

Meeting Minutes

THE REGULAR MEETING of the PLANNING BOARD of the Town of Cortlandt was conducted via Zoom webinar on *Tuesday, February 2, 2021*. The meeting was called to order, and began with the Pledge of Allegiance.

Chairperson Loretta Taylor presided and other members of the Board were in attendance as follows:

Thomas A. Bianchi, Board Member
Steven Kessler, Board Member
Robert Foley, Board Member
Jeff Rothfeder, Board Member
George Kimmerling, Board Member
Valerie Myers, Board Member

Also Present: Michael Preziosi, P.E., Director, DOTS
Chris Kehoe, AICP, Deputy Director, DOTS
Michael Cunningham, Esq., Deputy Town Attorney

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SPECIAL ANNOUNCEMENTS

Chairwoman Taylor opened by taking a moment to announce that one of the Planning Board Members – Ms. Valerie Meyers will be leaving the Board as she is moving out of State and we want to thank her for her dedication and time on this Board and wish her all the best in her new endeavors. Ms. Meyers expressed her appreciation to the Chairwoman and to all the Board members.

CHANGES TO THE AGENDA

Ms. Taylor stated we have an addition to our agenda tonight and it is a letter from Brad Schwartz, Esq., of Zarin and Steinmetz and it will be added as item “d” under correspondence.

CORRESPONDENCE

PB 2019-1 a. Letter dated January 21, 2021 from Chris Lapine, P.E. requesting the 1st one-year time extension of conditional Site Plan Approval for Gasland Petroleum located at 2051 & 2053 E. Main St. (Cortlandt Boulevard)

Mr. Kessler made a Motion that we adopt Resolution No. 1-21. Motion was seconded by Mr. Kimmerling. Chairwoman Taylor asked on the question? Mr. Foley stated that he will remain consistent and be voting no on this Resolution. Since he voted no on the original Site Plan Approval he will be voting no on the extension. Chairwoman Taylor asked for a vote with all voting “Aye” except for Mr. Foley who voted “Nay”. Resolution No. 1-21 was adopted by a 6 to 1 vote.

PB 3-09 b. Letter dated January 20, 2021 from Eliot Senor, P.E. requesting a reduction in the Performance Bond for the Pondview Commons project located at 3195 E. Main St. (Cortlandt Boulevard)

Mr. Kimmerling made a Motion that we adopt Resolution No. 2-21. Seconded, with all in favor all voting “Aye”.

c. Receive and file the 2020 Planning Board Annual Report.

Mr. Kehoe, explained this is the Annual report we submit to the Town Board each year. Mr. Bianchi made a Motion that we receive and file the 2020 Annual Planning Board report. Motion was seconded with all in favor voting “Aye”.

ADDITION TO THE AGENDA UNDER CORRESPONDENCE:

PB 13-95 d. Letter dated January 27, 2021 from Brad Schwartz, P.E., of Zarin and Steinmetz requesting an additional 90-day time extension or Final Plat Approval for the Mill Court subdivision.

Mr. Rothfeder made a Motion that we adopt Resolution No. 3-21. Motion was seconded by Member Meyers. On the question, Mr. Foley indicated he will be voting no again to remain consistent as he was an original no on the subdivision. Chairwoman Taylor asked for a vote with all voting “Aye” except for Mr. Foley who voted “Nay”. Resolution No. 3-21 was adopted by a 6 to 1 vote.

RESOLUTIONS:

PB 2020-12 a. Application of New York SMSA Limited Partnership, d/b/a Verizon Wireless, for the property of the Lake Mohegan Fire District, for recertification of the Special Permit for an existing cell tower located at 260 Croton Avenue.

Mr. Foley made a motion that we adjourn this case at the request of the applicant. Motion was seconded by Mr. Rothfeder with all voting “Aye”.

PB 2020-14 b. Application of Teatown Lake Reservation Inc. for renewal of a Special Permit for a Private Nature Preserve to conduct a summer camp program and a weekday public program and for amended site plan approval for tree removal and wall removal at Cliffdale Farm for the purposes of improving wildlife movement for property located on the north side of Teatown Road, approximately 3,000 feet east of Quaker Ridge Road. Drawing dated October 27, 2020. (see prior PB's 10-10, 5-15)

Chairwoman Taylor invited Ms. Meyers to introduce the Resolution on this. Ms. Meyers made a Motion to adopt Resolution No. 4-21 to Renew the Special Permit and grant an amended Site Plan Approval for tree removal and wall removal at Cliffdale Farm. Motion was seconded by Mr. Kessler with all voting "Aye".

PB 2020-18 c. Application of Rafael Triana of High Q Electric for Amended Site Development Plan approval and a Special Permit for a Specialty Trade Electrical Contractor for an approximately 34,000 sq. ft. parcel of property located at 1 Dogwood Rd. Drawings latest revised December 4, 2020. (see prior PB 8-99)

Mr. Kessler moved that we schedule a Public Hearing on this application for March 2, 2021 and direct Staff to prepare an approving resolution. Motion was seconded by Rothfeder with all voting "Aye".

7. PUBLIC HEARING (ADJOURNED FROM PRIOR MEETING)

PB 2017-25 a. Public Hearing: Application of Lu Lu Properties, NY for Site Development Plan approval for an office and parking lot for a livery cab service on an approximately 41,376 sq. ft. parcel of property located on the north side of Travis Avenue, west of Albany Post Road (Route 9A). Drawings latest revised October 23, 2019 (to be adjourned to the September 2021 meeting)

Chairwoman Taylor stated this a public hearing but we do plan to adjourn it at the request of the applicant. Is there anyone who would like to speak on this public hearing tonight? There was no one who wished to speak on this application this evening

Mr. Kimmerling made Motion to adjourn this to September 2021 at the request of the Applicant. Motion was seconded by Rothfeder with all voting "Aye".

PB 2020-10 b. Public Hearing: Application of Cortlandt CSG, LLC, for the property of 202 Cortlandt, LLC for Site Development Plan approval and a Special Permit and for Tree Removal and Steep Slope permits for a proposed 2.3 MW community solar power system located on an approximately 33.86-acre parcel of property located on the north side of Route 202, west of Lexington Avenue. Drawings latest revised December 21, 2020.

Chairwoman Taylor stated this a public hearing this evening. Is there anyone in attendance on behalf of the applicant?

Mr. Kieran Siao, project development manager for Dimension Energy on behalf of the applicant introduced himself. On the call with me is Brad Schwartz, Esq., of Zarin and Steinmetz, and Kevin Jameson from Maser Consulting. We are proposing a 2.3 mw solar project north of Route 202 off Lexington Ave. I will try to keep my comments brief tonight. There were two deliverables discussed at our last meeting, the first is our draft bio-diversity assessment methodology. That was drafted at the request of planning staff. Kevin Jameson from Maser is the consultant that drafted that scope and he will be providing the overview. Weston & Sampson, the Town bio-diversity consultant will be completing the work later in the Spring. And second deliverable is a visual and photo simulation and map for the projects. Mr. Siao is hopeful that the Board finds these deliverables acceptable for an approval or refers them back to staff to work out the details to permit us to continue with our work. I also understand the Town has received a letter from one of the neighbor's, George Fouhy, Dimension has reviewed that letter and is happy to provide a response tonight or can provide a written response at the March meeting.

With that why don't we start with the bio-diversity scope and with that I will turn the floor over to Mr. Kevin Jameson from Maser Consulting. Mr. Jameson stated at the request of the applicant we drafted a bio-diversity scope with the understanding that the assessment would take place in the spring season. You see it before you, it is going to focus on the area of the proposed project and some immediately adjacent areas, for example within 50 ft. of the areas of disturbance and not the entire 30-acre plus tax parcel. Our project area is approximately 12 acres in size and that is the area that will serve as the area for the bio-diversity assessment. So basically, we outlined a few items that would go into the bio-diversity assessment, one would be a review of available background information which is pretty typical for a study such as this, a field assessment. We included one to two days of field work in the spring season. We thought biological activity would be the highest in the Spring season with the breeding season for the birds and a lot of the amphibians and some reptiles. In addition, we propose agency consultation if deemed appropriate by the person doing the bio-diversity assessment. We also include a provision for us to accompany the consultant in the field who is doing the bio-diversity assessment. So the idea would be to complete this work and have it submitted by May 19th so we can be on the June Planning Board agenda.

Mr. Preziosi stated that Daniel Biggs , the Town's wetland consultant, is not on the call but he did email Chris and myself some thoughts which I will just hit a few bullet points for the Board's information. In general, it appears the protocols have been accepted in general by the Town's consultant, with respect to what is being proposed. Mr. Biggs had two main points he wanted to make; it may take more than 1-2 days of field work based on the time of the year and the presence of the species. As an example, he thought the presence of amphibians and reptiles may take some time in April and a day in early May and breeding birds in early June. So just 1 or 2 days to get everything done, under the Town protocols may not be feasible. In general, the scope of the study is consistent with Town protocols and there was not an objection to limiting the scope to the areas proposed for disturbances as opposed to the entire site.

Mr. Rothfeder asked why is that? Do you know? I know you can't speak for him. Mr. Preziosi said I don't know. Mr. Rothfeder asked as an example, where did the 50' come from? I guess in looking at a project like this, if we are only looking at the area of disturbance and 50 feet out, aren't we potentially missing a lot of activity that is going on around there that is going to be disturbed by it, even if it is 150 feet from the 1st solar panel. Mr. Preziosi responded, right, I am just going to read Daniel's response. I can't really address it... but I think his point is it is worth considering just focusing the field work on the list of confirmed species and habitats to reduce field time. He didn't object to the proposed reduced in area for study. Mr. Rothfeder stated I guess I would like to know more. Mr. Preziosi stated we can ask Daniel to follow up with information to staff and the Board. Mr. Rothfeder stated I am not an expert but with so much additional land around the areas proposed for disturbances so if you had a disturbance, I don't know say 250 feet, or if you don't notice a disturbance within 250 feet but the fact that now their area all of these solar panels within 250 feet, how do we know it's not disturbing that. Mr. Preziosi stated the turtle's not going to know to stop at the fence and turn around.

Mr. Foley stated I agree with Jeff, you know you don't have to be an expert, I think you need to look at a wider area. I would like to know from Mr. Biggs, why the 50 feet?

Mr. Kessler said the letter and report seems inconsistent with having the report by May 19th because he said work had to be done in May. Mr. Preziosi said Daniel's response said you could inventory amphibians and reptiles in April and May and then he suggested birds and breeding habitats could be late May or early June and then he followed up that plants could start in May and work its way through August. So, I think what he is trying to suggest is that 1 or 2 days may not be sufficient, it might be 2-3 days and it might stretch across the need of May and into June to make sure we hit all of the requirements of the Town's bio-diversity protocols.

Mr. Kessler said but then we are not going to have the report by May 19th. Mr. Kehoe stated that is just the applicant. The applicant wants to get it done by May 19th so they don't miss the June agenda, that is not relevant to you guys, that is their goal, but that doesn't mean you have to agree to it. It seems to me the science will drive when the report comes back.

Mr. Siao said what we are trying to do here is strike a balance here between making sure

this is done properly and we think these dates in April and May are within the window and within the guidelines and discussions we have had with Weston & Sampson.

Mr. Schwartz said that date is the Planning board submission date, so if it takes the Town's consultant until late May or early June to complete the report, that's fine as long as the Town holds its consultant to the same submission deadline. Obviously, we want your Board to have it so you can read it and digest it before the June meeting.

Mr. Preziosi said so rather than be-laboring the point, we can't really perform the bio-diversity study for at least 2 months, the two points I am taking away are to verify the actual number of days in the field and to send up agreed to windows to monitor the different types of species, plants and habitat species so by March's meeting we can have that hammered out and then adopt the bio-diversity study guidelines and confirm with our consultant to hit those deadlines as well.

Mr. Kimmerling stated but the other questions is in terms of the scope, how much of the tax parcel would be in the scope, versus just the areas of disturbance. We need to figure that out as well. Mr. Preziosi stated we will get a clarification from Daniel on that as well.

Mr. Foley asked, Mike what you were quoting from, from Daniel Biggs, we as Board members don't have that yet, right? Mr. Preziosi said Daniel got hung up at another meeting so I am just paraphrasing his e-mail. Mr. Schwartz asked Kieran is it time to move on to the visual simulations?

Mr. Siao said sure, in addition to the biodiversity study the other exercise needed to be completed on site before the March meeting is the visual simulation. then moved on to the visual simulation study. What we have done is to contract with a visual consultant to visit the site, take photos and perform a line of sight analysis and create visual renderings from 6 different geographically diverse vantage points, 2 along the Baron De Hirsch properties, 2 along Lexington Avenue and 1 along Dyckman and 1 from the edge of pavement from Crompond Rd. are representative of the viewshed for this project. The consultant proposes to put together 2 visual simulations for each one, during winter, which is what we are in now, with very little leaves on the trees, and one proposed for the spring with much more foliage on the trees. That is what we are looking to provide at the March meeting. One thing I will mention is at the January meeting, and I believe this was discussed at the work session, is that there were 3 neighbors that volunteered their property for this visual simulation and they are George and Madeline Fouhy, Annea Lockwood and Bill Hart. They all live immediately next door to each other on Baron De Hirsch in the northwest corner of the property and since the January meeting I have spoken with all 3 of the neighbors and they agree that the northwest vantage point, which is at the property boundary for Lockwood property, which is in the center of the 3, is sufficient and representative for all 3 vantage points. We think this is fair as all 3 are so close to each other and the instance to the panels is almost identical. From the parcel boundary to the line of clearing is approximately 380 feet and 520 feet to the panels themselves.

Mr. Kehoe stated as you might have heard at the work session there is great interest in

these vantage points to see what additional plantings might be needed there. The neighbors have already requested but the Board feels it might be best to wait to see what the visual assessment shows before a further discussion on plantings. Mr. Siao stated I would agree with that. Mr. Preziosi said to confirm Kieran you stated you will be doing both winter and summer assessment, correct? Mr. Siao responded so the way our consultant was thinking about it was this, let's start with winter, which is leaf off, the time of year where the project could be most visible. Frankly we felt given the distance from the parcel to the property lines and given the topography we don't feel it is going to be visible at that time of year. So that is what we are going to start with. If we find the system is going to be visible in the winter we would then also do a visual simulation in the spring with foliage to compare and contrast. That said if we find the site is not visible during winter we don't really feel it is necessary to provide another thing for spring but happy to hear the thoughts from the Board.

Mr. Foley stated in the letter from the residents he mentioned a hedge or an arborvitae, 15 feet in height... again that needs to be determined after we see the visual simulations. Mr. Siao responded that's right, I think there was a little bit of mis-understanding in that conversation. I agree with the Board that based on how we sited the project, I don't feel any additional vegetation is necessary but should we find additional screening is required we can consider a row of arborvitae or evergreen trees along the fence line. Certainly, it wouldn't be 15 feet at planting but we would a species that caps out around 15 feet that way it can sufficiently block the system from view but does not shade out the system, but I agree with the Board that we should start with the visual simulation and then we can continue that conversation as necessary.

Mr. Preziosi state so Kieran I just drew on the screen from the spot you are taking the visual assessment, the northern most portion of the site, if you could just shift that point to be more in line with the homes to give a more representative impact. Mr. Siao responded certainly, we can shift.

Mr. Kimmerling stated in terms of vantage points that aren't actually marked, and this might seem crazy as we can't see it in this picture, I am thinking of the vantage point that comes up along that right-of-way, there is a small road off to the left...off of Crompond Rd. that looks like it might have houses on the end, if you were looking at Google maps you would see it. There is no tree line due to the r-o-w, you could potentially see right up to this lower left-hand corner of the array right along the r-o-w so I don't know if we can look at a bigger map but it is actually...there is a road on the map, it is not Baron De Hirsch, but farther west, it is a short road underneath Maple. Anyway, please have a look at that because as you drive by on that road you are going to see straight up that r-o-w into the panels. There is no blockage there at all. Mr. Foley asked George, would it be the road between Baron De Hirsch and Rt. 202 and Maple Row...there is a little road in there. Mr. Kimmerling stated yes. Mr. Preziosi said Kieran, it is the yellow "x" on the screen. It is the cleared r-o-w for the gas pipe line. Mr. Siao asked George is where Mike has the yellow x where you were thinking? Mr. Kimmerling stated actually no it is further west. Mr. Preziosi said I understand George I just put the "x" there because I think that is more representative of the view. George said I understand what you are saying. My point is simply, for the residents on that small street, the enclave of I think 3

houses, we should take into account the impact on them. Mr. Preziosi said I believe the road is Buttonwood. Mr. Kimmerling said right, it is just opposite the Dodge/Jeep dealer. Mr. Bianchi stated we should add a photo point there.

Mr. Kessler asked when you take these pictures it is just 1 static picture or do you take, like every 25 or 30 degrees do you take one from like a different vantage point. Mr. Siao responded it would be a static picture from that vantage point, it would not be a panoramic view. Mr. Kessler said why wouldn't you view it from like from an arc. Mr. Kimmerling said like you are turning your head. Mr. Siao said from a majority of these areas we are several hundred feet away from the project so I think that wide scope will be accomplished even without stitching together multiple photos. For an example the northwest corner, the Baron De Hirsch parcels, that is 500 feet away from where the panels will be, so if we just take one photo looking directly at the area I think you will still accomplish that panoramic feeling.

Mr. Siao said, very quickly just going back to the additional vantage point from Buttonwood, Mike if we could just connect off-line for me to understand where that should be ... Mr. Preziosi said sure I will send you a screen shot of the area.

Mr. Kehoe said one of the issues there is that even if any additional buffering is needed there it can't be on the pipeline easement. Mr. Foley stated Buttonwood is on the south side of 202. Mr. Siao said that is right, I see Buttonwood on Google Earth but I am having trouble....

Mr. Kimmerling said it is on the north side. Mr. Foley said that is what I thought. Mr. Kehoe said it almost looks like driveways, it is a little compound of 3 or 4 houses there. Mr. Preziosi said it is directly across 202 from the contractor's yard, the materials site. Mr. Foley said before the light at Maple Row going west and after the Baron De Hirsch intersection. Mr. Foley asked, Chris would they have even gotten notice of the hearing? Mr. Kehoe responded no, they would not have gotten notice.

Chairwoman Taylor asked if we have pretty much wrapped up this portion....on the visuals if there are members of the public present who would like to be heard on this public hearing.

George Fouhey of Baron DeHirsch Road spoke and indicated that it looks to him that the plans they submitted seem different than the plans submitted back in December. There are some increases in the size of the project between submission of plans to the Board. It was 11 acres and now it appears to be 12. He was wondering if they needed to do a new tree inventory? I was also happy to hear that Kieran is willing to plant a hedge in the area he understood to be between the solar farm and the homes on Baron DeHirsch. It seemed from the plans shown tonight that there would be a hedge planted near Dyckman place which is nice too. I want to be sure a hedge will be planted in the area facing Baron DeHirsch. I understand he is willing to do that. I want to make sure I didn't misunderstand. Mr. Fouhey also asked about cut lines on Lexington Ave. is 100 feet from the fence. The cut line on Baron DeHirsch is 128 feet. In other words taking 128 feet of trees rather than 100 feet of trees and it doesn't seem like this is necessary on the Baron

DeHirsch side and I am just wondering why it is...Kieran told me the reason it is, the reason they need to chop down all those trees is they would cast shadows on the panels. Now that is a pretty steep hill there, now I have been over there, Kieran questioned my right to go over there but I have been here over 20 years, long before Kieran and it is a very steep hill and those trees are not going to cast shadows on those panels because of the nature of the terrain there. The only other thing I have to mention is that nobody has taken into consideration the effect on the traffic pattern on Lexington Ave., it is a different street than Croton Ave. If you have people in the mornings or evenings, on school buses, local traffic...I think someone should ask Dimension about that. It will probably take about a year. You know the one they are doing over on Croton Ave., since at least August, I don't know I just think some of these things should be taken into consideration.

Mr. Foley indicated that he and Ms. Meyers did ask about the entrance/exit on Lexington Ave. and the staging area on lower Lexington and I believe the applicant answered those questions in detail. I was concerned if you were to take the example of where the pipeline is over on Stony St. in Shrub Oak but down here it would seem like it would only be periodic, hauling trees out. It is just north of 202 on Lexington on the left side. Is that what you are talking about? Mr. Fouhy responded yes. Mr. Foley said we did discuss this at the last meeting Mr. Fouhy said I don't remember too much, I don't remember it but if it was covered...ok. Mr. Foley said the entrance would be just up the hill from the Central Turf building....Mr. Fouhy responded yes. Mr. Foley said I was concerned to based on the experience of the other pipeline, the one over by Stony Street but it was explained it would be periodic during the period when they are removing trees and then the equipment for the facility would come in and out via that entrance. Mr. Foley said it seemed like it could be a controlled entrance.

Mr. Preziosi said so what we are hearing is Kiernan if you can, at the next meeting just touch upon traffic impacts associated with construction and then post construction, maybe talk to your professionals and come up with some numbers and discuss potential impacts. Mr. Foley said that staging area is the only place they would be going in and out. Mr. Sao said right, construction is phased so there will be limited construction equipment and folks on site at any given time. The project phasing helps to minimize trucks on the site at any given time and then of course during operation there will be no impact on traffic as the facility is not manned. Mr. Preziosi did indicate that there has been no complaints about issues related to traffic at the other location on Croton Avenue. Mr. Siao said, Mike that is great to hear and I would say that Croton and Lexington are relatively similar, they are both 2 lane residential streets of about 24 feet in width, so that is great to hear.

Mrs. Fouhy stated there is no comparison between Croton Ave. and Lexington Ave. between the traffic on Lexington Ave. and the traffic at the other site. Lexington Ave. is the road people take to get from Rt. 6 to Rt. 202. It is also a very heavily trafficked school bus route. It often gets backed up because it is so heavy in traffic. The other one is a very minor road, people don't use that one that much Mr. Kessler stated that is not true, you have the high school there. Mr. Foley said Croton Ave often has school buses backed up, we reviewed that when we were approving Cortlandt Ridge. Not to take away

from your concerns as we understand them but Croton Ave. is a very busy road. I understand Lexington is busy to, I used to use it every day and there is a concern but my understanding of this staging area is it would be periodic, not ongoing and continuous and after the facility, if it is approved and built, there would be very little in and out, just maintenance trucks once in a while. Mr. Fouhy said I don't think there is any comparison between the amount of traffic on Lexington Ave. and Croton Ave. I take both roads because I live here. In fact I take Croton Ave. if I am going to work in the mooring to avoid Rt. 6 ;like a lot of people do to avoid...not on Rt. 6 but on Rt. 202. Mr. Foley said I understand and I didn't mean to take away from your concern. But I think when it was referred to as a rural road... and we have studied that road up and down over the past years with the proposal along there including the intersection with Rt. 202 and Croton Ave. it went on forever...with that building that was put in there instead of the Car Wash, so I do understand the concerns about lower Lexington.

Mr. Fouhy said I have another question, Dimension said they are going to have 60 employees and the 60 employees are going to have cars I assume they have to drive there. Where are these cars going to park? Let's say they only have 30 cars or 20 cars, where will they put these cars? It is not the same type of situation as Croton Ave. which was a larger area. I don't understand how they are going to handle all of this, the traffic actually.

Mr. Kimmerling asked if there is employees on site, is this during construction? Mr. Siao confirmed that 60 is the total employees on site only during the construction. Mr. Kimmerling said and they will be able to park on site. Mr. Siao said correct. Just as the construction on site is phased, those workers would be phased as well. The site is not manned after it is operational. Mr. Fouhy said say it is just 20 cars, where are you going to put them? It is not a large area. Unless they are going to park right next to the gas pipeline area. Mr. Preziosi explained a construction phasing and sequencing plan will be required so these comments will be addressed as those plans are developed. How many acres will be disturbed, where construction activities occur, how construction activities move from phase to phase. Mr. Foley said according to Code they would not be able to park offsite along Lexington. Mr. Preziosi said typically construction activities are confined to the site on which they occur. So, Mr. Fouhey questions will be responded to as part of that technical drawing preparation and submission.

Mr. Preziosi asked is there anyone else who wishes to speak? Mr. Kimmerling asked I just want to follow up on the comments is it 12 acres or 11 acres? for clarity on the issue Mr. Fouhey asked about – has it increased to 12 acres from 11 acres. Is that correct? Has the project increased in size? Mr. Siao explained it has not changed. The design provided in December is the correct one. 11.1 acres in forest area. Mr. Siao responded correct.

Mr. Bianchi moved that we adjourn this public hearing to March 2, 2021. Motion was seconded by Mr. Kessler with all voting "Aye".

PUBLIC HEARING (NEW)

PB 2020-17 a. Public Hearing: Application of Hemlock Hill Farm for Site Plan Approval for a seasonal beer garden, in conjunction with Captain Lawrence Brewery, to be located at the Hemlock Hill Farm, 500 Croton Avenue described in a packet received by the Planning Division on October 22, 2020. Drawing latest revised January 20, 2021.

Chairwoman Taylor stated this a public hearing this evening. Is there anyone in attendance on behalf of the applicant?

Mr. Preziosi asked Chris do you know who is here representing the applicants. Mr. Kehoe said James Coleman is the engineer, Scott Vaccaro (Captain Lawrence Brewery) and Laura DeMaria is from the farm. Mr. Cunningham also pointed out that Helen Mauch, Esq. represents the adjacent homeowners and she has her hand raised so we will hear from her during the public hearing.

Mr. Coleman introduced himself and asked if he could share his screen. He will give a brief presentation and he thanked the Board for hearing from him again. Mr. Coleman showed photos of the existing farm and farmhouse with market and butcher shop. The proposal is a low-impact beer garden and outdoor picnic tables with screening provided by the existing cornfield that will be serviced by these trailers. All services will be contained in the trailers. All waste will be professionally removed. This is the site plan, we are looking at this image, this way. This is an existing field we are proposing to use as parking. We are widening this gravel line, this is the existing market right here. This is the existing farmhouse, this is where we are proposing new fencing around this area to match this existing fencing here. This is the area for the picnic tables and the food trailers and there is a stage for acoustic music, we are very aware of concerns about noise, so this would be just acoustic. The trailers will be a food trailer, a beer trailer for Captain Lawrence and then a restroom trailer. Since we last met we got comments from the Town the Director of Technical Services and the Director of Code and we will be complying with the various regulations. To answer some of the questions, one dealt with waste management, as you can see there is an existing screened pad for dumpsters...this image is of a handicapped trailer that has an handicapped accessible restroom. Also, the number of people that will be allowed on the site is really limited by the number of bathrooms. These trailers have 6 fixtures which per the Code would allow up to 240 people. We are not expecting that many people but that would be the most. This image is of the food trailer, kept at Scott's Captain Lawrence facility in Mount Kisco. This proposal is only planned to be operation on weekends, Thursday 4-8, Friday noon to 10 and Sunday noon to 8 so more of weekend events type thing. This is a working farm and we are not disturbing that. The farm market and brewery are typically regulated by the NYS Department of Agriculture and Markets to we will be getting permits from them and I am aware the Westchester County Department of Health will regulate the trailers and grease traps and things like that. But as I mentioned the trailers are self-contained they don't create any waste that needs to be managed on-site.

Mr. Kimmerling asked as the trailers taken off site after close on Sunday and brought back on Thursday or do you take them back and forth every day? How does that work? Mr. Coleman said I believe they would stay there and be serviced. The propane tanks, the cooking oil would be replaced, the waste is taken away by a service truck. So the trailers would be there most of the time. They will only be taken away when they are not being used in the off-season. This bathroom trailer is designed to be trucked to the site and lowered down for accessibility. There is a proposed stable walkway surface to serve the trailers from the parking lot. And this is proposed to be a grass area. There will be ADA complaint tables mixed in with the other tables. Mr. Vaccaro asked if I could jump in on the trailers, the bathroom trailer is something we have used on site at Captain Lawrence in Elmsford when we were doing some renovations, we had it for about 4 months. The company comes out and empties it and cleans it as needed, it just requires a 110-volts. The food trailer doesn't need to go anywhere and the beer trailer just looks like a U-Haul like you pull behind a van and has taps coming out of it.

Mr. Kessler asked...a question on the stage, are there going to be amplifiers, is it truly acoustic? Mr. Vaccaro answered it is just acoustic, it is supposed to be mood music. Right now, we have a single person playing down in Mt. Kisco. Mr. Kessler asked is there some backing to the stage or is it an open stage? Mr. Vaccaro replied the thought was it was just going to be a 12 by 12 stage, a wooden deck really, just to elevate the person performing off the ground, they would have the corn behind them basically.

Ms. Taylor asked getting back to the trailers, a quick question, I have 2 actually. On item 4 in your presentation here you mentioned the trailers have their own propane gas and heating systems and the tanks are stored with the trailers. What does that mean, with the trailers? Mr. Vaccaro responded it is pretty typical with a food truck, a truck driving to a locale and setting up for the afternoon, cooking food and selling it, the trailer is no different, it just doesn't have an engine we have to tow it there behind a pick-up truck. The propane tanks are 100 lbs. tanks they are affixed to the rear of the truck itself, they are in a cage and those are what are used to cook. So, Ms. Taylor asked so they are located outside the trailer. Mr. Vaccaro responded yes. Mr. Preziosi responded that they are not a separate free-standing fuel tank. Ms. Taylor said while we are on trailers are there any regulations with respect to the proximity of trailers to where there are people sitting or eating? Mr. Vaccaro said not that I am aware of. The image Jim put up earlier showed an image from this Mt. Kisco operation where the trailers are pretty close. Mr. Vaccaro said just think of it as a food truck in a park. People sit pretty close but we can investigate. Nothing has been brought to my attention. Ms. Taylor said they seem very close. The drawing I have shows the trailers and it seems they are just a few feet from the tables. Ms. Taylor was asking if there are regulations about how close the propane tanks and trailers (single combined use) are in proximity to the tables where people are eating. Mr. Coleman responded he is not aware of any specific regulations about this. It is really convenience, we want them close enough where someone who has limited mobility can easily get to a table. One thing we might considered is moving the path down in front of the trailers so the back of the trailers will be where this fence is. Ms. Taylor said I think that would be goofy to push the trailers back a little further.

Mr. Foley asked about the handicapped bathroom. Is there a ramp? It is unclear from the

picture. Is there a ramp? Mr. Coleman explained this is a luxury bathroom trailer and it does provide a full ramp for the handicapped bathroom. It comes to the site and is lowered down. Mr. Foley said I couldn't figure it out by looking at the image in the lower right, it looked like it was just hanging there.

Mr. Bianchi asked James or Scott I know during the public hearing questions about traffic will come up, do you plan any on-site traffic guidance, telling people where to park, how to get to the beer garden area or do you plan to provide anything at the intersection of Croton Avenue and the entrance to the farm? Mr. Vaccaro responded our thought was to have someone at the top of the asphalt driveway entrance, kind of where Jim's hand is now to direct people into the field . As far as having someone on Croton Ave. I would defer to what we are legally allowed to do to the Town. If we were allowed to have someone down there and it made sense we would. It is a 4-way stop currently, but if traffic dictated we would certainly put someone down there. Mr. Bianchi said my only concern, and I know it is a long road, is that traffic doesn't back on to Croton Avenue so it flows smoothly into your site and parking lot. Mr. Vaccaro responded that is a pretty long driveway. Mr. Foley stated he was concerned in the evening hours, when it approaches dusk, when people are leaving, maybe the Town would have to decide if you need a flag person. I know it is a 4-way intersection but I don't know how well-lit it is, to make sure a person leaving the beer garden area, who has not been there before, can emerge safely. It is a safety concern, not necessarily during the daylight but during the evening. I think they are closing at 10:00 p.m. on one day. Mr. Vaccaro said yes, Jim has down there 10:00 p.m. in discussions with Laura and the farm, maybe 9:00 would be better, but the majority of our traffic is in the afternoon, with a lot of families, however, yes there will be people leaving in the dark. Mr. Foley said but if it is not a well-lit intersection, and I don't know, we would have to ask Laura, if there are any street lights at that intersection that light up the intersection. You may need a flag person when it is dark to help people get out of there.

Mr. Bianchi said just for the benefit of the public, one of the conditions of Mike Preziosi's memo on this project, and I guess it will become a condition in a future resolution there will be a post implementation monitoring period for 1 year to determine if there are any issues or complaints or concerns regarding traffic. Mr. Preziosi said I thought that was one of the best ways to address concerns of the residents related to the intersection. I know it is a stop-controlled intersection but the asphalt road servicing the farm is really a driveway and with the other roads it is really a 3-way stop so by doing that we would at least have the ability to monitor the operations. Mr. Foley said that is a good point in your memo.

Mr. Kessler stated can I recommend we hear from the public please. Mr. Preziosi stated please use the raise your hand function if you would like to speak. I am going to go to the 1st speaker, Helen Mauch.

Ms. Helen Mauch, Esq 290 Madison Avenue NY, NY representing a group of homeowners who reside on Croton Avenue and Maple Avenue and they are strongly opposed to a beer garden on this property which is zoned for residential use. Ms. Mauch explained my intention tonight is to introduce myself to the Board tonight and let you

know we will be putting more detailed information onto the record after she has had a chance to receive the complete application which we do not have yet. We will be putting in written comments to create a record here. I was glad to hear during the work session that the Board plans to adjourn this public hearing so I won't dwell on that point. There are a number of other people and residents who are going to be interested in this project who did not receive notice of this public hearing and that is another reason why my clients are happy to have this hearing adjourned. Just some initial comments and observations on this application, the first is why no one is asking why this is a permitted accessory use in this zoning district. That seems to be assumed based upon the conversations I have heard but maybe I am missing something as I have only been involved in this issue for a couple of hours but it appears an eating and drinking establishment is expressly not a permitted use in this zone. How is the Board even considering this application? If one is able to get around that issue – which might prove difficult than the next question is what are the environmental impacts from this project proposing to bring over 200 people over a narrow and winding road, sometimes in the dark, many of them drinking to this property. What are the environmental impacts of that, to traffic, public safety, noise impacts, visual impacts, community character and possible impacts to the reservoir? Those are the things that would be needed to be looked at if this application were to proceed. There is also a question regarding the conservation easement that is on this property and whether the proposed use would violate that conservation easement once we have the ability to read that conservation easement. Ms. Mauch stated I will research that further and plan to speak to that more next month. There are several of our clients that are hear tonight and can speak more specifically to their concerns. I thank the Board for adjourning this public hearing tonight and giving th opportunity to put in written comments.

Ms. Deborah Crone, 537 Croton Avenue, Cortlandt Manor, NY my property is directly across from Hemlock Hills Farm. My family has owned our property since the 1960's and we have been very pleased over many years about how the farm continued to re-invent itself. We were particularly pleased when the farm was put in a conservation easement preventing future development that could have changed the character of this bucolic corner of Cortlandt. At this point we as a group are puzzled by the conflict that seems to arise when you look at the 2011 conservation easement that was granted to the farm and its use as a restaurant. On the planning drawing there is parking for 100 cars. If you do the calculation of a 100 cars over several hours that could potentially be coming and going over the hours the restaurant is operational, 3 days a week, the impact to the environment, and while I understand the food trucks are self-contained, but there are other impacts that have been brought up by Helen including traffic, traffic safety, noise and really the general character of the area which we understand is in direct conflict with the idea of a restaurant with music where people will be drinking several hours a day during the summer. I am going to leave it there and to my fellow neighbors to raise other issues that are pertinent. We are very much opposed to the creation of this beer garden.

Ms. Liz Truly, 553 Croton Avenue and has lived here over 35 years. Our property is across from part of Hemlock Hill farm. I was here on Hemlock Hill Farm on the day that then Governor George Pataki and Town Supervisor Linda Puglisi came together to celebrate the State's purchase of development rights to the farm. Supervisor Puglisi

announced that this would preserve open space in our community. I have looked at the Town's Master Plan and there is nothing about this project that is consistent with the Town's vision or the spirit of open space. The entire project is ill conceived and contrary to the Town's own plan. What I would like to speak to is the traffic impact. It was said in a prior hearing tonight that there is traffic on Croton Ave. and that is true, there is commuter traffic. Early in the morning and late afternoon. People coming home from the train station. When you exit the farm if you are headed south toward the Taconic Parkway you would travel down Croton Avenue from the driveway of the farm to our driveway at 553 Croton Avenue is about 300 yards, it is basically a straightway. I have raised 2 kids here so I have been out on this street a lot. People tend to proceed at a high rate 40 or 50 miles an hour. Right after our property the road becomes hilly, windy, and narrow, it takes a number of twists and turns. There is an area near our neighbor Ms. Hankin where the highway grade fence has been replaced multiple times due to auto accidents in the daytime where people have missed the curve. I know myself, I have seen in the past year, at least 2 or 3 times that has been breached. That barrier protects a retaining wall that leads to a steep drop-off. It is a very dangerous place. Multiple accident is the daylight, dry weather, I have seen them personally. You proceed past that and you come to a place where you are going to have to make a decision about how you are going to get to the Taconic. You can either proceed straight and go down Baptist Church Road which takes you into the Town of Yorktown and that part of Baptist Church Road which I have been walking daily and know really well, is in really bad shape and also narrow, windy and treed and if you continue across Hunter Brook you have to go around a one-lane blind curve with a steep drop off on one side to proceed down to Baldwin and on to the Taconic. The route that Google Maps would suggest people follow is around the reservoir. After you come down a steep hill you take a 90 degree turn to proceed 2 miles around the reservoir and that is another place where people have regularly miscalculated that turn because of the steep coming down the hill and the fact that it is a 90 degree turn. So, if you go there you will see bumpers littering the road. So we are talking about people that are coming to this, presumably that are not familiar with the area and the road conditions and twists and turns and have had a few beers and possibly driving at night. I am going to suggest to you that this is a situation that really deserves some investigation because that is the way people are going to leave this property late at night. I have had the experience of people crashing outside of my house, hitting a telephone pole in front of Barbara's house about a year ago, they have hit the stone wall across from our house. People banging at my door late at night because they have miscalculated this road. As an elderly person I am not comfortable with people who have gotten into accidents banging on my door in the middle of night and yes it has happened on multiple occasions. So, we are not looking at a situation that is safe in terms of traffic conditions so I urge you very strongly to explore that fact. I urge you to have a traffic study. There is this impression that has been given by Mr. Coleman that there is going to be this nice cornfield that protects the view of the stage and of the porta-potties and the food trucks and the parking lots that are going to serve this area. If you look at this property, the place where they are describing the cornfield, drops off sharply towards the road, so the cornfield won't protect anything. The place where the stage is proposed is a very high point. So it might not be visible form the road level but from every other place it will be completely visible. Along with the sounds travelling, the lights, the noise, the traffic, the smells, everything that goes with it...we are used to the farm smells,

sometimes we have to move inside in the summer because of the farm smells, but we accept that. But this is not something that is designed for a neighborhood particularly one that the Town itself has designated as open space

My name is Marino Turtur husband to Ms. Truly, 553 Croton Avenue, CM, NY. I came here from the City almost 50 years ago for the quiet. I have raised a family here with my wife. I am flabbergasted by this proposal. I can see the field they are talking about from my front door. The corn field rises from the road and goes back about 100 yards and the area designated as the beer garden rises beyond that. The only place it is not visible is directly from Croton Ave. There will be visual impact. Lights, buildings, smells from the cooking, sound from the music will all be highly visible and impactful. How will people find this at night without lights and signage? There are no natural lights here. A night without a full moon you can barely see the roads. The parking lot seems to allow 130 cars and they expect to serve up to 240 people? The parking lot will also be completely visible in an open field. Employee parking is an issue as well. Maybe 30 or 40 employees over two shifts is possible. Memorial Day weekend, July 4th weekend could be major impactful events, do the math that could be over a thousand cars a weekend. Normally this property is positively idyllic, open space, flocks of geese feeding on the greens, with wonderful animals, fox, birds, flocks of turkeys, herds of deer, creatures, snakes, tortoises, they are beautiful. They will be impacted by all this activity. I would like to see this area mocked up in a visual way, a model, photographs from different sites, with audio impacts as well so we can better evaluate. Within a few miles there are probably 75-80 homes, none of which have been notified. I think they have a right to know what is going on. The impact of this place is monumental. Also, I don't know about the music, I can't understand how people are going to wander around this parking lot, through a path without any lighting whatsoever at night. The road is not lighted. The parking lot is not lighted. There is no signage. What is going to happen to all that wastewater from the kitchen. I didn't hear much about all the water use for cleaning. This property is uphill from our small lake as Barbara spoke about. The lake has already suffered an algae bloom over the last several years. It has been expensive for us to get the lake treated. I have spoken enough. Thank you. 132.38

Mr. Paul Stern, 563 Croton Avenue. Mr. Stern thanked the Board for their time and careful consideration for all the projects he heard about tonight. This is his first time attending a Planning Board meeting. He is impressed with the attention that the Board has already given to the other projects on the agenda and he hopes that would be true here in this case as well as this project make no sense given the nature of this area. This house, 563 Croton Avenue was my grandparents' house. I am 55 years old and lived here as an infant. This is tremendously concerning what is being proposed here. We do want to look into an environmental study of the problems we are having with the lake as it is down-hill from the farm. The Twin Lakes area is already seeing impacts from runoff at the farm without this increased proposed use. We are already seeing additional activity at the farm without this proposal. We took our niece to Wilkins Farm to go apple picking and due to Covid-19 restrictions, and parking limitations, the traffic backed up in that area for more than a mile. Parking impacted the entire neighborhood. This is not the experience we wish to have here. This is a quiet part of Town. You will be amazed how infrequently properties change hand here. People stay here for

generations because of the quality of life of the area. Mr. Stern also did a bit of research and it seems like Scott and Captain Lawrence is a successful restaurateur and I suggest he go finds a commercial property to do this at. We will be using this attorney to explore whether this is a violation of the conservation purchase. Recently, there was an article online where Linda Puglisi said the idea behind the conservation purchase was for the DiMaria's to be able to continue to farm here on their 10 acres. This is not farm activity. We do not want all this activity on our weekends. There may be drunk people...he is a successful guy, I am sure he will market this site, try to cross-promote this, do this in a commercial setting. There is nothing personal here against this except its location. This proposal is not harmless. On your website, it says you turnover tables every 2 hours. That will be 100's of cars. Traffic will be lined up down Maple Ave. and up on Croton Avenue. If the Town thinks it would be helpful we could produce a petition against this proposal from the entire neighborhood from Croton Avenue, Maple Avenue, and Furnace Dock Rd and even into Yorktown and Hunterbrook. As previous speakers have indicated the roads going south from this site is narrow, very dark and dangerous with curves. I think this is a terrible idea. Would any of you want this on your block? Finally, I just want to reiterate that this not the location for this proposal. There are plenty of other commercial locations, even in town, if you guys want the revenue.

This is Lang, Ms. Janna Phipps' husband. We live at 581 Croton Avenue, on the lake side. I want to thank the Board for their due diligence and hope the same is done on this project. Raising a few additional points, I am a cyclist and this road is utilized heavily by bike clubs. Either direction, down Dixie Hill where Croton Ave. becomes Baptist Church Rd – there is a blind curve and issues around going up Dixie hill. I am concerned about cycling safety and fatalities. I just want to fine tune a point at 623 Croton Ave. there have been several accidents including one where a car was flipped. A horse trailer jack-knifed at that dead-man curve area. Not to resort to hyperbole, if you put this in perspective and you take the example of Woodstock and then shrink it down to our local little street, for us this is a micro-Woodstock. Wildly disruptive and inappropriate to the area. It pains us to raise our voices in this way, because we love the farm and support the farm. We understand that Laura has been imaginative and entrepreneurial in her approach to keep the farm going. Reiterating what was just said this is not the location for this use. Would you want it on your street?

Steve Brahm, 628 Croton Avenue, which is the house that gives its names to Dixie Hill. It is the house with the big white columns. I have lived here for 20 years and I came up here because I wanted a rural environment. The house immediately to the left of me is Janet Hecken's house, since I lived here, I have seen over 20 accidents. I hope the Board asks the traffic dept. and the police dept. for the number of accidents at that one particular point. When standing with his children for the school bus, he always kept them back from the road because here was such a danger of an accident. It is heavily utilized for recreational purposes including walking, jogging, and cycling. I also ask that the Planning Board to poll all the people who have control over the easement on this property granted to this property and if it is not unanimous among Cortlandt, Yorktown and the NYS Department of Agriculture then I am not even sure why the Board would even be considering this application and discussing fine points like toilet placements and table placements. I would like some clarity on that. How does the Board see it? Finally, for a

Town that routinely justifies shuts down under-age parties due to the dangers of youth driving along these rural roads. To encourage a place that has 100 spots that can be turned over 4 times seems every single night where people sell and drink beer, seems baffling. People do not go to a beer garden to dine and have tea. They go to a beer garden to have beer. At least that is what I always did. The traffic flow will destroy the quality of life here. I am the newcomer here at 20 years. Most of my neighbors have been here for generations. The Town of Cortlandt is admired for how efficiently it runs public service operations. Is this neighborhood a residential area with a grandfathered farm use? Could I have a use such as this? This endeavor in my view has nothing to do with farming. No more than putting up a roller coaster and funnel cakes would be farming. The store may be “legitimate” as it is directly connected to the farm. The beer garden has no direct connection to the farm use. Before the community has to spend a lot of time an effort, we should consider whether this application is even allowed. Thank you.

Mr. Myles Smith, 634 Croton Avenue wishes to concur with the statements that have been made here by our neighbors tonight. We have only been here 2 years and it is pretty obvious that whatever thought that went into putting the idea of a beer garden on the farm was not a well-thought out idea for this area. Thank you for your time.

Chairperson Taylor indicated we will be adjourning this to the next month. Mr. Foley said I make a motion to adjourn this to our next meeting and I appreciate all the comments and, in my view, needs a lot more discussion. Seconded by Mr. Kessler. On the question Mr. Kehoe stated obviously we will meet with the applicant. I have had a discussion with our Attorney prior to this meeting tonight. The applicant really needs to provide us some additional information and Town staff will review it and provide information to the Board in advance of the next public hearing. Mr. Kimmerling stated, Chris I assume someone in the Town will also inform the Board of this Zoning question, whether this is zoned R-40 or some other zoning? From the Zoning Map it looks like R-40. Mr. Kehoe responded that this one of the issues, the underlying zoning and how a use like this would be permitted and the easement and the selling of the development rights to NYS and what would be permitted. Mr. Foley stated he would like more information on the easement issue and the agricultural district.

Ms. Laura DeMaria asked if she could speak briefly. As the 3rd generation owner of Hemlock Hill Farm she is feeling pretty shocked about the neighbors being so upset. That is not our intention here. She understands the neighbors stated concerns which are valid. But she is also feeling that there is a significant misunderstanding here mainly about the easement. In 2004, when she graduated college and started working at the farm, her goal and mission was to get that farm preserved. To ensure that it stay in an agricultural zone and specifically to prevent the development of housing there due to the fact of the population of the surrounding area and that we are in a watershed area. In 2006, when we were awarded the grant, we also began working with Captain Lawrence. Captain Lawrence is critical to our operations. We feed about 100 of our cattle with the grain from Captain Lawrence which is a by-product of making beer. This has been a long-term successful, sustainable business and agricultural partnership between Hemlock Hill Farm and Captain Lawrence. We also sell Captain Lawrence beer at our store and our clientele supports both of us. For several years now, we have conducted small fall

festivals with a band, food truck, pumpkin patch and farm tours, for about 5-6 hours a day, we wrap it up by about 7:00 p.m. We run about 3-4 of those a year. So that was our vision was to expand that. With COVID our clientele have asked us to expand these types of events. Not to be like a Wilkens Farm and bring in thousands of people or a Fishkill Farms but we do want to give our community a little more of what they were asking for. That really is the reason behind this application. In the past we have received nothing but support from our neighbors and we thank you for that. Hopefully we can just figure this out between now and the next meeting.

Chairwoman Taylor asked for a vote with all board members voting “Aye” to adjourn this public hearing to our next meeting.

9. OLD BUSINESS

- PB 2020-19** **a** Application of Lexington 202 Group, LLC for Site Development Plan Approval for a change of use to a self-storage facility to be located in the former Elmsford Sheet Metal Building located on an approximately 5-acre parcel of property at 23 Arlo Lane. Drawings dated December 21, 2020. (See prior PB 34-88)

Chairperson Taylor recognized the applicant’s architect Ron Hoina. Ron shared his screen and indicated that Paul Ferraro was also on. I apologize, we re-submitted these to you today, it was a mad dash to get the survey. We tried to address most of the questions between the letter and these drawings. Ron indicated we attended the work session and heard some of the questions from the Board and from the walk-through. I apologize for not adding directional arrows to the parking area. There are no changes being proposed to the parking area. We do not plan to change the in/out traffic pattern at all. We will be re-striping everything. We will be picking up additional parking with the removal of this shed on the asphalt area. With regard to bathrooms, our preference is to have a single restroom on the site because there are no employees on site. Our plan is to have one but we can accommodate 2 if that is required by building code.

There was a question in the work session about office space. We are removing all office space from the mezzanine, 3,00 sq. ft. That is all planned to come down. We did add some windows on the exterior, new door. Adding a sliding automatic door by keypad, to tenants only. Ron showed a visual of the building to give the Board a better idea. We are adding a locked trash receptacle area. Security cameras are provided both inside and out. We are adding exterior site lighting and at the outermost foot candle line it is a ¼ of a foot candle shielded, so no spill past our property. The back corner came up at the work session. There is an existing wood area that connects to the office mezzanine. Again, that will all be demolished as part of this. There will be no mezzanine on the inside. Loading docks will remain where they are and we would be utilizing them for possible large storage – for example an entire office moving. But for smaller individual homeowners they could just use this field, park here, and come in through the key operated doors. We are not changing the pavement at all – just re-striping. It looks like someone cut in new site drainage in the back of the building. We are not touching any of that. All the site topography has now been added to the plan. Paul stated the existing

grading remains exactly the same. Paul stated if the Board members have any additional questions I can answer them. Ron said that is all I have

Mr. Foley asked if the applicants can elaborate on security a bit more since this building is not staffed. Paul Ferraro responded that our business model is a customer signs a contract lease and there will be an employee of ours that will show the new tenant how to get into the storage unit. After that initial visit to show a customer how to access their storage unit, there are no more employee on that site. There is an initial access point meeting with an employee. Of course, maintenance staff members will come in and out a few times a week. Changing light bulbs, sweeping, etc. Staff members to keep an eye on the facility. Those staff members keep an eye on the facility as well as significant security cameras.

Mr. Foley stated my concern is security without an on-site person. If anything is occurring there will you be aware of it through the surveillance cameras? Paul explained there are staff members keeping an eye on security cameras which are monitored as well 24/7, 365 day a year with an emergency hotline. People will be monitored coming in and out of the facility. Ms. Taylor asked what is the hotline. Paul explained if there is a tenant there and they have an emergency they can call right away. If it is a real emergency we would advise them to call 911 but if it is an issue with a keypad access or something, we can assist with that through the hotline.

Mr. Foley said so there is no separate outside storage. There is no way for them to access their storage from the outside, standing out there in the parking lot. Mr. Ferraro said no, this will all be interior storage. Mr. Foley stated ok because it is an isolated area and that was a concern. The other concern is about the main entrance/exit to the Bear Mountain Parkway. If you are not there all the time. Or don't work there like the Town highway, Verizon or Cronin Engineering or whatever other facilities are there, so these would be people new to the neighborhood facility, I was concerned about the in and out. Your main entrance in would be the one furthest up the hill there. Mr. Ferraro said this is the main entrance. Mr. Foley said so near the intersection That is the way I went in, I visited the site visit last Sunday afternoon, I couldn't be there in the morning. I was just concerned because I had not been in that site for many, many years and when you come up that little crest of the hill and come back on the Baer Mountain Parkway and even cross it, the sight line...you know I was just wondering if that entrance was too close. Mr. Hoina said this distance is over 200 feet Mr. Kessler said but this is really the question, once someone has a unit how often do they visit the site? Paul responded in our experience about two or three times a year. Mr. Kessler said so Bob I wouldn't worry about it. Mr. Foley said, Steve I visit family units and it is sometimes more than and it can be more, much more than 2-3 times a year, it depends if it is an office, go to any storage site, they are in and out all the time. Mr. Kessler said I was just asking him based on his experience. He knows it better than you do I would think. Mr. Foley said but he doesn't know the future tenants ... I am just giving my first-hand experience.

Chairwoman Taylor asked if anyone had any other input at this point? Mr. Kimmerling made a Motion to direct staff to prepare an approving resolution at the March Meeting. Seconded by Mr. Kessler with all voting "Aye". Mr. Kehoe said staff will prepare a

resolution for the Board to consider next meeting and if all goes well they can approve the project. Mr. Preziosi suggested the applicants follow up with him as well as Martin Rogers the Building Inspector before the next meeting as well.

- PB 6-15** **b.** Application of Hudson Ridge Wellness Center, Inc. for Site Development Plan approval and a Special Permit to reuse the seven existing buildings located at the former Hudson Institute property to provide a 92-bed private residential treatment program for individuals who are recovering from chemical dependency on a 20.83-acre property located at 2016 Quaker Ridge Road. Drawings dated December 4, 2018

Chairperson Taylor recognized Mr. Bob Davis representing Hudson Ridge Wellness.

In view of Mr. Woods' legal memo which your Board reviewed at your work session and also the significant presentation made at the January Planning Board Meeting, Mr. Davis stated I did not prepare a formal presentation for this meeting. But in light of some of the discussion at the work session and I know included some esoteric issues, which in my mind was going somewhat astray from Mr. Wood's memo in which he set forth the proper procedure for the Board to be advised of on page 2 - #7 of his memo. A few further comments in that regards. Mr. Davis referenced his communications and correspondence of 12/17/20, 1/4/21 and 1/21/21. The last item on the 1/21/21 included an email to staff where I set forth the proper sequence to follow under SEQRA and that dovetailed nicely with Mr. Woods' legal memorandum which had the same procedures.

Notwithstanding your past practice which is quite understandable and intuitive in the way Mr. Kehoe outlined and I understand that has been the practice in the past. However, properly under SEQRA which has to be adhered to fairly strictly according to the Courts, a positive declaration or a negative declaration or a conditional negative declaration is required to precede the public hearing. Of course, it can always be changed based on the facts at the hearing and ultimately you have to make SEQRA findings anyway in support of your determination.

Importantly in this regard as we discussed last month, you also have from me our January, 2019 submission where we fully analyzed the SEQRA criteria which is required to be considered in adopting a Positive Declaration or a Negative Declaration and we demonstrated under that, that we feel under that we are entitled to a Negative Dec. Along those lines, you also have from March of 2019 our 54 stipulated conditions which could be conditions not only of approval but a Condition Negative Dec. You also have as you referenced at your work session the rather thick 4-volume set we produced in March of 2019. There is a reason why that submission is so thick in dealing with issues raised by neighbors. First of all, we worked on and we satisfied with your consultants the two main issues that the public raised which were off site wells and traffic and we did that to the Town's consultant's satisfaction in showing that there would be no significant adverse impact on off-site wells or traffic.

Then also, importantly, you may not be aware that we addressed each and every public

comment in those volumes, no matter where it was raised from 2015 all the way to date even from social media. We probably addressed thousands of public comments. So apropos of Mr. Woods' memo in making your initial SEQRA determination is not whether there will be any adverse impact but whether there will be a significant adverse one. We feel the voluminous record before you shows that there will not be any significant adverse impact and Mr. Davis' believes the Town's consultant basically agreed with that.

Notably in that regard, as you probably know, there is no new building construction proposed here and no impact on any sensitive environmental features. So respectfully what we would propose to you tonight is that as required by SEQRA you have to make your Neg Dec or Conditional Neg Dec as we believe is warranted, or a Positive Dec if you are so inclined, before you schedule a public hearing, and as Mr. Wood suggested on page 2 of his memo probably the proper procedure you want to follow is to ask your staff to prepare a Resolution with your SEQRA declaration for your consideration at the next meeting. Then the public hearing would be set based on that. Again, we believe Mr. Wood's memo sets forth the proper procedure in that regard. Thank you.

Chairwoman Taylor thanked Mr. Davis for his comments.

Mr. Subin stated he would like to clarify one thing which is Tom Wood has previously said to stick to your custom and procedure so I have received instructions from him in that regard. Mr. Davis responded that he respects that customs and procedures are good but the Courts require strict compliance with SEQRA particularly in this contentious situation we have had for some many years. It is important for everyone's benefit to follow the rules and that is clearly what Mr. Wood says in his memo. At this point the Board must make a determination of significance. That is by adoption of a either a Negative Declaration or a Positive Declaration of significance. The Board can direct the staff to prepare either determination for consideration and he goes on to explain that it is after that you would hold your public hearing. Mr. Davis stated it is not that he is trying to be adversarial here in any way at all. It is just that as you know this matter has been subject to contention and litigation and he wouldn't want the determination of the Board which was very carefully considered be able to be challenged because there hasn't been what they call "strict compliance" with the requirements of SEQRA.

To a certain extent the applicant appreciates the Board's discussion at the work session and wanting to move things forward. Certainly, we do as well after 6 years but we don't want to be penny-wise and dollar foolish so to speak, by not following the procedures that the law requires as opposed to what custom and practice is. Even though Mr. Davis agrees that custom and practice makes some good sense, it is just not what the law is requiring.

Mr. Subin responded he understand Mr. Davis' position on this. Mr. Subin stated he and Mr. Wood have spoken ad nauseam about this. We believe we are in compliance with what SEQRA requires. Mr. Subin personally feels it is riskier to change procedures at this point. Mr. Subin thinks deviating from what this Board has always done in practice, which would make it seem like special circumstances and something that is much

more.....if you are afraid of being litigious, I do not think that is the way to go in his opinion. We can agree to disagree on that. Mr. Subin believes we are in compliance. Mr. Subin states Mr. Wood believes we are in compliance and that is really all Mr. Subin has to say on that point.

Mr. Davis stated you do have a memo outstanding from the Town Attorney that sets forth a particular procedure and that is all Mr. Davis' is saying and it seems to be a little bit at odds with what Mr. Subin is stating here this evening. Mr. Davis believes Mr. Wood's memo states the proper procedure on page 2.

Mr. Kessler stated he believes he is hearing Mr. Davis indicate that he would be OK with the Board taking that time to make that determination and delaying the public hearing until such time as we have reviewed your 4 volumes and all the other materials that you have submitted, however long that takes. Mr. Davis responded he would not agree with Mr. Kessler statement of "however long it takes". Mr. Davis said we are not trying to elongate the process. Actually, just the opposite. We wish to expedite the process at this point. Mr. Kessler asked Mr. Davis if he recognizes that it will take time for us to review that and make that determination and he is OK with that. Mr. Davis responded that no matter what sequence you do it in, that would have to be done anyway and he would just prefer that we do it in the proper sequence. Mr. Kessler asked Mr. Davis if he is saying it has to be done before the public hearing so Mr. Kessler is just trying to get an understanding of the order of operations here. So, if you want us to make that determination, we have to review all the materials and that will delay your public hearing and inquires to Mr. Davis if he is OK with that. Mr. Davis responded he thinks again what he is saying..... Mr. Kessler interrupted and stated it is a yes or no question. Mr. Davis responded it is an order of magnitude question. The determination under SEQRA is supposed to be made, as Mr. Kehoe pointed out in the work session, that determination is supposed to be made as early as possible in the process. That would be prior to a public hearing.

Mr. Kessler indicated that has been somewhat complex in this case due to the nature of all the court actions. It was hard for us to act until all of this was resolved. Mr. Davis responded of course. Mr. Kessler stated today is day 1 as far as he is concerned. We have all of this material to review so my question again is are you OK with us making that determination prior to setting a public hearing and for us to review that materials.

Mr. Davis responded that he has respectfully pointed out that the procedure he thinks should be followed is set forth in Mr. Wood's memo. That means making a determination first, which necessarily I guess means that you would have to review what you want to make a determination on. Mr. Davis pointed out that as Mr. Wood suggested it should be made to ask staff to prepare a Resolution for your consideration. In the interim you would have an opportunity to review....

Mr. Kessler asked how can he ask staff to prepare a Resolution if he doesn't know what he wants that to indicate a Positive or Negative Dec until after we have reviewed all the submissions. Chairwoman Taylor agreed with Mr. Kessler's question.

Mr. Subin said just to clarify because he really does not want to get into a he said, she

said situation here. While we were in this meeting, Mr. Subin texted Tom Wood and asked him about this and he responded we should stick to the customs of the Board. Do not deviate from prior procedure.

Mr. Rothfeder stated that Mr. Wood's memo does not say that we should direct staff to produce a Resolution. It says that if we choose the option of for example, Positive Declaration, then the staff would produce all the studies completed to date and as Mr. Kessler just stated this Board would have to review all of this, which could take months before we can make the determination as to what we want to do before the public hearing.

Mr. Subin stated he would have normally called Mr. Davis last week and discussed some of these details but he was pretty ill last week and thankfully he is feeling better. Mr. Davis responded he understands. Mr. Subin indicated he would have tried to iron some of this stuff out prior to the meeting, so he does not want to get into too much of a lengthy debate on procedure at this point. But please know that was on Mr. Subin's mind. Mr. Davis indicated he understands and is happy that Mr. Subin is feeling better.

Mr. Davis stated if the Board feels that its procedure is to schedule the public hearing then he certainly is not going to belabor the point. He is just asking that some attention be given to what SEQRA actually requires as opposed to what the past practice might have been. The memo says what it says but if the Board wants to go ahead and schedule something differently, then by all means. We are not going to be argumentative with the Board. Mr. Davis indicated he was basically trying to express a concern that we be careful to follow solid procedures in this particular case.

Chairwoman Taylor indicated one of the issues with the other group who has formed in opposition of this proposal is they wanted the applicant to organize this material into the 4-volumes and make it easier for them to get through it. Mr. David stated we have done that. That was the point of the 4-volume consolidated submission. Ms. Taylor believes that 4-volume submission may not have been what the residents were requesting. Her belief is they wanted something more concise and targeted to specific concerns. Mr. Davis responded that they can read Volume 1 which is the "executive summary". The whole reason we have been at this for so long and the reason why that 4-volume submission is so thick is because of our adversaries, I am sorry it is inconvenient for them, but the Board asked us in January of 2019 to consolidate everything we did. We did that immediately and we organized it quite well. If they want to stick with the executive summary portion of the document then that should be a good summary for them. If the Board wants to go ahead and schedule a public hearing at this time, then Mr. Davis believes they have ample documentation to do so.

Mr. Kessler stated to Chairwoman Taylor's point, is Mr. Davis stating that out of all the materials we received all we need to look is the 4-volume submission to determine Positive or Negative Declaration or are there other documents and materials that you have submitted that you would like us to consider in making that determination. Can Mr. Davis give us a list of all the things he feels is pertinent to our making that determination or should we just say it is the 4 volumes.

Mr. Davis responded to Mr. Kessler that is a good question. There has only been a couple of items which were submitted since the 4-volume set and Mr. Davis highlighted those at last month's meeting. There has been additional correspondence with your traffic consultant in April of 2019, which you have. There is also a report from your hydrogeologist responding to the neighbor's hydrogeologist. So really it is those things.

Mr. Kessler asked Mr. Davis if he could provide the Board with a list of what exactly would complete the record from his perspective in terms of the materials and dates. Mr. Davis stated is only a few things. You would not want the whole Zoning Board record, right? Mr. Kessler responded can you provide what you want to be part of the record for the Board to look at to make a determination. Mr. Davis responded we will definitely submit that to the Board. We might ask John Meyer consulting to do an addendum to the 4-volume set and it will probably be just the items Mr. Davis reviewed at last meeting.

Chairwoman Taylor asked about timeframe for that submission from Mr. Davis. Mr. Davis responded he believes it would be in the next week or so. Chairwoman Taylor indicated sooner rather than later is good because we want to give the Board a chance to review prior to our next meeting. If not, then we will need to move this discussion on to our April agenda. Mr. Davis understands.

Mr. Rothfeder asked what is the point in waiting on the public hearing if that is not going to be our approach. If we are not going to make the decision about SEQRA before the public hearing. Mr. Kehoe stated it seems the Board has decided that we will go ahead and hold the public hearing following our customary procedure. Mr. Rothfeder stated and using what Mr. Davis sends and also what we hear at the public hearing we will then decide on Pos Dec or Neg Dec.

Mr. Davis would suggest to the Board that they look at Volume 1 of the 4-volume set which summarizes the points on the key environmental issues. Ms. Taylor thanked Mr. Davis and encouraged him to submit this material as soon as possible. Ms. Taylor recognized Mr. Kessler who made a Motion to schedule the public hearing on this for March 2, 2021. Motion was seconded by Mr. Kimmerling with all voting "Aye".

ADJOURNMENT

There being no further business before the Board this evening the meeting was adjourned at 9:31.

Next Meeting: Tuesday March, 2 2021