

PLANNING BOARD MEETING
AUGUST 19, 2019
7:30PM

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. APPROVAL OF MINUTES JULY 15, 2019
4. 38 COMMERCE DRIVE LLC
108-1-12
SITE PLAN
5. CONTRACT PACKAGING SERVICES
DBA SUPERIOR PACK GROUP
102-2-5.12
REVISED SITE PLAN
6. HARRIMAN FAMILY DENTAL
103-1-13.2
SITE PLAN
7. J SQUARED BUILDERS SITE PLAN
BEATTY CIRCLE
102-4-6.5
REVISED SITE PLAN & SHORT EAF, EASEMENT DOCUMENTS & RESPONSE LETTER

THE NEXT PLANNING BOARD MEETING IS SCHEDULED FOR
MONDAY SEPTEMBER 16, 2019 AT 7:30PM
SUBMISSION DEADLINE FOR THE PLANNING BOARD MEETING IS
MONDAY SEPTEMBER 3, 2019

VILLAGE OF HARRIMAN PLANNING BOARD MEETING
Regular Meeting
August 19, 2019

Chairwoman Escallier opened the Village of Harriman Regular Meeting of August 19, 2019 at 7:30pm.

PLEDGE OF ALLEGIANCE

ROLL CALL:

Present: Chairwoman Irma Escallier, Board Members Ron Klare, Jim Kelly, Kevin Dowd, Attorney, John Russo, Engineer, John Hager, Building Inspector and Barbara Singer, Recording Secretary.

Absent: Member Martin Stanise, Juan Quinones,

MOTION was made by Member Klare to accept the Planning Board minutes of July 15, 2019

SECOND was made by Member Kelly.

AYE Member Escallier

Member Kelly

Member Klare

NAY: -0-

38 COMMERCE DRIVE LLC

108-1-12

SITE PLAN

Present: Lawrence Torro, PE, CivilTec Engineering & Surveying

Mr. Russo: In previous comments, I asked the applicant to submit a long EAF, originally, they submitted a short form. On the newly submitted form, I have some questions, regarding water usage, especially for warehouse use; you've got 4,000.

Mr. Torro: We took 0.1 gallon per square foot for a 40,000 square foot building. It's probably over what they're going to use.

Mr. Russo: Is there any way we can get something a little more accurate than that? Maybe looking at the number of bathroom facilities? Liquid waste generated, there was none present in the EAF, that should be addressed. Question D.2.k.i, that's "the annual electricity demand" line, maybe that could be discussed with the architect and find out what they're going to have. Question D.2.r states that there will be no solid waste generated.

Mr. Torro: We will modify that.

Mr. Russo: Question E.2.a "what is the average depth to bedrock on the project site" should be answered. Just look at the soil mapping and you can see what they have on that. The remainder of the comments that I've have are those that we have previously presented in our July 13th letter. Stormwater pollution prevention plan will need to be prepared, the project will require approval from the Army Corp of Engineers, which I think that you're already working on?

Mr. Torro: Correct. Pete Torguson is working on the plans and the application. We'll make that all part of the plan set.

Mr. Russo: You'll need approval from Orange County Sewer District.

Mr. Torro: We haven't approached them yet.

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Mr. Russo: I had noted that the wetland remediation plans will need to be included with the applicant's consultant, just note that they would be. Architectural renderings for the building, are they working on those?

Mr. Torro: They have a schematic, it's a typical type warehouse.

Mr. Russo: Landscaping plans should be prepared. Any proposed signs should be noted, the size, where they're going to be located. There are a lot of housekeeping comments in regard to the plans themselves; signage, 100-year floodplain, the plans should note all entrances and exits on the building, the size of the existing utilities in Commerce Drive. Plans show that sanitary sewer runs across the westerly corner of the parcel, the plans should also show an easement for that utility if no easement exists.

Mr. Torro: Most of those utilities are in easements, they only thing that we'll have to do is that you mentioned the detention pond, a piece of that is on the property. There is no easement on that, so we'll have to provide that.

Mr. Russo: A lot of this is housecleaning at this point on the plans, I'm not going to run through each one of them.

Mr. Torro: While we're getting this in order, is it appropriate for this Board to designate themselves as Lead Agency?

Mr. Dowd: I think we need better plans that we can distribute to the different agencies and to the County.

Member Kelly: I have a few questions. Regarding traffic, going in and out, what are the hours of operation? How many tractor trailers are you expecting a day? Are you repacking inside the facility?

Mr. Torro: Nine to five. We are expecting four or five trucks per day. They'll get tractor trailers coming in with the material that's being broken down and then typically at the end of the day, you'll get UPS or FedEx trucks to come in and make a pickup.

Member Kelly: That's going to be a very heavy traffic area very shortly. We have to be careful the number of trucks, it's horrendous right now. You're saying 4-5 tractor trailers per day, 9 - 5, five days per week.

Mr. Torro: There's only one shift, 9 - 5, Monday through Friday.

Mr. Dowd: Can you describe what type of company is going to be using the warehouse?

Mr. Torro: I can get more information, I was told it's medical supplies.

CONTRACT PACKAGING SERVICES
DBA SUPERIOR PACK GROUP
102-2-5.12
REVISED SITE PLAN

Present: John Loch, AFR Engineering & Land Surveying; John Furst, Catania, Mahon, Milligram & Rider PLLC, Motty Jacobowitz, Contract Packaging Services.

Mr. Furst: When we were here last month, I believe the only thing outstanding was the County referral letter 239m and I believe that it was received and it's a matter of local determination.

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Mr. Loch: There were a couple minor issues in respect to the plans that needed to be cleaned up and we have taken care of that and the Village engineer looked at them and he was satisfied.

Mr. Russo: Yes, I don't have any further comments at this time.

Chairwoman Escallier: I have a couple of comments regarding the latest site plan. The general comments on the plans, 8C, states there are presently 9 existing on-site parking spaces. It should really say 6 because that's what the Board approved. The other statement that I would like to make is in regard to the landscaping notes on the plans state "proposed tree mix, spruce and cedar at 15'". Can you tell me (1) what kind of spruce or what kind of cedar because that's how we determine the height and width to see if it's going to meet the coverage that we're looking for? There are about 4 variations of cedar and about 35 of spruce, I would like to know the name of the trees. (2) The height that has been put on the plans, is that the height that you expect it to be at the height after it's grown fully or what you're planting now? That's very important to us. I'm looking for 25' tall. I want that kind of coverage.

Mr. Russo: The 15' is the spacing between the trees.

Member Kelly: This is related to my concerns regarding the traffic being increased. I looked at the new area that you've made for your employees to eat and the soccer field that you're building up there. I know it's the Town of Monroe, but you're clearing out all those trees and planting grass, why? I see more trucks coming out of there with landfill

Mr. Loch: I recognize that roughly 150' or so from the road there were a fair amount of trees. When you get further back, there was an area that had been largely disturbed before and what was there was a lot of high grasses, scrub brush, a lot of irregularities in the topography and there were some pockets catching water. It was not a particularly a desirable area.

Member Kelly: So why go to all of that trouble to plant grass? And it's not going to be used to park trucks or anything like that?

Mr. Loch: What they wanted to do was just clean it up, they're not proposing to do anything with it at this time. They may come back in 2 years and say they want to do something, or 10 years from now. This is all that they've asked to do.

Member Kelly: Then there won't be any increase to the traffic, that's fine. I'm not trying to give you a hard time, but I live here and people ask me questions, is this going to increase the traffic, I just want to understand it. I appreciate you answering the question, because it's not even in our jurisdiction.

Mr. Furst: Do you have a preference as far as a specific type of tree?

Chairwoman Escallier: No, but if I don't have to have the cedars in between but something else, something that's going to give more coverage than a cedar would. I don't have a preference.

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Mr. Loch: We can put in a mixture of Norway Spruce, that provides a pretty dense coverage. I like to mix in some Blue Spruce because I haven't found too many things that like to eat those. Generally, we plant trees between 5-6' tall. And that's for a lot of reasons, the bigger the tree the higher the cost but also, it's the success of having them grow. A lot of the time the bigger trees don't make it, we generally find the 5-6' starting out work out pretty well. I like to keep the spacing at 15' or sometimes a little more because when these trees become mature, they will fill out and spread. I certainly don't want to use anything like pines because they lose everything on the lower end and provide no screening. If you would find it acceptable, we will use Norway Spruce, Blue Spruce with a red or white cedar mixed in.

Chairwoman Escallier: As long as they can reach that height, that's fine. Can you get this to your printer about the general notes and get that corrected?

Mr. Loch: I think that was more of a misunderstanding than anything. We were trying to state what was physically out there and striped.

Chairwoman Escallier: Then you should correct it to say that it's striped. I'm letting you know, as you know already, that you only have 6 approved. That you have them striped, doesn't mean anything.

Mr. Furst: I think that part of the amended site plan was to get the others approved.

Mr. Loch: We'll expand the notes to indicate what's existing and what we're proposing.

Mr. Russo: The notes could say what was previously approved was 6 and at this time we're looking to expand that to have a total of 9.

Mr. Furst: We will make those changes to the plans and resubmit them to you engineer as part of the condition of approval?

Chairwoman Escallier: Yes, that's fine.

MOTION was made by Member Klare to approve a site plan amendment with the additional three bays subject to the condition that they modify the plans for the landscaping and pay any additional fees that are outstanding for the review and modify the note about the parking spaces.

SECOND was made by Member Kelly.

AYE Member Escallier

Member Kelly

Member Klare

NAY: -0-

HARRIMAN FAMILY DENTAL

103-1-13.2

SITE PLAN

Present: Gary Musciano, Architect, Lia Gikashvili, Owner.

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Mr. Musciano: I am the architect for this project to expand their dental practice. They were here in 2016 and received an approval for a much larger, new building but in the end, it was cost prohibitive for them. The plan here before you tonight, is to add a very modest 680 square foot addition to the existing building on the site. The existing building is very small, about 950 square feet but the site is about 49000 square feet. The proposal will add two operatories and an office to their practice to make it a more viable business. The paving stays the same, the lot coverage is increases 680 square feet or about 3.5%. 50% coverage is permitted in the zone, so this is extraordinarily modest proposal. This is in the B-2 zone, it's surrounded by R-50 and R-100 zones which happen to be the Board of Education property and the Catholic Church on the other side, not residential per se, but residential zones. The site is shielded from those residences right now with the woods and shrubs that are naturally growing. The building will be the same height, single storied, with a crawl space or on a slab, the use stays the same. I don't think there will be a noticeable increase in traffic, it's all by appointment, professional services.

Member Kelly: You're replacing the old oil tank with a new oil tank. Does that have to get approval from the County? The Department of Conservation?

Mr. Russo: It depends on the volume and no; nothing has to be done with the DEC. When they're removing it, we're going to want copies of all the report. They go in, suck all of the oil out, clean the tank, remove the tank, and test the soil all around it and if there's any contamination found, they are required to remediate it, excavate it out, and they continue to excavate until they hit clean soils. All of that documentation has to be submitted to John (Hager)'s office. The tank, because the building isn't that large, is probably 250 gallons. Once the tank is 500+ gallons then the DEC is involved because you'd need permitting for the storage of that volume.

Mr. Musciano: I'm guessing that the new tank will be an above ground tank, put in the back. The building is on a steep slope so the basement level in the back is on grade. We can put a tank right there in the corner, outside.

Mr. Russo: You wouldn't want to put it inside the basement area? If you're putting it outside, then somehow, we're going to want it screened. Nobody is going to want to look at an oil tank.

Member Kelly: Another issue is the parking area. I know that you have employees park in the back, but you only have three parking spaces in the front. Do you think that you're going to be able to handle the increase? Are you planning on expanding the parking area?

Mr. Musciano: It's not planned to expand the parking; we have nine parking spots.

Ms. Gikashvili: I think what's happening now is that we don't have them painted so well, so people just park wherever they drive in.

Member Kelly: You can drive in; you can't back out. But I'm also thinking about your employees, you expand your business, you'll be adding new employees.

Ms. Gikashvili: We're not really planning on expanding the business, it's really only adding our operatories. We already have two doctors and staff; we're not looking to expand. It's really a minor increase as far as the operation goes. So, what happens in a dental office, sometimes a patient is sitting in one chair, getting numb and the doctor is working on the other. Right now, we really have no space to do that, the patient comes out and waits in the waiting room while the room is getting cleaned up. It's really not for the purpose of doubling the patient base but at the moment to be more efficient with the operation that we have.

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Member Kelly: I'm sure that you want to be more efficient, but I'm also sure that you would want this practice to grow.

Ms. Gikashvili: We are hoping that the practice will grow. But it's more to upgrade the building. There are a lot of commercial dental office around that look very different. We look like a little house and we want to look more like an office. Right now, there's parking in the rear of the building for employees only and that's how it's going to stay. I think that once we have lines for the parking spaces, it will be more clear to where the people would be parking and not just parking wherever they want to.

Chairwoman Escallier: Along with the addition are you planning on striping the parking lot?

Mr. Musciano: Yes, we have that on the plan.

Mr. Russo: On the short EAF that was submitted, it needs to be revised to reflect 680 square feet addition, the EAF right now says 675 but the plans are all saying 680. The project will need to be submitted for the 239m review with orange County Planning and since they are right on State Route 17M, also with NYS Department of Transportation. The proposed grading for the site should be shown on the plans. The striping is very hard to see on the plans, if you could increase the line weight or darken those lines. The zoning district lines should be shown on the plans since you're abutting other zones; those zone lines should show. In section 140-18a of the zoning code, a 20' wide landscape buffer shall be provided between a B-2 district and the adjacent residential district. You have that. This buffer shall be clearly shown on the plans. The landscape planting plans shall be provided for on the plans. If there is any additional lighting proposed on the exterior, that should be shown on the plans; along with photometrics of any fixtures. The applicant shall provide ADA compliant parking and building access for the project in compliance with section 1106 in 2019 IBC as adopted in New York State. Appropriate signage for the parking should be provided on the plan in accordance of the regulations also. Top and bottom elevations shall be provided on the plan for the proposed wall, I'm not sure how high of a wall that you're proposing. Construction details should be provided on the plans for the proposed wall, parking stalls, striping, ADA signage and any plantings that will be installed in the buffer area. As they're removing the oil tank, all of the paperwork should be submitted to the Building Department to show that the tank was actually removed and that the site is clean. The existing garage, that is present on the site, has less than the required 5' setback for any accessory structure; the Board may wish to refer them to the Zoning Board of Appeals to get a variance for that if that structure is to remain.

Mr. Dowd: When they had the revision to knock down the building, and put a new building, did we send them to the ZBA for that? That maybe an existing non-conforming. How long has the garage been there for?

Mr. Russo: No, I think they were removing that.

Ms. Gikashvili: We are going to take that down. It's super old and not being used.

Mr. Russo: Is there any refuse on site? Garbage cans, dumpsters? Wherever that's going to be located, should be noted on the plans. If they're stored inside, that's fine, it's up to you, but it should be noted. There is a property overlap, it showed on the previous application. Also, the survey calls this overlap a possible deed overlap, you should note that on the plans. The location of the existing water service and sewer service line should be shown on the plans. And the plans shall be sealed by the applicant's consultant.

Mr. Musciano: I have responses to the comments and revised plans in regard to John's (Russo) comments. The intent was to get this all done tonight and hopefully get a resolution for the next meeting since this is so small. In

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response to the comment letter, we have corrected the square footage on the EAF. We will submit to Orange County Planning and NYS DOT for review. We've shown the grading.

Mr. Russo: We submit the 239m to Orange County Planning and NYS DOT.

Mr. Marciano: Ok, I'm sorry. We have the parking, striping visible on the plan. We've added a zoning map to Z01. I would say we take exception to acceptance to the 20' landscape buffer because there's such dense growth around the perimeter of the site, also on the Board of Education's property and the church's property. It accomplished the same objective; it shields the church parking lot from our property, and you can't see the building from here.

Mr. Russo: You still have to show the buffer on the plans. And call out what's there.

Mr. Marciano: We have the buffer shown. No additional exterior lighting is proposed because the entrances all stay the same. We have the ADA compliant parking spaces with NYS DOT signage shown on the plans now. The International Existing Building Code for NY state addition does not require an accessible entrance for this project because of the level of alteration. The top of the wall elevations for the retaining wall are shown now. Striping, ADA parking signage, we'll do the documentation for the oil tank removal, the existing garage will be demolished. The location of the existing dumpster is shown on the plans. We've shown the possible deed overlap on the church property and the subject property. The location of the existing sewer and water lines are on the drawings now and they have been signed and sealed. If that meets the objective, and I think it does, what's the fastest way to get this approved? Can you do an approval contingent on receiving the new drawings?

Member Kelly: At the last public hearing, were there any comments?

Ms. Gikashvili: There weren't any comments and that was a much larger project.

Member Kelly: To me, this is a small addition, like putting a room on a home. I don't know that it would be a major issue, as far as going to a public hearing. I don't think that it's going to be impacting the school or the church. The church is renting out their parking lot as a commuter parking lot, it's not like we are going in to the actual church itself. My opinion is that we waive the public hearing.

MOTION was made by Member Klare to declare Village of Harriman Planning Board Lead Agency

SECOND was made by Member Kelly.

AYE Member Escallier

NAY: -0-

Member Kelly

Member Quinones

Member Klare

MOTION was made by Member Klare to waive the Public Hearing for Harriman Family Dental.

SECOND was made by Member Kelly.

AYE Member Escallier

NAY: -0-

Member Kelly

Member Quinones

Member Klare

Mr. Dowd: You need to submit revised plans so the we can submit them to the Orange County Planning and NYS DOT.

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J SQUARED BUILDERS
102-4-6.5
REVISED SITE PLAN

Present: Michael Morgante, Engineer, Arden Consulting Engineers, PLLC; Paul Edwards, J Squared Builders, Applicant.

Chairwoman Escallier: This project did go the Zoning Board of Appeals for a two-family house which was denied on September 8, 2018.

Mr. Morgante: We had received a comment letter from Lanc & Tully, which we addressed the comments. Additional comments were supplied to us in the August 17 2019 comment letter. We don't take any exceptions to the comments, but I do have some questions for clarity. There was also a private road maintenance declaration agreement provided for Mr. Dowd to review. If he has any comments or concerns relating to those documents. Some of the things that we did provide that relates to the last meeting, and we've been working with the Board for about 2 years on this application. It's an interesting situation, where a lot of things went awry and now we're trying to make it right. There's not a lot of information on the existing utilities and we've been working hard to figure out what's going on. I think we have a handle on that right now. We've been trying to think outside of the box in terms of fire apparatus, entrance and exiting. What we had proposed was a "Y" turnaround using some of the driveways. I went to the site before the meeting tonight to double check the driveway for Lot 2 and that width goes all the way to that driveway. I can certainly show that on the plans. As we found out too, you've got that cluster of valves, out by the intersection of Beatty Circle and North Main St. The valves that we show going to Lot 2 is actually the one that goes to Lot 3 and so the one next to that actually the one that goes to Lot 2. We're going to revise some of that for clarity.

Mr. Russo: You're showing three on the plot plan but on the existing you're only showing 2.

Mr. Morgante: I'm sure that was an accident. We'll show that. I had a question regarding the setbacks relating to the building on Lot 3. I was interpreting the 15.3' dimension as a side yard. I looked at the original subdivision map and it looked like they were interpreting it the same way.

Mr. Russo: I was looking at the dwelling on Lot 2, the location. Looking at your proposed location, it looks like that building could be shifted more towards the cul-de-sac itself, shifted forwards more to the Northeast and that would give it a little more.

Mr. Morgante: There's no way to interpret that as a side yard?

Mr. Russo: I had a discussion with the Building Inspector prior to that and he said it could be interpreted because the way that the code reads.

Mr. Hager: The code mentions that lot line that is furthest from the street. I interpret that the rear lot line.

Mr. Russo: This is the lot line between Lots 3 & 4 is longer than the lot line between Lots 2 & 3. The rear lot line would be that that is farthest from the road. The lot line would be the one that you're showing is 36.1' set back.

Mr. Morgante: The entire right of way for Beatty Circle will be a utility easement, just about.

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Mr. Russo: If it's going to be a blanket easement and then say that with the metes and bounds. I'm sure that you're going to want to have metes and bounds so that people aren't going beyond what used to be the edge of the cul-de-sac where they two parcels are now being joined.

Mr. Morgante: There's a utility pole near the intersection of Lots 2 & 3. I don't know who that belongs to, but it might just be as easy to carve a little easement with metes and bounds for that. I'll take a look and make a determination. We'll probably create a separate sheet or an inset somewhere that has easement lines. We'll submit to Orange County Sewer District #1; I just want to get the plans closer to finish before we submit for a permit. I'm going to show some gentle, small swales on the side of the road, that's how it is right now.

Mr. Russo: The concern is that you're increasing the volume of pavement that's going to be present so there will be more runoff. As it runs down, will there be erosion occurring along the road? Maybe set the swales back from the edge of the pavement so you're not undermining the road as time goes on. My other concern is that when the water gets down to the intersection, of North Main and Beatty Circle, how's that being captured and handled so it's not flowing across North Main?

Mr. Morgante: What's happening right now, is the swales on both sides of the road, there's actually a drainage ditch on either side of North Main St. Also, it's not shown in the plan because it's completely buried, there's a 12" PVC pipe that crosses Beatty Circle. I can show that on the plan. I looked at it tonight and we did have a fair amount of rain today and there's no evidence of any sediment that's flying out into the road. I think a fair amount of it is making its way to the swales, ditches and the culvert. The only other questions that I have is for the attorney about the easement documents.

Mr. Russo: Kevin (Dowd) do we need to have a subdivision plat for this? This is the final subdivision and they're eliminating a portion of the lot line that was present for the cul-de-sac, delineating the lot from the cul-de-sac.

Mr. Dowd: It would probably be advisable to take a file to the County Clerk's office.

Mr. Morgante: So I should change this from lot line rule to subdivision plan.

Mr. Russo: I would update the SEQRA to note that, the application. My thought is that there should be a new plat filed with the County.

Mr. Dowd: On the private road maintenance declaration, this is actually the ingress and egress, correct? So it's not really a maintenance declaration but a declaration of access and utilities. The first page of the private road maintenance declaration would be signed strictly by J Squared Builders. That is giving and declaring that all other properties have the right of ingress and egress as well as all utility access for water, sewer, electric, gas, cable and the like. In the actual declaration part, you refer to customary access and customary utility access and as a lawyer, I'm asking what do you mean by customary? Did an attorney draw this up? It's also referring at the end to an actual road maintenance agreement that requires everyone to sign it and that's unusual to put that in there. It might be the intent to have everyone sign it but I found it interesting that it said the record owner of the lot that Paul's (Edwards) going to have shall determine what maintenance shall be done on said private road and the same shall always be maintained so it remains passable by passenger vehicles and emergency vehicles, but it doesn't say whose going to pay for it. And the definition of "passable" means. When you get to the private road maintenance agreement, you talk about snow and ice, this only says snow. I think that there are some issues that I would like to talk to your attorney with and maybe we can straighten some of this out. There's a separate private road maintenance agreement that requires everyone's signature on and no way to compel anyone to sign it.

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Mr. Morgante: Yes, Mr. Bob Green.

Mr. Dowd: Who maintains the road now?

Mr. Edwards: They do it collectively with a verbal agreement. It benefits them all equally so equally do it.

Mr. Dowd: So, for instance, there's going to be four property owners so majority rules. What happens when it's two and two, nothing gets done?

Mr. Edwards: I'm anticipating that nobody signs that.

Mr. Russo: you're assuming that nobody is going to sign this, but you're going to build and sell this house. That means that whomever comes in is going to have the responsibility of always paying for maintenance, upkeep, snow and ice removal, paving in the future?

Mr. Edwards: Right, but I have no way to compel anyone to sign. It doesn't benefit anyone to sign that agreement. That's been my experience with situations like this.

Mr. Russo: Our concern is that a house is built, and the road was never constructed in accordance with the approved plans, and since it's a separate tax parcel, that it went up for taxes and then the Village winds up getting this road that was never constructed in accordance to the plans and then they have to move forward.

Member Kelly: What I was getting at is, you're going to be doing all of this work, is it possible that this road can be dedicated?

Mr. Dowd: Only if they put it up to Village standards.

Mr. Russo: Then you would have to put in the full cul-de-sac and it's still up to the Village Board whether they want to accept it. You would have to meet today's standards, not the standards that was approved on the previous plan.

Member Kelly: I don't see how a firetruck can get up there and turn around. I had to use someone's driveway to get turned around.

Mr. Russo: That's what they're showing on the plans, and that complies with the fire code as far as maneuvering a fire truck.

Mr. Morgante: We're meeting NYS Building Code as it relates to fire apparatus ingress and egress. It's been designed on the plans so that a fire truck can access and when it's done, it can leave.

Member Kelly: Who says that it meets these regulations? It's not a public road.

Mr. Hager: The engineers design it according to the state fire code, our engineers review it, I'll review it again when it comes to me. I don't believe there's a desire to get feedback from the fire department.

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Member Kelly: Is the road wide enough? That became an issue the last time

Mr. Morgante: We are widening the road to 20' and that's within the right of way.

Mr. Edwards: Yes, that was because the people had plantings and such.

Mr. Morgante: Another thing that I would like to add, as a result of us combining both lots are that we no longer need a 280 variance, we now have frontage on a town road. So, we don't need to complete the ZBA process.

Mr. Dowd: That is true.

Member Kelly: Are you going to send this (road maintenance agreement) to the residents and ask them to sign?

Mr. Edwards: I already had conversations with them and they aren't willing to sign it though. It's an exercise in futility. They are happy with the arrangement the way it is now. They're happy to have another person adding on to it and repaving.

Mr. Dowd: Do you need title insurance if you don't have the road maintenance agreement in place?

Mr. Edwards: In the past, it's always been that I agree to maintain my portion of the road. It's been written in the deed saying that I'm agreeing to maintain my portion of the road.

Mr. Dowd: Please have Bob (Green) call me and we can go over the finer points of this agreement.

Mr. Edwards agrees.

Mr. Hager: Has your neighbor (Life Science) contacted you about an easement enabling him to tie into the sewer? There hasn't been a decision made about that yet.

Mr. Russo: I would suggest that they start with Orange County Sewer District to see if they're e going to allow it.

Mr. Edwards: I haven't heard back from them (Life Science).

Chairwoman Escallier: Next I would like to have a discussion regarding approvals for fees.

Mr. Dowd: Apparently, when PL Group applied there's a fee schedule that requires a per square foot fee to be charged, that was never charged to him. As you know, we always make a resolution when we approve a project that all outstanding review fees will be collected. In reality in order to catch these types of things, we try to make it more generic, any and all outstanding fees.

Ms. Singer: Could it be itemized, for example each fee, parkland, sub-division, being specifically stated how much is owed?

Mr. Dowd: When there are parkland fees, I usually enumerated them separately in the resolution. We can enumerate anyway that you would like. We don't want to spring it on the applicant when they get my resolution because we haven't mentioned it when we actually made the resolution. We want to make sure that everyone understands and in fact if you find that at any time in the process before we've given approval, you should let the

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applicant know, send them a letter and expect to get it and if they don't get it to us by the time, we give a conditional, we can just include that as a condition.

Ms. Singer: With PL Group it came up because we didn't know if he would need to repay and that's when we realized that he had never paid initially. And in the resolutions, it says "that all fees have been paid", I was only considering the Village's consultants, I wasn't taking into consideration any other fees.

Mr. Dowd: Normally, other than direct fees that I put separately, and you don't usually find them on site plans, the resolution would state all outstanding fees for review of this application, that would not include the type of fees that you're talking about. I would have to know, and the applicant would have to know, that we're going to include all fees that may be outstanding. If you find something like that in the process, you should immediately send them a letter and ask them for it and if they don't come forward with it, it would become another condition of approval and you would have enumerate that.

Mr. Russo: Some of the fees, like sub-divisions, we wouldn't know those fees until further on, knowing how many actual lots are going to be approved.

Ms. Singer: I thought we could have it stated so that it became resolved at the site plan level and not at the building department level.

Mr. Hager: These fees are not due until the project has been approved. These are approval fees. You don't know how many square feet it is until you get to the end of the project.

Mr. Dowd: Based upon the submission, that's what you go by. If it's expanded, it can be adjusted.

Mr. Russo: Somehow the applicant should be made aware of what these fees are and how much they are going to be expected to pay.

Ms. Singer: Or I should be made aware, or Irma (Escallier) so that this doesn't happen at this level again. When Irma (Escallier) was signing it, she could be checking to make sure that the fees were all collected, specifically, before she signed the plans. It could be approved, just not signed.

Discussion broke out.

Mr. Dowd: Resolution of approval should probably include a breakdown.

Chairwoman Escallier: So, what was happening, when I asked Barbara (Singer) is the applicant up to date in fees, she was just referring to the consultants' fees. Now what we'd like to do is, the most appropriate time would be, when we're close to giving an applicant a final approval, we have to spell it out to them.

Mr. Dowd: As we do the motion and the second, and the conditions, we would have to spell out not just the review fees, but site plan fees as 74.5 (Village Code), rec fees, and that would find it's way into the formal resolution as well. Then they can't say they didn't know it.

Discussion regarding tracking fees.

Mr. Hager: It's not really specific either, we haven't been collecting them on amendments to site plans. So far, we haven't been collecting on them.

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Mr. Dowd: I think that we need to start doing that. PL Group has another problem, your code, 140-45d talks about a renewal of approval and (e) talks about the expiration of a site plan approval and when you read these two sections, they're conflicting. As I read it, I think PL Group's approval has expired and I hate to say this because it took so long to get the approval. From the time Irma (Escallier) signed it, that's when approval is final. Not the resolution, but the signed of the plan. If you read expiration, it says "final site plan approval shall expire one year and six months from the date granted unless the applicant shall have obtained a building permit". We know that he hasn't done that. But then it also says, "Renewal of final site plan approval may be granted for a period of one year measured from the date the extension shall have been granted subject to the following terms and conditions". And it goes through a series of different things saying that nothing has changed. How do you grant a renewal if it's expired? After a year and a half.

Mr. Russo: Prior to the 18 months being up, the applicant would have to be here asking for an extension.

Member Klare: Do we have to give him an extension if the fees haven't been paid?

Mr. Russo: You don't have to give him an extension, even if they request it and the fees are paid. There are times when you may not want to. If the project has been dormant or not progressed at all over a number of years and regulations have changed, you may decide that you're not going to issue an extension because too many things have changed, and you actually need to go back. Reapply and re-do the plans. Stormwater regulations changed every few years, code changes. If they file the Notice of Intent with the Department of Conservation, even though the Code has changed the DEC is going to say that it's fine. It wouldn't even matter if you had them come back in.

Mr. Dowd: Your Code is interesting because you have an application fee, and part of the initial escrow charge, you have a fee that says that "for commercial and other nonresidential site plans and special permits, variances, interpretations or appeals: \$2000, plus \$50 per 1000 square feet of building floor area of part thereof. So that's part of the escrow". But then you also (H) "Upon approval of the subdivision or site plan, the following fees shall be due prior to the stamping of the plat: (4) Commercial of other nonresidential site plans and special permits: \$1000, plus \$50 per 1000 square feet of building floor area or part thereof". So, there are two fees, one in the beginning and one at the end.

Mr. Hager: The first one is an escrow establishment, that's not a fee that's a reimbursement. The second one is a straight fee. I think they decided when we were working on the resolution for Right Choice Builders that parkland fees don't apply to commercial projects.

Mr. Dowd: We put them into the resolution because they were building department fees, it wasn't this part. Given what this says, we should be putting that in for every application then.

Mr. Russo: Or do we refer the applicant on the application to the fees in Chapter 74? If you start listing the prices there and the Village changes the Code, somebody has to ensure that the application is always updated.

Mr. Dowd: The resolution for approval should probably include a breakdown. These fees are very specific to the approval that you're giving. Then when they apply for a building permit, that would kick in all of the other fees that John (Hager) would be collecting, or they don't get a certificate of occupancy or a building permit.

Ms. Singer: I thought that Irma (Escallier) signed it in June 2018, making it expired in December 2019. He is coming before you in September.

Mr. Russo: That could be a condition of the extension.

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Chairwoman Escallier: Technically, how can we renew it?

Mr. Dowd: If he applies within the 1 year and 6 months, which he's trying to do. This project has been changed so many times, with the building, and the height and we've never charged any fees. He came in saying that he didn't have financing that's why he had to change the plans. Let's have him come in next month and see what he says. If it's an extension then those fees aren't due again, but if he hasn't paid, we need to collect them.

Ms. Singer: Can I send Allen (Peck) an e-mail with a copy of the code and the breakdown of the calculations of what's owed?

Mr. Dowd: Yes, when he comes in for the September meeting, let him know that those fees were never collected and if the Board grants a renewal then they would be due. We really need to see him in person, if he can't make it maybe he can send a representative?

Chairwoman Escallier: If he can't make it, please have him send us a letter authorizing a representative to attend the meeting for him.

Mr. Russo: Back to the fees regarding water taps, I think that they should be collected at that time. Like Village View, 29 lots, when they install the infrastructure, they're going to be doing the taps already. In order to build the road, they're going to have the water systems in, the taps need to be in. That should be asked up front. This fee is upon approval or prior to approval. You can't charge them up front for this because if the number of lots change, you would have the Village possibly cutting checks back to everybody. Once you get closer to approval and you know the confirmed number of lots, then you can ask. Village View hasn't gotten there yet. They don't have their approvals but they were talking about the contractor not paying these fees until such time that the taps are being done. They're going to be putting in the water line, paving the road, the taps already done.

Mr. Hager: I think that the water department has to be consulted on that. A bunch of those fees should be looked at, when is the appropriate time to collect them. Is there any recommendation in changing the language in this extension to make that clear?

Mr. Dowd: I will communicate with the Village attorney and the Mayor about that and see if we can make the language a little clearer. If they were talking about extending a conditional final approval, that's routine but once it's final, that's different. For example, Village View is a conditional final and we keep extending it six months or a year, but once that plan is signed, and a subdivision is different because you have to file it and if you don't file it within 90 days, it's null and void anyway. A site plan doesn't go to the County, so you have a cutoff date and that date is generous because it's 18 months and if they apply for a building permit, that's usually good for a year. So basically, you have 2 ½ years to start building something. And the building permit can be extended too. There are ways of extending things beyond the approval stage. I think that we need to talk about that a little bit and straighten it out.

Mr. Hager: The Village just made a code amendment to change the fact that we're not collecting parkland fees on a commercial site plan.

Mr. Dowd: We have no problem with adding another condition on the resolution, add collect the tap in fees before the Chairwoman signs the plans.

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Mr. Russo: I think that it would be up to myself and John (Hager) to say here are the fees that need to be collected. Not up to Barbara (Singer) to go through the plans and say you need to collect this and that.

Mr. Hager: I think the resolution should have an itemized list, maybe not the dollars exactly, but what fees need to be collected. This way it would be harder for myself, Barbara (Singer) or Irma (Escallier) to miss it if it's right in the resolution.

Chairwoman Escallier: When you put the approval up for a vote, we should include that.

Mr. Hager: What you don't want is a builder on a 29-lot subdivision, like Village View, come in and want to pay them with each building permit.

Mr. Dowd: I have had that experience where the contractor want to pay them 10 at a time, 1 at a time. If you go before the Village Board and get approval, then the Building Inspectors change and then what happens?

Member Kelly: I agree with Irma (Escallier) in saying that all applicants need to sign off on a spreadsheet that has the fees on it. Every applicant doesn't have to pay every fee.

Mr. Dowd: You can also put it on the application, that by signing the application you're agreeing to pay all fees that are due prior to approval.

Chairwoman Escallier: We can amend our application to say that. Then it's on our application, and they can't say that they didn't see it.

MOTION was made by Member Klare to close the Planning Board meeting of August 19, 2019 at 9:15pm.

SECOND was made by Member Kelly.

AYE Member Escallier

NAY: -0-

Member Kelly

Member Klare

Respectfully Submitted: _____
Barbara Singer, Recording Secretary