation with past and you know there could be bio-retention filters provided as part of this is well as well as some other types. But we, you know, depending on where those end up and how we work through this yeah, we will definitely try and save that tree. There's different types of impacts associated with the other practices that we're currently discussing that may make that much better possibility. And of course we'd like to incorporate into the design, you know, for the outdoor spaces of the site, so.

Chairman Hertz stated okay, and then, you know, and again we don't, there's nothing here that talks about the health of any of these trees. So I don't know whether these trees are all healthy or whether there's some that are not or, but let's assume for the moment that these are healthy trees. So along the, along the driveway as well you're indicating on the plan putting in a, putting a sidewalk and coming up to the building up the hill. So similar question which is, is there a -- were a little bit concerned about and while I note that you are intending to, you know, re-landscape with trees, you know, up the drive. Is there, you know, a possibility of looking at an alternative that we give you safe and compliant sidewalk that perhaps wouldn't be directly adjacent to the driveway that would get us up to the site. Is that -- has that been looked at?

Ms. McKenzie stated so someone, I think it was Anthony had mentioned the possibility of putting it on the other side of the driveway and I don't know if that's something that we could entertain. But we'll certainly look at other options for this to see if we can preserve those trees.

Chairman Hertz stated yeah and again you probably need to do your own reconnaissance as to whether those trees are healthy, you know, worth preserving, you know, et cetera but assuming that they are. You know, if there were in alternative, you know, that might be valuable.

Ms. McKenzie stated okay, part of the Tree Preservation Code requires that we identify the locations and the conditions of the trees and what their future disposition is going to be whether they're going to be preservative removed. So when we re-submit will set that up and have that provided on the site plan.

Chairman Hertz stated let me ask you sort of a more general question than about the size. So, you know, you're going from -- it's a significant expansion of department and I understand that. You know, this is the number that could be required. Has there been thought to doing something in an intermediate size and I'm the last person to say make a less parking, but if you need it obviously you need it and that's perfectly legitimate. But it is such a considerable expansion, I guess I would love to get a little bit more clarity on as to the business case behind that so that we really do understand. You know, usually we're fighting the opposite direction, you don't have enough parking. But obviously this is all -- there's always a tradeoff between, you know, preserving some open space and minimizing impervious surface. So if this is something that's that important and needed and there's been a crush to the facility and all that then absolutely. But if we could just get a little bit more color around that I think that would be useful for the Board.

Ms. McKenzie stated and can we get back to you about that? Would that be all right?

Chairman Hertz stated of course, of course.

Ms. McKenzie stated okay.

Jan Johannessen stated hey Dawn...

Ms. McKenzie stated yes.

Jan Johannessen stated with the site plan a record was that site plan prepared for ARC?

Ms. McKenzie stated the one that we submitted with the application?

Jan Johannessen stated yeah, that site plan from the '90's...

Ms. McKenzie stated yeah, actually if I remember correctly because we did also provide the approval resolution associating with that as part of the submission package. So if, if anyone didn't see that it was actually in the package. And what it said in there was at that time, you know, they were already, there was the storage use going on at the facility and there was ARC at the, or they were operating at the site. And I think what they did is they had a change of use to allow ARC more space and that's what the previous resolution was about.

Jan Johannessen stated okay, do you recall there being any sort of parking calculation at that, done at that time. I'm just curious what changed between the use and the building and maybe the code that required so many more parking spaces?

Ms. McKenzie stated so, I have that here in my pile of papers on my desk. I remember reading in it, reading in it at the time that the calculations required 31 parking spaces and that's what they had on the site. I believe and they felt that that was sufficient for what they were doing at the time. But the calculations for parking were different and I don't remember that it said anything in that resolution about how many individuals they were serving at the time. And, but the numbers are there, square footage wise about what the storage was occupying at the time, so.

Jan Johannessen stated the individuals are dropped off by bus or van or is it?

Mr. Mueller stated it's mostly by van, it's like minivan sized vans.

Jan Johannessen stated the parking that's provided is for staff?

Ms. McKenzie stated and for the, and for the vans. The vans parked there when they're not in use for overnight. I'm sorry, I forgot to mention that.

Jan Johannessen stated okay, gotcha.

Ms. McKenzie stated so that's an additional, you know, 14 parking spaces to accommodate the vans.

Jan Johannessen stated okay, and did the business plan indicate like number of staff and that kind of thing or?

Ms. McKenzie stated yes, it does.

Mr. Mueller stated 30 staff will end up and up to 75 individuals supported.

Jan Johannessen stated 30 staff, wow. Okay, thank you.

Mr. Bainlardi stated the site plan that's included in the package indicated at the time that Messenger Realty was the owner and the contract vendee was Westchester ARC and their zoning data and parking requirements and everything's on that site plan. Along the lines of what as to, you know, what the need is for parking or isn't for parking. My only, my only concern or my only comment would be if, if a, if a property owner wants to approve their site to meet the code required, to meet the code requirements and they're doing so without the need for a variance while we may be able to suggest to them that we'd like to see less parking, I'm not sure that we have any basis for dictating that they provide less parking. So I'm not really sure what the exercises is about in the final analysis. I mean, really in my view what it comes down to is what does the applicant deem their needs to be and what do they want to do development wise for their property within the bounds of the law. So, I just throw that out, that's my two cents.

Chairman Hertz stated and John you may be absolutely correct with regards to that. I, I think it's valuable information for the Board to understand. But I hear you and you make a very legitimate point. Dawn, let me just ask you a little bit about screening between the parking lot and the neighbors primarily to the south. So right now there's a fair amount of distance there. You're going to be, you know, moving that parking lot much closer. Can you, you do have a landscaping plan. Can you talk us through what you see there?

Ms. McKenzie stated yes, so I think it's not letting me zoom. Hold on, so I can zoom in on that a little bit. So, whoops. Okay. So there are -- there is quite a bit of existing landscaping along this, this is actually the most heavily treed portion of the site. There's a bunch of mature hemlocks and some understory deciduous vegetation. So if you go out there in the summer it's pretty densely vegetated. The hemlocks are mature and some of the lower branches are not, it's not -- they're not as full in the bottom so in the winter it's a little bit looser. So what we're looking to do is fill in additional shrubs and evergreen plantings to the extent that we can along here between the, between the parking lot and that, and the property line to provide some additional screening to the adjacent resident, residences from the parking lot. That's really our intention.

Chairman Hertz stated okay, is there any fencing either there or proposed?

Ms. McKenzie stated there is existing fencing. It is on our property, but I don't believe it's their fencing. I'm not really sure about that. But it's not, you know, some of it is privacy fencing. I can provide -- I can show, you know, provide photos for the Board if you'd like to see what that looks like. Some of it I think is privacy fencing and some of it is probably more along the lines of chain link or wire fencing. So it doesn't, in some areas it really doesn't provide a lot of screening benefit.

Mr. Bonforte stated I'll just add that. That I used to live in the neighborhood to the south and many years -- for many years, over 28 years and, but not recently. But we could -- as children and kids and teenagers we could never go through that. That property line there, we're just too heavily vegetated. So Dawn, you aptly described it, even though there is a fence there and I appreciate Doug's comments. But that was one thing for whatever reason the thickness of the vegetation we could never get through.

Anthony Oliveri stated Dawn, in that area there's some hatched area called the notations SSA and could you explain what that is?

Ms. McKenzie stated snow storage.

Anthony Oliveri stated oh, snow storage area.

Ms. McKenzie stated yes.

Anthony Oliveri stated I'm thinking stormwater, trying that to relate that acronym to something with stormwater.

Ms. McKenzie stated no, it had nothing to do with stormwater, so.

Anthony Oliveri stated okay and just a comment on the stormwater. I understand you're changing that and that makes sense now based on the soils that you found and I spoke to someone from your office from when they did the perc test but...

Ms. McKenzie stated yes

Anthony Oliveri stated I'm glad I didn't get through the stormwater pollution prevention plan....

Ms. McKenzie stated right, right.

Anthony Oliveri stated so I would say it would be better not to submit one so we don't review it because a couple of things -- that make sense in a couple of things and they pulled, of course pavements in there which I couldn't find on the plan. So I would say don't submit one if we're going to change it so we don't review it and we will wait.

Ms. McKenzie stated I will advise.

Anthony Oliveri stated and I would just say just some of the other few things I was starting to pick up on the steep slopes. I would just provide a little more information on a couple of cross sections through the rear parking lot of steep slopes ordinance asked for cross sections.

Ms. McKenzie stated okay

Anthony Oliveri stated and maybe a cut and fill calculation. So when you're come in with that revised plan I would include those...

Ms. McKenzie stated through the parking lot and slope?

Anthony Oliveri stated yeah.

Ms. McKenzie stated okay and, you know, we could look at the slopes plan which we actually didn't get to. So since you're bringing that up let's just take a look at that. You know, and the areas that were disturbing where there are steep slopes is really around the edges of the existing parking lot. Most likely what they did is they came in here when they put the building in however many years ago and carved out this parking lot and created this man made steep slope. And, you know, we're putting this parking lot up on the top of the hill and we're easing that a little bit. We'll take out the existing juniper vegetation and we'll ease that slope a little bit. So it won't be steep anymore and we're actually creating a better condition than what's there now as far as. But we are, you know, touching the steep slopes to do that. We'll be disturbing them, so.

Anthony Oliveri stated are you going to locate the stormwater, still located stormwater detention chamber in that back lot in that position?

Ms. McKenzie stated up here? No, we're not because the soils are not suitable in that area for underground infiltration. So they have something else they're working on and we'll get back to you about that.

Anthony Oliveri stated okay.

Mr. Vigliotti stated Dawn, I have a question for you. But before that ARC has been a wonderful neighbor to the south end of the Village and I live in the south end and it's been a very nice -- you've been very good neighbors. Question I have is the movement of the parking at the back closer to the homes on Fairways Drive. I guess they have been spoiled over the last 40-some odd years because there's been quite a nice buffer between their property and the building and the parking. Now the parking is proposed right up at the parking, right up with the property line. Just wondering if you had an alternative plan for that that one row of cars and it's quite a number of cars that will have lighting for those roads. And I don't know how the lighting is going to affect the homeowners. I know you'll follow all of the zoning and regulations we have for lighting. But it's a change and it's a large change. What is the buffer, the actual -- the buffer between the landscape buffer, what is the size of that? It looks like it could be 20 or 30 feet, but I don't know that.

Ms. McKenzie stated okay, so let's just take a look at this. So, obviously this is the property line that you're referring to...

Mr. Vigliotti stated yes.

Ms. McKenzie stated this is the southern property line. This dash line right here...

Mr. Vigliotti stated yup.

Ms. McKenzie stated would be 20 feet buffer which is the minimum that is required by the Code. And it is heavily landscaped as we've discussed previously. And then the parking actually it comes up to about the 50 foot rear yard setback.

Mr. Vigliotti stated okay.

Ms. McKenzie stated so that's where this is. And, you know, we are working on the lighting design and as I discussed previously there are, you know, I think they're quite a, quite a few existing hemlocks in this area, mature hemlocks. And our intention is, you know, we went out in the field and we actually measured how low the dense foliage is on those and our intention is to set the lights so that they're high enough that they'll actually be screened by the existing vegetation. And in addition to that as we discussed we're going to fill in with some more plantings in that area. So, you know, and depending on the type of lights that we use we can put physical glare shields on the back potentially and the fixtures could also provide, you know, they'd be full cut off. And what that means is there's no light coming out of the fixtures horizontally, or above. And the other thing we can do is provide house side shields on the backs of the fixtures. So what that does is it cuts off the light, you know, if we were going to use LEDs and we could talk about this further once we submit the lighting designer and we'll actually have photometric calculations that we'll provide for this. But the idea of the house side shields and setting this up higher is so that it would be less likely that anyone would see the light source and light wouldn't be spilling onto the property line, so.

Anthony Oliveri stated Dawn, when you were looking at that rear property line I noticed you have two dimensions back there, one for the buffer, one for the rear yard. I think the rear yard dimension is not right, it says 50 foot.

Ms. McKenzie stated you know what, I'm looking at that too. That can't be 50 if that's 20. So, we'll double check.

Anthony Oliveri stated 30 and 30 maybe.

Ms. McKenzie stated yeah, I have a feeling that would be 30.

Anthony Oliveri stated okay.

Mr. Vigliotti stated so, you're looking at the buffer to be 50 feet? Is that what we're saying?

Anthony Oliveri stated no, it looks like it's probably 30 feet from the curb to the property line.

Mr. Vigliotti stated 30 feet, okay...

Anthony Oliveri stated it might be a little better on the east side.

Mr. Vigliotti stated the landscaping...

Ms. McKenzie stated you are correct, we'll take a look at that.

Mr. Vigliotti stated the landscaping that you're showing, Dawn, is that existing or proposed?

Ms. McKenzie stated okay, so, these symbols here, with a little bit look like little stars with labels that are a lighter color, those are existing. So, that identifies all of the existing trees, 8 inches or greater DBH in that area, and there are quite a few. So, I see some maples in here. HM is for hemlocks, and there's quite a few of those actually planted in this area.

Mr. Bainlardi stated if you, if you look at Google maps and you look at the satellite version, it shows you very clearly what the existing tree line is and correct me if I'm wrong but that's going to remain right the way it currently exists.

Ms. McKenzie stated that's correct. We're not taking any trees out back in that area.

Mr. Vigliotti stated yes, but what happens with the satellite image, it show the top of the trees which with hemlocks very, very plush. And then we get closer to the ground level, you can go up five to ten feet and a lot of that is dead wood. So, I know Jan will go through this with you. I just want to make sure that the neighbors pretty much that the landscaping will protect them from movements in the parking lot which are

close to the property line, lighting coming in off of the parking lot, doesn't become a nuisance on their properties. And I'm sure we could work that through but I just have a, you know, just a concern to share.

Anthony Oliveri stated one other thing I'm just noticing, on that rear property line. So you're calling out of fifty foot rear yard which might be the correct dimension against the residential abutting property. Thirty foot might be allowed for rear yard against a commercial. At least that's what the zoning table is saying. So if that's supposed to be fifty, it looks more like dimensionally it's more like thirty. So that's got to be looked at, Dawn. I don't know, if the parking could be within the fifty foot rear yard, it would be a question for Peter maybe but...

Mr. Miley stated I'll take another look at that. And it does say fifty, it does throw it off.

Anthony Oliveri stated it says fifty but it's definitely not fifty dimensionally on the drawing.

Mr. Miley stated no, you could see it. You could see it.

Anthony Oliveri stated but I think it needs to be fifty for the zoning it appears.

Mr. Vigliotti stated makes sense.

Mr. Bonforte stated and Dawn on the same question that Ralph posed on this the topographical grade difference. I just remember it physically never being an issue but that was the old parking lot. So I know you've talked about feathering in and so on but can you tell the grading here from this, what you're thinking here? Because I never recall that being an issue but again this is going back in time and, you know, having been in the backyards at, excuse me. Sorry. So, if you could just comment, please.

Ms. McKenzie stated okay, so we don't have great information on the residences. So what we'll do is we can take a look at aerial mapping and put elevations on those just to get a better context for that. But the proposed area for the parking lot it is uphill of where the existing area of the parking lot is.

Mr. Bonforte stated okay, let me point out, the houses are set back down on, so the sort of a rise to the property line and then it comes down both in the south. And so it's just something to think about it. I'll take a walk back there one of these days from the ARC side, you know, our ARC side. Very good point, Ralph. Thanks for pointing that out.

Ms. McKenzie stated and I did bring up some photos of that area. So which if I can get them to slide over onto my other screen, you know, to take a look at how dense it is, how dense it was this summer. I believe these were taken in September or August, hold on one moment. I should be able to tell you that, they're actually taken on October 15th. Sorry, I didn't mean to show you my dogs.

Chairman Hertz stated nice dogs.

Ms. McKenzie stated they're being very quiet right now. I wonder if I should be worried. So, but this is looking at the back property line, how dense the vegetation is, I believe that's where these photos are, in October, so.

Anthony Oliveri stated I'm looking at the photos and the aerial contours, those properties on Fairway are pretty well even with that rear area.

Mr. Bonforte stated topographically?

Anthony Oliveri stated yeah, yes, they go with the same grades. Yes, yes. And the existing parking is like four feet lower, five feet lower, something like that. The existing parking lot.

Mr. Bonforte stated again, good point. Thank you Ralph and Anthony.

Mr. Bainlardi stated Dawn, the islands that's in the center of the parking what is, what is the purpose of that? Is that help make a shift in the grade or and that – could that...?

Ms. McKenzie stated this area here?

Mr. Bainlardi stated yes.

Ms. McKenzie stated so, let's go back to the grading plan. And let me zoom in on this a little bit and then we can talk about that. So there is a grade difference between the lower parking lot and the, you know, it's

really a lower parking lot in an upper parking lot. So the existing parking lot is down at roughly 90, elevation of 99. And, you know, and then...

Mr. Bainlardi stated I was just wondering if that island, now what's going on in there which I guess is green, its green feature?

Ms. McKenzie stated this in here, yes, they'll be landscaping in between.

Mr. Bainlardi stated yes, I'm just wondering if that could be pushed to the, to where if that could be flopped with the parking the parking lot. You'd end up with, you'd end up potentially with parking up against parking on the – the existing parking being up against the first row of parking and that upper parking lot. But you may be able to set that down unless you can't meet the driveway grades to get, you know, to get there. I'm not sure exactly what's happening in their grade wise, but I'm wondering if you knew that island in the middle.

Ms. McKenzie stated so what you're talking about, John, is taking the parking lot and sliding it closer to the existing place.

Mr. Bainlardi stated yes.

Ms. McKenzie stated okay, so with the elevations that we have, you know, we've graded in access to get up into here. And I don't remember exactly what the slopes are in this but I think there are 8% right now, for this driveway here and this driveway over here to get up and utilize this area without doing a significant cut. If we move it closer it shortens the driveways and I'll have to check the code but I don't think we could do more than 10%.

Jan Johannessen stated 10% is the max.

Ms. McKenzie stated and that's one of the reasons why the parking lots located where it...

Mr. Bainlardi stated understood.

Ms. McKenzie stated right.

Mr. Bainlardi stated it is something maybe to look at. I don't know maybe with a little with a small retaining wall you might but, you know, like you said you'll end up having to cut, maybe a couple of feet out of that grade and, you know, that becomes a lot of earth movement. That's maybe not worth the effort.

Ms. McKenzie stated but we could certainly take a look at that.

Chairman Hertz stated yeah, I mean this is one, I mean, A, you have to look at your measurements and see if you comply with the buffer. You may be forced to do that anyway, but you know, cutting that down, you know, to a lower grade might have the advantage of being able to pull it closer to the building but also even short retaining wall might have some advantage to privacy with the houses in the rear, I'm just thinking headlights and things like that, so.

Mr. Bainlardi stated that might be worth a sketch for sure but and then, and if not, if it doesn't work ability to plant a little bit more right along the edge of the parking on the southern side right of the parking lot.

Chairman Hertz stated yeah.

Mr. Bainlardi stated or even a fence.

Chairman Hertz stated I think there are number of options. Okay, so, other thoughts and comments. Anyone else from the, any other Board members? We focused primarily on the grade of the parking lot. We chatted a little bit about changes based on trying to preserve some significant trees, if they are in good shape. Anything on here that we want to comment on or, okay. So it sounds like you have a little bit of work to do I know you're going to be looking at what you're doing for stormwater which have small or may have large impacts. We don't know yet, right?

Ms. McKenzie stated they're working through that.

Chairman Hertz stated yeah, okay, so we will ask you to look at what the things we discussed in the front and then these possible, you know, possible changes in the rear. I think again where we're, you know, if you sort of listen to the overall tenor of the discussion it's really about making sure that there's an adequate

and proper buffer between the residential areas and in the site, so that the parking doesn't feel like it intrudes into people's backyards. But obviously respecting the needs of the site. And then seeing what we can preserve in terms of, you know, some of the natural resources on site specifically some old trees, if indeed they're healthy and that does work. I don't think you've heard anything to suggest that, you know, not to move forward. I think you just have a couple of things to look at and dig a little deeper. So if indeed we're going to do these disturbances to steep slopes, we'll need a public hearing on that. So, Jan, just talk us through the process here. What has to, what actions need to appear here.

Jan Johannessen stated let's see. Its unlisted action under SEQRA, I don't think there is a need for coordinated review at this point. Peter hasn't identified any variances. DEP is not involved so it's really the Planning Board in terms of involved agencies. And then from, yes, the public hearing I think it's probably premature. There's comment memos to be responded to we need additional information so, I think procedurally we should probably have a staff meeting, go over the comments and have the applicant resubmit. It's a formal application, I believe they skipped conceptual, so.

Ms. McKenzie stated correct.

Chairman Hertz stated yeah, yeah, so you're going to need some time to get through your, stormwater so that you know what you're doing. And as soon as you know what you're going to do with stormwater and then anything else with regards to changes in the rear which would impact steep slopes, as soon as that feels like it's formalizing we can set a public hearing because let's just bear in mind, you know, that it's going to get a little tight. There's only one meeting in December etcetera, etcetera. So, take a look forward on account so that you know what you're, what we're looking at because my guess is we would probably,

Ms. McKenzie stated [inaudible] seven days...

Chairman Hertz stated yes, if we needed to. If we need them to do the – if you wanted to be heard in this calendar year, we'd probably have to schedule it for the only meeting in December I don't know what those if we could make them those requirements, Michelle.

Mr. Miley stated December 8th is the next meeting, notice requirements could be met.

Chairman Hertz stated so it sounds like from Jan's perspective there's a bunch of work to be done before we get to that point. But you tell me if you think you're really, really close and you think you'll be able to make submission requirements and notice requirements, we will schedule you for a public hearing for that but only, but you know, if you miss it we can adjourn that and pushing forward. It's your call.

Ms. McKenzie stated okay, so we actually talked about this today and the submission deadline for the December meeting is a week from today and we're not going to have SWPPP prepared and the site plans revised to make that submission deadline. So, and unfortunately there isn't a second meeting in December so we're looking at submitting comments with our revised SWPPP for the first January meeting. That's what we've been talking about, so. And you think it would be ready for a public hearing at that point then....

Chairman Hertz stated so, Jan, assuming they'll submit the requirement data for first week in January....

Jan Johannessen stated I mean, I don't think there's ever a reason to postpone getting public comments. I don't think, we may be in a position where you can't close the hearing because information isn't complete, but so long as there's a submission for the January meeting and it addresses the comments I don't see any reason why we shouldn't start to entertain public comment.

Chairman Hertz stated so, why don't we plan to schedule you for that public hearing on steep slopes for the first meeting in January.

Ms. McKenzie stated okay.

Chairman Hertz stated and we can always adjourn if, you know, if you've missed your submission deadlines or if they're – you run into obstacles, in the meantime you'll have goal.

Mr. Miley stated January 12th is the meeting.

Ms. McKenzie stated we already set that as goal, so it worked out quite well.

Mr. Polese stated works well.

Ms. McKenzie stated we would have been in for the second meeting in December, if there was on, so.

Chairman Hertz stated so if that's the case. I think we need an action on that. Do I, I'll make a motion that we put this action on for public hearing for steep slopes on January 12th, Peter?

Mr. Miley stated correct.

Chairman Hertz stated do you have a second?

Mr. Vigliotti stated just on the question, Doug. On the public hearing, is it 300 feet or 500 feet where residents need to be notified or not?

Mr. Miley stated 300 [feet] Ralph.

Mr. Vigliotti stated okay, so it looks like the residents that abut on East Ridge [Lane] and Fairways Drive would be notified, yes?

Mr. Miley stated certainly, it's only 50 feet away from the property.

Mr. Vigliotti stated okay, I just want to make sure that they're aware. Okay, great.

Jan Johannessen stated Dawn, is it possible to stake the rear parking lot?

Chairman Hertz stated Jan, let me just, we're in, Ralph, did you say you second that?

Mr. Vigliotti stated but if Jan has a question...

Jan Johannessen stated its unrelated sorry.

Chairman Hertz stated it's not on this.

Mr. Vigliotti stated okay, I'm going to go ahead and second that.

Chairman Hertz stated Michelle, would you, if there are no questions, Michelle would you poll the Board?

UPON ROLL CALL VOTE:

Chairman Hertz	-	aye
Mr. Vigliotti	-	aye
Mr. Bonforte	-	aye
Mr. Polese	-	aye
Mr. Hochstein	-	aye
Ms. Pickard	-	aye
Vice Chair Bainlardi	-	aye

The motion carried by a vote of 7 to 0.

Chairman Hertz stated and Jan, you had a question, I think about staking?

Jan Johannessen stated I wondering if Dawn could have that rear edge of pavement staked in the field and any trees that are coming down if they could be ribboned so we could do – I could take a look.

Ms. McKenzie stated the rear edge of pavement or the property line, you had said the property on?

Jan Johannessen stated the rear edge of pavement.

Ms. McKenzie stated okay, we could put some stakes in the ground. So maybe this corner here, an intermediate one and this corner over here.

Jan Johannessen stated yup.

Ms. McKenzie stated okay.

Jan Johannessen stated if you could put ribbon on any trees that are proposed to come down.

Ms. McKenzie stated okay, in this area back here, I'm not aware if there's any trees to come down but sure we can do that.

Jan Johannessen stated throughout the site, if there a lot of tree removal throughout the site?

Ms. McKenzie stated no, there isn't, we're, no, there's not a lot of tree removal throughout the site. This current plan shows seven trees to be removed, four of them are the ones along the driveway. One is the maple in the front of the lawn that we had talked about that's in this area right here. And then we've got a cherry over here by the entrance that would be impacted by the new addition and the sidewalk in this location. And then there's one more in this area here and that has to do with stormwater, so those are two 8 inch cherry tree removed. And then those are the only ones we're proposing to remove.

Jan Johannessen stated so they should be easily identifiable to, I don't think there's any reason to tag them if they're going to be obvious.

Ms. McKenzie stated they are pretty obvious but seven trees would be easily ribboned if you need us to. So, all right. So three stakes for the parking.

Chairman Hertz stated yeah and you might want to just verify that you're not changing your parking plan before you do that, so I would coordinate with Jan. It's silly to go out there if that back parking lot is going to shift slightly.

Ms. McKenzie stated I agree, depending on when you're planning on making your visit, Jan. But we can coordinate that.

Jan Johannessen stated sure.

Ms. McKenzie stated okay.

Mr. Bainlardi stated no proposed improvements in the right of way, in 117?

Ms. McKenzie stated no there aren't any planned at this point, no. If we can avoid permitting with DOT that would be lovely.

Mr. Bainlardi stated I hear you.

Jan Johannessen stated the fence that you have is just in the front that's not wrapping up the sides of the property, correct?

Ms. McKenzie stated no, it wasn't intended to.

Jan Johannessen stated okay.

Ms. McKenzie stated right, just in the front.

Chairman Hertz stated any other questions? So, Dawn, once you've all had a good hard look at your plan, when you have staked it, I guess if that could be communicated to Jan and Michelle, she can circulate that to the rest of the Board so that if anyone does want to take a look and take a walk onto the property prior to the January 12th meeting. So maybe we want to – that would be useful to know when that's going to happen.

Ms. McKenzie stated okay, so we'll let Michelle know...

Chairman Hertz stated yes.

Ms. McKenzie stated when it's been staked.

Chairman Hertz stated alright, are there any other questions, any other comments, any other concerns? Alright, if not, thank you very much. There's a little bit of homework to do and we'll plan to see you January 12th if we don't hear from you sooner.

Ms. McKenzie stated okay, great thank you all very much for your input.

Chairman Hertz stated alright, the next item on the agenda is a discussion item 2 Morgan Dr. LLC. This site plan and subdivision. So, Jan, let me put this in your hands for introduction.

Whitney Singleton stated Chairman, before you do that I know I mentioned to you earlier during the work session but as, just now that we're on the public record, public meeting, I just like to point out that I will prospectively be recusing myself from this application.

Chairman Hertz stated thank you. Okay, so Jan if you can introduce, I think we'll have the applicant talk about what's changed on the site.

Jan Johannessen stated sure, just bringing up my last memo over the project description but it's been some time before the applicant was before the Board, I think was back in May that they had their last appearance and the Board declared it's intent to be Lead Agency. There was no subsequent meetings so that is still an item that needs to be acted on, you know, the establishment of Lead Agency. Certainly the 30 days has passed, I don't believe we've received any objections to the Planning Board being Lead Agent. So, you know, what the next regular meeting when this applicant is calendared, that's an action we should take. There was a recommendation by my office and Anthony's to engage environmental engineer particularly with regards to the unknown presence of contamination area and on the site that has been kind of effectuated. The Village has retained GeoDesign and that contract with GeoDesign has been signed, I could work with the applicant's engineer or put them in contact with their rep, if they haven't been already to make sure GeoDesign gets all of the background information that we have. I know that they want to perform a site walk and we would welcome Sterling to join if they'd like, in the coming weeks. So I think the main reason for tonight's meeting is just for the applicant to make a brief presentation and bring us up to speed on the scope of the work. I had thought there was potentially some changes with regards to, I'll call it lot 2, or lot B, the parcel that at one point was going to be conveyed to the DEP if the applicant can clarify the proposal with regards to that lot. And then you know the applicant made a pretty full submission that has not yet been reviewed by Staff. So, I think that's – that will now be undertaken and we will go through that submission and provide comment for that upcoming meeting at the same time kind of engaged environmental engineer. So, that's all I have just appreciate an update from the applicant.

Chairman Hertz stated thank you very much Jan. So, who is speaking for the applicant? So, I'm sorry but Mr. Millspough but we don't hear you. You're not muted but we have no audio.

Mr. Miley stated he's having trouble with his audio. He's not muted, correct. Can Tyler speak on your behalf?

Chairman Hertz stated still nothing.

Mr. Miley stated Tyler Sweet is also one of the engineers. He's going to, it looks like he's going to try and speak.

Mr. Sweet stated I think – can you guys hear me?

Chairman Hertz stated yes, we can.

Mr. Sweet okay, yeah if Mark fixes his audio I'll let him pop in. But to Jan's comments, we're actually back before the Board in August, on August 11th we made a presentation before the Board. I actually don't believe you were there for that one, I think you were unavailable for that meeting. Which is probably why you're not up to speed on three current status of the site. But yes, there were changes to Lot B. Lot B is no longer going to be conveyed to the DEP. We, at this time we have no developmental plans for a Lot B. Lot B is going to be remaining undeveloped until such time a full remediation of land is established for that lot. We don't know what kind of remediation's going to take place, the extent of disturbance, what, any kind of restrictions will be placed on the lot after remediation. So, until such time that happens we really aren't going to move forward with any kind of plans for a Lot B. That being said Lot A, we have addressed all the comments from your memo, Anthony's and Peter's memos to adjust the stormwater, the site plan, all the setbacks, buffers, et cetera. And Lot A is clean if you look at the MARS survey. And this, obviously, will be something that we'll discuss with the town's consultant but Lot A is clean so we've kind of avoided all the contamination issues on Lot A. They built a, actually you're muted still.

Chairman Hertz stated right now Mark, you're just muted so if you hit unmute. If you fixed your audio problems.

Mr. Millspough stated can you hear me?

Chairman Hertz stated we can.

Mr. Millspaugh stated I don't know what was going on, I clearly didn't have the red bar through the microphone but as Tyler said we were in on the 11th of August or we appeared and we gave a detailed response to the Consultant comments and we were asked to resubmit which we did on early September with the intent of being on for the next Planning Board meeting following the September 3rd cut-off and we weren't put back on the agenda until tonight. I'm kind of concerned to hear that no review has occurred on the materials that we submitted back in September, could you shed some light on that?

Mr. Bonforte stated don't take it as there's been no review, there's been, there's a number of folks involved and some of us have reviewed it thoroughly.

Mr. Millspaugh stated okay, I thought I heard Jan say that the consultants had not reviewed the submission.

Mr. Miley stated let me just touch on that, Doug, all the information that was sent out to the environmental engineer was done today, so they have not had the opportunity to review, they requested all the information that he would like to conduct a site walk and we asked that they notify the applicant before that occurs.

Mr. Millspaugh stated okay, and it would be preferable to do that before there's any snow, although its kind of hard to believe with today's weather.

Mr. Miley stated well let me ask you a question, if I make contact with the environmental engineer can I just give them permission, is there anything that would restrict them or do you want to accompany them, or can we give them, whenever they could just get out there, to just get out there.

Mr. Millspaugh stated there's no restrictions on Lot A, well you know Lot B, I think for a walkover is fine. We have the MARS report and can stay away from areas of concern on that lot.

Mr. Miley stated if anything if that nobody's available I could also walk with the person on-site..

Mr. Millspaugh stated yeah, myself or Tyler can be available and the consultant can call us to set up appointment.

Mr. Miley stated okay.

Chairman Hertz stated so just to be clear, the September submission is still valid and active.

Mr. Millspaugh and Mr. Sweet stated yes.

Chairman Hertz stated okay, thank you. So, if you were listening and I don't know if we were during our work session. One of the things that we're going to, assuming that, the environmental remediation or the environmental reports allow us to proceed, one of the concerns that this Board has is the future of the building should it move to a successor ownership or to a lease scenario. So we want to make sure that we design a building and design site such that we're not opening ourselves up for an unintended use should this cease to be what its currently designed for. Meaning we don't want in automotive firm to be using this for their offsite deliveries of vehicles, moving car carriers in and out doing a number of things that would have much greater impact to traffic then we were anticipated in what this current application would suggest. So we're going to review the application with that in mind and likely will be putting restrictions on any conditions of approval to make sure that that stays in place in the future. So, I just want you to be aware of that. And any changes or any design changes made to the site that would allow it to be usually converted to another use, we're going to, probably work against. So I'll just make that open up, you know, make that comment. Yes, Mike, I'm sorry, is – whoever iPhone 6, just want to speak, please do otherwise mute yourself. Thank you. Okay, any other comments by the applicant regarding the site?

Mr. Millspaugh stated well...

Chairman Hertz stated okay, yes, please.

Mr. Millspaugh stated I guess a few things, you know, we made the comprehensive submission on September, I believe it's September 3rd. It included the architectural renderings that were requested and the stormwater pollution prevention plan. There were no open items as far as I know other than the Village's desire to hire the environmental consultant which, if I understand correctly is, that consultant was formally retained today or recently...

Mr. Miley stated they were retained about two weeks ago, we just finalized sending all the information today.

Mr. Millspaugh stated okay, I had spoken to him some weeks back and had offered, if there's any way that we can help expedite the review, don't hesitate to call. And he said that he'd certainly take us up on that but he hadn't been formally retained yet. Let me ask, do you have enough before you right now in terms of the completeness of the application to complete SEQRA and schedule a public hearings? That was kind of the sense at the August 11th meeting, that we would provide all the necessary materials and the statements made that night by the Board is this would be queued up for a public hearing in October which obviously didn't happen.

Chairman Hertz stated so we can talk offline about what the delay was but as you, as I understand, there was a [inaudible] issue and a proceeding that had gotten in the way...

Mr. Millspaugh stated but where we are now though...

Chairman Hertz stated but I believe that's been cleared up, so it delay everyone's, all our consultants actions. So Jan, have you reviewed this for completeness?

Jan Johannessen stated I can but I'll be frank that I have not reviewed the September submission because I was told not to because there was a lack of escrow. So I don't believe I'm the only one, I don't think any of the consultants have reviewed that submission, we don't have updated comment memos, we haven't completed SEQRA, I don't recall where we stand with [inaudible]...

Anthony Oliveri stated I'll echo that Jan, I mean, I was under the impression that there was some kind of escrow issue or some kind of issue. So we didn't move forward with completing a review and this is the first I saw that it got put on the agenda tonight for discussion. So we didn't do any review.

Chairman Hertz stated so, what will happen now is we'll go into our, we'll get these formal reviews every, you know, all the consultants will for their work as well as our outside environmental consultant and we should be able to, once they complete their review for completeness, we should be able to schedule you for a public hearing at the next regular scheduled meeting which is in two weeks.

Jan Johannessen stated but I can't say that we'll be in a position to close SEQRA at that point, we just retained our environmental engineer...

Chairman Hertz stated right, right we're not going to close SEQRA, absolutely.

Jan Johannessen stated and you have outside, have you started the process with the DEP with the SWPPP approval?

Mr. Millspaugh stated have we submitted to DEP?

Jan Johannessen stated right.

Mr. Millspaugh stated we submitted to the Village and we're waiting for the acceptance form.

Jan Johannessen stated yeah but there's a separate review and approval for this project by the DEP because you're in a Designated Main Street Area.

Anthony Oliveri stated Mark, that's DEC you're referring to with the acceptance form. DEP has a little different process.

Mr. Millspaugh stated right, but we didn't want to have a live SWPPP in front of two agencies and modifying one and having to go back and modify the other. If we had the swift acceptance then we would advance both.

Jan Johannessen stated maybe we can have an offline conversation on that because I think there's some confusion but we would typically want to see where the DEP stands, let it go through one or two reviews with the DEP and see where their comments lie before moving too far ahead with SEQRA or approval. So I think if you haven't started that process, you should.

Mr. Millspaugh stated well I think the confusion maybe mine but it's based on, I don't have your affirmation that the site layout is acceptable, you know, I want to, I'm looking for a warm cozy from the Planning Board that the layout that we have, the roadways, the parking, the, our layout of stormwater from your perspective is adequate before I put it in front of two different agencies.

Mr. Bainlardi stated if I can interject here. I'm sorry, Jan, if you said this at the beginning and I missed this. From a SEQRA standpoint, have we declared our intent to be lead agency?

Jan Johannessen stated I believe you declared your intent in May but you haven't declared but you haven't declared Lead Agency but I have to go back and look at it.

Mr. Bainlardi stated alright, so I mean if we did declare our intent then and we haven't heard anything, 30 days has passed and we would be lead agency if we did it at a prior meeting. So, that was months ago, right?

Jan Johannessen stated yeah, I want to go back and confirm that but I have the lead agency notice for the May meeting. I asked Michelle to go back in the minutes make sure it was adopted.

Mr. Bainlardi stated okay, if we didn't then that, is that something where we can take that action tonight just in case we didn't do it. We could authorize you to go forward and declare our intent to be lead agency, correct?

Jan Johannessen stated you definitely – yes. That's been done. I can...

Mr. Bainlardi stated it's been done, if we're certain it been done then okay. Whether or not an actually went out is another, is the open question.

Mr. Miley stated it went out, John.

Mr. Bainlardi stated it did?

Mr. Miley stated it did, yes.

Mr. Bainlardi stated alright, so then my recollection of the last time this was before us is we spent a fair amount of time on the site plan and we talked about the parking and we talked about the use and the representation was that it was a private car storage facility. And I had, I think one of my comments to the applicant was to be sure as to what they were going to be using this property for so that they didn't run into a problem and have a parking shortfall because it is limited parking outside of this building. Although it seems to me that if they wanted to change course at some point in the future since it's a [inaudible] car storage facility, it's likely they confined those parking spaces inside the building, if that's permitted. But that's neither here nor there as far as I'm concerned. They're representing what the use is, that it's a private storage facility for a private car collector, if that's the change in the future they have to come back in by law, the Village law for a change of use permit that if they want to change the use permit, they want to change the use. So I think, you know, we can boot straps and suspenders and any potential approval in the future. But I thought we were at a place with this where we said okay let's move forward. The big issue that was left open was what's the status of the environmental contamination and at the time they talked about conveying out this other parcel which they have now indicated, they're not going to do that. Clearly, we have a fair amount of material that's been submitted and I recognize that we don't have review comments. So, you know, what's the path forward here where we can schedule a public hearing and move this application forward. We've talked about this many times in the past, can schedule a public hearing, get it started, we don't have to close it, right. So what are the actions that we can take at this point to move this thing forward?

Chairman Hertz stated well I think John, the concern here is that we don't have any completeness memos and reviews by Staff at this point. So I think we're one meeting shy of doing the things that we'd like to do. Typically we would have Anthony and Jan and Peter having fully reviewed these, as well as any legal issues by Counsel. So I'm going to suggest that you guys get to it and then at the next meeting we'll get you on the schedule, formally on two weeks from now, hopefully we'll have comment memos from everyone. You'll have started your work with the environmental engineering firm, and then we can get, if it's possible, we can get a public hearing will be scheduled on this. I just don't know how in depth the environmental work is going to be..

Mr. Bonforte stated and Doug, I'd like to add, in the pre-meeting I brought it up, a couple points. Mark and Tyler, were you on the pre-meeting.

Mr. Sweet stated I was on.

Mr. Bonforte stated excuse me?

Mr. Sweet stated I was on, yes.

Mr. Bonforte stated so, Tyler you could see, just to keep it short because this is a great use of the land and so forth for the Town. You know, you have such a large sized facility with potentially a number of cars that, you know, it just begs the question, how are you going to maintain them, clean them and so forth. And that, it just doesn't become a garage or a mechanics place, which I don't think you intend to involve but just to elaborate on the business plan, to just put down that it's a public storage facility and it defies logic because if you have x amount of cars, you know, you're going to be cleaning them so they'll be cleaning supplies, you're going to be washing them. I saw a 100 gallons a day, I use that for a family of four. I use double that for a family of four a day and I don't have, you know, more than a few cars, so. You know, things like that, is there going to be any gasoline storage on the facility? And again I read the application. So, if you could just elaborate on that, you know. And there was one other, on page 398 there was a lower left hand corner, there was a space in the facility that said see another part of the plan for an expanded use of that little area which I think was meant to be a showing area or something. But again, I'm just, you know, if it's going to be somewhat mechanical or something just pointed out, that's all.

Mr. Sweet stated there's really going to be no maintenance occurring on site of these vehicles. These are like, these are million dollar rare vehicles. Really, the only, the air system in this building is going to be extremely high end where there's going to be no dust collection. So, these vehicles will not be, there will be no cleaning agents, no detergents were ever used on these vehicles. Very rarely, will a single vehicle at a time be pulled out the back onto the paver just to be basically a clean water rinse. It's all going to be dry cleaned, you know, waxing and buffing a little bit here and there. But, in general this is almost going to be like a car museum where not a whole lot goes on here, you're going to have one or two people [audio cuts out].

Mr. Bonforte stated we lost you, Tyler. Tyler? Tyler, you were saying one or two people, are you there?

Mr. Millspaugh stated can you hear me?

Chairman Hertz stated yes.

Mr. Bonforte stated yes.

Mr. Millspaugh stated there's a security guard, the plan is to have onsite security 24/7 because when you have this many rare, one of a kind cars the value, the dollar value of what's in the building is significant. So, there'll be a security guard and obviously the people who own the vehicles will, will come and visit them. It's a car collection and, you know, if you're the kind of person that has these gems, you're going to want to enjoy them. But that's not taking them out on the town, it's coming and seeing them and they do get care as Tyler was mentioning but most of its, dry dusting to keep them showroom condition.

Mr. Bonforte stated so Mark, if you could just add to the business plan that there's no mechanical, interior mechanical, you know, aspect to this business. Sorry, this personal use just so it stays away from any kind of commercial type application. Just state it, that's all. Because it defies, you know, when you have that many cars, it kind of begs the question of, well, are you going to use gas, you're going to start them most likely? You might need to touch them up and fix them a bit, you know. Okay, that's fair. Anyway, enough said. I don't want to belabor the point. Apologies that we're not

Mr. Millspaugh stated I understand.

Mr. Bonforte stated I'll just remark, I don't know what the escrow issue was but I wasn't aware of it and I don't think the other Board members were either, so. We apologize.

Mr. Millspaugh stated okay.

Chairman Hertz stated alright, so it sounds like we have an action plan on our side. We'll plan to meet up in two weeks, we'll have review memos for you, we hope and we'll move this to the next step.

Mr. Millspaugh stated thank you very much.

Chairman Hertz stated thank you. Alright, the last item on our agenda is the zoning amendment that the Village Board has asked the Planning Board to opine on. Let me just pull up my copy. And while I'm doing that, Whitney can you just give us an overview of what the process of this is going through at the Village Board, public hearings, this, what's going on with this?

Whitney Singleton stated this is a proposed change to the zoning ordinance which is being initiated by the Village. Therefore, according to 110-53 of the Code, your Board is, I'm sorry. The Village Board is

required to, in addition to having a public hearing for the public to comment, they are required to solicit your input and comment and report as to whether or not the change is consistent with the aims and principles embodied in the zoning chapter, whether the areas, land uses and buildings and establishments in the Village will be directly affected by such change, whether there are indirect implications of such change and whether or not the proposed amendment is consistent with the master plan. So, essentially what has happened here is that there was a recent master plan and a recent zoning enactment whereby the Village adopted a central business district, overlay district, downtown overlay district that provided for certain improvements in essentially what is known as the North Moger and South Moger lots. That was contemporaneously entertained with a request from RFPs where the Village Board of Trustees entertain various proposals by developers as to how to best develop that site. And the zoning was adopted and concurrently with that process and was intended to reflect the Village's proposed development of that parcel. The issue that presented itself was basically oversight on, you know, let's not get into who's oversight it was, but there was some oversight. It was unclear as to what the zoning was on the adjoining parcel, it was unclear as to what the setbacks were from certain district's and therefore, in order to move forward with the development as currently proposed and as the Village intends to have the property developed it requires some modifications to the zoning in order for that process to happen. The Village Manager has drafted a zoning provision which addresses those modifications, makes the application that was originally intended to be entertained and approved by the Village, zoning compliance so that variances will not be necessary.

Chairman Hertz stated so...

Whitney Singleton stated and those changes that the requirement is basically that they have to provide 100% of the, they have to reconstitute 100% of the parking that currently exists and some other things and they can discharge some of their civic space requirements indoors. They could build within 30 feet of the residential district for the parking structure and a couple of other items that are set forth in the Code. So, I – that's essentially it. I'll let Ed add on to that to the extent that he needs to.

Mr. Brancati stated to...

Whitney Singleton stated Ed, you forgot your suit.

Mr. Brancati stated I did, to your question, Chairman, the public hearing was opened a number of meetings ago. The Village Board kept that public hearing open, received comments. I believe over three different meetings. The Village Board closed the public hearing at its last meeting, leaving it open for 10 days for written comment.

Chairman Hertz stated thank you.

Mr. Brancati stated so...

Chairman Hertz stated so, I'll make this comment to my fellow Board members. So, I served on the Comprehensive Plan Committee. This item got a great deal of input and Crystal was there, Ralph was there, I think John was there for part, you know. This was an item that came up, was front and center as in terms of import. And ultimately was decided that this was an important change to zoning and consistent, absolutely consistent with the comprehensive plan. The comprehensive plan really incorporated this. And then it was up to the Village Board to draft the language and all the small details of this and they went through that process, etcetera, etcetera, etcetera. But when you go through a process like this, you do it a little bit in a vacuum because you design something on paper but without the input of, you know, you try to do is deep a dive as you can. And having been through this process on various types of projects I can tell you that you look for things, you know, sort of generically and then once you start, really designing the thing, you realize well I, you know we were well intentioned here but that doesn't exactly work and I think that's what's happened here which is the developer has gone through their process, realized what would make this a successful project and then of course discovers that it's ever so slightly runs afoul of the Zoning which was adopted. The Zoning which was adopted, was not designed to be the end all and be all, it was designed to be the proper, you know, a set of guidelines that everyone thought was going to be workable for this site or these sites. But again, we haven't done this in this Village, so, you know we look to guidance, we look to outside sources and I think we all got very, very close. So what's being asked of us here is, do we agree or disagree or have some other opinion on these comparatively small changes to the Code that now that design professionals have spent the better part of year noodling over, the Board and the developer feel would be necessary. I mean that's really what this is about, so you know what's being asked? You know, can we create a methodology for doing this, for making sure that we replace 100% of the parking spots for the train station. Moving, as Whitney said, moving a little bit of civic space inside instead of leaving it all outside. Making sure we hit the affordable, you know make sure a certain percentage of the apartments are low and medium income range, and some other small changes, like this.

So, just to be clear, at the 11th hour got an email to see and John Rhodes, from the CAC and my understanding is that the CAC and John has you know spent a lot of time in what I think is an appropriate forum for them which is the public hearings for this process. We're not being asked to conduct a public hearing, we're being asked for our opinion on this, on these changes and a recommendation, you know there are sense of [inaudible] so that they can, you know, the Village Board can understand our position with regards to this. So, with that introductory statement I'll open it up to Board members for their feelings and questions and positions.

Mr. Vigliotti stated okay, we can close the meeting. So, in talking this through and I may be redundant but I, it's important, this may be our last time to speak. The proposed zoning amendment is to change the Downtown Overlay District with the items that are included in the zoning amendment. It says that they will replace the existing parking spaces on South Moger and North Moger to the North Moger lot in a parking garage. That's not going to happen and the Board and our Planning Board members need to know that. I've done the homework, I've done the studies, we need to, as a Planning Board, do the studies. If we sign off on this and we think that the parking garage and maybe some parking spaces on surface will replace all of the parking that's been discussed, not just commuter parking. And then when we get to the planning process we find they're short a hundred spaces. We may not be able to do anything about it because the contract has been signed. And hopefully the Village Manager will be able to discuss that at some point, not necessarily tonight. I own a piece of property on North Moger Avenue. There are 12 residential homes on North Moger Avenue. Earlier this evening we were talking about residential homes on Fairways and East Ridge abutting some parking perhaps at the ARC. This proposal, this amendment says 100% of the property can be covered with building or macadam in total. 90% of it can be building coverage. Now, what that means is and they say, they're asking that the parking garage be within up to 30 feet to any property line. Now, that's 30 feet, a four story parking garage, I think it's four, could be five, I'm not sure. Now, the extra 30 feet is still part of the 100 foot coverage which means that extra 30 feet could be a roadway next to the residential property lines to get you to the parking garage. So, there'll be a roadway going up past their property lines to get to the parking garage or some spaces that may be available way down the end of the triangle behind the parking garage. So, as a resident of that neighborhood, as a home owner of that neighborhood and maybe speaking on behalf of some of those neighbors who are uncomfortable about speaking, I have a concern. The other concern is, we'll get to all of these when it comes before us but we may not be able to do anything about it because they have signed, they will eventually sign a contract with the Village. The other concern is lighting, someone approached me at a walk the other day that he lives on Hillside Avenue and he looked down at the back of his window and said, you know what, the parking garage lighting could affect me. It could affect some of the properties on Mountain Avenue, Hillside, certainly the 12 properties on North Moger, maybe 1 Barker Street, the apartment building. We will not be able to discuss that until it comes before us. And then at that point we may not be able to do anything about it because we signed, sealed and delivered an amendment which becomes part of the contract. So, I kind of leave you with that and there's not going to be enough parking to cover all of the parking that is needed to replace what's existing. That is factual. We haven't even seen before we sign this, where the parking is located as a Planning Board. We haven't had discussions with the applicant about what their plans are with the properties along the back side of North Moger Avenue properties. As a matter of fact, it's a slight slope from the properties down to the macadam on North Moger. That may be a steep slope, I don't know that but I'm only speaking tonight as a Planning Board member because I own a piece of property on North Moger Avenue. So, I leave you with that, a lot of unanswered questions for individual members of the Planning Board but they're asking us to do a lot and at some point we'll be ready to make that determination but I don't think we are and I just kind of leave you with that.

Mr. Bonforte stated Ralph, Michael, I just want to make sure that we understand the technicality of this, the writing that's before us for comment, on the parking, you know the setback I hear and the development coverage. On the parking, the developer can make up these spaces on either parcel, is that correct Ed and Whitney?

Mr. Vigliotti stated that is correct.

Mr. Brancati stated yes.

Mr. Bonforte stated I just wanted to make sure you knew that.

Mr. Vigliotti stated right but what the developer, early on there wasn't going to be grocery store that would take 120 parking spaces which is now taking spaces that may be available to people who are shopping downtown. I don't think folks that go into the, that walk across the street and park and go over and get coffee are going to have a place to park any longer. It has to be answered, if you're getting a cup of coffee across the street can you park in that parking garage? The answer is no...

Mr. Brancati stated that's not...

Mr. Vigliotti stated so then it needs to be explained in much greater detail, showing charts where all the parking is located, Ed. It can't be just a no, it has to be let me show you, let me show you the parking, let me show you the parking in the North Moger lot. Let me put, let me show you metered parking, retail, shopper parking, commuter parking. We haven't seen that.

Chairman Hertz stated Ralph, we're going to get, that's not, in my view you're putting the cart before the horse. We're being, we're only being asked that do these small changes...

Mr. Vigliotti stated they're not small, Doug. They're changes but they're not small.

Mr. Brancati stated may I, Chairman...?

Mr. Vigliotti stated we're adding a 5th story to a four story apartment building, that's not a small change...

Mr. Brancati stated let me, may I just, I want to clarify something. The replacement of the existing parking between the two lots, the current zoning code, what has already been adopted, what is currently code, the development bonus that is in the code right now, is any developer, whoever it may be, if they replace 100% of the parking amongst, that exists right now between the two lots, replace 100% of the parking, they would be granted a fifth floor of height in the North Moger lot, so that already exists.

Mr. Vigliotti stated well, yes they are granted.

Mr. Brancati stated hang on, so the amendment and I think the Chairman said it very well at the onset, the amendment is to recognize the fact that one, the Village always wanted replacement of its parking and was offering this bonus. There are then other things that Village is also looking for which is a number of units at 90% AMI and interior cultural space. And so in recognition of those other benefits being sought, it was felt that we would expand some of the bonus provisions, which include, as have been pointed out the setback to 30 feet, the development and building coverage that already exists in the underlying CB-1 zone and to be clear, both lots are currently 100% corner to corner asphalt surface parking lots, so they're already fully developed and covered...

Mr. Vigliotti stated that's not true.

Mr. Brancati stated and then, and then, again the civic space, counting the indoor to the exterior. That's it.

Mr. Vigliotti stated you're right, they are replacing 100% of parking but the distribution of that parking is not going to work out. The number of spaces for commuters, the number of spaces for renters and their guests and deliveries and the handicap spaces, never mind spaces that should be set aside for retailers and shoppers. When you sit down and do the math it's not there, I've done the math. And I love to be able to look at the math on a chart to show it on a chart.

Mr. Polese stated Ralph...

Mr. Vigliotti stated the 30 foot, I'm just going to finish. I'm not here to argue. The parking garage will be within 30 feet of the property line under the new proposal. 30 feet, that's the size of, walk through your kitchen through your dining room, that's 30 feet, then you're going to hit a parking garage. Now, within that 30 foot buffer will be a driveway, right up to the property line to those 12 homes on North Moger Avenue. So, I leave you with that and I don't want you to believe what I have to tell you, we should see the site plan, we should see exactly what they're telling us is going to happen. But the parking, yes, they're replacing parking spaces. The distribution is not good with regard to shoppers, regard to people who want to use South Moger Avenue, people who are at Bicycle World or HomeGoods who want to find a place to park. If there's only so many places in the parking garage and that's it. So, I just, you know, I just leave you with that and I promise I won't say anything else.

Mr. Polese so, I just had a question, this evening this Board endorses the proposed language or not, Ralph, what, in your mind, what do we not – what do we do or not do this evening with respect to...

Mr. Vigliotti stated I'm not sure that as a Planning Board, we are ready to endorse this. I think we need more information and parking comes – I think it's the setbacks from the residential homeowners on North Moger. The number of parking spaces, yes, they are going to replace the parking spaces that are lost but they're not going to replace the parking spaces that are in place now for shoppers and that should be proven to us by the developer. We need to see charts, I've done the charts and, you know, it doesn't work. So,

we're approving something that at the end of the day we're going to be very upset when there isn't enough parking, but we went ahead and approved it early on.

Mr. Bonforte stated I say we wait and see.

Whitney Singleton stated maybe I can reduce, you know, just still this for you a little bit as to what you're – what precisely is being modified. It's a fairly intricate, you know, zoning change and if you want to just basically understand what you're enabling an applicant to do, it's as follows. You're enabling them in order for them to go up in that – an extra story in their buildings, not in their parking lot but in their buildings. You are essentially requiring of them certain things and then rewarding them with certain things. What you're rewarding them with is as follows, 30 foot setback of the parking structure from the residential neighborhood as opposed to 50 [foot], the allowance to discharge some of their civic space inside as opposed to outside and allowing the building coverage and development coverage to go from 80% and 90% respectively to 90% and 100% respectively. Those are the three things that you're enabling by endorsing or recommending the zoning change. And as – and, you know, I'm not here to say that they're good or bad but I will point out that the building coverage would match the CB-1 as it presently exists. It's not going to make it any more dense than it's already allowed in that neighborhood.

Mr. Bonforte stated okay.

Whitney Singleton stated I believe the concept of the form based zoning was to allow flexibility so that you could build in different locations at different heights so that you could preserve more space and you could do different things but by the same token we're not talking a significant change. There is, there would be the civic space, the public space that we've previously talked about instead of discharging an outside and potentially in a location that's not particularly user-friendly, they're proposing to discharge some of it inside. And the fact of the matter is that they're doing that because the site's already so tight, I mean, that's kind of a given. They can't find the space outside, at least space that's user-friendly. I mean, hillsides and slopes are not exactly where you want to discharge that space.

Chairman Hertz stated Whitney?

Whitney Singleton stated and lastly, as Ralph points out and said 30 feet. It's going to be 30 feet as opposed to 50. Nothing's preventing the travel path from being against the property line now, nothing's going to prevent it from being there in the future. The question is, is the four-story parking garage going to be 50 feet from the property line and 30 feet. And that's really, if you want to boil it down to its essence that's what you're authorizing.

Mr. Bonforte stated but we, are you...

Chairman Hertz stated can I, let me just ask one thing, before we dig into, kind of, substance for one more moment. Let me just ask something, procedurally, if this Board is not in agreement can we – what is the requirement that the Village Board needs, in other words can we say we do not wish to take a position on this and Village Board, you go ahead and act anyway or we don't feel we have enough information or, you know, what is, what does the Village Board need from us versus what do they want from us?

Whitney Singleton stated the Village Board, its not a question of needs. A question, what they're, what they have by their local law required themselves to do. They are required pursuant to their code to refer to you any zoning changes for your input and comment and report as to consistency with zoning, as to consistency with the master plan, as to consistency with certain things and making sure that it works within the zoning context. They, you don't have to respond to them, they have requested your input and your report. If you do not respond, they are required wait a period of 30 days for your response.

Chairman Hertz stated so one, we have to give them a response, otherwise they're going to go ahead anyway. So I'm going to suggest, so we can have...

Whitney Singleton stated let me, instead of paraphrasing Doug, I will read it to you. The Planning Board shall submit its report [inaudible] recommendation to the Board of Trustees not more than 30 days after the resolution of the Board of Trustees, referring the proposed local law to the Planning Board.

Chairman Hertz stated so we're already at the outside of that date because of our lack of quorum from the last meeting, just some everyone's aware. So let's have a discussion, let's finish our discussion on the substantive merits and I do want to hear, I would like to hear from everyone individually, I think its worthwhile for everyone, all Board members to comment here. So let's just round robin this and then I'm going to suggest something unusual at the end of this, depending on what everyone says. So I'm just going to call on everyone, one at a time. So Vice Chair Bainlardi...

Mr. Bainlardi stated I have a couple of things I want to hit big picture. We do have this e-mail that came from John Rhodes in his capacity as Chair of the CAC but he also says there were concerns that were addressed by the CAC and residents. Each of the concerns that he's enumerated in his email have been made on the record to the Village Board. Now, this is, you know, big picture, the Village Board is a legislative body and has the jurisdiction or the right to impose zoning laws. Our Board does not. We're simply being asked to give some, to give opinion based upon what they're asking for basically in the format of the letter that Whitney has put together for us. But if you look at the individual comments that have been presented for our edification. John Rhodes is basically saying that he'd like for the Planning Board to be aware of these. Most of these comments have nothing to do with our role at this time, right? There are comments about the illegality or the legality of the amendments, right? So, the Village Board has counseled and it's not for us to opine one way or the other. So, you know, comment noted but it's a comment that's been made to the Village Board and they're the ones who have to take it into consideration, discussing with the Counsel, right? The second comment is the increase to 100% development coverage eliminates the requirement for any green space. I'm going to put that one in the pile and leave for a moment and that's something that we should probably talk about. The amendment exacerbates the very serious traffic concerns. Again, at some point in time presumably, an application is going to come before our Board, a site plan application and we're going to be requiring the applicants to perform some studies including traffic study. Now, the zoning is going to allow what's the zoning is going to allow but at the end of the day, we do have to go through SEQRA and we are going to have to have information to do that and we're going to have to do the job that we would do as a Planning Board for any application that comes before us. They say here, you know, we are also concerned that the proposal for 15 affordable apartments and 90% AMI including the zoning amendment does not meet the county's written request. This is not for us, this is for, in my opinion, for, you know, the consideration by the Village Board when it determines what it's going to accept for community, the required community benefit and it's their prerogative to make a determination that as it relates to affordable apartments, the inclusion or not. Five, we recommend that any amendment include a correction of what appears to be a fatal flaw in the LOI and plan. That is that it does not specify the development will be bound to any related SEQRA findings or requirements. The LOI is not relevant as far as I'm concerned. Whitney can weigh in but we have a requirement under SEQRA and it doesn't matter what it says in the contract, that can't be contracted away, we have to follow the rules of SEQRA. And if we find that there's a substantial impact, environmental impact, then we have to either require medication or at least at a minimum we have to demonstrate that they have to provide mitigations to the greatest extent practicable and, you know, this is not anything new for us.

Mr. Bonforte stated Whitney, could you comment on number five before John goes to number six because that was the one I didn't quite digest. I couldn't understand it.

Whitney Singleton stated is the SEQRA one?

Mr. Bainlardi stated yes.

Whitney Singleton stated John's a hundred percent right. You're not, nobody's contracting away your SEQRA rights. What it gives the applicant the ability to do is to terminate the contract and walk away from the project if the Planning Board imposes conditions which it doesn't like.

Mr. Bainlardi stated and in my experience anybody who's going to enter into a contract is not going to accept whatever gets imposed upon them. They want to have an out. Now, the way this works out in reality is, you know, there's going to be a site plan with a lot of review and there's going to be a lot of comments that are going to come in from the public and concerns that they're going to be expressed by the public and by members of this Board. And there's going to be back and forth with the developer to try to achieve the best site plan that can be achieved within the boundaries of the zoning and that are responsive to the environmental impacts that may be presented through whatever reports and studies that are performed and that we require. And if there's something that we impose that the developer doesn't like, they're going to have the right to walk away. And that's just the nature of the beast. Six, we're more concerned than ever that even after years of requests from residents, shopkeepers, the CAC and even some Trustees, there's not construction management plan on the Village owned property to limit the noise, dust, traffic and related problems. Now, again this is something that I believe we're going to be able to address in a site plan review, I think that our Board will have the ability to impose some of these things and there's also requirements in the Code with respect to noise, with respect to dust control and all of these things are all already in our Zoning Code and are required on anybody who does work in the Village of Mount Kisco or you know, is trying to pursue a site plan.

Chairman Hertz stated absolutely.

Mr. Bainlardi stated so comment noted again. Seven, we also recommend that no amendment be made or other agreement be signed until all due diligence has been completed and reviewed, including both the required environmental test by Gotham, a traffic study and an examination by the Trustees of Gotham's troubling track record. I take exception to that, one you know I don't like when things are presented in this way to try to knock an applicant, a citizen of this Village, if there are concerns, be specific about what they are and not this kind of wishy washy you know defamation, is the word I would use with this language. And in any event, it's not really the purview of this Board. The Board that is going to enter into a contract, if there's going to be a contract entered into with this particular developer is the Village Board and they have the ability to do that, not this Board...

Chairman Hertz stated let's, I appreciate you going through Mr. Rhodes letter but what I'm want to hear now is your, you know, I'm trying to get Board members opinions on this zoning amendment.

Mr. Bainlardi stated the only issue that I see here, Doug is with respect to the reduction of a setback, right from 50 feet to 30 feet. Now, the zoning could say that and we could determine ultimately when it comes into us for site plan approval that we need, we want to address that in some way. Now, the zoning will allow them to do it, right? But we all know from our experience that we do have some tools in our tool case to address some of these things. Other than that I don't see anything else that's changing. I think Whitney made it clear that, you know, most of what's requested here is already permitted under the zoning. They're trying to extend it into the northern lot and, you know, I think as far as I'm concerned, the way this letter is drafted, I'm of the opinion that I would say yes to this and this would be, you know, if we're going to vote on this, I'd accept this as our recommendation to, you know, the way we want to respond to the Planning Board, I don't see, I mean to the Village Board.

Chairman Hertz stated okay.

Mr. Bonforte stated thank you, John.

Mr. Bainlardi stated I don't see anything else.

Chairman Hertz stated okay, I'm going to jump around. John Hochstein?

Mr. Hochstein stated my only concerns are going to setback going from 50 to 30. And the other concern was the maximum building coverage going from 80 to 90 and development coverage from 90 to 100%. I feel that they should just be left at 80 and 90 respectively. And then also the setback just staying at 50.

Chairman Hertz stated okay, so, functionally then you would not be for this amendment.

Mr. Hochstein stated parts of it I'm for...

Chairman Hertz stated okay.

Mr. Hochstein stated yeah.

Chairman Hertz stated anyone else?.

Mr. Hochstein stated everything else I'm for, except for those two.

Chairman Hertz stated Bill Polese?

Mr. Polese stated look, I think that the agreement that the parties enter into will be thought out and to Ralph's point about unintended consequences of can we get there. I'll take it one step at a time, the language I could live with is it's setback and it isn't ideal but I think from a step wise process with the Planning Board, what we do, what we're required to do, you know the process, this thing can be reviewed, it will be reviewed at every step of the way, there's a lot of eyes on this development project. So to net it out, I think you know the language, I don't have a problem with the language and I think the Board will do what it needs to do to thoughtfully evaluate it because we have to, we live here.

Chairman Hertz stated okay. Crystal?

Ms. Pickard stated I agree with a lot of what I'm hearing, I don't love setback reduction, I don't love the coverage increase but the Village Board put a lot of thought and effort and time into make this fair, we are getting things from the developer in exchange for this, this isn't a one way street by any means. I'm comfortable signing the letter as it, as Whitney has drafted it.

Chairman Hertz stated thank you. Michael?

Mr. Bonforte stated I believe that this development is, in the form that it is, with the development bonus to the developer, whoever the developer is, in case it's not the one we have. Is well worth the trade-off, meaning the loss of green space, the setbacks and all those other items. I'm all for this zoning change.

Chairman Hertz stated okay so, I'm going...

Mr. Vigliotti stated I need I weigh-in, I'm sorry, I need to weigh-in/

Chairman Hertz stated sure.

Mr. Vigliotti stated I'm going to leave you with this one thought. We were worried tonight about ARC putting parking close to the six residences on Fairways Drive, that was 30 feet versus 50. What if they came in and said they wanted a parking structure there and they wanted a reduction to 30 feet? What would we say right away? I just leave you with that thought. The other piece I just want to leave you with, is we are not getting, we are getting replacement of the parking spaces we are losing on the South Moger Lot and the North Moger Lot but we are getting an unbelievable reduction for parking spaces for shoppers, unbelievable, none in the South Moger lot will be available for shoppers, none

Mr. Bonforte stated is this in writing, Ralph? Because I haven't seen this. I'm not trying to argue but I haven't seen this.

Mr. Vigliotti stated I've done my homework, Mike, I've done my homework.

Mr. Bonforte stated okay, I'm sure you have.

Mr. Vigliotti stated present it to us, show us that you, yes you're replacing all the spaces that are there but you're replacing them mainly for commuters and renters. You are not, when I say you, the applicant...

Mr. Bonforte stated understood.

Mr. Vigliotti stated the applicant is stuck when you need 120 parking spaces in the South Moger parking garage for a grocery store, you've taken 60 retail spaces away from South Moger Avenue. So if you go to Starbucks folks, there's not parking in that parking garage for you. You have to find an open space on South Moger Avenue, not across the street in the parking garage. HomeGoods, if you are not lucky enough to get one of the 50 spaces, those spaces that you see that line up and down the side of HomeGoods will be gone...

Chairman Hertz stated Ralph...

Mr. Vigliotti stated there won't be spaces in the parking garage.

Chairman Hertz stated can we have Ed respond please.

Mr. Brancati stated yeah, that's just not true, neither of those are true.

Mr. Vigliotti stated Ed, I, with all due respect, I think we need to see...

Ms. Pickard stated I'd like to hear what Ed has to say.

Mr. Vigliotti stated what's that?

Ms. Pickard stated I'd like to hear Ed respond to this.

Mr. Vigliotti stated okay.

Mr. Brancati stated yeah, no, that's just not true and currently there is and I'll have to go back and double check, I don't have them in front of me but there's at least 65 spaces in the south lot and 64 spaces in the north lot that would be available, can be available, that are Village spaces that can be absolutely made available for metered permit, for shoppers, they can also be permit for commuters, some in the south lot, they would be 12 hour meters, so there's some flexibility on that roughly 130 spaces between the two lots that is separate and apart from the commuter permit spaces, that is separate and apart from the residential or visitor spaces, that is separate and apart from those spaces that the Village will receive the revenue on, that will be permitted to some of the anchor tenants, so that is, those are, that's completely separate. So those

would be, if you're, I think its 64 or 65 in the South Moger garage, on the first or second floor, would be available for shoppers of any business downtown.

Mr. Vigliotti stated you know Ed, my math and your math is not working. I know what you're talking about as far as 60 spaces in the North Moger Lot, they would be behind the parking garage, behind the parking garage. Not in the parking garage, behind it.

Mr. Brancati stated okay, again, just not correct.

Mr. Bainlardi stated I'm not sure it's relevant to what we're being asked to do in any event. I mean, I think, Ralph, we're going to have to go through this and analyze but in the end...

Mr. Vigliotti stated I don't want...

Mr. Bainlardi stated I mean, in the end the..

Mr. Vigliotti stated I don't want them to walk away. I want to be able to have it up front that if the Planning Board finds issues, I mean and we've had applicants walk away. But I don't want to give them an out because there's four or five ways they can walk away with traffic, with ingress, egress into the North Moger lot. Not enough parking for retailers, that we're going to have, we're going to be placed in an awkward position of either giving up or giving them what they need to make the project work and knowing that it's not going to work. I said the other night they're replacing parking but they're not anticipating all the parking that's going to be needed by the success that we may have with all the new retail. By that success, 10 or 20 years down the road where is that parking going to be?

Mr. Bonforte stated that's fair.

Mr. Vigliotti stated we'll discuss when we go through all of this but we're going to be making more concessions than you think.

Chairman Hertz stated so the other side of that is, you know, the developer is going to spend seven figures developing, just developing their plans with architects, engineers, planners and, you know, this is an extraordinarily expensive process. They don't want, you know, they don't want to walk away when they've gone so deeply in. So we always have the ability to, I don't want to negotiate because negotiate is not a term I think this Board should really look at but there are proper give and take [lost audio] and there can be a dialogue as to how we best get to the best result and I think everyone once they're before us, wants to see if we can make projects succeed. They have, you know, vested interest in it and we have a vested interest. We want the best community we could get., they want to do their project because they've already decided that this is something that would be beneficial and they could make money or whatever the reasons are, so. I never assume that we're going to be negotiating into a corner for which we don't have tools to use to get to the right, to get to the end but that said obviously, you know, the zoning code is the largest tool that shapes the process. So, it sounds to me like we have, Bill is provisionally before it, John has a few reservations but is generally in favor and I'm going to do this very broadly. Ralph, you have major concerns on this. Crystal, you have some small concerns but you're for it. Mike is for it. John is for it. So, I think we can advance a letter to the Village Board that properly lays out the positions of all of us. That we have four absolute yeses, one deep reservation and two yeses with some smaller reservations on areas of setbacks and development, and that's what I think would be best. We're not going to come to a consensus we do need to tell them something so it's not like we have six months to study this, because of the time clock that's been going on. The Village Board will do what the Village Board is going to do. The Village Board will do a better job with our input than without it. So, I think it's important that they understand our positions and hear those and weigh those as they will. So, Whitney, I'm going to ask you to revise your recommendation letter to the Village Board to essentially sort of talk through the sense of the Board tonight and we can put this to a vote. And I think we should put it to a vote that we approve that Whitney put forth this information but I don't want to say, you know, four to three we approved this or – it's not enough information to give the Board. I think they deserve to hear that we have four yes votes, some concern, you know, one essentially no vote or, you know, with strong concerns and two votes that are yes is what with concerns about either the setbacks or the development coverage issues. And we would ask that they look – just look at those – look at those issues carefully and that more importantly they preserve, they make sure they preserve the Planning Board's ability to properly do its job once all the details have come before us because this will be, not, probably more so than 333, one of the most complex projects the Village will ever see and it will have major impact for years and years to come. And I think the thing that we don't want to view and whether or not we have differences of opinion, I think we can all agree is what's important is that agreements and zoning changes do not push us into a position where we can't work effectively.

Mr. Vigliotti stated well put, Doug.

Chairman Hertz stated thank you. So Whitney, if you can craft those, that sentiment to the Village Board, I would ask that we take a vote to forward that, to have the Village Attorney forward that sentiment in its very confused and nuanced positioned to the Village Board. So let's just do this where I can see everyone, just by a show of hands.

Mr. Brancati stated Chairman, I'm sorry I just have a question only because I know at the end of the previous Planning Board meeting when this was discussed, Ralph, I believe you had stated that you were recusing yourself on this matter...

Mr. Vigliotti stated I am abstaining.

Mr. Brancati stated I don't know, I just wanted to confirm or check whether that's still the case.

Mr. Vigliotti stated I still am, I will abstain, yes.

Mr. Brancati stated just clarification on my part, thank you.

Mr. Bonforte stated I'm raising my hand Doug, you don't have to repeat yourself.

Mr. Bainlardi stated I'm not sure what we're voting for here.

Chairman Hertz stated we are voting for having Whitney craft a letter that accurately describes the sense of the Board and these deliberations.

Mr. Bainlardi stated okay and what's the timing for this, Ed?

Chairman Hertz stated you will not see this before our next meeting. This will be drafted in the next day or two, I imagine this will go to me just for final language check. And I will approve, you guys have to give me a little bit of discretion here...

Mr. Bainlardi stated and this will go to the Village Board when? Is this, Ed, you have something on the agenda this week?

Mr. Brancati stated the Village Board, this would, we would look to receive the letter and possibly on the agenda for this coming Monday, the Village Board meeting on the 16th.

Mr. Bainlardi stated I mean, are we...?

Chairman Hertz stated I mean Whitney can circulate this letter to all of us, we can comment on it. Ralph, if you're going to abstain, I would ask you not to comment on it. But it's going to include the full discussion and we can give Whitney comments with the intent that it be submitted to the Village Board this week.

Mr. Bainlardi stated okay.

Whitney Singleton stated not that I don't appreciate everyone's input, ultimately Doug, you're signing the letter.

Chairman Hertz stated I'm signing the letter, I understand.

Whitney Singleton stated so I leave it to you, I'll draft something and you can choose how you wish to share it with the Board. And I say that seriously because if it's going to go to Village Board for a Monday night agenda and...

Chairman Hertz stated it has to be done, yeah I've seen camels before, horse drawn by camel.

Mr. Bainlardi stated can we simplify Whitney's task here? I'm fine with the letter as drafted and I would vote and if this were to go to a vote I would vote, yes. I think there are others who are taking the same position. Can this be the letter and then Whitney qualify it by saying that'...

Whitney Singleton stated that's what we're going to do.

Mr. Bainlardi stated okay, alright. Then yes, I'm raising my hand, yes.

Chairman Hertz asked for all in favor.

Chairman Hertz stated excellent. Michelle, let it be stated that this motion passes. Whitney, I'll look forward to seeing your letter. Hopefully, I won't need to take a red pencil to it. I will share it with the Board members and we will get this forwarded to the Village Board by the end of the week.

Whitney Singleton stated okay.

Chairman Hertz stated thank you all very much. I really, really, appreciate everyone's cooperation and good behavior at a moment in time when that is not the norm. Thank you all very, very much.

The meeting adjourned at 11:18 pm.