

A regular meeting of the Town of LaGrange Planning Board was held at the LaGrange Town Hall, 120 Stringham Road on Thursday, June 19, 2014. Chairman Stacy Olyha called the meeting to order at 7:00 PM. Board members Frank Sforza, John Gunn, Dennis Rosenfeld, Marc Komorsky, Joe Zeidan, Robert Straub and Tony Brenner were present. Also present was Wanda Livigni, Administrator of Public Works, Walter Artus of Stormwater Management, and Greg Bolner of Clark Patterson Lee, Ron Blass of VanDeWater & VanDeWater and John Lyons of Grant & Lyons.

Mr. Rosenfeld made a motion to accept the minutes of May 15, 2014, seconded by Mr. Zeidan and the motion carried unanimously. MINUTES APPROVED.

PUBLIC HEARINGS:

DALEY FARMS DEVELOPMENT – Proposed subdivision and site plan located between Titusville Road and Colleen Court containing 233.36 acres (Grid No. 6360-08-1270, 099220, 229310) (R. Blass) adjourn public hearing.

Ms. Livigni said the applicant is waiting on action by the Town Board. Mr. Straub made a motion to adjourn the public hearing to July 17, 2014, seconded by Mr. Gunn and the motion carried unanimously. PUBLIC HEARING ADJOURNED.

Ms. Olyha asked about the terms that the public brought to their attention. Ms. Livigni said the SEQR that was amended is not finished with the Town Board yet and in terms of the turns and such was the Planning Board's purview to make sure the traffic calming on Colleen Court and the radii being correct, which she said Mike Kelly would help with that and Ms. Olyha said the issue with the estate lots was the other thing and the note on the plans and findings.

CAROZZA SPECIAL USE PERMIT – Proposed special use permit (grading) located on Toms Way (Grid No. 6460-04-870483)

Mr. Ryan Carozza appeared before the board. Mr. Carozza said he wants to put some fill in his backyard to make it usable and said right now he has a bad slope in the middle and he holds water the entire time so he wants to add a curtain drain which is already there but collapsed so he wants to put it where it was to the stream in the back.

Ms. Olyha opened the public hearing and asked if there was anyone who wished to speak. There was no response. Mr. Straub made a motion to close the public hearing, seconded by Mr. Gunn and the motion carried unanimously. Ms. Olyha asked how many cubic yards and Ms. Livigni said if the Board approves this, she recommended a condition limiting the amount of fill to 1,000 cubic yards. An associate of Mr. Carozza's said the fill was coming off the TSP, Arthursburg and Toms Way.

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

Ms. Livigni asked Mr. Carozza to let her know when the fill was coming in.

OTHER BUSINESS:

FREEDOM PLAINS PRESBYTERIAN CHURCH – Proposed amended site plan and Special Use Permit located on Rte. 55 and Stringham Road (Grid No. 6460-02-650904, 710874); update/discussion

Mr. Neil Townsend President of the Board of Trustees appeared. He said with the new Stringham Road going in to place, it has split their property into 2 pieces. He said they were under the impression that they would end up with 2 separate lots in that process. He said they found out they don't have 2 separate lots, we have a hook lot. He said a hook lot is basically one lot with a home. He said they have no interest in using the property that is left over which is to the west of the new Stringham Road, it goes between the new Stringham Road and the Getty Station. He said we wish possibly not to keep that off the tax rolls if possible. In other words, he said they may have potential interest in somebody using it for other purposes other than religious purposes. He asked how does the Planning Board wish them to proceed. He said they thought it would be a part of the process and it would be coming out when the state took the property and it would become an automatic subdivision but evidentially it appears it has not. Mr. Townsend said they are here for advice and/or opinion from the Planning Board on which you think is the best way to proceed to be as simple as possible.

Mr. Blass said there's new Stringham Road and it will bisect the church's existing parcel. And Mr. Townsend said it already has. Mr. Blass continued saying to the west of new Stringham Road will be 1 ¼ acres of a new westerly parcel of something you would like to see be a new separate and distinct westerly parcel. Mr. Townsend replied correct. Mr. Blass said the first place to look for the answer to the question is the definition of lot in the town code. He said the definition of lot might take care of itself. Mr. Straub asked what the frontage is. Mr. Lent said it's a corner lot. He said there is not a whole lot of access on Rte. 55, but there is some. He said any development of that property would probably be accessed on Stringham, he said he assumed. Ms. Livigni said Susan Quigley had a brief discussion about it and she felt preliminarily it would meet zoning. Ms. Olyha asked do they have to go through a subdivision process?

Mr. Blass said he wasn't 100% sure, and added you have to define the issue. Mr. Gunn asked if they wanted to retain ownership and Mr. Townsend said at this point they do. Mr. Gunn said and possibly if somebody wants a commercial venture there. Mr. Blass said so the issue is whether an application for subdivision approval is necessary or whether the new Stringham Road takes care of it by itself. Mr. Townsend said correct. Mr. Townsend said we didn't put the road there, the state did. Mr. Blass said the definition of lot is a parcel of land legally created by subdivision not divided by streets devoted to or to be devoted to a particular use. Mr. Blass said that's not particularly clear language. Mr. Blass said a lot is a parcel of land not divided by a street so if you have a parcel of land that is divided by a street, the natural implication is that it creates

a separate and distinct lot, and added that was his inclination, which is a subdivision may not be necessary here. The existence of the new public highway will affect the creation of a new lot to the west. Mr. Townsend asked in that case did they go forward to the assessor and say this is a separate parcel? File metes and bounds with the assessor? Mr. Blass said right. Mr. Townsend said they can easily create that. He said the town has the new metes and bounds from the new road and he has them from the previous survey of the lot. Mr. Blass said the town, in its interpretation of the zoning code says that this new street will have the affect of creating a new lot, then he didn't think they would have any troubles anywhere else. Mr. Blass said so that appears how it is shaking out right now. Ms. Livigni asked Mr. Blass if he could research it and. Ms. Olyha said the key is how do you unhook a lot. Ms. Olyha said you can do it by going to the assessor's office. She said the county went through a few years ago and hooked all these lots that were like that. Mr. Blass said it may depend on what the County Real Property Tax Office says as well. Ms. Olyha said most of them were all hooked and then you have to go through the subdivision process to get them unhooked.

Ms. Blass said good point, at the end of the day you are going to want a separate tax parcel on the county tax map so you have to get to that point and he said he would take a look at it.

Ms. Olyha said last time when they discussed the landscaping, the applicant had said the state plans had landscaping on them. She said she looked at those plans and they didn't have any landscaping that she saw in the section they talked about. Mr. Townsend said there is landscaping on the state plot and Ms. Livigni said absolutely. Ms. Olyha said there was nothing there, it said landscaping plan for new Stringham and it had it along their road but not around the corner.

Mr. Townsend said as he is aware of, the large trees in front of the church right now are staying, the State is not taking them down. Ms. Olyha said there was also a letter about the Blandings Turtles. The letter went to Mark Day. Ms. Olyha said the High School has a program that they have been working within the Town Center on the turtles and they have been doing this since 1995 so they have the radios on them. Marinall Pragnall is the person at the high school, before you go out and hire an expensive person. Mr. Townsend said he thought they did that when the state came in. Ms. Olyha said we have to cover you through SEQR and so if you can get that information into your SEQR process. Ms. Olyha said before you go hire somebody find out what the high school has already done. She said she knows they have done a lot. The issue of the landscaping continued on. Mr. Lent said the state was looking to have the mature trees as part of the landscaping plans so that they don't all feel like this just got put up yesterday. He said he didn't know how to balance that.

Mr. Townsend said in talking with Mark Day and with Ken McLaughlin, he said he believed the Planning Board was aware of, in their building project they will most likely be phasing it and the reason is so they can keep in operation. Part of the rebuilding project is to redo their sanctuary and if they redo their sanctuary first they have no place to go, so most likely the building that will be on the old Stringham Road will probably be

built first which is what they are going to call their new fellowship hall. He said he has worked with their engineer so they can build that, they've now moved bathrooms into it so that it can be a self contained "building" temporarily and then they will move their sanctuary operations on Sunday morning into that allowing them to rework the sanctuary and once that is done, then they will connect the 2 pieces together. Mr. Townsend said they would like to get started next Spring, if everything works out right. Ms. Olyha said they will need a phasing plan. Mr. Bolner said it could just be notes on the plan, Mr. Gunn said it's not phasing like a subdivision.

Ms. Livigni told Mr. Townsend the board would be back in touch with them regarding the subdivision process.

POWERPLANT MOTOR SPORTS SPECIAL USE PERMIT – Proposed Special Use permit located on Industry Street containing 2.01 acres (Grid No. 6361-03-162267)

Mr. John Vitaj was present. Ms. Livigni asked if the fence was up and Mr. Vitaj said yes. Ms. Olyha asked if anybody has come out to see if the sound barrier is up. Mr. Vitaj said he hasn't done anything with that yet, he said he was doing the door closed like originally agreed until he knows the Special Use Permit goes through or not, instead of building something he didn't know if it would be used. Ms. Olyha said she thought it was a part of the Special Use Permit. Ms. Livigni said it was a part of the court order, Judge Egitto had put that in there and she said she would have expected it to be done. Mr. Vitaj said that was never discussed with Judge Egitto, that was discussed here with the neighbors. Ms. Livigni said your court order says it was going to go up. Mr. Vitaj said no. Ms. Livigni said the board all received this in their packets. Mr. Vitaj said that was discussed at a town meeting with the neighbors, his lawyer and the town lawyer. Mr. Blass said he had a copy of the court order and he read the relevant provision "ordered that Mr. Vitaj may operate his dynamometer in bay # 1 at the premises only Monday-Friday from 9-6 PM and Saturday from 10-5 PM with the eastern most garage bay (bay 1) closed and the western most garage bay (bay 3) open at all times when the machine is in use until Mr. Vitaj obtains and installs a sound deadening barrier at bay 1. Ordered that Mr. Vitaj is to obtain and to install at bay 1 a sound deadening barrier as soon as reasonably practicable and it is further ordered that upon Mr. Vitaj's receipt and installation of a sound deadening barrier, he must use the same at all times the machine is in use and these conditions shall remain in effect until the earlier of any further order of the court modifying this one or until he receives a special use permit application for his place of business". The date of the order is December 6, 2013 and today is June 19, 2014 so the question asked about the presence of the sound deadening barrier is asked with the background of the delay since December until today. Mr. Vitaj said he was under the assumption if he kept the door closed (1 & 3) that would work fine until he got a barrier. Mr. Blass addressed Mr. Vitaj and said the order, which was signed by the Judge on the consent of your side says that it shall be obtained (put up) as soon as reasonably practicable which tends to mean right away. Mr. Vitaj said he never got any court order and said he hasn't been mailed anything from the town since this whole situation started. Mr. Blass said he happened to know, although he wasn't there, that you were in court the day this was worked out. Mr. Vitaj said when he spoke to Judge

Egitto he said we are going to shut down until it was figured out. He said he and Judge Egitto did not speak about any barriers or time frames or anything. Ms. Livigni said she wanted to point out that Mr. Vitaj's attorney attached the court order with his responses so obviously somebody had it. Mr. Vitaj said that was the judgment that we came to with the neighbors with the Town Lawyer, not with Judge Egitto. Mr. Blass said to Mr. Vitaj so the internal decision between he and his attorney was that he would keep the order and not show it to you. Mr. Vitaj responded I guess. Ms. Livigni asked Mr. Blass this is a court order right? And Mr. Blass replied yes. Mr. Blass said he would say the use is not in compliance with the court order. Ms. Olyha asked where we go from here. Ms. Livigni said if there was any question whether or not it was necessary, she reminded the board of her April letter in which she said she wanted to inspect it and that things were complied with. She said the meeting was never scheduled. She said she spoke to Mr. Vitaj's attorney, who is a partner owning the property and she said she told him also that Mr. Vitaj had to contact her to show it was getting installed. She said she asked for an inspection of that in April. Ms. Olyha said and the date was May 30th and Ms. Livigni said correct. Mr. Vitaj said that was never discussed with him. Ms. Olyha asked Mr. Vitaj the May 30th date? Mr. Vitaj said whatever Wanda is saying. Ms. Olyha said in April she sent a letter and was to Mr. Vitaj's attorney and to Mr. Vitaj and it said Ms. Livigni was giving him until May 30th to comply with the court order before we issue a special use permit. May 30th has come and gone. Mr. Blass said there may be a relevant provision in the special use permit regulations at 240-71 subdivision M – Existing Violations. "No permit shall be issued for a special use property upon which there is an existing violation". Ms. Olyha asked how long do we wait to get it corrected? Mr. Blass said he would flip that into a question of the applicant. Mr. Blass asked Mr. Vitaj what is the hold up. Mr. Vitaj said he could build it right away but he didn't want to build a \$3,000 thing and then show up to court and for whatever reason the special permit gets denied and he has a \$3,000 barrier that he can use for singing in the shower.

Ms. Olyha said that's why we discussed the January date. She said in November Mr. Vitaj had told the board if everything goes as planned with the court that you would be able to have it installed after January so we assumed it would be done in January. Mr. Vitaj said he wasn't under that assumption. Ms. Olyha said that's why the board held off until you built it and then he would come back and get your Special Use Permit. She said that's why Wanda sent you the letter in April. Ms. Vitaj said it's going to be louder with the door open and the barrier than how he is doing it now. Mr. Gunn said it doesn't matter; you have to conform with the court order. Mr. Vitaj said he had no problem with that, he would build it. He said he was under a different assumption. Mr. Blass said he thought there was an issue before the board to determine on what the appropriate sound mitigation measure there should be. He said he didn't want the Board to have the impression that this temporary order of the court is any way binding upon them with respect to what appropriate sound mitigation there should be if any. It is clear under the standards for a special permit at 240-71 H 3 that operation in connection with a special use shall not be offensive, potentially dangerous, destructive of property values, basic environmental characteristics or detrimental to the public interest of the town and it shall not be more objectionable to nearby properties by reason of noise, fumes, vibration, etc,

than would operations of any permitted use not requiring a special permit" He said it's a long winded way of saying that noise mitigation and what it really should be under these particular circumstances is a standard for review under the special permit and it's no doubt a standard, a criteria for review under a SEQR determination. Mr. Blass said he hoped he clarified that the court order is something which the applicant appears to be in violation of but that was set up as a temporary measure with the consent of the applicant subject to whatever this board wanted to do relative to sound mitigation. Mr. Blass said or granting or denial of the permit. He said probably there is an issue for the board as to what the appropriate sound mitigation is and you don't have to rely on this court order. Ms. Olyha said now what is the appropriate method for that since there is no ways or means of measuring by town code what's allowed and not allowed. Mr. Blass said he thought the standard is whether the use is more objectionable to nearby properties by reason of noise then would be the operations of any use permitted in the zone that didn't require a special permit. Mr. Blass said he didn't know how helpful that is since they are in an industrial zone. Mr. Blass said it's more likely than not than most uses of the industrial zone will require a special permit anyway. Ms. Olyha asked Mr. Vitaj if he would permit the neighbors to go back out there to show them the way you do it with the door closed and Mr. Vitaj replied yes.

Ms. Olyha she wasn't out there and asked if it was done with the door open and with it closed. Mr. Gunn said both. Mr. Gunn presented some numbers and results of what occurred. He said door closed 11 seconds, there was a decibel reading of 72, a washing machine is 75 and busy city traffic is 85. With the door open it was 85, 83. He said they were at the Englishby's and at the fence line it was 87 and 90 with the door open. Both were at same location. Mr. Vitaj said he was actually doing a favor by keeping the door closed. Ms. Olyha asked what kind of fence was put up. Mr. Vitaj said chain link fence with slats and Ms. Livigni said that is what Mr. McLaughlin said was permitted by code, the stockade was not. Mr. Gunn said the stockade would have stopped more noise. Ms. Livigni addressed Mr. Blass and said Mr. Vitaj has stated before that this is not his primary business and not something he runs all the time and Mr. Vitaj agreed. Mr. said several people from the town have been there and none of them has seen it. He said if it was running all the time and the town came there 12 times, they would have seen it. Ms. Livigni said the Planning Board could amend hours of operation if they so chose on the court order, and asked do they have that ability. Mr. Blass said yes. Ms. Livigni said if the board wanted to have a consideration for the neighbors to limit the hours, it's not his primary business so it wouldn't hurt him to limit the hours a little more. Ms. Olyha said the process is you put it on, work on it, put it on and work on it until it is right, so the question is what's the average time it takes to get it right. Mr. Vitaj said its small spurts but it takes the entire day probably 5-6 hours, with cool down time, make changes to hit mechanically and electronically. He said most of it is down time but it does take most of the day. Mr. Gunn said so it is sporadic for 11 seconds over a 5 hour period. The board reviewed the hours of operation, 10-5 on Saturdays and 9-6 M-F.

Ms. Olyha referred to the court order and the barrier and asked if the board had to explain why it wasn't done. Mr. Blass said no, this court order was put in place pending

whatever decision was made at the Planning Board with respect to the special permit application. He said it was solely intended to set up parameters for operation between December and the date of the board's decision, whatever it may be, so it has no binding precedent on the board. He said it was supposed to define the interim parameters for operation. He said he read in the material that there was a thought from the applicant that when it's hot, as now, that the garage door to Bay 1 would need to be open, Mr. Vitaj said he said that, but since he didn't have the barrier he was keeping the door closed no matter what. Mr. Blass asked why the barrier would cost \$3,000. Mr. Vitaj said sound deadening material and building a barrier is going to cost money, it's not cheap. Mr. Vitaj said trust me I'd love to build it a lot cheaper and Mr. Blass said I trust you but what I'm hearing is fairly conclusory, no specifics.

Mr. Blass asked what if there was a sound deadening barrier plus keeping the door closed and Mr. Vitaj said he didn't think that would make any change in the sound. Mr. Gunn asked why not. Mr. Vitaj said because it is going through a metal door, he didn't think it would make any difference. Mr. Gunn said if you put sound deadening material, it's like a studio, and if you put it inside and close the door, isn't that going to preclude more sound from going out, Mr. Vitaj answered he guessed, and said he wasn't an acoustics expert. Ms. Olyha asked then how do you get the car in and it was determined it was a moveable barrier. Mr. Straub said he thinks we need a design that shows what's going to be done with some engineering judgment on how good the sound deadening effort is going to be, otherwise we are all guessing. Mr. Brenner said he agreed. Ms. Olyha said we don't have someone who specializes in this and we have hearsay all around. Mr. Vitaj said he looked into mats, they are full length sheet rock size and you build something to hold them up. Mr. Rosenfeld asked if the manufacturer had standards to show the board. The board asked Mr. Vitaj to bring in specifications from a manufacturer to show the board and Mr. Vitaj said he had no problem with it. Ms. Olyha said not only specifications, but a break down of the ones he was picking and costs.

Mr. Vitaj said he had no problem doing the research on it. Mr. Gunn said so we are going to kick the can down the road on the special use permit? Ms. Olyha said she thought the board needed to put a date on it. Ms. Olyha suggested one month, and directed Mr. Vitaj to come back to the next Planning Board meeting.

The Board continued to discuss the sound deadening information and numbers. Mr. Komorsky asked Mr. Vitaj if he looked at dynomat, and Mr. Vitaj said it was kind of like a dynomat but it is a specifically designed mat, some woven fabric, they call it a curtain. Mr. Vitaj said he didn't know what that would do to the door because it is very heavy. Mr. Komorsky said dynomats are a very heavy sound deadening device.

Mr. Gunn said next month the Board wants to see spec sheets and Ms. Olyha asked the board to do some research on their own concerning decibels. Ms. Livigni asked the board if Ken McLaughlin shared information with them from the EPA and Ms. Olyha said yes. Ms. Olyha said Mr. Vitaj would be on the next Planning Board meeting on July 17th. The Board set an escrow for \$600

Mr. Blass said pending next month's meeting the intent of the board is the garage bay door at #1 is closed when the machine is in use. Ms. Olyha said no matter what, that's what it has got to be. Ms. Olyha said what the board will decide at the next meeting is whether or not the barrier is needed or whether he can continue doing what he is doing now.

HIDDEN POND ESTATES SUBDIVISION – Proposed 10-lot subdivision located on Noxon Road containing 30.3 acres (Grid no. 6360-03-478160) consideration of final subdivision approval.

Mr. Brian Stokosa appeared before the board. Mr. Stokosa said they have worked with the Board of Health extending central water looping it through the subdivision out on to Noxon Road through Bart and service all 10 homes. He said they had a lot of storm water improvements to help the downstream residents with the flooding and the existing pond on site and this was a little more complex because typically the town does not like to take over the management of the storm water facilities proposed but this one affects down stream neighbors. He said Highway is ultimately going to take over the maintenance aspect of the drainage proposed for this subdivision. Mr. Gunn asked did Highway say that? Mr. Stokosa said they met before preliminary was granted with Wanda, Greg and Mike Kelly and based upon the size of these structures they really wanted to keep an eye on the maintenance of it. Mr. Stokosa said he does believe they had a blessing from Mike Kelly and Wanda. He said from a drainage standpoint Greg's office is close. He said they signed the MS4 agreement and submitted their N.O.I. for their storm water permit coverage. He said Ken Stenger has been working with Ron Blass as far as the purchase of the municipal water parcel incorporating it with this subdivision and they've been throwing some language back and forth on the contract. He talked about the removal of the storm water pond down near the town site preserving trees, reworked the storm water so he was dotting the I's and crossing the t's on that language portion of it. Mr. Stokosa said he is here for final approval; nothing is changed on the plan from the last time with the removal of the pond on the municipal water parcel. Ms. Livigni asked Mr. Stokosa how he resolved the DPW comment concerning there never being an access on Noxon Road. Mr. Stokosa said they wanted a restriction written in to prevent any kind of deviation from the shared driveway concept on the plan, they didn't want people to go ahead and put their own driveway onto Noxon Road because of the alignment there and site distances which we knew was an issue. He said they agreed to a deed restriction. Mr. Stokosa said they put a note on the plan too.

Mr. Artus said there would be a number of conditions to reviewing the metes and bounds, all the language to the satisfaction of Ron's office. He said he worked with Ron relative to the well parcel, the conditions and deed restrictions involved on that. He said it's all administrative issues to deal with. Ms. Olyha said one big one – needs storm water district to be approved by the Town Board. Mr. Artus said that would be done after the Board has granted their approval. They would then go in front of the town Board and Greg's office would prepare the MPR and they would appear before the

Town Board. Ms. Olyha said Greg had basically the same comments. Mr. Bolner said he had a comment and had confusion on whether this was an HOA or not and that all got resolved. Mr. Artus said no HOA, it's going to be a town drainage district. Ms. Olyha said this would be conditional on easements, surveyor signs plan, SPEDES Permit, need escrow for storm water inspections, Town Board storm water district approval, language approved by Town Attorney's office. Mr. Artus added performance bond.

Mr. Brenner made a motion to grant final subdivision approval subject to the above conditions, seconded by Mr. Zeidan and the motion carried unanimously.
CONDITIONAL FINAL SUBDIVISION APPROVAL.

WHISPERING PINES SUBDIVISION – Proposed 5-lot subdivision located on Rte. 55 containing 51.67 acres (Grid No. 6360-02-972772); re-approval of preliminary approval and recommendation to the Town Board

Mr. Brian Stokosa appeared before the Board.

Ms. Olyha said last month the board jumped the gun and we were supposed to make a recommendation to the Town Board first so we will clean up a few things tonight and then get it to the Town Board. Mr. Lyons spoke and said the board decided at it's last meeting to grant preliminary approval. He said there is an open development area being requested as part of this application to facilitate a common driveway that will serve as the access for these 5 lots to Rte. 55. He said the applicant has made an application to the Town Board for establishment of an open development area and the Town Board accepted their application as complete and as required by the town law, they referred that application over to the Planning Board for a recommendation and you received a resolution that asked for a recommendation and also set forth a series of concerns that the town board had that they wanted to see addressed as part of your review. The Town Board also asked in it's resolution that at the time you grant preliminary plat approval that you also submit a recommendation back to the Town Board. Mr. Lyons told the Planning Board you are at the juncture right now you would like to grant preliminary plat approval project. He said he sat down with Wanda, Greg and Walter a few weeks ago and following the meeting he collaborated with Walter drafting a preliminary plat approval resolution for the board's consideration and said it has been circulated to the Board. He said the board should also have a resolution making a recommendation to the Town Board. He said there have been just a few changes with regard to the preliminary approval resolution from the original draft. He said they added some conditions to it that will satisfy the concerns that were expressed by the Town Board in its referral to the Planning Board. He said they added a condition with regard to the homeowners association which the applicant has volunteered to establish and that association will be in charge of the common drive and taking care of the drainage infrastructure. He said the homeowners association will have to be approved by the New York State Attorney General's Office. He said they are also asking the applicant submit drafts of the offering plan and by laws to the Planning Board and Town Board so that we can assure ourselves that provisions are in place to make

sure these facilities will be maintained properly in perpetuity. Mr. Lyons said the Town Board also requested that the Planning Board have an assurance that the fire department take a look at the common drive and issue an opinion that the common drive and individual driveways can be safely accessed with emergency vehicles so we are making it a condition of preliminary approval, that prior to final the applicant consult with the fire department and obtain an opinion for the file. He said we are asking that a draft deed be submitted by the applicant in this particular case the homeowners association which for legal purposes, it's like a person, and the HA as an entity will become the owner of the common facilities. He said at some point a deed will be drafted conveying title to the land where the common driveway is and the other common areas that are associated with this project and the HA will become the deed owner of that property. He said the Town Board has asked in its referral that assurances be built in to the approvals for this project to make sure the drainage infrastructure and common drive never end up coming back to becoming the responsibility of the Town of LaGrange. Mr. Lyons said he added a provision to the preliminary approval resolution requiring the applicant to submit final to final approval, a draft of the deed that will go from the applicant to the HA which will contain a deed restriction that will preclude those facilities from ever becoming the Town's responsibility.

Mr. Lyons said the other condition is the adoption of a resolution by the Town Board establishing the open development area and in terms of timing, in the Planning Board's recommendation to the Town Board, your recommendation provides that the Town Board have to take action before the Planning Board grants final but they should not take action until both boards have had a chance to look at the draft HOA documents and also that the letter from the Fire Department has come in. Mr. Lyons said procedurally the Board tonight, if these conditions and the draft resolution are acceptable to you, you can adopt the resolution granting preliminary approval and adopt the resolution making your recommendation to the Town Board, and then we will wait to see about the satisfaction of those conditions before the next action on the ODA will be the Town Board being satisfied and establishing the ODA and providing you notice of that before you grant final approval.

Ms. Olyha asked once the Town Board accepts our recommendation, do they then have a preliminary approval or do they have to come back to the Planning Board. Mr. Lyons said preliminary approval is a separate action, and the Board is giving that to the applicant tonight. He said you are taking a separate action which is giving your recommendation back to the Town Board. Mr. Lyons said the Town Board will take action to establish the ODA and the board can move to final.

Mr. Straub made a motion to grant preliminary subdivision approval, seconded by Mr. Rosenfeld and carried unanimously. **PRELIMINARY APPROVAL.**

Mr. Rosenfeld made a motion to send a positive recommendation to the Town Board, seconded by Mr. Sforza and the motion carried unanimously.

LANDS OF ARCOS SITE PLAN – Proposed site plan located on Rte. 82 containing 2.01 acres (Grid No. 6561-04-828127); discussion

Mr. Bill Povall of Povall Engineering appeared. He said they were here in April with a conceptual plan for 2 apartment buildings on a 2 acre parcel located in the Hamlet zone on Rte. 82. He said the big discussion point was to relocate the parking behind the buildings which they did as well as provide better access around the buildings. He showed the board the plan with the 2 buildings, the landscaping in the front, buffer to the yard area, a central entrance where it splits, looping around and exiting with all the parking in the rear. He said he took this in the direction the board wanted them to go.

Ms. Olyha asked about the hashed area. Mr. Povall said they widened the pavement in that area to give the residents a place to pull in, unload groceries, a short term area for unloading and it also provides a wider area as a turning radius for fire trucks. Mr. Gunn asked if it was all impervious surface and Mr. Povall said yes. Mr. Straub asked what the back would look like and asked about windows. Mr. Povall said they are just getting to the architecture and they would look to add some windows and dress it up. Ms. Olyha asked how many parking spaces there were and Mr. Povall replied 22 and added 19 are required. He said they were able to fit 2 more for extra spaces for guests and a little bit of overflow parking. Ms. Olyha asked the board if they were ok with the extra 3 spaces and the board had no objection. Mr. Sforza asked Mr. Povall the measurement on the entrance and exit on that along the area he pointed to on the map. Mr. Povall replied 24 feet. Mr. Straub said he felt it looked designed and planned. Mr. Povall said they did throw some turning templates on their when they laid out the parking configuration so they did take that into consideration. Ms. Olyha asked the board if they liked the plan and the board liked it. Ms. Olyha asked about wells and the subsurface they had to continue on with because she last time there was nothing in the code and asked if that was all taken care of in changing to apartments. Mr. Povall said you lost me.

Mr. Artus said he thought it was relative to town houses but there is nothing in the code relative to apartments so he thought it should be treated on whatever your gallons per day is. Ms. Olyha said for Hamlet it wasn't listed. Mr. Povall said it was something to do with minimum lot area, and Ms. Olyha said since this changed is this ok or do we have to pursue that still. Mr. Artus said the code was silent relative.....Mr. Bolner said if the code allows apartments and there is no minimum lot area then there's no minimum lot area. Ms. Olyha said it must be in the Hamlet code. Mr. Bolner said there isn't one and Ms. Livigni said yes there is a Hamlet, not a gateway hamlet, the existing hamlet. Mr. Artus said the issue was it was relative to townhouses with the area in bulk regulations, minimum lot area with public sewers it gave a number for minimum lot area for public sewers, not for septic.

Ms. Olyha said these are considered 2 story apartments and Mr. Bolner said that section of the code that refers to minimum lot area for town houses doesn't apply.

Ms. Olyha said that was a clarification that we needed to have. Now it is clarified that they are 2 story apartments, not town houses. Ms. Olyha asked the board if they were happy with them continuing with this plan and developing these particular plans. The Board liked it. Mr. Povall said they can now do the engineering. Ms. Olyha asked the board again if they were happy with the 3 extra spaces, beyond the 19 required. The board said yes. Ms. Olyha said they would be used for people coming and going. Mr. Gunn said so this is the plan that is being submitted now and Ms. Olyha said yes, it is the April 28th. Ms. Livigni said and this is still the conceptual one, we will need a full submission after this.

WRIGHT FARM SPECIAL USE PERMIT FOR LOT 8 – Proposed special use permit located on Noxon Road containing 115.71 acres (6560-04-969085); consideration of SEQR determination

Mr. Marty Willms appeared before the board.

Ms. Olyha said we left off with a letter from Mr. Artus regarding drainage and erosion plans and driveway pull offs, etc. Mr. Willms said the most review from Mr. Artus made him realize he misinterpreted the separate erosion and sediment control plan that he asked for. He said all the information had been submitted in terms of temporary and permanent erosion controls. Mr. Willms said it is not in the form that is acceptable so we will fix that. Ms. Olyha asked if we received a response to public hearing comments and Mr. Willms said yes in the introductory of the letter introducing the project, the 3rd part. Mr. Artus said they are ready for a SEQR determination and based upon his comments left over, the applicant should be able to get on next month's agenda for special use permit approval.

Mr. Straub made a motion 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.

Ms. Olyha said they will give you until next month to get everything in so you can be on for July. Ms. Livigni gave Mr. Willms until July 3rd to re-submit.

NORTHEASTERN TRUCK & TRAILER SPECIAL USE PERMIT – Proposed Special Use Permit located on Industry Street (Grid No. 6361-03-162267)

Mr. Mike Triglia appeared before the board. Ms. Olyha said she heard there was a fence and Mr. Triglia said yes. Ms. Livigni said he also responded to the public hearing comments. Ms. Olyha referred to an e-mail from Mr. Englishby and said it didn't pertain to this. He said it referred to Power Plant Motor Sports application. Ms. Olyha asked the board if they had questions. She said there was discussion about outdoor storage at the public hearing and it was determined it was only overnight if needed and it would

be in the fenced in area. She talked about sandblasting and Mr. Triglia said he did not sandblast.

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

LAGRANGE CREAMERY AMENDED SITE PLAN – Proposed amended site plan located on Rte. 55 (Grid No. 6460-02-715925); initial presentation

Mr. Bob Ferris, Kathleen Ferris and Bill Rohde, engineer was present. Mr. Ferris said his daughter is a graduate from the Culinary Institute and specialized in pastries and deserts. He said she is a very good ice cream maker. He said they want to build a building that will look like a barn, it will be a barn made into an ice cream store and it won't just be ice cream, it will be some farm products and some agricultural products. He said the state got part of their idea with the farmer's market because he wanted to have it so he said he wasn't sure that was going to be all that successful and he said they still might try and have some sort of a farmer's market here as well. Mr. Ferris said possibly in the fall they would have pumpkins and other things and part of the ice cream is to emphasize local products. He said one plan is when strawberries are in season his daughter will be making pies that can go with the ice cream. He said the ice cream will be home made. She will teach kids and have classes, birthday parties, lots of ideas to make it a destination point, not just an ice cream store.

Mr. Ferris talked about having a tractor for picture taking. Mr. Ferris said this will be part of his same property as the Real Estate Office. Mr. Ferris said the Real Estate building was converted from a carriage barn with an old historic house that was torn down which was the first town hall in LaGrange back in the 1960's when Brenner came in. Mr. Ferris said the building will be 5,500 sq. ft. counting the porches and said he had a rendering. Mr. Ferris said they don't want a commercial looking building, they want a barn. He said he thinks it will make the town center better, not worse. It will be like a New England look and Ms. Olyha said it will still have to have the town center architectural features. Ms. Livigni said she discussed the look of a 2-story building with Mr. Ferris and it does meet a lot of the town center concepts with shared parking, multiple uses on one lot. She said there is a letter from Ken, it is a permitted use within TCB and it's just a question as to which path it has to go, involving an amended site plan but depending on Ken's determination, it may need a special use permit as well. She said just because Ken asked for the statement of use to be completed, it doesn't mean it's not a permitted use, it's just to clarify the path. Mr. Ferris said they are going to have other food besides ice cream because they want something in the winter time to carry it through. Ms. Olyha asked would this be a bakery thing where you can come in and buy goods and leave, Mr. Ferris said some things possibly. Mr. Ferris showed the rendering to the Board. The Board and Mr. Ferris discussed the rendering. He showed the back which would be for storage. Mr. Ferris talked about a fence, and a sidewalk.

Mr. Ferris said the rendering showed a water tower and said they were also considering a silo instead. The Board discussed matching the Real Estate Office building and the

creamery building, tying them together. It will be red with a green metal roof. Mr. Ferris discussed the features of the building and said he didn't want a franchise look to it. Ms. Olyha asked the board if they liked this and the entire board agreed it was a nice project. The issue of the silo or the water tower was talked about and the general consensus was they liked the water tower better. Mr. Zeidan asked how many people this would seat and the answer was about 35. Mr. Ferris said if things work out, they would like to get a detailed site plan to the board and if it's realistic they would like to have an approval by early fall so they could get the shell up and work on it over the winter inside. Ms. Olyha asked if this area flooded and Mr. Ferris said no, it's not in the floodplain. He said he's been here since 1966 and he has never had a problem at that building. Ms. Livigni said we will give the statement of use form to Ken tomorrow and the only thing that might need to be added in is the Special Use Permit. Mr. Ferris said if we get things together and a detailed site plan, is it realistic to think we can get this approved in time so we can build before winter. Ms. Livigni said as long as the submissions address the comments from the consultants, it really should move along. Ms. Olyha added and following the SEQR parameters and Mr. Artus added outside agency approvals, especially the Health Department.

The Board set an escrow for \$500.00 to start. Ms. Olyha talked about prime Blandings Turtle area and the migration route in town center. She said there are provisions they can do during their activity period which is April through June when they migrate and mate. The rest of the time they are in the water and hibernate over the winter. She suggested signs in his parking lot asking to check under car for possible turtles.

Mr. Ferris asked if this is something the Board would welcome and the whole Board replied yes. Mr. Ferris talked about Hudson Valley Fresh and working with putting up pictures of barns and promote it.

Mr. Zeidan asked about outdoor seating and the answer was there will be as well as possible outdoor entertainment. Mr. Ferris talked about overflow parking on the grass. Mr. Gunn said this is the best commercial project he has seen in a long time. The Board was very much in favor.

REQUEST FOR TIME EXTENSION

ROLLING MEADOWS SUBDIVISION – 90-DAY EXTENSION.

Mr. Straub made a motion to grant a 90-day extension, subject to the same conditions as the original final approval, seconded by Mr. Gunn and the motion carried unanimously. 90-DAY EXTENSION

LAKE RIDGE SUBDIVISION – 90- DAY EXENSION

Mr. Rosenfeld made a motion to grant a 90-day extension subject to the same conditions as the original final approval, seconded by Mr. Straub and the motion carried unanimously.

REFERRALS FROM TOWN BOARD FOR DISCUSSION AND/OR COMMENT:

None

Mr. Gunn made a motion to adjourn the meeting at 8:52 PM, seconded by Mr. Straub and the motion carried unanimously. MEETING ADJOURNED

Respectfully submitted

A handwritten signature in cursive script, appearing to read "E. Mang".

Eileen Mang
Planning Board Secretary