

A regular meeting of the Town of Victor Planning Board was held on February 23, 2016 at 7:00 p.m. at the Victor Town Hall at 85 East Main Street, Victor, New York, with the following members present:

**PRESENT:** Jack Dianetti, Chairman; Joe Logan, Vice Chairman; Ernie Santoro, Heather Zollo, Al Gallina

**OTHERS:** Wes Pettee, Town Engineer Consultant; Don Young, Town Attorney; Katie Evans, Director of Development; Kim Kinsella, Project Coordinator; Cathy Templar, Secretary; Silvio Palermo, Town Board Liaison; Kate Crowley, Conservation Board; Mark Crane, John Sciarabba, Chip Testa, Kav Malli, Kathryn Hart, Jerome Hart, Scott DeHollander, John Ritz, Scott Harter, David Nankin

### **APPROVAL OF MINUTES**

On motion of Joe Logan, seconded by Jack Dianetti

RESOLVED that the minutes of February 9, 2016 be approved.

Jack Dianetti	Aye
Joe Logan	Aye
Ernie Santoro	Abstained
Heather Zollo	Aye
Al Gallina	Aye

Approved 4 Ayes, 0 Nays, 1 Abstention

### **BOARDS & COMMITTEE UPDATES**

Town Board reported by Silvio Palermo

- February 8, 2016 meeting
  1. Passed a resolution appointing Mark Kukuvka of Labella Associates to be appointed as the Architectural Consultant for the Architectural Review Subcommittee.
  2. Town received a notice from NYS DEC that Victor Gravel Pit application is complete requesting a modified permit to extend their hours of operation from 7AM – 5:30PM, M – F, and 7AM – 1:00PM on Saturday.
  3. Last evening TB meeting a resolution was passed defining the roles of Board/Committee Liaison Duties. Copy of this resolution will be sent to the PB

Planning Board reported by Kim Kinsella

- March 8<sup>th</sup> meeting
  - Pooler Park II located at 749 Phillips Rd for an addition to existing building.

The legal notice for the public hearings was published in “The Daily Messenger.” Post Cards were mailed to property owners within a minimum of 500 ft from location of each application along with “Under Review” signs being posted on the subject’s parcels.

### **PUBLIC HEARING**

*Speakers are requested to limit comments to 3 minutes and will be asked to conclude comments at 5 minutes.*

#### **LANTEK COMMUNICATIONS**

580 Fishers Station Dr

Appl No 2-SP-16

Owner: KMWord LLC Zoned: Light Industrial/Route 96, 251 Overlay District

Acres – 3.90 SBL# 6.00-1-59.110

Applicant is requesting site plan approval to expand the paved parking area by 17,860 sf to include a 900 sf fenced in storage area with associated site improvements. This is the first time this application has been before the Board.

Mr. John Sciarabba from Land Tech Surveying & Planning addressed the Board along with the Owner of LandTech Communications, Mr. Lance Papke.

Mr. Sciarabba – Lance and I started late last summer looking at different properties around the community. We almost made an application for a site on Phillips Rd and have looked other places. Fortunately for Victor, Lance has found this place on Fisher Station. It’s a 25,000 sf building and fits his business perfectly except for parking. His business operation, if you’re not familiar with, is a wire company. He does communication wiring so he has large pull trucks that string wire. About 50% of his employees show up in the morning, grab a work truck and are gone the rest of the day. So our proposal is to add 13 truck spaces plus other parking on the west side of the building. We don’t propose a drastic increase in employee count. It’s just a functionality of the building which is why we are here.

Lance is in the process of closing on this property and what we are proposing are 24 additional employee spots, 13 truck spots and 2 additional handicap spots. We are proposing about 7/10 of an acre of asphalt. There is also a small area of asphalt area being added along the south property line before you turn off the parking lot, those are additional employee spots as well. This would probably be where employees park before grabbing a work truck.

We are under the threshold for a DEC permit, just for erosion control only. The drainage on this site is generally from the Thruway to the south, there is a rather large ravine that’s right along our property line, there’s a bridge to get into this site so everything drains there. An existing stormwater facility for the building when this project was originally built, drains to that same ditch. We are proposing to treat the water before it goes into that ditch. We are in the Irondequoit water shed so we’ve got underground chambers that are being installed to handle the water element of this project. We are not proposing any new sanitary or any new water. It’s just basically regrading and paving.

We have received comments from the Town Engineer and the Building Inspector and I do have plans that have been updated if the Board wishes to see these. The comments are minor in nature, small edits but I do wish to hand these out. (*Mr. Sciarabba handed out updated plans and response letter*) I could go point by point thru these but they are really down to minor comments.

Al Benedict's comments dated February 16, 2016 wanted to know where the excess fill would be taken. Lance has hired Victor Excavating to do the work, so it's a local firm and will be taken back to his yard to be used. It's mostly topsoil and some subsoil.

We had to recalculate the open space calculations and it's 77% open space. So we've added that to the plan. There are no modifications proposed to the septic as I stated before. Also noted on our plan, we did a topographic survey. If you look south of the red line, there is an existing 12" storm pipe that leads to the building that was installed originally. That's about 5 ft off of our property. If you've been to the site, that's a well vegetated swale that has been there and I think disturbing that for a minor encroachment, it is within the easement, so I really don't think that should be done.

The square footage of the parcel has been added to the plan. The setbacks have been added to the plan. He asked about banked parking. We've done that in the past where there might be a need for parking per code but the owner doesn't need it. The owner in this case needs it. We'll have all of the parking approved as it is shown on the plan. There was a debate about the handicap symbol. Whatever symbol the Board wants us to use, we'll add to the plan.

New light poles have been provided. There is a lighting plan if you look through that packet you'll see that the footcandles are shown on there. We are not proposing any off site lighting and these are LED night sky compliant fixtures. There are only 2 lighting poles proposed on the west side of the pavement and there are also some building mounted wall packs as well.

LaBella's comments dated February 19, 2016 asked to clarify some grading issues which we've done. I had a question on the proposed stormwater pipe. It's not a very flat pipe so it's coming down. They wanted to know about the velocity of the water. We've calculated that and it does meet standards. Dumpster pad detail has been added to the plan. The limits of grading has been identified on the plan. We've also added the overlay district on the plan and the setback lines.

I think that's it for the comments and like I said, they were really minor in nature, just some tweaks to the plan. What we're asking for tonight is approval for this project. Any questions that I can address at this time?

*Chairman Dianetti asked for public comment and there was none.*

Mr. Santoro – Did you see the Conservation Board comments about the disturbance?

Mr. Sciarabba stated he had not seen the comments. Mr. Santoro gave him his copy of the comments.

Mr. Sciarabba – I think my brief review of the Conservation Board comments is consistent with the Town Engineer comments about identifying the limits of disturbance. I think we meet the intent of the Conservation Board on the updated plan.

Ms. Zollo – I had the same comment that Ernie did about making sure that the disturbance doesn't extend beyond what you've indicated to protect that wooded buffer. The Conservation Board also asked that anything damaged would be rectified.

Mr. Sciarabba – We have no problem with that. We're not proposing to go near those trees on the west property line. We want to keep that buffer as well.

Mr. Logan – I had a question about the remaining greenspace once this is all built out. Are we still above 35%?

Mr. Sciarabba – Yes, we are 77% building coverage.

Mr. Logan – I'm just looking at it and you have a lot of pavement and generally speaking greenspace is where you don't have pavement or building. I'm just curious if the area calculation works out that you have 35% greenspace.

Mr. Sciarabba – I'd have to double check that for you.

Mr. Logan – Principally, I don't have a problem with this and am glad that you were able to find a place to stay in Victor and to expand your business. I would just like to get the question on record.

Mr. Sciarabba – I'm looking at the lot coverage comments from LaBella and I think we were talking more about building coverage than greenspace.

Mr. Logan – I'm talking about total property coverage.

Mr. Sciarabba – I'm not aware of that requirement and I didn't see it on Al's notes either.

Mr. Gallina – You answered the question about the lighting. I agree with Joe's comments, it's a good reuse of the building and good to see a local business stay local.

Mr. Pettee – From what I understand, the applicant has satisfactorily addressed our comments that were identified in our February 19, 2016 letter. We can look to verify that the project and the site plan meets the 35% greenspace or open space requirement. We'll just look through the updated plans to verify that our comments have been addressed but I don't have any further concerns at this point.

Chairman Dianetti – I don't have any comments. How should we address the 35% issue?

Ms. Evans – I believe that has been covered within Al Benedict's comments.

Mr. Logan – It's within the code requirements for green space, is that what you're saying?

Ms. Evans – Yes. Al Benedict is so meticulous that he would have called that out. He was just asking for verification of the number and that it be reflected upon the plans. So, if the Board

opted to consider the resolution this evening, it's under the understanding that the project complies with the requirement.

Mr. Logan requested this to be added as a condition before Chairman signs the plan that the green space be noted on the plans.

Ms. Evans – Al's comment reads; *It appears that the numbers provided on the application that the open space will be approximately 56%. If this is correct, please place on the plans. Does that cover your concerns Joe?*

Mr. Logan – I don't know if there is a difference between open space and greenspace. I think it's the same thing.

Ms. Evans suggested adding a condition to the approval stating that compliance to the 35% greenspace requirement prior to the Chairman's signature.

*At this point the public hearing was closed.*

On motion made by Ernie Santoro, seconded by Joe Logan, the public hearing was closed.

Jack Dianetti	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 5 Ayes, 0 Nays

### RESOLUTION

On motion made by Joe Logan, seconded by Ernie Santoro

WHEREAS, the Planning Board made the following findings of fact:

1. A Site Plan application was received on January 19, 2016 by the Secretary of the Planning Board entitled 580 Fishers Station Drive.
2. It is the intent of the applicant to expand the paved parking area by 17,860 sf to include a small 900 sf fenced in storage area.
3. A public hearing was duly called for and was published in "The Daily Messenger" and whereby all property owners within 500' of the application were notified by U.S. Mail. An "Under Review" sign was posted on the subject parcel as required by Town Code.
4. The Planning Board held a public hearing on February 23, 2016 at which time the public

was invited to speak on the application.

5. The application was deemed to be an Unlisted Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations and a Short Environmental Assessment Form was prepared.
6. The Conservation Board reviewed application February 2, 2016 and provided comments.
7. Zaretsky and Assoc. reviewed landscape plan and made recommendations dated February 2, 2016 which applicant responded to on February 3, 2016. Zaretsky and Assoc. had no further comments.

WHEREAS, the Town of Victor Planning Board reviewed the Unlisted Action on February 23, 2016 and identified no significant impacts; now, therefore, be it

RESOLVED, that the project, Lantek Communications will not have a significant impact on the environment and that a negative declaration be prepared.

NOW, THEREFORE BE IT RESOLVED that the application of Lantek Communications, Inc. Site Plan entitled 580 Fishers Station Dr drawn by Land Tech dated November 14, 2015 received by the Planning Board January 19, 2016 Planning Board Application No. 2-SP-16, BE APPROVED WITH THE FOLLOWING CONDITIONS:

**Conditions to be addressed prior to the chairman's signature on the site plan:**

1. That no final signatures will be given on the plans until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
2. That the comments in a letter dated February 19, 2016 from LaBella Associates shall be addressed.
3. That comments from Code Enforcement Officer dated February 16, 2016 shall be addressed.
4. That a note shall be added to the final plan identifying the percentage of remaining greenspace to the satisfaction of the Code Enforcement Officer.

**Ongoing conditions:**

1. That the site plan comply with Town of Victor Design and Construction Standards for Land Development, including Section 4.
2. That a pre-construction meeting shall be held prior to the start of construction.
3. Should an underground stream be encountered during construction, the Developer is to address the encroachment and impact to the underground stream to the satisfaction of the

Town Engineer.

AND, BE IT FURTHER, RESOLVED, that the Planning Board Secretary distribute the Planning Board's approval letter.

Jack Dianetti	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 5 Ayes, 0 Nays

### SCOUT RIDGE SUBDIVISION

7346 Dryer Rd

Appl No 3-MS-15

Owner: Scott DeHollander

Acres 11.2 SBL #27.02-1-31.100

Zoned: R2 w/B Overlay

Applicant is requesting subdivision approval for a 4 lot subdivision. This concept was before the Board informally on August 25, 2015 and January 26, 2016.

Mr. Scott DeHollander, the owner, addressed the Board.

Mr. DeHollander – Good evening. I think that the informal presentation was very helpful because we were able to go back and make a few modifications to our plan, specifically relative to the driveway to Lot 4. We modified the plat such that that driveway is now intended to be completely on property associated with Lot 4 and not an easement. Additionally, we are making our intent clear to hold Lot R-2 as part of Lot R-1 and we have no development intentions for that.

We have retained Lot 2 as an undeveloped lot. That is intentional. We want to make sure that we have the right density and at this time, we are not prepared to put a house there. We want to let the other houses get built out and if it's appropriate, come forward with a site plan and if it's not appropriate, we would probably have that conveyed to one of the adjoining lots. That's a future condition that we really can't give any more details to at this point. We just want to let it develop at this point so that we get the right density feel.

A little more description of the project; we have water and gas on Dryer Road and each one of these lots will be served with municipal water and gas. We did receive the Town Engineer comments today, thank you for the very thorough review specifically on the septic system and grading plan. The majority of the septic system comments will be addressed by our change of the detail for the septic systems. We have suitable soils for conventional absorption fields so there is no need for the extra elevations associated with the shallow absorption trench detail. So we'll be moving away from that and that will eliminate the majority of the concerns about the tapers and the extra setbacks and so forth.

The other comments were very helpful, thank you, relative to the grading plan. We have some grading work to do with our plan. I developed the grading plan so that we would have an idea of the bulk grading impacts on the site and be consistent with our disturbance calculations. So at this stage, we'll be making the revisions to the site plan so that we get those subtle grading changes for lot drainage, the subtleness worked out for each lot as we move forward.

Additionally, I will prepare the SWPPP and the NOI. The SWPPP will include an erosion control plan but at this point we don't see any need for a permanent stormwater structure associated with our project, we're under the thresholds. We'll move forward with that over the next two weeks and get the revised plans to the engineer to address each one of his comments.

I'm here to answer any of your questions and appreciate the additional consideration of our application.

Chairman Dianetti asked for public comment.

Mr. John Ritz from Dryer Road – What would be the process and procedure for Lot 2? Would that have to go to Planning Board for review? I guess I heard that “possibly” in the future that would be a potential lot for building.

Mr. Pettee – Our first comment in the letter dated February 23, 2016, I asked that the applicant place a note on the subdivision plan that indicates something to the effect of: *Lot 2 unapproved building lot is created only for the purpose of maintaining access to the existing pond and is not to be used as a building lot. A review of that lot's capacity to accommodate a residence or building has not been performed and the site's capacity for accommodating on site septic system is unknown at this time. Approval and building ability of Lot 2 is subject to Planning Board review and approval of access and sanitary waste water proposal. No assurances are made of the future build ability of Lot 2.* So there would need to be a process, the property owner or representative of property owner would need to come before the Planning Board to gain approval for that to be a building lot.

Mr. Ritz – Ok so then this approval would be for 3 lots? Lots 1, 3 and 4?

Mr. Logan – And the existing lot.

Mr. Ritz – R1 and R2 would be the existing, right? No development in R2 because that's part of the residence?

Ms. Evans – Correct. See the “Z's” between R1 and R-2? That is essentially means that the lot line will be disappearing when the map is filed so that will become one lot.

Mr. Ritz – So 3 building lots is what is up for approval.

Ms. Evan – Right, so what's listed is Lot 2 which would be approved as a lot but not as an approved building lot. The intention of the note is so that a building permit is not issued until the proper reviews have taken place.

Mr. Ritz – Okay, thank you.

Ms. Kathryn Hart from Cork Road – We live on Cork Road and we border Lot 4 if I'm correct. I'm not sure if we border Lot 3. Is it possible to get a set of the documents or come in and review those and to who do we go?

Ms. Evans explained where the Planning and Building Dept is located and the hours of business and that anyone can view the plans and can request a copy of the plans by filling out a FOIL request.

Ms. Hart – Ok thank you. I'm pleased to hear that you are concerned about the erosion because there are wetlands quite frankly where the two lands meet. There are a lot of wetlands that run straight down there. I'm glad that you are looking at that because there is a pond that runs from our property on Cork Road and crosses over. There is a pond on both sides of the street and that goes all the way back to the back of our property on Cork. I just wanted to make sure that you are aware of those wetlands. When we have a wet spring or summer, it'll stay wet the entire summer. So just be very aware of that, there is quite a bit of water in there.

We will definitely come in and look at the plans because quite frankly, I can't read the plan (referring to the overhead view) to know exactly where we are along the border of Lot 4 and possibly Lot 3 as well. Thank you.

Chairman Dianetti asked for any other public comments and there were none. Chairman Dianetti asked the Board members for questions.

Mr. Gallina – No other questions than what we've already talked about. The explicit note of the unbuildable lot 2 is important and that it is part of that condition.

Mr. Logan – I'll echo Al's comments but I appreciate all of Scott's work to get it where we can move forward with it.

Mr. Santoro – I think all of my questions have been answered together with the informal meetings.

Ms. Zollo – I think we've had all of our questions answered and just the note about Lot 2 is going to be valuable.

Mr. Pettee – The letter that we issued was fairly lengthy today and a lot of it had to do with more technical items like the septic system information. As far as LaBella's review, we'll wait to see an updated plan and provide updated comments once we've had the opportunity to review that and verify that our comments have been addressed. I don't think I have anything further at this point.

Mr. Young – I think it's a little atypical to go through a residential subdivision and end up with a lot that isn't buildable. My concern is if and when someone comes forward to develop that lot in the future, what's the process going to be? At the time and the note doesn't really tell us what that is as I think about this, I think the proper process would be to come in for an amendment to the subdivision plan and to indicate whatever needs to be indicated to make that lot buildable and

to revise the note so that note isn't on there anymore if we decide it is in deed suitable for building on. Otherwise I'm not sure how you get from this to a buildable lot but I'm open to ideas.

Mr. Gallina – Certainly one of the first issues is it's not 2 acres which is the minimum.

Chairman Dianetti – Once it's subdivided, it's a stand along parcel, then it doesn't meet the 2 acre requirement.

Mr. Young – A lot of these are not 2 acres.

Chairman Dianetti – But it's based on the size of the total parcel. If you've subdivided off of it already and are left with less than 2 acres and it wasn't an approved lot, can it still be approved as a building lot?

Mr. Young – I wasn't even thinking of it from the standpoint of a minimum lot size. I was thinking about it from the engineering standpoint of can we put a septic system on there; are the soils okay to build on? Things like that that are in the engineering letter. I hadn't even considered whether the lot size was appropriate. But given that the other lots are of similar size, I'm not sure why that would be an issue for this lot if it's not for the other lots.

Mr. Gallina – Again, we have to look at the total parcel. There was also contemplation around the northwest corner where we're adding it to the existing parcel but it was mentioned in one of the earlier revisions that it might get re-split off for a future opportunity. At some point, we have to meet the overall density of the site. How and when we do that, I'm not sure.

Mr. Logan – If he wants to add another house somewhere, it needs to be addressed with the Planning Board. I think that's pretty clear. If he chooses to resubdivide R2 and build a house back there in lieu of Lot 2 because he can't build on Lot 2, that's something that he brought forward earlier, he'd rather have a shared driveway. That application would clearly have to come before the Board anyway. Then all of the requirements for meeting a subdivision of a parcel this size would still comply with that lot. Clearly he can have 5 houses on a 10+ acre lot and it's just a matter of how he parcels it out sometime in the future if it's different than what you're showing right now. In any case, it comes before the Planning Board, we just have to note that that original subdivision was done with the density in mind and he's not adding more houses than that density will allow.

Mr. Pettee – Just for clarification, I just want to let folks know that according to Schedule II in the zoning regulations for the town, the minimum lot size for the R2 is less than 1 acre. It's 33,560 sf. So each of these lots meets the minimum lot size. There's an overlay zoning district in which this project is located in and it's the B overlay which is .5 units per acre. So there is not a 2 acre minimum lot size requirement, it's that the overall density of the parent parcel can be subdivided to allow a half unit per acre. So if it's a 10 acre parcel, you would be allowed to have 5 units.

Mr. Logan – And that's where we are right now.

Chairman Dianetti – Thinking on the other side of this, I wouldn't want him to come back at some point in time, thinking that we said as long as Lot 2 perks and passes the other tests, that this is a buildable lot. Then have someone say that it's not 2 acres and you can't count the rest of the parcel because that is already developed and then have him find out that he can't build on it because it's 1.75 acres and not 2 acres. I know that people have gotten caught in that before. We're just trying to avoid future problems. Maybe it's better to address it now then down the road. So we had the discussion and you have things to think about, and it's obvious that we're not going to act on this tonight. We're going to close the public hearing on this and wait for a revised site plan to look at again, then we'll have another public hearing.

Ms. Evans stated there would not be another public hearing. The applicant needs to provide written responses to the reviewing comments that have been issued and provide updated drawings.

The public hearing was closed.

Ms. Evans – Just to review Lot 2. There are two different pass forwards; one is to demonstrate that a house can fit today with the perc tests. That is one avenue to go down that the applicant has requested not to go down. The other avenue to deal with this would be to place a note on the plan to document through this review that the Board is not approving that lot as a buildable lot, as Wes had outlined in his comment within his letter.

I'm just curious as to what the Board's take is on which direction that you would prefer to go on because they are very different and the applicant would need to do a lot of work depending on which way you want to go.

Mr. Gallina – Unless his immediate intent is to build a house there, my take is that he's been talking about keeping it as an access or selling it to one owner or the other (Lot 1 or Lot 3) to expand their lots. So it may never be built so I wouldn't go through the time and expense of engineering anything at this point unless that was a short term objective.

Mr. Logan – I'm with Al, this is a lot that could be built on. Right now he has subdivided it with the proper number of lots for the zoning. If he can show that he can build a home on Lot 2, then he would need to come before the Planning Board and indicate that Lot 2 is suitable with the appropriate engineering and tests and we would then approve that lot for the next home as I understood that last statement that was made on how the approval was going to be made. If he chooses not to make that and attach it to Lot 1 and/or Lot 3, that's fine, then he would just do a lot line adjustment. If he chose to resubdivide R1 and R2 which are going to be consolidated now, to put another house on it, then he would have to go through the same process anyway. In any case, he's not going to have more than 5 homes on this parcel.

Chairman Dianetti – It suits the density but when we go to the 5<sup>th</sup> lot, does he have to meet the requirements for a major subdivision?

Ms. Evans – Yes

Chairman Dianetti – So at that point in time, there would be a greater expense. He would face that now if he did it now.

Mr. Logan – Correct but the only thing is he has Lot 2 shown as an extra parcel but it's vacant. The only reason that we're not making it a major subdivision now is because he's not asking for it to be a buildable lot.

Chairman Dianetti – At that point in time, if he comes before us with this lot, it would be a major subdivision.

Mr. Logan – It would have to satisfy additional requirements.

Chairman Dianetti – I just wanted it clear for everybody.

Ms. Evans – The reason it's a minor is because the existing lot is taking the residual acreage behind it. We started with 2 lots and are going to end with 1 lot on that side of the parcel.

Mr. Young – So you're going to have 5 lots and 5 tax parcel numbers. The action would be if he comes back for Lot 2, I think the action would be to modify the subdivision plan to remove the note that says you can't build a lot there.

Chairman Dianetti – So he wouldn't have to apply for a major subdivision and go through that.

Mr. Young – Because it's already subdivided, he's not creating any more lines. He's just coming in to remove the note which is there for everybody's protection because we haven't done the review sufficient to approve it as a buildable lot. If it was approved as a buildable lot, just like in any other subdivision that gets approved for residential, he wouldn't need site plan approval, he would just go for a building permit. I think the next action for Lot 2 if we go the way the applicant wants to go forward, if you want to build first you'd come back and modify the site plan and get rid of that note by showing us whatever specifications that need to be shown per the engineering letter to deem it as a buildable lot.

Mr. Logan – So then the question is; does it become a major subdivision?

Ms. Evans – No because R1 and R2 is consolidated and it's considered a lot line amendment. Look at it as two actions; you're consolidating and making R1 larger and then you have 4 new lots. If you envision today there are 2 lots out there now, he's making one of those 2 lots bigger and then taking what's left and dividing it up into 4 lots. So that would not trigger a major per code. If he came in for Lot 2 and came in to split R1 and R2, that would trigger a major lot.

Ms. Zollo agreed with previous comments from Mr. Gallina and Mr. Logan, leaving it as is and coming back to the Planning Board. Mr. Santoro and Chairman Dianetti also agreed.

Ms. Evans – With that, the applicant can make the amendments and provide the written responses. Then should the Board desire, staff will prepare a draft resolution for your

consideration at the next meeting pending the receipt of the applicant's submission by noon, Wednesday, March 2<sup>nd</sup>.

The discussion ended at this point.

#### BENDERSON DEVELOPMENT

Victor Crossing

401 Commerce Dr

Appl No 3-SP-16

Zoned: Commercial /Route 96/251 Overlay District

Owner: Benderson Development

Applicant is requesting a modification to a previously approved site plan and subdivision to accommodate the construction of a 6,004 sf freestanding building which would include a 2400 sf restaurant where a bank was previously approved to be located within the Victor Crossing shopping center. Applicant is also requesting dumpster enclosures for existing dumpster behind the bldgs. This is the first time this application has been before the Board.

Mr. James Boglioli, Attorney for Benderson Development addressed the Board.

Mr. Boglioli – Good evening. I've been here a number of times before. We are here on our Victor Crossing application and seeking a relative minor site plan change. You are familiar with the shopping center located on Route 96 and it is subject to the 2006 SEQF Findings and has one entrance onto Route 96 and maintains a connection to the shopping center on Route 96. It has a large contingent of buildings in the back and an outparcel in front. There is an unbuilt parcel in this area and an unbuilt parcel in the next area.

Just to give you some history on the site, this is the original 2006 site plan approval (referring to slide on overhead screen). This was approved and dated December 12, 2006 prepared by Bergmann. That plan had a 6,000 sf restaurant in this location, that's what was originally approved, that's what was reviewed by the SEQF Findings and that is what that approval was based upon. Just going forward on the application, in 2008 we came in and added Kohl's and the 6,000 sf restaurant remains there. It maintains a crash gate behind it and again this is the main access drive.

In 2009 we had a potential deal with a bank and we came in and asked for site plan approval to convert that 6,000 sf restaurant to a 3,872 sf bank with 3 drive thrus. That deal fell through so we lost the bank.

This is the 2013 site plan and I put that up only because it has the new building here and the other building that was located there that was actively being built.

Mr. Logan – What is the outparcel size building next to the center structure?

Mr. Boglioli – It's about 5,000 sf. We have stayed within the confines of the SEQF Findings, there has been no square footage overage.....

Mr. Logan - ...I wasn't questioning that, I just wanted to know how was it re-parceled and sized for that space.

Mr. Boglioli – So here we are now and what we're seeking to do is to put the 6,000 sf building back as it was originally approved. There are two other parts of the application. One was we were looking to improve the cross access between this site and the site up here now that we own it. Currently, there was just a crash gate here. If you're familiar with this site, the main drive aisle goes all the way around the front of the stores, around the center between the parking lot. We are looking to continue that so you can come up here and not have to go on the main drive aisle because there is a lot of traffic on that drive aisle. Your Traffic Consultant issued a memo today, I got it an hour before I left and she is opposed to it, we're not wed to it so I'm going to remove that from this application. So we are going to simply leave this as it currently exists which is currently the crash gate. We're not going to change that. This will just continue to be the greenspace.

The building is basically the same configuration as it was originally approved. It's in line with the strip here and maintains the cross access to here and maintains another driveway in this location. It provides for a parking lot here, parking stalls against here and parking out front. It doesn't impact any of the SEQR Findings, it doesn't decrease the on site greenspace, it doesn't increase the impervious area because it was already reviewed in the location it was approved in. So we are simply putting it back to what previously existed.

As part of this application, I just abandoned the driveway. The only other thing we are seeking to do is to add dumpster enclosures along the back of the site. When this project was originally approved in 2006, there wasn't a single dumpster enclosure on the plan. I think that was an oversight because the approval process was about 4 years and we were looking at a lot bigger issues and no one focused on the fact that we needed to add dumpster enclosures. We've recently been working with Sean (McAdoo from Codes). We have dumpsters back there because trash needs to be in dumpsters and we've worked out a plan. We've counted all of the tenancies, all of the current vacancies and the dumpsters that we would need and this would be the final request for dumpster enclosures. Dumpsters are already back there; these are just the enclosures that they would go in. The dumpster enclosures would match the materials on the back of the building just like the dumpsters that are there now. With this, the dumpsters will be fully enclosed and there won't be any more dumpster enclosures.

This is the proposed building that we are looking to build (referring to the building elevations). It is consistent with the architecture and I know this Board is very familiar with the architecture on this site. It is consistent with the bldgs that have been constructed. It is a four sided architecture. Currently it is proposed for a single restaurant on the right side for 2,000 sf with the remainder of the square footage yet to be leased, we don't have tenants for the remainder of the building. This is the side facing the parking lot and this is the side facing the back and this is the side facing the other shopping center. The building has been designed to comply with the Route 96 guidelines. It has both horizontal and architectural breakups which breaks the massing of the building all the way around. It uses elements that are consistent with remainder of the shopping center. It uses cornices, different elevation heights; it uses cementitious siding which is consistent with the siding on the other bldgs. It uses two different colored bricks; one is a red brick and one is a darker brick called burnt. It uses stone on the piers and stone caps on top of the piers. It has clear vision glass on three sides of the building, it's not that glass you can't see through, it's clear. This architecture matches what's out there. I did

bring with me a materials board with all of the colors listed on it and the materials. I provided additional drawings to Cathy this afternoon. (*The sample drawings and listings were provided to the Board members in their informational packets*) These are the same materials and colors the Board had previously approved for the shopping center.

As I noted, there are no other changes to the site plan. There is no increase in total square footage. It maintains the greenspace set backs and everything else that was originally reviewed. It meets all of the parking requirements. This plan actually is more consistent with the 2006 SEQR Findings because it is in fact where the building was when the Board reviewed it.

There was an issue about how much restaurant is at this site. In the 2006 SEQR Findings, 2 restaurants were approved; 1 for 7500 sf and one for 6000 sf for a total of 13,500 sf. Currently there are 3 restaurants for a total of 5300 sf. That leaves us a remaining 8,120 sf of restaurant space that we haven't built. This restaurant will be 2400 sf and take part of the building and would leave us with an additional 5720 sf of restaurant under the previous approval.

That is where we stand and I will answer any questions that the Board may have. We did address in writing all of the other comments we received. I believe we addressed LaBella's comments, the architectural comments as well as the landscape comments.

Chairman Dianetti asked the public for comments.

Mr. Kav Malli from Meadowlark Lane – I'm just about a couple of hundred feet away from this pad for the proposed building. A couple of things; I guess the last time I recall when I was here for a public hearing, the proposed restaurant was only going to be put in place if the hours of operation were going to be extended. I don't know what the status of that is. If the restaurant is going to go up, is that going to affect the operating hours? That's another concern that we have. Are the operating hours going to be extended like what I recall the last time it was discussed, whether the restaurant owner or the developer was requesting that the hours of operation be longer.

The other item was the dumpsters, the added dumpsters and lighting. As it is, we already do hear a lot of dumpster truck noises early, like 4:30, 5:00 in the mornings most of the time. As well as lighting is still an issue because lighting was supposed to be turned off at certain hours. They don't seem to be turned off on a regular basis at 11:00 PM.

Those are a few concerns that I have being I'm that close to this proposed development. I'd like to have those addressed.

Mr. Chip Testa from Meadowlark Lane – I just have questions on a point of order. Are we going to be able to comment on this or are you going to be voting on this tonight?

Chairman Dianetti - We have a draft resolution prepared to vote on tonight. You have the opportunity to comment.

Mr. Testa – Well, there are a lot of people who don't get the cards and don't read the Messenger who might be interested in making comments on this. There are about 175 homes that overlook this development who did show up to the last public hearing in June. We haven't heard anything. It seems a major coincidence to me that the next time you meet, you're going to be reviewing the comments from June when they come here and ask for a restaurant. It seems to be that it's pretty important to know whether or not those hours are going to be changed before we

know if there is a restaurant that goes in there that size. You get smells; he lives 200 ft away or so (referring to Mr. Malli). There are other homes that are fairly close to it as well. We're going to get the smells of a restaurant depending on the hours, we're going to hear noise. If there is some kind of Special Use Permit as some Board members here have suggested for a restaurant, that's going to still require that lights stay on as long as the building is open, that the roadways are plowed and parking lots are plowed. Additional, the bank wasn't proposing to put parking to the rear which faces our development and now they are and that's going to cause additional noise from doors slamming, car alarms. We get that already but we're going to get it later if the hours are changed.

That's my comments. I'd like to request that you leave the public hearing open for public comments so that people have a chance to respond.

Mr. Boglioli – First of all, we're not asking for a new building. We're returning the building that this Board had previously approved in 2006. That site plan was thoroughly reviewed by this Board. The parking that is there existed against that site line back in 2006, it's on the plan, it's not new parking, and the parking was there. As far as the restaurant goes; this is a restaurant that is not seeking and is not in anyway tied to the hours of operation. If you deny that application, this restaurant is still going in and will comply with the hours of operation that currently exists. That's how we got them, we couldn't promise them they would get new hours of operation because I don't know what's going to happen with that application.

As far as the odors go, the 2006 SEQR Findings, this Board reviewed that with this restaurant in place. We're only proposing 2400 sf of restaurant, the restaurant the Board approved was 6,000 sf. So it was a much bigger restaurant than I'm proposing now although the building is the same size. At that point, the SEQR Findings stated that restaurants would be required to use filters to remove odor from the cooking operations prior to venting to the outside air in order to comply with the Victor Town Code provisions that prohibits businesses from omitting odors beyond the property line. Any restaurants that go there will have to comply with SEQR Findings. Every restaurant there does comply with those SEQR Findings at this point. I recently supplied Cathy (Templar) the specs for the filters that were installed in Five Guys which meet the SEQR requirements. I'm not asking for a new restaurant, this project has already been reviewed as far as this site plan goes. With removing the driveway, there's basically no difference with this plan and the 2006 plan. We're simply asking for this plan to be put back the way it was.

Chairman Dianetti – You're not requesting increased hours of operation with this application?

Mr. Boglioli – We are not.

Ms. Evans – This public hearing was noticed as all others. Additionally, there was a sign posted on the property indicating that it's under review with the Planning and Building Dept phone number. Post cards were mailed and it was posted in the Daily Messenger as required by State Law.

Ms. Zollo – I'd like to say something about the point of order issue because for how many years we spent sitting at these meetings, reviewing this project. One of the things that we noticed from previous Planning Board meetings is that they often hold a public hearing and then have a

resolution and vote that night and that was something that the residents found objectionable because as the residents noted, they are not getting a chance to send in written comments. Not everyone has the hours to come out to a public hearing. The sign that was posted, we noted the other night was in the wrong place so people weren't going to see it anyway. It's right in front of Five Guys (*Due to a large pile of snow and the area being covered with black top, the sign was placed at the nearest landscaped area where it could be implanted in the ground*). Keep that in mind, I think it's disrespectful to the public to come and make their comments and then have the resolution voted on immediately without regard to their comments. I think we need to keep that in mind unless it's a simple addition of a parking lot in an already industrial area, that's one thing but this affects a lot of residents. So I think we're doing a disservice to the public by voting on something when we're having a public hearing tonight.

Mr. Boglioli – If I may just address that. We complied with all of those requirements. Actually, the Town is responsible for those requirements. They posted the sign, you mailed, you posted it in the paper, we shouldn't be treated differently than any other applicant to be honest. I came out here, I presented. The Planning Board noted that this affects the residents, but this has already been reviewed, this is the same plan that was approved in 2006. We're not asking for a different plan. I'm not changing it. I just withdrew the road which now makes this plan identical to the plan of 2006 with a smaller restaurant. We're not asking for more than you've already approved. We're actually asking for less than what was approved by putting this restaurant back the way it was. So I don't see why letting people comment when they've had the opportunity to be notified and come out, why would we be treated different at this point.

Mr. Testa to Chairman Dianetti – My follow comment is this; they came before the Board and asked for a change to this project to make that pad a bank, did they not? (Yes) Was that approved as a bank? (I believe it was). Did that change the whole site plan then at that point? If it did, don't we have the right to go through it again to review since it was how many years since it was approved?

Ms. Evans – That's what the purpose of tonight is, to go through....

Mr. Testa - ...No, he's saying that it's already been reviewed so we already had a chance to review as a restaurant, right?

Mr. Young – A lot of what's being referred to as review is he is referring to SEQR which is the environmental review.

Mr. Testa - ....I know, I was here.....

Mr. Young – Which is the review that took a long time. That review covered the site essentially as it's being proposed now during this application. That's at least what the applicant is representing.

Mr. Testa – That's what he is saying, not what I'm saying.

Mr. Young – What the applicant has represented is there was a 6,000 sf restaurant in 2006 that was reviewed during the SEQR review.

Mr. Testa – That may be true.

Mr. Young – So what the applicant is then saying, anything SEQR related to that has already been addressed and that's true.

Mr. Testa – Yes, but the public right now believes a bank is going to go there, clearly a day shift operation. Now they are coming in and asking for it to become a restaurant. That is a change because right now it's supposed to be a bank. That's what I'm saying to this Board.

Mr. Young – That's why the applicant had to make this application.

Mr. Testa – Exactly but you're not hearing....I mean most people think it's a bank. It's a big change to go to a restaurant.

Mr. Pettee – When was this application filed? I have a record that it was filed on January 26, 2016.

Ms. Evans – The plan was stamped in on January 25, 2016. Just for the public's reference as well as the Board, the post cards were mailed to property owners within 1,000 ft not 500 ft as we require within our Town Code. We extended it to 1,000 ft and those cards were mailed on February 12, 2016 providing an opportunity for people who are interested to call or come in or email us.

Mr. Testa – Like I said, not everybody gets the Messenger. Nobody is going to drive past an open site every week to see if there is a meeting so the sign on the site does no good and the fact is, with this project and however many homes, about 175 homes, 5 developments border this site. I would think that 1,000 ft is not sufficient to let the public know about this and that is my comment.

Mr. Logan wanted to know if that was 1,000 sf of the project or of the proposed restaurant location. It was 1,000 sf of the entire site's boundary.

Mr. Logan – So the property's boundary goes way over to Willowbrook. So everything up Lane Rd, all along High Street within 1,000 ft which is a pretty substantial distance. How many cards would you say we sent out? (*146 cards were mailed to the surrounding land owners*)

Ms. Evans – Typically we mail approximately 35 per application.

Mr. Logan – So it's not just from the restaurant location, you take the perimeter which is the farthest point away from the restaurant on that parcel and still go out 1,000 sf and get those residents. Is that the way I understand it? (Yes) It is quite a bit of notice and that's why we send the cards out because we know that not everyone gets the Messenger that we advertise in. The

cards are very deliberate, they go right to the homes and they get there in plenty of time to notice this particular meeting.

Ms. Zollo – But as the Planning Board, we agreed some number of years ago that we weren't going to vote on things on the same night a public hearing was held. So if neighbors come in and object to something then we just completely disregard everything they had to say.

Mr. Boglioli – You actually voted on the first application which was a public hearing and I've been here on numerous occasions where the Board has voted on public hearings. This isn't even a change. This is putting it back to the 2006 site plan. It's a change for you but it's consistent with the 2006 SEQR Findings which a lot of these Board members were here when we went through those. For SEQR purposes, this has been reviewed. For our project, you even doubled the distance so you went above and beyond. For the 142 cards, 2 people came out. We come here and expect to be treated like other applicants and if there is a problem with the application that the Board has, I'm happy to address it. We've addressed all of the written comments, the architecture is consistent with the rest of the site. The building is consistent with the 2006 SEQR Findings. I'd like for the application to be heard tonight.

Chairman Dianetti asked for other comments.

Mr. Santoro – You're going to be back here in a couple of weeks anyway, right? (True) I don't see any harm in deferring it two weeks.

Mr. Gallina – I think in this particular case, probably erring on the side of extending the time to one more meeting, I think would be appropriate. In general, I don't have any issues with the application given that it does revert back to the original design that was covered under SEQR so in principle, I don't have any issues with the application. Again, just to give ample time for any additional consideration. The only other point is that while the architecture is generally consistent with this site, we really haven't had any review from our architectural consultant which I'd like to have time for the consultant to weigh in on it. So I think that is something else that the extra time could afford.

Mr. Logan – I agree that we have in the past certainly reviewed applications and voted on the same evening but we always reserve the right to do that rather than stick with a process if it makes expeditious sense and it's a simple enough application. This has clearly been a controversial project and I'm fine waiting the extra two weeks and I think that is appropriate in this case because of the size of the application. In general, I don't have a problem with this application. It's the same thing that I personally reviewed during the last decade and the applicant is asking for a smaller restaurant and I'm fine with that as long as we're sticking with the requirements for the building itself. The hours are the same.

Just so the public knows, we went out last week and did a site visit but we drove all around, stopped at different view points around all of the different neighborhoods on Meadowlark, on Hertfordshire, on Franlee, up in that area and went all the way up High Street and looked at different places within the view shed of the project and quite frankly the darker area for lighting in the whole region, as a development goes, is this development because the lights are low, they are full cut off lights, they are white not bright orange bulbs that are sticking

out at you like the Thruway high mass lighting or the high mass lighting at the Mall. The only thing we didn't get a sense of is the idea of the noises that the residents have complained about regarding the dumpsters, overnight and things like that, we didn't hear that but we weren't there at 4:00 in the morning.

Mr. Boglioli – I would like to address that. Every so often we get a complaint that a dumpster company is coming early, Kim and Cathy can vouch for that as I usually get contacted by the Supervisor. We have three dumpster companies that service the site. The tenants retain their own dumpster companies, however, our property manager works with them. When they get a new driver, sometimes they show up at 5:00 in the morning. We immediately address that. I got an email while I was on vacation last week from my Supervisor, I merely called our property manager, he called all three dumpster companies, he spoke to the operators of those dumpster companies, the letter is in the file, not to pick up prior to 7:00 am or after 11:00 pm. We then sent letters to each of the tenants. We then walked to each of the tenant managers, spoke to them, had them call the dumpster companies. So we are abiding by the conditions but every so often you get a driver that shows up at 5:00 am.

The other issue that we believe is occurring because there are dumpsters back there that are not in enclosures and the wind is whipping up and picking up the tops of those dumpsters and slamming them up and down. We've actually witnessed them on windy days. So part of this application is to enclose those dumpsters to try to avoid that from happening.

Mr. Logan – Ok. My comments regarding the mailings of the postcards and things are really in defense of the staff here and the job that they do. It wasn't trying to minimize the concerns of the residents in terms of getting contacted or not and that's specifically why you've heard comments and Mr. Testa especially about not wanting to vote immediately tonight on the application, to give everyone a chance to come. I wish more people would come when the meetings are announced with the cards because now we have to send cards out again.

*It was stated that we only send the card once for the public hearing and not when the application returns for a follow up meeting.*

Mr. Logan – So I guess I would suggest that the residents would know that we are looking at it again. But to also give them an opportunity to make comments between now and the next meeting.

I do agree with Al regarding the architecture. You can look at the features on the rest of the site and there are more pitched roofs and features like that. This looks a little more contemporary, generic and not like a town square, like the rest of the architecture feels. That's my personal opinion. I think the architecture consultant should weigh in on that also.

Ms. Zollo – I would agree with Al and Joe about the architecture. I think they are more peaked roofs through out the development. I also would like to hear what our Architectural Consultant has to say about the architectural features. I would also like to thank you for putting in the dumpster enclosures because that was a question that I did ask back in 2005 or 2006, where those dumpsters were going to be located. So I'm glad to see that's going to happen.

You also talked about the special filters for the fans on the restaurants which may be in place but apparently they don't change the filters. I would like to see the Five Guys change their filters because we do get quite a few odors from that particular restaurant.

Mr. Boglioli – I'll have our property manager reach out to them to see if they are changing their filters appropriately. They are installed however, we have confirmed with them, they are properly installed.

Ms. Zollo – That's great, I'm glad to hear that. Did you say that you do have a tenant for this restaurant or do not? (We do have a tenant) Can you release who that tenant is going to be?

Mr. Boglioli – That tenant is going to be Chipotle.

Ms. Zollo – That's a moderate fast food so there won't be a bar in this restaurant? (No bar) That's all I have for right now.

Mr. Gallina – I have one more question. So a 6,000 +/- sf building. The first 2400 sf will be this restaurant. Then the balance of the building could be anything to include another restaurant?

Mr. Boglioli – It could be another restaurant but we don't have a tenant at this point. We're actually looking at retail right there.

Mr. Gallina – But you wouldn't preclude another restaurant.

Mr. Boglioli – The whole building was originally approved for a restaurant. It could go that way.

Mr. Gallina – That's what I wanted to clarify, so if you come back with a future application, someone says no that we only approved X number sf for a restaurant. It could be.....

Mr. Boglioli – ....It could be the whole building, that's what was originally approved.

Mr. Logan – You could have a double restaurant right there, it that what you're saying?

Mr. Boglioli – It's technically feasible.

Mr. Logan – I know that Five Guys is only 2,000 +/- sf.

Mr. Boglioli – Five Guys is pretty small. There's not parking sufficient for another restaurant on that side of the building which is why we believe it's going to be retail.

Mr. Logan – And that's where I was going with this.

*Mr. Boglioli shows where the parking and the restaurant will be located on a site plan.*

Mr. Boglioli – The restaurant is going to be facing all of this parking. The next user will only have the little bit of parking that is on the side which is why we foresee that being retail. A restaurant generally requires a larger parking field to accommodate people who want to be there during their lunch hour.

Mr. Logan – How many spaces do you need for a 2,000 sf restaurant?

Mr. Boglioli – It's 104 seats, I believe the whole building required 85 but if you look at the site together, it's complied of...it's a shopping center.

Mr. Logan – I was just thinking about it, right around there everyone always tries to cram into the spot next to the restaurant. If you have that and then a couple of other shops, it would be kind of hard for those other shops to be successful if you have a really busy restaurant. But maybe they are different hours.

Mr. Boglioli – If you have somebody with personal service, you'd have different hours. That's how these things generally fall together. But right now we have no tenants for the remaining space.

Ms. Zollo – You're proposing the dumpsters at the back of that lot?

*Mr. Boglioli pointed out the location for the dumpsters for the new restaurant.*

Ms. Zollo – Because the Five Guys have their outdoor seating right across the way so I didn't know if that was the best spot for the dumpster location. Is that just going to be lawn on the side?

Mr. Boglioli – It's a large RG&E easement that is the greenspace for here. We are unable to build anything except a roadway there. That's another reason why the patio is okay where it's located because we can't put anything in except pavement.

Ms. Zollo – I just wondered how Five Guys will feel with that opposite their patio area.

Mr. Boglioli – We'll work on properly screening it. We wanted to keep it away from the neighbors because again, it's in line with the dumpsters we have back here. This is the pump station in this area and we didn't want to make it visible. We'll make sure it's properly screened and an enclosure. They have seen the plan and haven't raised an issue at this point.

Mr. Santoro – I just have a comment to get the word out to your neighbors if they want to submit something in writing, mail, a letter and drop it off here.

Mr. Testa – By what date?

Mr. Santoro – Before the next meeting.

Mr. Boglioli – We'd also like to have enough time to review any comments that come in.

Ms. Evans – So same as what we direct the applicants, by noon on the Wednesday before a meeting in order to get it to the Board. We issue their packets Wednesday afternoon and then they have a week to review the materials in advance of the meeting.

*Mr. Testa's comment from the audience was inaudible.*

Ms. Evans – That's because that was a SEQR application and that was an amendment to an Environmental Impact Statement which is a different process.

Mr. Santoro – That gives you over a week.

Mr. Pettee – I just wanted to mention that Mark Kukuvka from LaBella did do an architectural review on this project and his letter is dated February 12, 2016 and the applicant also responded to those comments on February 19, 2016.

Ms. Zollo – Those comments didn't relate to the architectural features that occur in the rest of the shopping plaza. It's mostly talking about roof top units and the materials of the siding and windows.

Mr. Pettee – I'm happy to take some direction if you want additional comments or something specifically looked at. I can relay that message to Mark if that's what you're looking for.

Ms. Zollo – I think between what Al and Joe said also that this is really flat looking compared to the other features that are part of that plaza. As Joe said, the more town square look.

Mr. Logan – You can see all of the pitched roofs and things.

Mr. Boglioli – I understand the concerns. We'll take a look at it. I hear the Board's comments. I know what we did with the rest of the center so let me take a look at it. I know a lot of the towers on the rest of the center have peaked roofs or an element that breaks it up a little bit. I'll take a look at that.

Mr. Logan – It just looks pretty flat compared to the rest of the plaza and really out of character with the rest of it.

Mr. Boglioli – I'll have our architects take a look at it.

Chairman Dianetti – I agree with Joe and Al about this project. We've been through this process and I also want to back up staff who prepared and mailed out the notices to all of the homeowners but the consensus is here and I think it's unanimous that we need to keep the public hearing open until the next meeting (March 8<sup>th</sup>) and will accept written comments until March 2, 2016 at noon.



Mr. Scott Harter from Professional Engineering Group addressed the Board along with the owner Mark Crane.

Mr. Harter – We resubmitted plans to you with revisions that were requested. We provided also in conjunction with those plans, written responses regarding landscaping, comments from your Code Enforcement Officer and comments from your consultant (LaBella). I received the comments from the consultant (LaBella) today and turned them around as fast as I could so that I could have something in writing for you tonight in hopes of reconciling whatever remaining issues there are.

Since we last met, the changes on the plans reflect a connection of the two parking areas to facilitate access to compensate for parking stalls that were formally shown on the front and to allow for a greater sized landscaping area which is detailed. We've also explored and surveyed and deemed feasible the sanitary sewer connection on East Victor Road. We show a force main going out there encompassed by a private easement because that is a separate parcel from ours, although both parcels transfer as part of a land transaction, one parcel will need to give an easement to the other.

We showed additional landscaping and the landscaping was agreed upon with a meeting between the two landscaping consultants, yours and ours. The last I knew, they were okay.

We've shown on the plans as requested, the removal of the large flood lights. We are putting in dark sky compliant light fixtures to illuminate the site properly.

We're showing a swale on the down slope side to capture and treat the stormwater and I understand from a comment received today that you'd like a little more detail on that and we're happy to provide you with the design standards.

Relative to the sign we spoke to you about last time, the Zoning Board of Appeals did grant Mark a variance to put the sign where you could see it. But the variance for the larger size was not granted.

Mr. Santoro – What size is it going to be?

Mr. Harter – The size will be 70 sf which is the linear footage along the building per code. We also submitted a dumpster enclosure. I've mentioned to Katie (Evans) in an email that as I see it, I think that we've taken care of all of your comments with perhaps two outstanding items. One outstanding item came through with LaBella's review which relates to the force main out in the State right of way. We know that there is a force main in the State right of way and we know that the building is currently connected to that via a force main of its own. The comment came through to disconnect the force main in the right of way at a location which is not the normal protocol. But we don't know where it is specifically. So we would have to do some "hunting" to find it so I propose and I'll yield to you folks but I'd like to see if possible to make some termination of our force main joining into that force main somewhere along the right of way line and not intrude into the State highway if possible. This is one item that has yet to be resolved.

The other item that is yet to be resolved is the design basis for the swale. We need to give Wes more information on it.

Ms. Evans – Scott, is there a sanitary connection at the rear of the building as well?

Mr. Harter – The sanitary comes out of the rear of the building next to where you see the green square (referring to the site plan). There is actually an existing wet well there and I believe there is a private sanitary force main that comes up and makes a connection at the street. We were advised by Farmington that it was possible to follow a new route, come over to a clean out on the west right of way and then gravity sewer into the sewer main from there. That's what we were advised to do and we were advised to abandon this force main that forces into the main force main which is somewhere out in this vicinity (referring to site plan). But when I spoke to Farmington Water and Sewer, they didn't know where the force main was out there. So to make this simpler, if we could make a terminus somewhere around there, cap our connection and seal it up good, I think that would be easier than hunting around in the State highway for that force main.

Chairman Dianetti – Do you know how long ago that was installed?

Mr. Harter – I have no history on it.

Chairman Dianetti – Kenny Wilson doesn't have any recollection either?

Mr. Harter – I have no more information than that. Based on the comment that I received today, I'm happy to speak with Dave Degear and see if.....

Chairman Dianetti - ....You want to cap it behind the building?

Mr. Harter – No, we can cap it at the right of way.

Chairman Dianetti – So you know where the line is, you just don't know where it connects.

Mr. Harter – We can chase our line to the end of our property but where it goes from there, we're not quite sure. But I can check with Dave and see if he has more information and if he's willing to accept us disconnecting at that particular location.

Mr. Logan – He doesn't need a failure of a short piece of pipe between his main and your property line. I don't know how he is going to respond to that but Dave's the right person to talk to.

Ms. Zollo and Mr. Santoro had no comments.

Mr. Gallina had positive comments about the landscaping. Mr. Logan stated it was a nice improvement and hoped they would be very successful.

Chairman Dianetti discussed a change to the draft resolution that the Board members had received. This will be read in when the draft resolution was read.

Chairman Dianetti asked if there were any comments from the public.

Mr. David Nankin from Chaucer Dr – I was just wondering if there would be designated parking spots for people who just wanted to stop and pick up a pizza and not park on the other side? Is there going to be a designated traffic flow around this area because I'm not the best driver and if someone is going to make a left hand turn against traffic coming from East Victor Road and there are two areas of entrance or exits from the parking lot, if 3 people are turning left, I'll be in trouble. I might sit for half-an-hour before getting out because it's busy there. I just wanted to bring this up to the Board.

Mr. Harter – We have 2 entrances there and a maximum of 55 stalls. We are trying to agree with the curb cuts that are out there. We aren't interested in trying to change it to one entrance. We're just doing our best to redevelop what we have to work with. I'm not aware that we have any potential traffic problems. We don't generate enough trips to really create a traffic problem.

Mr. Mark Crane – I'd like to say that I spent a lot of time with Bill (Landscape Consultant) on those plans. We took the roses out and Bill came up with some really nice plants for that. Both of the entrances are in/out so we don't usually have a problem, even in Fairport on Route 31 where it is very busy. There are long stretches on Route 96 so it doesn't get jammed up because there isn't a light there. I don't think it will be a problem.

Mr. Logan – The thing you have going for you is Route 96 has wide shoulders and people can get around you.

Ms. Evans – This did not end up in a comment letter, it was overlooked. It's to be a suggestion to the Board that they consider curbing outside of the right of way to the first stall, defining that entrance knowing that this is curbed. You don't have to apply for a DOT permit but it would define the entrance better.

Mr. Harter – The reason that we didn't propose curbing in those areas to better define it like you're speaking about is because of the flat topography and the curb impedes the drainage, especially here, that is the focal point of all of the drainage. It hits that curb and it acts like a backslash and meanders over into the gutter and then travels to the cross gutter. Putting curbing here would block the ability of the water to get to its low point.

More discussion took place on the entrance curbing and how over time, entrances seem to get wider without anything stopping cars from traveling off of the driveway. The applicant was in agreement to add the depressed section of curbing.

Chairman Dianetti asked for any other comments and there were none.

## **RESOLUTION**

On motion made by Al Gallina, seconded by Joe Logan

WHEREAS, the Planning Board made the following findings of fact:

1. A Site Plan and Change of Use application was received on December 22, 2015 by the Secretary of the Planning Board entitled Mark's Pizzeria.
2. It is the intent of the applicant to reuse and redevelop the site and building to accommodate the new proposed use as a restaurant with the associated site improvements.
3. A public hearing was duly called for and was published in "The Daily Messenger" and whereby all property owners within 500' of the application were notified by U.S. Mail. An "Under Review" sign was posted on the subject parcel as required by Town Code.
4. The Planning Board held a public hearing on January 26, 2016 at which time the public was permitted to speak on the application.
5. The application was deemed to be an Unlisted Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations and a Short Environmental Assessment Form was prepared.
6. The application was referred to the Ontario County Planning Board under Section 239 of the General Municipal Law.
7. On January 12, 2016, Ontario County Planning Board referred the application back to the referring agency as a Class 1.
8. Codes comments in a letter dated January 20, 2016 and February 18, 2016 have been addressed.

WHEREAS, the Town of Victor Planning Board reviewed the Unlisted Action on February 23, 2016 and identified no significant impacts; now, therefore, be it

RESOLVED, that the project, Mark's Pizzeria will not have a significant impact on the environment and that a negative declaration be prepared.

NOW, THEREFORE BE IT RESOLVED that the application of Scott Harter, P.E, Site Plan entitled Mark's Pizzeria drawn by Professional Engineering Group, dated December 2015, received by the Planning Board December 22, 2015, revised February 6, 2016 received by the Planning Board February 9, 2016 Planning Board Application No. 41-SP-15, BE APPROVED WITH THE FOLLOWING CONDITIONS:

**Conditions to be addressed prior to the chairman's signature on the site plan:**

1. That no final signatures will be given on the plans until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
2. That the comments in a letter dated January 19, 2016 from LaBella Associates shall be addressed.

3. That the comments in a letter dated February 1, 2016 from Zaretsky and Assoc. shall be addressed.
4. That the applicant's signage be code compliant or a variance shall be obtained from the Zoning Board of Appeals.
5. A note shall be added to the final site plan indicating all sewer laterals and associated buried piping no longer in use shall be properly abandoned with associated inspections by the Town's agent to the satisfaction of the Town Engineer and the Town of Farmington Water and Sewer Department.
6. That the site plan shall include curbing at entrance and exits for the intended purpose of defining said entrance and exits from right of way wrapping around into the first parking stall on both sides of the site.
7. That the sign lighting plans shall be consistent with the January 26, 2016 meeting minutes discussion specifically to include gooseneck lighting.

**Ongoing conditions:**

1. That the site plan comply with Town of Victor Design and Construction Standards for Land Development, including Section 4.
2. The building design shall be consistent with the architectural details as shown on the building elevations, entitled Mark's Pizzeria Elevations as prepared by Internet & Media Professionals received by the Planning Board Secretary December 15, 2015.
3. All screening shall be similar in material and color and integrate with the proposed building materials and subject to the review and approval of the Planning Board. This shall include, but not be limited to mechanical equipment, refuse enclosures, transformers, meters, or RPZ vaults.
4. That a pre-construction meeting shall be held prior to the start of construction.
5. Should an underground stream be encountered during construction, the Developer is to address the encroachment and impact to the underground stream to the satisfaction of the Town Engineer.

AND, BE IT FURTHER, RESOLVED, that the Planning Board Secretary distribute the Planning Board's approval letter.

DISCUSSION: Mr. Logan – We had a discussion about the lighting on the sign. The application went to Zoning and then came back. Did you decided to put the gooseneck lighting on the sign? (Yes) I assume that we will need those with the plans for signature. *#6 of the Conditions was added.* So everyone understands, we were talking about internally lit signage

versus externally lit with the gooseneck lighting and they are going to be providing the gooseneck lighting to be in compliance with the code.

Discussion ended.

Jack Dianetti	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 5 Ayes, 0 Nays

There was no further discussion.

Motion was made by Ernie Santoro seconded by Joe Logan RESOLVED the meeting was adjourned at 8:50 PM.