

0A regular meeting of the Town of LaGrange Planning Board was held at the LaGrange Town Hall, 120 Stringham Road on Tuesday November 21, 2013. Chairman Stacy Olyha called the meeting to order at 7:00 p.m. Board members John Gunn, Bob Straub, Dennis Rosenfeld Frank Sforza, Joe Zeidan, Mark Komorsky and Tony Brenner were present. Also present was Wanda Livigni, Administrator of Public Works, Walter Artus from Storm water Management Consultants Greg Bolner from CPL and Ron Blass from VanDeWater & VanDeWater

Ms. Olyha said she had a few corrections and fill in the blanks that she gave to Eileen and Mr. Gunn said we need to reinforce using the microphone when people are talking. Ms. Olyha agreed.

Mr. Gunn made a motion to accept the minutes of October 17, 2013, seconded by Mr. Straub and the motion carried unanimously. MINUTES ACCEPTED.

**PUBLIC HEARINGS:**

**NORTHEASTERN TRUCK & TRAILER SPECIAL USE PERMIT –**

Proposed Special Use Permit located on Industry Street (Grid No. 6361-03-162267)

Mike Triglia appeared before the board. He said he was before the board for a Special Use Permit to operate a body shop at 10 Industry Street.

James Englishby of 10 Howard Road asked the hours of business, what types of vehicles are being repaired, is there a paint booth and is in compliance with all rules and regulations, do they plan on using all the buildings on the property for their business and does the permit include the back use of the building by Power Plant Motorsports or is the back of the building going to be rented out to other tenants. Does this business require a site plan. He asked about the expansion of the back parking lot, asked about working on vehicles outside, will there be an sandblasting of vehicles on the property, will this business produce excessive noise.

Mr. Straub made a motion to close the public hearing, seconded by Mr. Rosenfeld and the motion carried unanimously. PUBLIC HEARING CLOSED.

Ms. Olyha said all response to comments have to be in writing and once the board receives it, the board can move forward.

Ms. Livigni said as per the Chairman's request she pulled out the previous file for this property and this pertains to this and the Power Plant Motor Sports. The property owner has to install a fence along the back side to be compliant with the site plan. She said the fence has to get installed and said if the Chairman directs her and the board agrees she will write a letter to the property owner and copy the board and the Power Plant applicant as well. She said the current site plan is not in compliance with what is out there. Ms. Olyha said the site plan did show that a fence was there at one time but it is no longer there. She asked if they shared the fenced in area. Mr. Triglia said those are Power Plant's spaces, the ones in the back and he added there is a fence back there. Ms. Livigni asked him where he parked his vehicles and he said he parks them on the side. He said cars are put in the back if they are not driveable. Ms. Livigni said where you put the cars overnight has to be fenced in. Mr. Triglia said he pulled up Dutchess County Parcel Access and it said it was zoned auto body shop and asked if that changed in time. Ms. Olyha said it doesn't go along with the property, it goes with the owners. Ms. Olyha said it is zoned industrial. She said that permit went with Mr. Ciencio. Ms. Livigni said the code requires each new business to get its own Special Use Permit.

Ms. Livigni said if he had more questions he should speak to Ken McLaughlin, the Zoning Administrator. Ms. Livigni said at the site visit the board noticed there was no fence back there.

Ms. Livigni said the board saw a fence out there and she assumed the board would want the same kind of fence with the vinyl slats. Ms. Olyha said there is a chain link fence with no slats, just in the front and along the east side of the property. She said the backside at the moment had nothing. Ms. Olyha said she would like a stockade fence if that is per our code and she said the board agreed with it.

**OBRIZOK SPECIAL USE PERMIT** – Proposed Special Use Permit located on Freedom Plains Road containing .43 acres (Grid No. 6361-03-031257)

Mr. Bob Obrizok appeared before the board. He said he is here for a Special Use Permit for auto repair and sales on a piece of property that has been special use permitted since 1986.

Ms. Olyha opened the public hearing. There was no comment and Mr. Straub made a motion to close the public hearing, seconded by Mr. Straub and the motion carried unanimously.

Ms. Olyha talked about a fence along the front. Mr. Otrizok said the fence there runs straight back from the building on both sides so there is an obstructed view from the road. Ms. Olyha said the reason why auto bodies have to have a fence is for overnight in case there is a car overnight, it's for security reasons. Ms. Olyha asked if there was a fence that went around all the way. Mr. Otrizok showed the board what he needed to do. Ms. Olyha asked what type of fence he wanted and Mr. Otrizok said the chain link and asked if it required the slats. Ms. Olyha said she thought per the code that it did. The board referred to the code. The Board said the code just stipulated that the fence needed to be 6 ft., and the board agreed that no slats were needed.

Mr. Otrizok asked would it be required for 3 sides with the building be one side or 2 sides just running back to the stockade fence. Ms. Olyha said the building would count as a side and Mr. Otrizok asked what about the stockade fence against a residential building, and Ms. Olyha said if they tie in. Ms. Olyha said the permit would be conditioned on the building of the fence. When the fence is in, you get the permit.

Mr. Straub made a motion to grant a special use permit, seconded by Mr. Gunn and the motion carried unanimously.

**LOIS SPECIAL USE PERMIT** – Proposed Special Use Permit located on Noxon Road containing 10.99 acres (Grid No. 6450-01-295892)

Ms. Robin Lois said she is looking for a special use for an addition to their home, a 24 x 14 feet garage. Ms. Lois said it's special use because of Sprout Creek, it's not any closer to the creek, just an extension of the house parallel to the creek. Mr. Gunn asked does it touch the buffer and Ms. Lois said yes. Ms. Olyha said this is in the Stream corridor overlay zone.

Ms. Olyha opened the public hearing. There was no comment from the public. Mr. Rosenfeld made a motion to close the public hearing seconded by Mr. Brenner and the motion carried unanimously. PUBLIC HEARING CLOSED.

Mr. Rosenfeld made a motion to deem the project as an unlisted action and to grant a negative declaration pursuant to SEQR because the board finds that the project will not have a significant adverse impact on the environment because the impacts have been identified and suitable mitigating measures have been incorporated on the plans and/or in the reports. The motion was seconded by Mr. Brenner and carried unanimously. NEGATIVE DECLARATION.

Ms. Olyha asked about storm drainage for the addition and Ms. Lois said it goes in the opposite direction, toward the shed, the back and Ms. Olyha asked if it will have a

bathroom and Ms. Lois said one bathroom and there will be storage on top. Ms. Olyha asked about checking septic size and Ms. Livigni said the building Department looks at it

Mr. Straub made a motion to grant a Special Use Permit, seconded by Mr. Gunn and the motion carried unanimously. SPECIAL USE PERMIT

**NEW HACKENSACK TIRE & AUTO SPECIAL USE PERMIT** – Proposed Special Use Permit located on Noxon Road containing 1.65 acres (Grid No. 6261-04-904196)

Mr. Ken Greco appeared before the Board. Ms. Olyha opened the public hearing.

Mr. Straub made a motion to close the public hearing, seconded by Mr. Brenner and the motion carried unanimously. PUBLIC HEARING CLOSED.

Ms. Olyha asked about the fence. Mr. Greco said he is working with Jim Black. Ms. Livigni said if the board is considering granting this, could they do with the condition that the fence be installed. Ms. Olyha said yes. Ms. Olyha said this is adjacent to residential so the backside should have some screening of some kind. Ms. Livigni said the site plan showed landscaping and Ms. Olyha asked are there trees along that back side where the fence is going and Mr. Greco said no, and added there are trees there to the neighbor's property which is the old Lewis so the trees are there and the other side has a fence which is adjacent to Holland Pools. Ms. Olyha said Mr. Maine is next door so his property has no screening. Mr. Greco said there is a stockade fence there now further in, and it's Jim Black's fence. Ms. Livigni asked Mr. Maine if there was a stockade fence and Mr. Maine replied no. Mr. Greco said it's not along the edge, it's in more toward the Jim Black side. Ms. Livigni asked is it parallel to Mr. Maine's property only further in? Mr. Greco replied right, it's more toward the inside of Jim Black's property. Mr. Gunn asked Mr. Maine if he could see the transformers from his property. Mr. Maine said no. Ms. Olyha said so if the fence is there then they have to put it on 2 sides because they are going to use the building as a side. Ms. Olyha said as long as it is completely enclosed and as long as the stockade fence is screening for the neighbor, then that's fine. Ms. Olyha said the board cannot issue the permit until the fence is installed.

Mr. Straub made a motion to grant the Special use Permit conditioned on the installation of the fence, seconded by Mr. Gunn and the motion carried. SPECIAL USE PERMIT

**COVERED BRIDGE FARM SPECIAL USE PERMIT & WETLAND PERMIT** Proposed Special Use Permit and Wetland Permit located on Stringham Road containing 45 acres (Grid No. 6460-03-338270)

Mr. Day said this property has a 50 foot access on Stringham Road, and added it's 100 + feet and it's a large flag lot with the majority of the property on the opposite side of Sprout Creek, He said they are proposing constructing a bridge over Sprout Creek as it

is the only access to the property in which Matt will construct home and agricultural buildings. He said currently he has cattle on the property.

Ms. Olyha declared the public hearing open. There were no comments. Mr. Straub made a motion to close the public hearing seconded by Mr. Gunn and passed unanimously. PUBLIC HEARING CLOSED.

Ms. Olyha asked if there was an EAF. Ms. Livigni said the applicant responded to the public hearing comments from the last meeting. Ms. Olyha said they were mainly concerns about the creek and flooding out there and that went along with the wetlands. Ms. Livigni said Mr. Artus reviewed the EAF. Mr. Artus said recommended the board consider granting a Negative Declaration for the wetland permit and Special Use permit and that will allow the applicant to move forward with the DEC.

Mr. Rosenfeld made a motion to deem the project as an unlisted action and to grant a negative declaration pursuant to SEQR because the board finds that the project will not have a significant adverse impact on the environment because the impacts have been identified and suitable mitigating measures have been incorporated on the plans and/or in the reports. The motion was seconded by Mr. Brenner and carried unanimously. NEGATIVE DECLARATION.

#### **OTHER BUSINESS:**

**SHELL STATION SPECIAL USE PERMIT LOT LINE REALIGNMENT** – Proposed Special use Permit: Lot Line Realignment located on Rte. 55 (Grid No. 6460-02-827873) declare lead agency

Mr. Gary Beck Jr. of Z3 Consultants said this is for a proposed Special Use Permit and Lot Line Realignment. He said he is asking the board to declare themselves Lead Agency and set a public hearing in December. Ms. Olyha said we got several comments back from the agencies and said she didn't think there was any objection to the town being Lead Agency. The Board declared themselves Lead Agency.

The issue of the public hearing was discussed and Ms. Olyha asked if we ready and Mr. Artus said the plan set was complete. Mr. Blass said on the request for the public hearing to go back to the last meeting, there are a couple of issues that are open and they are of a zoning nature that fall within the jurisdiction of the Building Inspector, the first issue concerning the Planning Board's request for a determination as to whether the drive-thru in the town center business zone might be devoted to a fast food restaurant and the building inspector is currently working on that issue and has issued a set of questions to the applicant which he said was in the planning board packet. He said those questions have not been answered yet. He said the 2<sup>nd</sup> issue was the question of whether or not the areas at the pumps beneath the canopy could be treated as parking spaces for purposes of the site plan or special permit proposal. He said as far as he knew there is no modification of the plans to discontinue use of the parking at that spot for an alternative place so that is also an issue of interpretation that is resting

with the Building Inspector, in order to answer that particular question. He said those questions are not answered so going ahead with the public hearing to some degree is at the applicant's own risk relative to the investment of time and effort to prepare and proceed with those questions being open. He said the applicant should be heard on that. Ms. Olyha said whatever the determinations that are made by the Building Inspector could potentially change the site plan that we would be having the public hearing on. Mr. Blass said it's possible. He said there is some element of proceeding towards a public hearing on a fluid playing field which would be the applicant's burden to some degree. Ms. Olyha asked did we receive anything back from the comment letter that he sent out and Ms. Livigni replied no. She said there had been one email from Mr. Lapine asking if a submittal had been given to Ken and she answered him that there had been. She said he also inquired about what questions pertained to that submission and she told Mr. Lapine to put his question in writing and she has not seen anything.

Ms. Olyha asked Ms. Livigni if Mr. Lapine requested a public hearing and Ms. Livigni said he made no indication but she said the board should be aware that the town board has a public hearing scheduled for December 11<sup>th</sup> for discussion on a drive-thru moratorium, and added it doesn't necessarily affect what the board chooses to do. The public hearing may be opened and held open until the moratorium is over. Mr. Adams said we can't assume it's going to happen until it happens. Ms. Livigni said all she is saying is it could be a public hearing that is left open. Ms. Olyha said if it does go forward, can we have the public hearing at all. Mr. Blass said there is a proposed moratorium law that would affect the continued processing of this application in the event that it was adopted. It is not yet adopted, it is currently a proposal and scheduled for a public hearing on December 11<sup>th</sup>. It may be adopted on December 11<sup>th</sup>, it may not be, so the bottom line is he thought that pending legislation is not really relevant to the question of the applicant's request for a public hearing. Ms. Olyha said if we set the public hearing, that means they have to advertise the week before and spend all the money and if there is a moratorium set prior to when the hearing is held, then do we go forward with the hearing that they have advertised for. Mr. Gunn asked when the moratorium would take effect. Mr. Blass said if it was adopted, it would be done on December 11<sup>th</sup> and it would be effective in a day or 2 upon filing in Albany with the Secretary of State, So it would be effective prior to the board's public hearing and would result in the cancellation and voiding of the public hearing. Mr. Gunn asked LaGrange's precedent and asked do we usually do it in 2 days and Ms. Olyha replied yes. Ms. Olyha said when we say you are proceeding at your own risk, when they advertise and spend the money to do that, if the law passes it null and voids the public hearing. Mr. Blass said it is an additional element of proceeding at your own risk, in addition to the other point he was making, that there are 2 additional outstanding zoning issues that are in need of resolution by the Building Inspector and there is an element of proceeding at your own risk to go to public hearing while those 2 issues are outstanding and unanswered. Ms. Olyha said so if he makes a determination other than what the applicant considers favorable, that too would null and void a public hearing. Mr. Blass said he would think it would have the affect of probably seriously interfering with the review process here and potentially result in it being suspended while people proceeded

to the Zoning Board of Appeals, under the hypothetical of a decision that was adverse to the applicant. Mr. Gunn asked Ken's ETA on getting back on this. Ms. Livigni said ken responded, it is us who is waiting for a submission. Ms. Olyha said we are waiting for the applicant to respond to Ken's letter. Mr. Adams said they not defer the public hearing because we've not referred to the letter containing requests for 21 different items as to how the store is going to be operated. We had 2 determinations that the use is permitted and the Board should go forward today with the facts that exist today. He said right now it is a permitted use until it is contrary and it is not a permitted use, otherwise we would view this as just another delay. Ms. Olyha said that is what the determination is all about, whether it is permitted or not. Ms. Olyha said that is the whole idea behind Ken's letter so that he can make a determination. She said a determination has never been made, so it's up t he board now to make their decision to go ahead and schedule the hearing or are we going to wait until these issues that the applicant responds to ken's letter so that Ken can make a determination and also the issue of the parking spaces whether those parking spaces under the pumps count as parking spaces, otherwise the site plan has to be changed. Mr. Straub said he thinks we have to wait for these facts to come in, otherwise we are presenting something to the public that is incomplete. Mr. Gunn said if the applicant decides to go forward at this own risk given all the various things that are going on, who would speak for the applicant to say go forward. Ms. Olyha asked who is our official person who is supposed to be speaking for the applicant. Ms. Livigni said Chris Lapine was designated but he is not here tonight. Mr. Mitch Nesheiwat, applicant said Chris Lapine was supposed to be here, he tried to call them. He said as far as he knew those 2 issues have been answered, the last comment from the Building Inspector was an investigation letter as to how he is going to run his operation, and added he sent a letter prior to that answering the issues from the last meeting of the Planning Board. He said the letter he sent, he didn't see it mentioned here. Ms. Olyha said that is in the packet. Mr. Nesheiwat said after that he got 42 questions like an investigation. Mr. Nesheiwat said it is something he cannot answer, the color of the uniform, how the cash register will work, what color the cup of coffee. All these kinds of questions, he doesn't understand what this is. Mr. Nesheiwat stated he wants to go forward with the public hearing. Ms. Livigni said what the Town Attorney and the Board is trying to say is there is a risk doing that in the events things change and Mr. Gunn was asking are you accepting that risk because if something changes you may have to re-advertise. Mr. Nesheiwat responded yes, no problem.

Ms. Olyha polled the board with moving forward with the public hearing:

John Gunn	yes
Robert Straub	No
Dennis Rosenfeld	yes
Tony Brenner	yes
Frank Sforza	yes
Marc Komorsky	yes
Stacy Olyha	No

The Planning Board set the public hearing on December 19<sup>th</sup>.

Mr. Blass said referred to an open issue from last month concerning providing elevations for the 2 sides and the back. He said it should be ready for the public hearing. Mr. Beck said Bob Tinkelman has them.

Ms. Olyha stated let the record show; Mr. Joe Zeidan joined the meeting.

Mr. Tinkelman described the addition to the building, including a covered porch being enclosed, the drive-in window and the rest of the building is currently as you see it. Mr. Gunn said he thought the porch was going to be open. Mr. Tinkelman said it's being designated as an employee area and they want to be able to increase bathrooms. Mr. Gunn again said he thought the plan was to not enclose it. Ms. Olyha said many issuances ago and then they changed it at the end of July/August. Ms. Olyha said it's a transitional thing here, it just keeps changing.

**DALEY FARMS DEVELOPMENT** – Proposed subdivision and site plan located between Titusville Road and Colleen Court containing 233.36 acres (Grid Nos. 6360-03-081270, 099220, 229310)

Mr. Pete Setaro appeared before the board. He said he thinks everybody knows what the project is. He said the submission they made wasn't completely detailed because they want to take it one step through the process. He said they provided plans showing grading for all the houses and town homes, the road layout is there, the utilities are on there. He said they have not done utility profiles yet. He said they want some initial comments from the board and consultants which they have received from SMC and CPL. He said they would like to get to a point where they are ok with the road and the layout of the utilities before they jump to the next phase and anticipated they will have one more round of plans. He said they've done soil testing, they had 4 large lots that were on the Colleen Court end and have done soil testing there. He said they did a lot more surveying because they have to start the process with the DEC for the stream crossing and bridge. Mr. Setaro said they have to make a waterline connection through the town property where the sewer plan is for the Simone Drive area. He said they are going to take their central water line and connect it to the existing water line. Mr. Setaro showed Noxon and Titusville Roads, the rail trail. He said they talked to the Town Board about adding an additional lot over where he showed the board, by the pond. He said the reason behind it is they felt it was an isolated area there and for security and keep the 4-wheelers from going around the pond, if we had a house there it would help security wise. He said the lot is approximately 3 acres. He said they met with the Town Board in October and they were fine at that time. He said adding one extra lot would require an amendment to the original Daley Farms PDD. They wanted to make sure the lot would be approvable so he met with the DPW. Currently there is a gravel access road that goes down into this area that used to be for the mining operations and it was recently upgraded when the DPW came in for a drainage issue and they actually did a nice improvement there. He said the county was fine with the site distance and he said he has to submit a plan to them with a letter. He said their soil testing was good. He

said they went to the Town Board and told them this and they said they would still be in favor of adding the lot but they would have to go through the process to amend the original PDD.

He said he didn't remember if he discussed the extra lot with the Planning Board before and the board say yes, he did. Mr. Setaro said they are going to start the process with the Town Board, file a petition and they will have to include some information in terms of the SEQR process because they believe, as does everybody else, that adding this one extra lot is not going to create new environmental impacts that would rise to the level that they have to look at a supplemental EIS. Mr. Setaro said they do need to provide information and file the petition and it would be referred back to the Planning Board.

Mr. Blass said if you are going to modify the PDD the Planning Board would be getting a 2 part package from the Town Board. First, a referral of this small amendment of the PDD for the board to make a recommendation back to the Town Board as to whether it should move forward with the legislative change after public hearing to allow for the additional lot. Second, this matter of adding the additional lot will require some level of SEQR procedure, a consideration by the board as to whether or not there was a need for a supplemental EIS in order to address this small change, or whether there is not.

Ms. Olyha asked if we needed to do a public hearing and Mr. Blass said no, he said the Planning Board would get a referral to make a recommendation to the Town Board so the Town Board could consider proceeding with a public hearing to make a legislative change to amend the PDD. Mr. Setaro said short of that he wasn't sure there was much they could do here tonight.

He said the plan is basically the same and they have quite a bit more engineering they have to do but they have some comments and they can start meeting with the consultants and move to the next step. He said they would make one more submission, completely detailed in accordance with the preliminary requirements. Ms. Olyha asked is it going to be a part of the water system or have it's own well. Mr. Setaro said they have to discuss that, they are proposing it would be served by an individual well; one of Greg's comments was connecting to the water system. Mr. Bolner said there is a hydrant right across the street at the end of Scenic Hill Dive. Mr. Bolner said the DPW work they are doing ends at Titusville. He said there is a water main across the road that is a part of the district. He said the development is being brought into the district. He said it's minor. Mr. Bolner said he felt it was important for the Planning Board to weigh in on the phasing plan. They submitted a phasing plan and until that phasing plan is finalized, it's hard to go forward with developing erosion and sediment control plans that take into account the phasing. He said he didn't know if the board was prepared to comment on that. Mr. Bolner said his other question: is there a proposed light at Titusville, it wasn't shown on the plans. Ms. Olyha said it's going to be one of those lights that coordinate with each other, so it will be one light on one side of the bridge and one light on the other side that coordinates with each other with left turns. Mr. Setaro said they had a preliminary meeting with the DPW 2 or 3 months ago. He said the question of the light came up and he told them was that they would start to put

together some conceptual plans based upon the turning lane that they would need into their site and they would follow it up with some plans to them and start the discussion. Mr. Setaro said one of the things they said could potentially happen is that there is a possibility of a 2<sup>nd</sup> light might not have to be put in right off the bat until sometime where there is a certain number of dwelling units put in or occupied and that if there was the need for the 2<sup>nd</sup> light they talked about a bond to ensure that when they did want the light, they had security that it would be installed. He said they are gathering some right of way information and they have some as-builts of the recent work in front of Golds Gym and they will put together a concept plan and anything they submit to the County, they will share with the town. Mr. Setaro said there's meetings that are held and he is sure that the DPW will want a representative from the town there. Mr. Setaro said preliminarily they were thinking phase I would be the access road coming up into the town house area and they would pick up a certain number of lots in the town house phase. He said it would include of set of building townhouses and some storm water management. They would include lot 137 as part of the first phase because once it is subdivided they could sell that. Mr. Setaro said the next phase would be to extend the road up into an area he showed the board, so they could pick up some of the single families. He said the 4 larger single family lots that come off Colleen Court would also be in the 2<sup>nd</sup> phase. He said obviously whatever infrastructure was needed to support that section of road, storm water management basins, water and sewer, we have to get in to that a little bit more. He said phase 3 would be no roads, but they would put more blocks of town homes in there. He said the idea is to break up the mix. He same some of this might change, depending on market conditions. He said the goal was try and mix some single family homes with town homes. He said so phase III is primarily an addition of blocks of town homes. Mr. Setaro said phase IV is a part of the loop and include some single families on both sides of the road. Ms. Livigni asked if they would be looking to do this like the Frank/Sleight model? Filing as you went along and Mr. Setaro said yes. Mr. Setaro said they are aware wherever we ended the 1<sup>st</sup> phase they would have to rough grade a section of the road to get over to Colleen Court and they would have to get into the details of that. He said he understood they had to do a secondary access for emergency access. So, he said actually that would be done as part of the 1<sup>st</sup> phase. He said Phase V would finish out the town homes. Phase VI would be the rest of the loop and lots on both sides. Mr. Setaro said the cul-de-sac road is last. Ms. Olyha asked what phase was the parking lot for the rail trail and Mr. Setaro said he would assume they would do that right up front. Ms. Livigni asked is there a potential they would do the phases based on the market so they would be out of order. Ms. Livigni said all the infrastructure has to work independent and Pete knows this, but if it's a moving target in terms of which way they go. Ms. Olyha said when do # 3 they are going to have to all the infrastructure even for 5, they just wouldn't build the buildings. Mr. Bolner said to the extent that the Board would want to be flexible on that, obviously if something went out of order it may be a matter of having to go back and re-evaluate whether that storm water address that phase. Mr. Gunn asked about rough grading and how rough was rough. Mr. Setaro said they have to be able to make it passable so if there is an emergency the vehicle can access it if they need it.

He said that was made clear to them early on. Mr. Komorsky said enough to support an 80,000lb vehicle. Mr. Setaro said they have a lot more work to do on this but they at least want to start the thought process. He said they met with their applicant and went over as best they could and added he was sure it would change.

Mr. Setaro said they will figure out a time to meet after the holidays.

**HIDDEN POND ESTATES SUBDIVISION** – Proposed 10 lot subdivision located on Noxon Road containing 30.3 acres (Grid No. 6360-03-478160); update/discussion

Mr. Brian Stokosa appeared before the board. Mr. Stokosa said they've had 3 public hearings on this and each hearing went on, less and less people showed up. He said he drilled home the concept that this subdivision actually alleviates some of the downstream drainage concerns. He said additionally they met with them after the meeting to visually convey the positive aspects of this project. He said the public hearing is closed and provided a fairly comprehensive response to the public comments as well as SMC and CPL comments. M. Stokosa said they have run through some additional calcs for the drainage and satisfied Greg's concerns regarding spill capacity, added more detail construction aspects to the project. He said there are 2 common driveways and each one supports 5 lots individually and one comes up through the 50-foot sub section through Bart Drive and the other one kind of trickles through the municipal water piece owned by the Town of LaGrange. He said he was before the town board to give them an update on the progress. He said they are coming up on 2 years with this project and through the planning process they have had multiple iterations of this concept. He said originally when they met with the Town Board, the plan looked a little different. He said they had the common driveway coming in at Noxon Road and the one coming off the 50-foot sub-section along Bart Drive. He said through field visits and public input, it has morphed into this current concept. He said in the previous month, in October is when they first brought it up to the Town Board about this driveway that encroaches on to the Town piece and then they had this small attenuation basin associated with 2 bio-retention facilities located in front of lots 7 & 8. He said he believed the Town Board was ok with the common driveway aspect encroaching onto the town piece, it was more the disturbance associated with the attenuation basin that raised an eyebrow. He said so they went back and were able to remove the small attenuation basin. He said there was another pond and tweaked some of the volumes, some of the sidewalls were a little steeper in one spot. He said they had 4:1 slope on one side of the pond and they are now 3:1. He said from a safety standpoint, it doesn't affect the backyard of these parcels. It does allow them to remove the small pond. He said from a maintenance standpoint, common driveways and looking at all these storm water maintenance issues, individually, the original thought during the public hearing phase was an HOA to handle the storm water aspect. He said the drainage improvements specific to helping the downstream neighbors, the maintenance in talking through this with Greg and Wanda was to incorporate this within the drainage district so the town has the ability to go in there and make sure these things are maintained properly because there is such a big impact to the neighbors

downstream. He said the fact that they moving one of the ponds helps that. So now we have one pond, one thing to worry about.

Mr. Stokosa said he couldn't see any negative sides to removing that pond. He said he will fine tune the drainage report to reflect that but he did run the numbers on it before the Town Board meeting and the drainage numbers are lower in post development phase than pre. He said they left it with the Town Board that they would run it by the Planning Board to make sure you are ok. He said left it conditionally and Ron and Ken Stenger would work out the language modification to the contract, specific to this piece. Mr. Stokosa said Walter and Greg may have some comments on his recent submission. He said the applicant is anxious to move this ahead and hopefully get a Negative Declaration and a preliminary approval and they get working officially with the Board of Health.

Ms. Olyha asked how they would have access to the deeper, wider pond. Mr. Stokosa said there is going to be a blanket easement across the entire piece, it will come along the common driveway of lot 4 and he said he will have to work out the details but he thought the best way to do it was in between lots 2 and 3, but overall blanket easement across the entire piece. Mr. Straub asked who owned the pond and who is going to maintain it. Mr. Stokosa said the town. He said it's unfortunate that these storm water regulations have gotten out of control with the maintenance aspect of it and the rules and regulations are fairly intense but unfortunately they threw the burden on to you guys on enforcement and making sure these things function properly. He said in a situation like this, a drainage district protects the town. Ms. Olyha asked about adding ponds in the backyards and Mr. Stokosa said no he didn't do that, he said all he did was less disturbance. Mr. Stokosa showed the disturbance line and added they are basically going to ride the existing stone wall and they will hug the edge of their common driveway. He said Wanda brought up at the town board meeting, there is going to be a passive recreation easement across this piece minus the common driveway. Delineation, you sell these things on paper but 10-15 years down the line, people start cutting down trees and he said Wanda mentioned some kind of monumentation on there. He said in other subdivisions in East Fishkill they have plastic styled monuments that actually say do not cross, protected conservation area and that way it's a visual, not just a monument that nobody understands and they stick out of the ground 3 feet. He said you put these at each property line where it intersects the stone wall so people know that they are not supposed to go in that area. Mr. Straub asked what is with the over capacity of that pond, do you have a number. Mr. Stokosa said if you look at pre V post numbers, we are probably 15 CFS less. He said it's a substantial decrease theoretically. Mr. Straub said we are getting more and more water and they call us a Saudi Arabia of the United States now, he said it's going to get worse not better and he said 5 years even, not 10 and asked has that been projected. Mr. Straub said the new mandate from DEC is infiltration, get the water in the ground before you attenuate. He said that's how this plan has been developed. We have rain gardens, vegetative swales and bio-retention areas. He said there's 3 forms of infiltration before we get to the holding pond stage, which is the bigger pond they described. He said all the infiltration

practices they propose, he doesn't account for infiltration so he basically assumes they are impervious so there's a credit there to the future.

Ms. Livigni said it's rerouting storm water that would be inundating Noxon Knolls and it's going to re-direct it to a wetlands, God's natural storm water treatment, and that's already been looked at. Mr. Bolner said now the storm water comes through the neighborhood through piping and they are re-directing around the neighborhood and it comes back to the same stream. He said it's not re-directing the water to a location that it didn't go before. Ms. Olyha asked if the big pond was a retention or detention. Mr. Stokosa said it's like a bath tub, there's an outlet structure at the end of it so it fills up and eventually trickles out down to this area. He said how they have designed the spillway for the pond, these things are designed to convey 100 year storm, there's heavy rip rap so the conveyance mechanism to handle the overflow is there versus a 24" pipe that's in the ground and full of sediment. He said these things will be maintained and in speaking to Mike Kelly, instead of having round culverts for this spillway, they've shown an arched culvert so now we get the capacity at the bottom of the culvert so if debris gets caught in there, it can push through. Ms. Olyha asked what does it do for the 2, 5 & 10, do they go straight through. Mr. Stokosa said everything is retained. A question if all of the culverts were elevated was asked and Mr. Stokosa said there is a 2 feet deep channel probably 4 feet wide with a cover over it and it is designed to get the water in and through. Mr. Bolner said to clarify, it is detention, not retention in the sense that there's not going to be a wet pond there, it will be dry when it is not raining. Mr. Bolner said it will have an outlet structure lower that will be smaller that will allow for the smaller storms. Mr. Bolner said it slows it down, it doesn't hold it. Mr. Stokosa said this pond has a 3" orifice at the bottom and it has a gate valve and it's always meant to be open.

Mr. Straub asked Mr. Artus if he was satisfied and Mr. Artus said he hasn't looked at eliminating that small basin, he has looked at everything else and Greg's office has looked at it in detail. He said he is satisfied and taking Brian at his word that eliminating this basin and enlarge the other one is going to have the same result. Mr. Stokosa said this is a very sensitive site with sensitive neighbors. Mr. Stokosa said at the last public hearing nobody was present. Mr. Stokosa said he would love to take this to the next step so we could start working with the Board of Health officially. Mr. Stokosa said he thought the elimination of the pond helps. Mr. Artus said the applicant actually addressed the SEQR comments 1 or 2 submissions ago but he had reservations making a recommendation to the board relative to SEQR until all the drainage issues were resolved. He said once he read Greg's latest comment memo a few days ago, he felt he could make that recommendation where the Planning Board could consider making a SEQR determination and he added he did prepare a resolution with that in mind. Mr. Artus said as far as preliminary subdivision, he thought they may be a little premature with that, until he's looked at eliminating that basin making sure with the Health Department those septic play out properly.

The Board had no comment so Mr. Straub made a motion to deem the project as an unlisted action and to grant a negative declaration pursuant to SEQR because the

board finds that the project will not have a significant adverse impact on the environment because the impacts have been identified and suitable mitigating measures have been incorporated on the plans and/or in the reports. The motion was seconded by Mr. Gunn and carried unanimously. **NEGATIVE DECLARATION.**

**NICOLOSI SPECIAL USE PERMIT** – Proposed Special Use Permit located on Sleight Plass Road (Grid No. 6362-03-241425)

Mr. Charles Brown of Talcott Engineering appeared before the board. Mr. Brown said we had the public hearing and responded to the comments in writing and the additional things they needed to take care of was the variance for the garage, which they received. Health Department approval letter was received, they are waiting for the Neg Dec from the board. He said during the ZBA meeting they had correspondence from the DEC concerning a stream that ran through their site and he said he did research and it does not, it's about 800 feet upstream and he sent the town a copy of that. He said they are looking to get the Special Use Permit approved.

Mr. Straub made a motion to deem the project as an unlisted action and to grant a negative declaration pursuant to SEQR because the board finds that the project will not have a significant adverse impact on the environment because the impacts have been identified and suitable mitigating measures have been incorporated on the plans and/or in the reports. The motion was seconded by Mr. Gunn and carried unanimously. **NEGATIVE DECLARATION.**

The board set an escrow for \$200. Mr. Straub made a motion to grant a Special Use Permit, seconded by Mr. Rosenfeld and the motion carried unanimously.

### **HESS STATION PRE-APPLICATION DISCUSSION**

Mr. Shah appeared before the board. He wants to do truck rental for u-Haul, maximum 2 trucks. Ms. Olyha asked him why did Mr. McLaughlin refer him to the board. Ms. Livigni said she believed because there was a concern as to how many vehicles would be stored on the site. Mr. Gunn said this is basically a satellite u-haul site. Ms. Olyha said this falls under the filling station/auto repair shop which requires a fence for vehicles stored overnight. Mr. Gunn said this is not a repair shop and Mr. McLaughlin's letter said it required site plan. Ms. Olyha read Mr. Mclaughlin's memo. The board discussed the subject of a fence needed at a gasoline filling station. This is not surrounded by a residential zone. Ms. Olyha read a portion of the code. Mr. Gunn said we see places like this all the time where they have a couple of h-hauls and he said you are not going to ruin the buhaulolic splendor of Apple Valley by putting 2 u-hauls in the back end of that lot. Ms. Livigni said the Planning Board might want to look at the # of parking spaces assigned to it by looking at the last approved site plan. She said the determination has been made by the Building Inspector and if he wants to contest it, he can appeal that to the ZBA. Mr. Shah said he met with the Building Inspector. The Board continued to discuss the u-haul and Ms. Livigni said they have to get the real map that was approved for this site.

Ms. Livigni told Mr. Shah there's 2 paths, you can proceed with what the Building Inspector says is an amended site plan and between now and next month we can locate the approved site plan but that also requires you to come in with an amended site plan fee. Or you can speak to Susan from the Zoning office and make application to the ZBA to argue that you don't need an amended site plan. Ms. Livigni said we will look for the approved site plan. Mr. Shah said he had a site plan. The board looked at the site plan, the parking spaces that were not delineated. Ms. Olyha said when Apple Valley had the issue with parking and we had to change the parking within Apple Valley, the Fire Inspector at the time said he wanted the section closed that was between that bank and this parcel, so that did open up an area where parking could be put there. Mr. Komorsky asked the size of the trucks. Mr. Shah replied 10 ft. and said also the van. Mr. Livigni said if you are going to commit to 2, you are going to be held to 2 and Mr. Shah responded absolutely. Ms. Olyha asked is this going to be a part of the convenience store business and gas station business. Mr. Shah said no, we will operate. Mr. Straub asked if he would have a sign and Mr. Shah said no. Mr. Shah explained the u-Haul process to him. Mr. Straub said he doesn't see why we have to put this man through circles. Ms. Olyha said Ken said this would be taking up 2 parking spaces and added she didn't think Ken realized when they closed off the property between the bank and this property, which was never parking before, now it could be potential parking. Therefore the 2 spaces could move and be parallel parking along that side road. Mr. Straub said he didn't understand the issue. Mr. Straub said he understood Ken's letter but was challenging the need for the letter. Ms. Olyha said we can't challenge the letter, it's not our jurisdiction to challenge, the only one who can is the applicant. That's why Wanda gave him the option to go to the ZBA. Mr. Straub said we have this man in a loop. Mr. Zeidan said some of those trucks are going to stay there, and Ms. Olyha said yes, there is going to be 2 parking spaces permanently devoted to U-Haul whether it's a truck being in there or a car that somebody brings and takes a u-haul and leaves their car behind.

Mr. Shah said if he remembers correctly, he can count the spaces at the pump as parking spaces also, right? He said because at Noxon they are considering the spaces for 8 parking spaces. Ms. Olyha said that's a question if it goes to site plan. Mr. Shah said please this is very busy season and he is stuck in the loop. Ms. Olyha asked what the required spaces was for this originally and the answer was different, some said 10, some said 8 and Ms. Olyha said 6 and added back when this was made, the pumps didn't count. Mr. Gunn asked do they now? Ms. Olyha said we don't know. We are waiting for that determination.

Mr. Straub asked what is the decision and Ms. Olyha said we can't make a decision, the applicant has to, and we gave him two paths. Mr. Shah said he would go to the ZBA. Mr. Zeidan asked if there were trucks there now and Mr. Shah said no. Ms. Olyha said there was a van there this afternoon and M. Shah said it was his personal truck, he's been renting for one month because they need to transfer the milk, his coolers broke down.

**BEST WESTERN PLUS/INN AT THE FALLS PRE-APP DISCUSSION –**

Mr. Don Swartz appeared before the board. Also present was Carol Rosell, General Manager of the facility. Mr. Swartz said he submitted a plan and a brief letter to the board and said the existing parcel is 3 ½ acres and by code the building is a R-1 occupancy. He said the site is zoned C-2 and it's in the stream overlay district. He said they are also within the AE and X zones as well as a portion out by Red Oaks Mill Road, which is out of the floodplain. He said the existing facility has 40 guest rooms, fitness center for guests, continental breakfast room, a business center, and the site currently has 41 parking spaces. He said he has a ground floor plan of the facility, not parking, and it's just under 18,000 sq. ft. He showed the board plans of proposed drawings of an addition to the building. He said they will be creating one new room by elimination of some of the features inside the building within the existing structure and then a 21 room addition that will result in a total of 62 guest rooms. There will be an enlarged fitness center, business center and the laundry room will be coming up to one of the upper floors. He said this is done through some reorganization internally and the elimination of the meeting room on the upper floor. The parking lot will be 65 vehicles from the original 41 and a tour bus parking area because they do get buses in there now. He said it's not a necessity that space be in there because if 41 people come off of that bus, 41 room are taken so the bus could parallel park in the number of the spaces on the lot. He said it will make maneuvering through the facility a little easier for a vehicle that size. He said the footprint of the addition itself is just under 5,000 sq. ft. which is about a 27-28% increase of the site. According to C-2 regulations, we are within the threshold of all the zoning requirements because the parcel, from a density standpoint, they have much more land than seen when you look at the facility. He said they are aware the project will involve expansion and relocation of the septic system and they are aware there is municipal water available, the client would like to remain on private well. It may or may not depending on the ultimate layout of the septic and the definition of the floodplain in terms of the AE zone line, the ability to re-use the existing well or perhaps a new well, but their initial goal is to re-use the old well.

The points of ingress and egress will be staying relatively the same and he said as they develop this a little further, probably going to be moving the one on Romca road just slightly and a little closer to Red Oaks Mill, or may not. Mr. Swartz showed the board the plan. He described the plans to the board. He said the gray outline is the addition being proposed. Mr. Gunn asked about a conference room. Mr. Swartz there is one on the 2<sup>nd</sup> floor that will no longer be there. Mr. Gunn asked if this would be having Chamber of Commerce or Rotary Club meetings and Mr. Swartz said no. He said under the portico, there's a big round window and there is a meeting room in there and that is getting chopped up into a couple of different functions. He said the meeting function is going to cease. Mr. Komorsky asked which area will the tour buses being coming in and out of. Mr. Swartz showed the board, he said tour buses don't fit under the portico so they come in Romca Road. He said the current proposal is to still come in there and described where they would park. He showed the board the 21 rooms being added and showed the board the drop off zone. He showed the board the existing parking lot configuration and showed the lower parking lot being a loop format.

Ms. Livigni asked where the well was and Mr. Swartz pointed it out. He said looking on the maps, they have yet done a floodplain designation but the AE line comes where he showed the board. He said the addition is out of it. Mr. Swartz said while they don't have a determined flood elevation yet, they've understood now why this building stands high up out of the ground, he said he assumed it was for flood. He said presently there is a basement that runs under the entire area and right now the fire suppressant tanks off the well, sprinkler water in some very large tanks and they would be doing something similar. He said laundry is being taken out and put on 2<sup>nd</sup> floor.

Mr. Swartz said they will be taking half of the long glass wall out, said there will be a central hallway, double loaded corridor with rooms down each side, a fire stair and secondary entrance off that back parking area, carded so they would be able to get back into the building. Mr. Swartz said architecturally, their goal is to make it look like it's always been there. He showed the board the addition and the existing portion. He said they are using same materials and rooflines. He said that's where we are with it. He said he understood there is a potential for a gateway zone planned in that area and he didn't know where they fell with that or what impact it would have on them. He said he believed they were wholly compliant, they have not gotten into the details in terms of percentages but he said they were significantly below their total impervious coverage, and said they were probably in the 38-42% range. They are not creating any more impervious in the AE zone but they are within the flood zone that you have established but he thought the largest impact to that stream corridor was made when they built that building and said he didn't know if what they were doing was really going to be impacting that. Mr. Swartz said the only non-conformity he knows of with the C-2, with hotels or inns, is that you limit them to 60 rooms and we are proposing in aggregate of 62 at this point. If that becomes their only sticking point, they would perhaps re-evaluate that or go to the ZBA for a variance on those 2 rooms. Ms. Olyha said we would have to check the code to see if that is something they could waive or not. Ms. Olyha asked does the flood zone change since the top of the dam fell off last year. Mr. Artus said FEMA hasn't taken that into consideration but he said what could say which could be of benefit is he lives about 300 feet up the street and he was hit with a letter that said he needed flood insurance and he went through the process for a letter of map amendment and it turned out that FEMA was 4 ½ feet out in elevation which is pretty significant so if you are having issues with that it may be worth making the investment to actually see where the flood zone really is. Mr. Swartz said that is one of the first things they are going to do. Mr. Artus said that was a fairly significant difference in elevation. Ms. Olyha said all the concrete and rocks on top of that, you can see the big chunks of concrete and rocks still attached down below the dam.

The board continued to discuss the FEMA issue. Mr. Swartz asked how does this whole thing play out with this being spoken of being rezoned. He said he heard the "M" word being talked about and Ms. Olyha said no, not in this section. Ms. Livigni spoke. She said she would get a copy of the draft Gateway Hamlet legislation and added at the workshop the Town Board said they would anticipate this in February or March for the local law to be in place. She said it's been a work in progress for years. Mr. Swartz

said he knows one person they will have an issue with because the parking lot is going closer to them. Mr. Swartz showed the board, he said it's markably closer than it is now and they are proposing to go up to 5 feet off the property line and screen. Mr. Blass spoke and said he was looking at the C-2 Zone and the entry for Inns and there's a big blank there, it doesn't have an S or SP. He asked if this was a non-conforming use and Mr. Swartz said he thought it was a special permitted use. Mr. Blass referred to 240-27 Schedule A. Mr. Swartz said as a pre-existing use that's why they had a question mark in the box, and added he wasn't sure what it means. Mr. Blass said it may mean that worse case scenario this is a non-conforming use at the current time which you are proposing to alter so there could be some friction there, so it may be good this is being changed to Gateway Hamlet, assuming Gateway Hamlet would allow this as a use. Mr. Blass said there is a Hamlet zone now. The board continued to discuss the Gateway Hamlet zoning.

Mr. Swartz said assuming that's enacted, should his application be reflective of the zone. Ms. Livigni said the precedent has already been established that someone has already been in front of this board for a pre-application discussion, Community Glass was already designing to the gateway Hamlet standards that are proposed and they are just waiting for it to happen. So she said she thought it was eminent. Ms. Livigni said she would get the draft legislation. Mr. Swartz said so they he would be designing and submitting in accordance with so would the consultant be able to review and respond. Ms. Livigni said the first agenda they might be able to be on is January so by then we would have had the public hearing and said she thought it was safe.

Mr. Alan Bell was present and said his recollection of a discussion the Town Board had was that you wouldn't be able to proceed with your application under Gateway Hamlet to the Planning Board to the point of them having a public hearing, but anything prior to that, it would be considered at your own risk because it hasn't been passed into law.

The Board and Mr. Swartz continued to discuss the issue of the parking lot, the setback and the screening. The board decided the screening for the neighbor to the side would be a fence as opposed to trees or shrubbery. Ms. Olyha said we can't do fence and trees. The type of fence was discussed. Something that is not see through was agreed.

#### **REFERRALS FROM TOWN BOARD FOR DISCUSSION AND/OR COMMENT**

D-1: Town of LaGrange Proposed Local Law concerning proposed amendments.

Ms. Olyha referred to the local law for the Moratorium. Ms. Olyha said the Town Board is hold a public hearing on December 11<sup>th</sup> and wants comments back from the Planning Board. The board agreed to email comments to the town email address. Ms. Olyha asked for the comments before December 4<sup>th</sup>.

Mr. Blass spoke. He said we are dealing with a provision of the code of 240-100 B of the town code says any proposal to amend or repeal this chapter, shall be referred to the Town Board by the Planning Board for a report thereon, prior to any public hearing unless the proposal comes from the Planning Board in the 1<sup>st</sup> instance. He said he interprets this as the Planning board should take a bit of time tonight to discuss this legislation and to come up with a consensus with respect to thumbs up or thumbs down to the Town Board and convey that out.

The Board discussed the local moratorium law. Mr. Blass adding the purpose is to impose for 180 days an interim moratorium on any approval or processing of applications for drive-through facilities in the Town Center Business Zoning District. The reason for the local law and there's an extensive legislative history that's longer than the legislation itself that there is clearly a lot of friction and uncertainty and debate and accusation that is surrounding the content of the existing local law with respect to drive-thru's in the town center zoning district and this is an effort to buy some time for the Town Board to take a look at drive-thru's in that district up against the mirror for the purposes of adopting the Town Center Business zoning standards in 2003 to create a pedestrian centric traditional neighborhood, main street feel and whether or not drive-thru's are consistent or inconsistent with that legislative purpose would be looked at by the Town Board during this period of interim moratorium. He said that is a summary of the reason and the content of legislation.

Mr. Komorsky asked if they itemized what they could dispense at these drive thru windows. Mr. Blass said the legislative history of drive-thru's in the town center business district is in 2003 the TCB zoning standards were adopted by the Town Board. At that time there was a provision that stated there shall be no drive-thru's for any particular use at all. To be consistent with the concept of being a pedestrian centric, to promote pedestrian use and to demote consumerism from inside vehicles or in reliance upon vehicles. In 2012 the drive-thru regulations of the town were amended and in part the TCB zoning standards were amended to provide that drive-thrus were permissible by special permit of the Planning Board for all retail uses with the exception of restaurants and fast food restaurants so that conversely, it was intended that banks might possibly get the approval from this board for a drive-thru, pharmacies might possibly the approval from this board for a drive-thru but that the preparation and dispensing of fast food or restaurant activity through a drive thru was found to be inconsistent with the legislative purpose so that pedestrian centric town center approach. The current regulation is drive-thru's are allowed for retail establishments in the TCB zoning district with the exception of restaurants and fast food restaurants. There's a definition of restaurant in the town code and a definition of fast foods in the town code. As you know from observing the discussion and debate there is a significant issue as to whether or not the proposed activity that you have been reviewing does or does not fall in the concept of fast food restaurant as defined in the town code. Because there is so much debate about this and the proposed legislation is one to put a period of suspense in place for 180 days so the Town Board as a legislative body can address the uncertainty and put an end to it through legislation. He said that is the purpose of the moratorium. Ms. Olyha said when the writers of the legislation of the

town center business first put in that law they did so because they found those type of establishments where you put food through a window into a car, as soon as that is consumed the containers usually end up out the window. She said the designers of this law had in mind they don't want LaGrange to be somebody's dumping ground which is why the original law said no drive thru but then it was looked at the fact that banks wouldn't even look at us as potential place to have a business because of that no drive-thru law we had to look back and what you are putting in and out of a bank window is not something someone is just going to throw away.

Ms. Olyha said that's why banks were ok, and with the pharmacy, you can't get anything through that window but the prescriptions, they are not going to give you a coke or that kind of stuff or a container that you are going to throw out a window and that was one of the factors of the law when it was originally in conception. So now they never anticipated any other type of business that would hand something out a window that somebody would want to throw out the window. That's why that had to expand the definition of what kind of stuff that want to come in and out of a window. She said another thing was the pedestrian part. Mr. Gunn said that was his memory of it and said he didn't remember having a whole lot of conversation cups and chip wrappers going out the window and Ms. Olyha said she remembered. Ms. Olyha said when town center started to be developed you had Lexington Plaza and the McDonald shopping center and the M & T Bank across the street which are all basically strip malls and the big discussion was parking in the back, to look like your hamlets. Ms. Olyha said McDonalds were the only ones grandfathered in with drive-thru and she assumed they would stay grandfathered. After McDonalds went in, there was a real push for this law because the trash did go up considerably in the town.

The Board continued to discuss the issue. Mr. Blass said the scope of the moratorium is to freeze and suspend all drive-thru facilities for all uses, including banks and restaurants and fast food for that 180 day period and any piece of legislation the Town Board finds wise would be crafted and adopted in the 180 days. Ms. Olyha said so it's just setting the moratorium and not really setting anything else.

Mr. Blass said he didn't think the Town Board anticipated there would be this level of dispute as to whether the addition of a national franchise to a drive thru window would conceivably be allowed in the Town Center Business Zone. He said the debate is arising out of questions of interpretation. He said the ultimate body that controls questions of interpretation is the legislative body which is the Town Board and this is giving them an opportunity to weigh in and to generate more light than heat. He said because more heat than light is being generated currently. Mr. Straub said he was a part of that comprehensive plan way back and a lot of ladies with children and handicap said you can't take away my drive-thru window. When it is snowing and raining and conditions are bad they like to use their drive-ins. He said the board should take that into consideration. Ms. Livigni said Ron is asking the board's opinion on the moratorium. Mr. Blass said there is an extensive legislative history in the document in an attempt to justify and set forth the reasons for the moratorium as opposed to doing it arbitrarily. Ms. Olyha said she likes when they have the moratoriums prior to the local

law being adopted just so it gives everybody time to get everything in order. Mr. Straub said it was his opinion that the moratorium was good. Mr. Blass said that would be sort of the feedback and report to the town board anticipates. Ms. Olyha asked the board how they all felt about a moratorium at this time so the board can hammer out the drive-thru law.

Mr. Zeidan abstained from participating due to a conflict of interest. Mr. Sforza said when the town made the exemption to allow banks and pharmacies and now they are restricting them or possibly stopping them from coming in because they would be holding them up for 6 months now, and said he didn't want us to see them losing any business. Mr. Komorsky agreed. He said Rte. 55 is a very unique situation with 55 thousand cars a day coming through this corridor and he said he thought there should be a consideration for those cars for businesses that are interested to be on one particular street. He said we don't have a bypass like some other towns.

Ms. Olyha asked while they figuring this out is it ok or is it not ok to have a moratorium for 6 months. Mr. Komorsky said he thought 6 months was a lengthy time. Mr. Blass said it's a maximum duration of 6 months so in the event that the town board was to create, craft and adopt legislation within 2 months, then that would put an end to the moratorium. He said it's a very good point you make and said he was sure it was a point that the town board is well aware of as well because it is looking for development in the Town Center Zone as well so the Town Board would have a natural inherent incentive to move quickly to modify the drive-thru regulations so in a period of time well within 6 months. He said sooner is better in this situation. He said so it's not a 6 month freeze, it's a freeze for a maximum of 6 months or up until the adoption of the amendments whichever is sooner. Mr. Brenner asked why does the moratorium have to include the banks and pharmacies. Mr. Blass said it is recommendation that it would include the full gamut of activity so that it is not discriminatory to anyone element. Ms. Livigni said so it sounds like the Planning Board's recommendation to the Town Board is they would like to see them minimize the amount of time the moratorium would be in place. Mr. Komorsky said minimized or maybe a separate moratorium for what's absolutely on the 55 corridor versus every other town center location. He added he didn't see how they were going to do that. Ms. Olyha said you can't do that unless you make a new zone and town center zone. Mr. Komorsky said that's a consideration also. Mr. Bolner said in the reading of the moratorium is it clear, would this board be able to give clear direction to anyone that came in that they would be able to go up to, but not including a public hearing at their own risk or can they not do anything. Ms. Olyha said it says no applications. It also says no applications can go forward. Mr. Komorsky asked is there any input as to why it is 6 months. Mr. Blass said 6 months is a customary period for land-use moratoriums. He said he doesn't think it is the intention of the Town Board to take an entire 6 months period of time or to extend it beyond 6 months, for the very reasons stated, the economic reasons and the tax ratable creatable reasons, there is an incentive to move quickly. He said what is before the board is would they entertain a resolution to support the adoption of the moratorium by the Town Board in the current format or not. It's really what needs to be entertained and your decision is really not binding upon the town board it's a recommendation. Mr.

Gunn said because they are going to do what they want anyway and this leaves a bad taste in my mouth because it strikes me as being completely reactive to something that has been in front of us for the last 6 months and the fact that we threw the bank and the pharmacy in there, how many banks and pharmacies are before us, none. There is spots for banks all over t he place in the town and they haven't built here why? Because you can't have a drive-thru. Ms. Olyha said banks and pharmacies can. Mr. Gunn said well then putting them in there just makes it look like we are being fair to everybody.

The Chairman polled the board:

John Gunn	No
Joe Zeidan	abstained
Robert Straub	Yes
Stacy Olyha	Yes
Dennis Rosenfeld	yes
Frank Sforza	No
Mark Komorsky	No
Tony Brenner	yes

Ms. Olyha said this is not a vote, it is an opinion. Ms. Olyha said the Planning Board is recommending that when there are other issues besides just what's thrown out the window. Just make sure we they do look at the law we do have concerns and if they putting a committee together we would like someone from the Planning Board to be on it.

Mr. Straub said he picks up all the garbage in his neighborhood and it's not just from McDonalds. It's from all over. So as criteria as keeping garbage off the roads is nonsense.

Mr. Sforza said the town is contradicting themselves because they allowed a drive thru on Noxon and Titusville. Ms. Olyha said that's not Town Center. He said what's the difference with garbage on the road, it's still the Town of LaGrange. Mr. Gunn made a motion to adjourn the meeting at 9:00 PM, seconded by Mr. Straub and the motion carried unanimously.

Respectfully submitted,



Eileen Mang  
Planning Board Secretary