

Village of Tarrytown, NY

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Planning Board Minutes 12/18/2013

Planning Board
Village of Tarrytown
Regular Meeting
December 18, 2013; 7:00 p.m.

PRESENT: Chairman Friedlander; Members Tedesco, Aukland, Raiselis Birgy; Counsel Shumejda; Village Administrator Blau; Village Engineer McGarvey; Lucille Munz, Village Landscape Architect; Secretary Bellantoni

APPROVAL OF THE MINTUES – October 28, 2013

Mr. Tedesco moved, seconded by Mr. Aukland, and unanimously carried, that the minutes of October 28, 2013, be approved as submitted. Motion carried.

APPROVAL OF THE MINTUES – November 25, 2013

Mr. Tedesco moved, seconded by Ms. Raiselis, that the minutes of November 25, 2013, be approved as submitted. All in favor, with Mr. Aukland abstaining; motion carried.

CONTINUATION OF PUBLIC HEARING – Bartolacci - 67 Miller Avenue

This application has been adjourned while the applicant is before the Zoning Board.

CONTINUATION OF PUBLIC HEARING – 21 Wildey Street, LLC – 21 Wildey Street

John Meyer of National Resources explained the project stating that the property was subdivided by the Village from the Library property and it is to be used for 12 affordable housing units as a condition of approval for the Hudson Harbor project. This revised submission is for 12 affordable units only in a two-story building with a height of 21' and parking in the rear and in the front in order to provide as much parking as possible. The parking has been eliminated from under the building in order to lower the building to preserve the view from the Library and the building has been moved to the front of the lot to provide a nicer view from the park.

Mr. Meyer explained the parking ratio as follows:

- 2 spaces for each two-bedroom unit - 4 units = 8 spaces
- 1½ space for each one-bedroom unit - 8 units = 12 spaces

Using this ratio they will require 20 spaces and they are providing 21. The building across the street uses a ratio of 1½ spaces per unit. If they were to use that ratio, they would be required to provide 18 spaces.

Mr. Meyer showed a colored elevation view which was requested by the Board.

Mr. Tedesco asked about the rear streetscape. Mr. Meyer said it is on the last page of the packet. He showed and explained that streetscape. He also showed and explained the streetscape from Wildey Street.

Chairman Friedlander asked Mr. Meyer to going over the parking spaces in the front and in the rear: how many are in each location and how do you get to the rear.

Mr. Meyer explained that currently there are two curb cuts, one on the east side and one on the west side. They are proposing the elimination of the one on the east side and merging the one on the west side with the existing driveway next door. It would be a wide driveway which would essentially service both properties. Driveway on the west side of the property will lead to the rear parking. There will be six parking spaces in the front, all within the required setback, and there will be 15 spaces in the rear of the building. He said there will be one handicapped parking space located at the front building with the New York State required 8' striped aisle next to it. Chairman Friedlander said it looks like there is another space next to the handicap space and asked why it is arrange that way. Mr. Meyer said just to make it easier for a handicapped person. Chairman Friedlander asked what is in front of the spaces. Mr. Meyer said within the 20' setback there is a 24' paved access and back-up aisle which is required by code for a 90° parking space there is a 4' area for landscaping with hedges for screening. Chairman Friedlander said 24' is very wide, why so wide. Mr. Meyer said for maneuverability; it could be reduced some if the Building Department is agreeable.

Chairman Friedlander asked Lucille Munz if 4' is not enough to plant trees. Ms. Munz said it is a tight space; maybe you could get one or two shade trees, but it would be nicer if it were a 6' width. She said maybe they could take 2' from the parking. Mr. Meyer said they could do that if the Building Department is OK with it. Chairman Friedlander asked about the space in front of the building. Mr. Meyer said there is 13' from the building to the curb; part of that is the front vestibule which comes out 6' and there is a 4' walkway; so the landscape strip between the building and walkway is 9'. Chairman Friedlander said maybe they could take some space from that planting area to allow more room in the front. Ms. Munz said it still would be difficult to plant trees in that area. Ms. Raiselis said to keep in mind that there is a walking area, maybe if they could push everything back one foot. Mr. Meyer said they are going to redo the sidewalk in front of the building on Wildey Street and perhaps they could put one or two trees in that area.

Chairman Friedlander asked what the rear dimensions are. Mr. Meyer said the building is set back 70' with approximately a 6' landscaped area in the back. He said they could reduce the 24' aisle to 22' and pick up two feet there.

Chairman Friedlander asked the width of the driveway. Mr. Meyer said it is 20', about the same as the old Village Hall.

Mr. Aukland asked Mr. Meyer about the variances they require. Mr. Meyer said there is a 5' required setback for the driveway and they are requesting 2½', the same as the old Village Hall. Mr. Aukland said they indicate that the rear parking needs a variance but not the front. Mr. Meyer said that is correct. Zoning requires that there be 25' from one side line and a minimum of 10' from the other for a total of 35'. They won't meet that 35' in the rear. They have 15.6' on one side and 14' on the other. In the front they do meet the 35' because they have 15.6' on one side and 25' on the other; and they meet the front yard setback.

Mr. Meyer said they have insufficient number of parking spaces; 30 are required and they are proposing 21.

Mr. Tedesco said the ratio across the street seems to work for them, but they may be just luck and that they don't require the parking. He is a little concerned about going from 2 ½ spaces to 1 ½ spaces; 2 ½ spaces to 2 is better.

Mr. Meyer said another variance would be for lot coverage. The code requires a 15% maximum, which is 3,705 s.f. They could build a fully compliant building but it would have to be 5 stories, and that was a concern because of the views from the Library.

Mr. Tedesco asked if the solar panels are shown on the plan. Mr. Meyer said yes, they show 6 panels on the roof. Ms. Raiselis said what is that going to get you. Mr. Meyer said maybe it will help with the lights in the hallways and some hot water. Mr. Birgy asked if the checked with New York State to see if there are any programs available for affordable house. Mr. Meyer said they have not, but will look into that.

Paul Janos of National Resources said regarding the front landscaping that maybe they could put in tree wells like they have on Main Street. They are not very large and perhaps they will work here.

Chairman Friedlander opened the meeting to the public.

Beryl Hensy, 32 Wildey Street, read a letter from Dean Gallea of 28 Wildey Street which discussed the parking,

location of the building, views, landscaping and stormwater runoff (letter attached). Ms. Hensy said she would prefer the units be owner occupied rather than rentals.

Michelle Gonzalez, Library Board, said she appreciate the new design for the views.

Liza Glover, McKeel Avenue, Library Board, showed pictures of views from the Library and she feels the 20' will be fine except for the peaks. She feels they are too tall and they don't fit the look of the building. She said it has been said that they building is "approximately" 20' high. How high will it actually be? Mr. Meyer said the parapet is about 2' and the peaks are 6' for a total height of 28'. She thinks a flat roof is better.

Mr. Tedesco said we don't want it to look like a bunker. Ms. Glover said there are lots of flat roofs on Main Street. Mr. Tedesco said but this is not on Main Street.

John Colburn, 30 Wildey Street said he agrees with the Library Board and Dean Gallea but doesn't think a flat roof will be good. He said he is in favor of affording housing and is glad that the Village has made the commitment and that the developers are seeing it through.

Chairman Friedlander asked where the mechanicals will be going. Mr. Meyer said they are not proposing any mechanicals at this time; perhaps there will be some vents. They are proposing PTAC units on the side of the building under the windows for heating and cooling. Mr. Birgy said won't they need venting. Mr. McGarvey said they are basically air conditioning/heat pump units.

Mr. Meyer showed the front and rear elevations as seen from the park and from Wildey Street.

Mr. Birgy said this proposal is a huge improvement. He asked if they could make the gables more like the one on the townhouses on West Main Street; thinks that will make a big difference.

Ben Gross, 20 Wildey Street said four homeowners met with the developer and all agreed that they would like all of the parking in the back. Since the building is only going to be 20' high, it could be put anywhere on the site without blocking the views. If some of the parking has to be in the front, they would like to see that strip wider and they would like to see a detailed landscape plan. He asked if the units will be owned or rented. Mr. Meyer said they will be rental units; they are not for sale according to the developer. Mr. Blau said the agreement did not state rental or sale. Sometime ago the developer said they would be for sale but he is not obligated to do that. Mr. Birgy asked if we have any say and Mr. Shumejda said no. Mr. Gross said that the Tarrytown Moderate Income Housing Board has some power and in 2007 they recommended to the Trustees that these units only be for sale units; that Tarrytown has done it fair share of affordable rentals. The committee said they are to serve the 80% of the median area income; those are the cops and the teachers. Mr. Blau said Counsel Shumejda will have to look into this to see if there is any control over rental or for sale. Mr. Gross who will actually decide the landscaping and where the parking will be; the Zoning Board or ARB? Chairman Friedlander said we will decide the landscaping all of the site work and we will decide on whether we want to recommend the variances to the Zoning Board. The Zoning Board will decide on whether or not they want to take are recommendation and grant the variances. The Architectural Review Board will look at and decide on the architectural elements of the building.

Mr. Birgy asked if this is a rental, can it be turned into a purchase later on. Counsel Shumejda said he does not think they will be locked into rentals but he will look into it further. Chairman Friedlander said the eligibility and price will be determined by the Village, not the developer.

Mr. Blau said he was asked at the last meeting to do some calculation. He said there are two laws on the book; the Moderate Income Housing Law, which this one is subject to; and the Affordable Housing Law which was revamped as part of the Affordable Housing settlement which the County was a part of. We have to calculate income eligible based upon salaries of Village employees which make the income eligibility based on \$85,035. There are preference eligibility categories as follows:

- Village employees who have worked for the Village for at least one year.
- Volunteer fire and ambulance Corps who have lived in the Village for at least one year.
- Households whose head of household or spouse is 62 years or older and has lived in the Village for at least five years.
- Households whose head of household or spouse is 30 years or younger and has lived in the Village

for at least ten years at any given time.

The calculations are based on the income eligibility. If they were a for sale unit, a one bedroom unit would sell for \$198,000, a two-bedroom unit would sell for \$220,000. Based upon rents, a one-bedroom unit would rent for \$19,580 a year and a two-bedroom unit would rent for \$221,756 a year. The Village gives the Affordable Housing Committee the salary information and they do the calculations based upon the law. One preference group has priority over another preference group. If there is a large number who are eligible, it will be based on a lottery.

Mr. Janos said that is not what he talked about. He thought it was supposed to be for Village employees and volunteers would get first preference. Mr. Blau said no, according to our law, there are four groups, as stated above, who have preference and that preference continues throughout. Each time a vacancy occurs; the new people will have to be in one of the preference groups and will have to be income eligible.

Mr. Janos asked if that could be changed so that it is only for Village employees and volunteers. Mr. Blau said new legislation would have to be written. Mr. Janos asked if the Village will monitor it so that it doesn't turn out like Talleyrand Crescent where no Village residents ever got in. Mr. Gross said the Affordable Housing Committee certifies it every year.

Chairman Friedlander said since we just received these plans tonight, you will review them especially for drainage. Mr. McGarvey said he will review them and comment to the board prior to the next meeting.

Mr. Birgy it makes more sense to him that the Village decides if they should be rentals or purchased, not the developer.

Chairman Friedlander said he feels that Counsel Shumejda should research to see if we have any rights to determine if it should be for sale or rental. We never did that research to see what is best for the Village. Maybe we should have a flexible system. It has to be clarified if the Village has any right to determine rental or sale; and if it does, what do we want.

Michele Gonzalez said she asked the developer when he came to the Library if they were going to be rentals or for sale and he said a portion was going to be for sale and a portion were going to be rented. Chairman Friedlander said that was when there were more than 12 affordable units and some were going for market price. Ms. Gonzales said there could be a compromise where some are for sale and some are rentals. She feels it is better for the building and the Village if it is homeowner occupied.

Beryl Hensy said as homeowners who will be here for a long time, she feels it is better to have owner occupied units.

Mr. Tedesco said balance is good. When he came to Tarrytown he had to rent and because he loved Tarrytown he eventually was able to buy. Don't shut out the rental people because they may become homeowners.

Mr. Aukland said there are a few items he would like them to come back with:

- Would like to understand how they visualize all the parking in the rear if the building is moved forward. Mr. Meyer said it may change the layout and the number of parking spaces.
- Can you show us an alternative that would not look like a bunker but more like a flat roof in keeping with the rest of the street.

Chairman Friedlander said Mr. Birgy would like you to check with New York State for any tax breaks for energy incentives.

Mr. Meyer yes they will provide that information. He said regarding the drainage, they are providing drainages based on a 25-year storm. It would be underground drain storage with an overflow into the Village's storm drain. They will be relocating the existing drain line in the easement that cuts diagonally. It would remain in the easement but it would be out in front of the building away from its foundation.

The board agreed to continue the public hearing at the January 27, 2014 meeting.

CONTINUATION OF A PUBLIC HEARING - EF International - 100 Marymount Avenue

John Canning of VHB reported that not much has changed from last month. He said they are still waiting for the Fire Department to visit the site. There is an axle problem with Engine 78 but they will be meeting with them in January. He asked the board to look at Marymount Avenue on a Friday to see how much better it works when the taxis are on the opposite side of the street. When they are on the east side of the road, it narrows the road down; but when they are on the other side (on Fridays) it opens it up. They are also meeting with the Police Chief in January to discuss the situation. It would really be helpful if this board took a look.

Mr. Canning said tonight he would like to concentrate on the proposed improvements to the pedestrian streetscape on Marymount Avenue, McKeel Avenue and Neperan Road. Presently between the sidewalk that come out from St. Johns and the driveway that comes down from Butler Hall there are approximately 140 pedestrians crossing over in that general area at the busiest time of the day. There is no crosswalk there at this time. They are proposing to install crosswalks at four new locations sidewalks along Marymount Avenue and McKeel if the Village allows it. At the proposed crosswalk on Marymount Avenue they are proposing, after speaking with the police department, to install Actuated Rapid Rectangular Beacon Flashing Lights which is a series of flashing lights. When activated, lights will flash in a random pattern. This has proven very effective in drawing attention to motorist that someone is crossing the street. They are also proposing to improve the landscaping and plant trees throughout the campus.

Mr. Tedesco said he agrees with moving the taxis on Marymount Avenue but they received a letter from Chief Brown stating that he does not support moving the taxis to the other side. Mr. Blau said Chief Brown thought they were moving further down near Castle Heights, but that is not where they are proposing; they want them further north. Now that he understands what they are planning, he is not against it. Mr. Collins said they will be discussing that issue when they meet with Chief Brown in January.

Mr. Birgy asked the purpose of moving them; the students will have to cross the street. He asked if they had any thoughts to building a sidewalk on the east side of Neperan Road so that they won't have to cross the street at all.

Mr. Collins said they are proposing to install a light on the top of the security booth; and when they want a cab, the security guard will push a button which will cause the light to flash which will signal a cab to come up on the campus to get them, and they will look at the sidewalk suggestion. Ms. Raiselis said there is a slope there.

Chairman Friedlander said he has a question for Mr. Johnson. He said he heard a rumor that EF will be busing students in from another property. Mr. Johnson said they have looked into a second campus in Westchester County but there will be no busing. It will be self-contained. He said he would be happy to give them an update at the January meeting.

Chairman Friedlander opened the meeting to the public. No one appeared.

The board agreed to continue the application to the January 2014 meeting.

CONTINUATION OF A PUBLIC HEARING-Toll Brothers-229 Wilson Park Drive (Lot 10)

This application was adjourned at the request of the applicant.

Chairman Friedlander said before they proceed with lots 8, 13 and 12 he wanted to talk briefly about a meeting the Village staff had with Toll Brothers on December 11, 2013 to discuss the outstanding issues with respect to the infrastructure, namely the stormwater drainage system and the soccer field. He said they just received a letter from Casey Devlin, Director of Land Management for Toll Brothers, dated December 18, 2013 (attached). Jennifer Gray of Keane and Beane on behalf of Toll Brothers proceeded to go over the letter with the board. She said it is a follow-up to the December 11th meeting. They discussed the soccer field, which Toll Brothers had over-seeded and fertilized as was agreed to in the beginning and again in late Fall. They are committed to do that again in early Spring of 2014. It was also discussed that if additional items are needed in the Spring to insure the proper growth of the turf, they will submit those items in writing to Mr. Blau. Toll expects the field to be established next summer; if it is not established, Toll Brothers will reconsider its previous commitment to sod the field. Chairman Friedlander clarified that the additional items that may be needed will be the recommendation of Landtek to Toll Brothers who in turn will bring them to Mr. Blau for approval and processing. Chairman Friedlander said he does not like the work "revisit. Does that mean they will make a visit to the field without doing anything. He prefers that it says Landtek will

sod the field if it meets the Village's approval; is that correct. Mr. Blau said that it is his understanding that if all else fails, they will sod the field. Also, nothing was said about clearing the perimeter of the property around the field. This has to be numerated now so that there is no misunderstanding later on. They should clear the downed trees, clean up the brush, the installation of the swale around the field and the pipe issue. Mr. McGarvey said there were nine items and Toll Brothers agreed to eight. There will be another meeting on December 31, 2013 at Toll Brothers office in Fishkill. Rob DiGiorgio will be present at the meeting. We are trying to move forward and put closure to this aspect of this project.

Chairman Friedlander asked if anyone had any questions.

Mr. Birgy asked if anyone addressed the issue that the field may not have had the proper soil so the seeds did not germinate and may have washed away from rain because it was not mulched. Did anyone address that? Mr. McGarvey said at this point we are not trying to go back and figure out what the problem was; we just want to move the ball forward and get this field done. He said he knows for a fact that it was slit seeded with a machine, not just randomly thrown on the ground. Then it was over seeded on top of that. For some reason grass did not come; he does not know why. He does know that Landtek did soil samples and the tests back fine. Mr. Birgy said the soil may be the fundamental problem and he is afraid that we will have a problem in the future. Chairman Friedlander said the letter contains a note stating that the soil analysis was acceptable. He said the soil analysis results should be sent to Jennifer. Mr. McGarvey said we have a copy of it.

Chairman Friedlander said now that we know where we stand with that, let's move on to the site plans, starting with lot 8.

CONTINUATION OF A PUBLIC HEARING-Toll Brothers-222 Wilson Park Drive (Lot 8)

Jennifer Gray of Keane and Beane on behalf of Toll Brothers stated that there are not changes from the last meeting. She showed the site plan. Chairman Friedlander said one purpose of the site walk was to be sure there was enough screening for the trail. He asked Lucille Munz, Village Landscape Architect, to explain what changes they board is requesting. Ms. Munz said at the site walk it was discussed that the original trees that were planned would have little or no effect, especially along the trail. They decided that it would be more effective to plant small shrubs and under-story trees beyond the property along the trail itself. Ms. Munz said it is a difficult site to landscape because it is on the top of a slope, its shaded, there is deer browsing and it does not leave a lot of options for evergreen shrubs; so she is proposing shrubs that are not deer proofed but hopefully deer resistant. She wanted it to feel like a woodland trail and not just a linear hedge. She suggested a mix of rhododendrons, viburnum, amelanchier, which is a low under-story tree and some canopy trees closer in on the site.

Chairman Friedlander asked if anyone had any questions.

Ms. Raiselis moved, seconded by Mr. Aukland, to close the public hearing for Lot 8 of the Wilson Park Subdivision. All in favor; motion carried.

Ms. Raiselis moved, seconded by Mr. Aukland, that the Planning Board declare itself lead agency for the project. All in favor; motion carried.

Ms. Raiselis moved, seconded by Mr. Aukland, that there will be no significant adverse environmental impacts as a result of this proposed action. All in favor; motion carried.

Ms. Raiselis moved that the board approve the site plan for lot 8 of the Wilson Park Subdivision subject to the following conditions:

- Approval by the Building Inspector/Village Engineer, particularly in regard to the adequacy of the Storm water/Drainage Plan. This plan is to include specific and detailed pre-construction, construction, and post-construction storm water/drainage measures.
- Approval of a landscaping and screening plan by the Village Landscape Consultant. Plantings should be non-invasive native species or non-invasive ornamentals. This condition is also to be recorded in the homeowner's deed.
- Approval of a landscaping and screening plan by the Village Landscape Consultant including compliance

with all recommendations made in her memo to the Planning Board dated October 21, 2013 (attached) and the suggested planting additions for lot 8 on her site plan sketch dated December 16, 2013 (attached).

Plantings should be non-invasive native species or non-invasive ornamentals. This condition is also to be recorded in the homeowner's deed.

- If any trees that are designated to be preserved are damaged due to site work, and subsequently need to be removed, the applicant agrees to replace them in kind. If this is not possible, then planting of multiple trees approved by the Village Landscape Consultant or payment of the appraised value of the trees to the Village Tree Replacement Fund will be required.
- The applicant agrees to perform any treatment or pruning of trees deemed necessary by the Village Landscape Consultant, at a time the consultant deems most suitable.
- Inspection of the Final Landscape and Screening by the Planning Board and Village Landscape Consultant before the issuance of the final Certificate of Occupancy (C.of O.).
- Any blasting activity determined to be required will be conducted in strict conformance with the Village's Blasting Code, and approved by the Village Engineer. Blasting is to be monitored by a company chosen by the Village. The cost of this monitoring is to be borne by the applicant.
- Given that the project's stormwater management system has been designed such that there is no discharge for any driveway as the complete driveway run-off is infiltrated into the ground through infiltration systems that will capture and treat 100% of all run-off, even for a 100 year storm event, the Planning Board approves a waiver from the subdivision condition which requires that driveways be constructed of permeable materials.
- A covenant will be placed in the Homeowner's deed and in the Homeowners' Association documents that prohibits the use of phosphate fertilizers. Organic, non-phosphate fertilizers may be used.
- The architecture is to be reviewed and approved by the Architectural Review Board (ARB) before a Building Permit is granted.
- 10 During construction, a chain link fence will be placed around the drip line of any significant tree slated to be preserved within the proposed area of disturbance.
- 11 Adherence to all conditions imposed in the Findings for this application.
- 12 Adherence to all conditions imposed in the Final Subdivision Plat Approval for this application.
- 13 Payment of any outstanding escrow fees prior to the granting of a Building Permit.
- 14 Signing of the Final Site Plan by the Planning Board Chair.

. Counsel Shumejda added the following conditions:

- As a condition, reference is made to the letter and its attachments from Toll Brothers to Michael Blau dated December 18, 2013 and the agreements incorporated within, with the agreed upon deletion of the word **revisited** to **will** as shown on the attached letter.
- Also agreed to that Toll Brothers will clean up the debris in the swale around the soccer field.
- Whatever agreements are reached at the upcoming December 31, 2013 meeting.

Amendment 1: Condition #2 should read as follows: Approval of a landscaping and screening plan by the Village Landscape Consultant including compliance with all recommendations made in her memo to the

Planning Board dated October 21, 2013 (attached) and the suggested planting additions for lot 8 on her site plan sketch dated December 16, 2013 (attached). Plantings should be non-invasive native species or non-invasive ornamentals. This condition is also to be recorded in the homeowner's deed.

Amendment 2: Condition #3 should read as follows: If any trees that are designated to be preserved are damaged due to site work, and subsequently need to be removed, the applicant agrees to replace them in kind. If this is not possible, then planting of multiple trees approved by the Village Landscape Consultant or payment of the appraised value of the trees which is to be determined by the Village Tree Warden, using the most current International Society of Arborists Guide as the source, to the Village Tree Replacement Fund will be required.

All amended and additional conditions were agreed upon by the Planning Board.

The motion to approve was seconded by Mr. Tedesco; all in favor. Motion carried.

Chairman Friedlander discussed with the staff and board members the issue of the fence surround the park. They previously discussed a concrete split rail fence. There is no site close enough for a site visit. It was agreed that if a picture of the fence was not sufficient to present to the Board of Trustees for their approval, Toll Brothers would put up a small prototype to show the board.

Francesca Spinner, 206 Wilson Park Drive, said there are very few fences on Wilson Park Drive. She said it is a very rocky area and why do we need fences; can't they use rocks to delineate the park. Fences need repairs, painting, etc.; there is not maintenance with rocks. It is a very passive natural park.

Ms. Raiselis said we have to consider that not too many properties are adjacent to the park. Do we allow people to put up a fence if they want one? We could have several different fences. Chairman Friedlander said we can't stop them from putting up a fence because it was not part of the agreement. He said originally it was a wall of stone then we came up with the idea of a fence. This type of fence makes it as open as possible and does delineate attractively.

Mr. Birgy said what about a landscaped hedge. It's a very dense screen, no maintenance and if a homeowner want wants to put up a fence it could not be seen.

Ms. Munz said there are native plants that will work.

Mr. Blau said the Board of Trustees feels it is very important to delineate between public space and private space with something permanent. There have been problems in the past where property owners have encroached onto Village property.

Counsel Shumejda said it is a liability issue as well; it is needed for the protection of the Village.

CONTINUATION OF A PUBLIC HEARING-Toll Brothers-217 Wilson Park Drive (Lot 13)

Jennifer Gray of Keane and Beane on behalf of Toll Brothers said that there have been no changes to the site plan since the last meeting. As previously stated, no trees are to be removed, approximately 14 trees are proposed to be added, the limits of disturbance were revised to avoid the steep slopes in the rear.

Ms. Raiselis asked if they were requesting a waiver for the steep slopes. Ms. Gray said not on this lot.

Ms. Munz said they have incorporated the landscaping that she proposed.

Mr. Aukland asked how they will mark the rear property line between this property and the public property. Ms. Gray said there is nothing proposed at this point. Did they have any suggestions? Chairman Friedlander said it came up at the site walk and they are open to suggestions. Ms. Gray said they will be amenable to considering a vegetative solution like on lot 8.

Ms. Munz said it depends on whether they are going to go with a fence and if this rear will be fenced. Ms. Raiselis said the difference between the park and this area. Ms. Gray said the park is a park and this space is open space; they have two different purposes.

Mr. Birgy asked Counsel Shumejda if there is any liability because it is an open space rather than a park. Counsel Shumejda said the concept is the same but it is lesser because it is not a public park, it is a passive open space but it should be permanently demarcated to show which is the private property and which is the Village property and all of the other considerations are the same.

Ms. Gray said there will be property markers on the corner of the property. Ms. Raiselis said it should be the same as for the park. Mr. Birgy asked if Toll Brothers is responsible for the open space. Counsel Shumejda said he knows they are responsible for putting the fence around the park but he is not sure if they are responsible for a fence at the open space. He will look into it.

Counsel Shumejda asked if Toll Brothers is willing to put a fence on the open space. Ms. Gray said she cannot make that commitment for Toll Brothers; she will have to talk to them.

Ms. Gray said to her knowledge there is nothing in the approval or the findings that requires Toll Brothers to install a fence at the open space, so this would be an additional expenditure which is something she would have to discuss with Toll Brothers. Mr. Aukland said nothing was said about it for lot 14 before approval. Ms. Gray said that's right all of the other lots were approved without a fence.

Chairman Friedlander said it is in the board's purview to ask for additional plantings. Let's tell them what we want and approve the lot. He believes it should be a small hedge. Ms. Gray said she believes Toll Brothers would be amenable to that.

Ms. Raiselis asked what Ms. Munz thinks. Ms. Munz said she feels a hedge will feel very inserted. It is a very natural setting and it will not fit in with this woodland edge. She said some hedge and screening. Ms. Gray said what about something like small pavers as discussed for the DeRocker property.

Mr. Aukland said whatever is done it should be done along all of the properties along the trail. He felt stone in the ground is sufficient. Counsel Shumejda disagreed because the Board of Trustees has already spoken on that issue. A compromise would be a suggestion by Ms. Munz for shrubbery that would be appropriate. Ms. Munz said a staggered soft hedge with several different species. Ms. Gray said it doesn't have to be as tall as screening. Counsel Shumejda asked if this suggestion by Ms. Munz is agreeable. Ms. Gray said yes. Ms. Munz said she will prepare a report and attach photos of what the plantings will look like.

Mr. Birgy said this should not be decided so quickly tonight. Chairman Friedlander said we have given Ms. Munz latitude to come up with a plan. She will present a plan to us and we will either approve it or ask for something else. The conditions of approval will reflect this. Mr. Birgy said it makes more sense to put the shrubbery on the Village property. If it's on the homeowner's property and they want to put up a fence, they will pull them up. It was agreed that the condition would be for plantings to be put on the Village property.

Ms. Raiselis moved, seconded by Mr. Aukland, to close the public hearing for Lot 8 of the Wilson Park Subdivision. All in favor; motion carried.

Ms. Raiselis moved, seconded by Mr. Aukland, that the Planning Board declare itself lead agency for the project. All in favor; motion carried.

Ms. Raiselis moved, seconded by Mr. Aukland, that there will be no significant adverse environmental impacts as a result of this proposed action. All in favor; motion carried.

Ms. Raiselis moved that the board approve the site plan for lot 15 of the Wilson Park Subdivision subject to the same conditions as lot 8 with the following amendments and additional condition:

Amendment 1: condition #2 should read: Approval of a landscaping and screening plan by the Village Landscape Consultant including compliance with all recommendations made in her memo with attached sketch plan to the Planning Board dated October 21, 2013 (attached). Plantings should be non-invasive native species or non-invasive ornamentals. This condition is also to be recorded in the homeowner's deed.

Amendment 2: Condition #3 should read: If any trees that are designated to be preserved are damaged due to site work, and subsequently need to be removed, the applicant agrees to replace them in kind. If this is not possible, then planting of multiple trees approved by the Village Landscape Consultant or payment of the appraised value of the trees which is to be determined by the Village Tree Warden, using the most current

International Society of Arborists Guide as the source, to the Village Tree Replacement Fund will be required.

Additional condition: The addition of a naturalized landscape border to the rear and on the Village side of the western boundary of the property at lot 13 to provide a soft demarcation between the public properties adjacent to this lot recommended and approved by the landscape consultant.

The motion to approve was seconded by Mr. Tedesco; all in favor. Motion carried.

CONTINUATION OF A PUBLIC HEARING-Toll Brothers-221 Wilson Park Drive (Lot 12)

Jennifer Gray of Keane and Beane on behalf of Toll Brothers said they will be requesting a steep slopes waiver at the front of the property line for the sewer service and water service lines to cut through. They revised the plan to re-route the line but the re-routing could be a problem so they are back to requesting a waiver. Mr. Aukland said during the site visit he did not see any steep slopes on lot 12. Mr. Sheffield said he will remove them from the plan.

Ms. Munz asked if they incorporated her global recommendation in her October 21, 2013 memo (attached). Ms. Gray said yes they did.

Chairman Friedlander said we will need delineation for this property as well. We will put that condition in this approval. Ms. Gray said they will be amenable to that.

Mr. Blau said there is one more item that the Village would like added to this resolution. There are a number of properties that will need to be conveyed to the Village either by deed or easement. Mr. McGarvey is reviewing the easements at this time. The open space parcels have not been conveyed and we would like to tie that into one of the approvals and the staff has suggested that the open space parcel be conveyed prior to the issuance of the CO.

Ms. Gray said in May when we submitted the easements to the Village we also submitted an offer of dedication which included all of the open space parcels that is associated with the plan. If there is something we need to do to get that before the Board of Trustees to have them formally accept it and then we can prepare the transfer documents, we can certainly do that. Mr. Blau said he was not aware of that. He said we can place it as a condition that we will have that conveyance before the issuance of a CO. Chairman Friedlander asked if the open space Ms. Gray spoke of includes the soccer field. Mr. Blau said no we would probably tie that into the last parcel since we don't know what is going to happen with it.

Counsel Shumejda said since we are getting down to the last lots, he suggests that the board add a condition for the transfer of the soccer field as a condition of occupancy. Ms. Gray said she would not want an issue with the soccer field to hold up the occupancy of this one particular lot; she feels it would be unfair. Chairman Friedlander asked how she would propose protecting the Village. Ms. Gray said it is a condition of subdivision approval and it is part of the Findings. They have no desire to retain the soccer field. We want to turn it over to the Village as quickly as possible once all conditions are met. She said we still have lot 10 and lot 2. She anticipates conveying the soccer field this summer. Chairman Friedlander said, worst case scenario, lot 10 could be a problem for a long time, plus we have the possibility of EF wanting to use the field for a fee and we won't be able to allow it because it is not turned over to us. Time is running out and we have no way of protecting the Village unless you can figure out something; i.e., a bond or something else. Ms. Gray said we are open to alternatives, perhaps a bond could be posted.

Counsel Shumejda said a bond may be an option but we may not have to go there. If we put it as a condition here, it's there; and if the soccer field still has problems at the time of dedication, this resolution can always be amended to modify this condition. If we put it in place now, it can always be modified and it will not be a surprise to anyone that this is required of Toll Brothers before they complete this project. He suggest that we make it part of this approval with a caveat that if there is an issue which is of no fault of Toll Brothers, the issue will be revisited. Ms. Gray said they are comfortable with that; that is some flexibility for unforeseen circumstances.

Counsel Shumejda reiterated the situation as follows:

- Mr. McGarvey has the easement for review, which hopefully will be completed shortly.
- We can get the offer of dedication to the Board of Trustees in January.

- Only real issue is the soccer field which will not come to fruition immediately, it is going to be a number of months; nor will the CO be issued immediate either.

Ms. Raiselis moved, seconded by Mr. Aukland, to close the public hearing for Lot 8 of the Wilson Park Subdivision. All in favor; motion carried.

Ms. Raiselis moved, seconded by Mr. Aukland, that the Planning Board declares itself lead agency for the project. All in favor; motion carried.

Ms. Raiselis moved, seconded by Mr. Aukland, that there will be no significant adverse environmental impacts as a result of this proposed action. All in favor; motion carried.

Ms. Raiselis moved that the board approve the site plan for lot 12 of the Wilson Park Subdivision subject to the same conditions as read for lot 8, the two amendments made to that first approval and the additional condition regarding the landscaping to delineate the open space on this lot.

Counsel said the resolution would state the conditions as read for the first lot, the two amendments made to that first approval and the additional condition regarding the landscaping to delineate the open space on this lot.

The last/additional condition is: On or before the application is made for the CO after this house is constructed on this particular lot Toll Brothers, through their attorneys, will have filed all of the easements for all of the various trails, etc., filed the offer of dedication for the open space, and file a deed for the soccer field and all of the area the encompasses the soccer field. However, if in the future a certificate of occupancy request is made, the Planning Board will review the condition at that time if necessary and in the sole judgment of the Planning Board.

Counsel Shumejda asked if that is acceptable to Toll. Ms. Gray said yes that is acceptable.

The motion to approve was seconded by Mr. Tedesco; all in favor. Motion carried.

NEW PUBLIC HEARING – Wildey Group – 138 Wildey Street

The Chairman read the following Notice of Public Hearing:

PLEASE TAKE NOTICE that the Village of Tarrytown Planning Board will hold a public hearing on Monday, Wednesday, December 18, 2013 at 7:00 p.m. at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

*Wildey Group, LLC
PO Box 383
Croton-on-Hudson, NY 10520*

For site plan approval to lease an empty space in the Tarrytown Shopping Center for a Kentucky Fried Chicken type of food establishment. The property is located at 138 Wildey Street, Tarrytown, New York and is shown on the tax maps as Sheet 1.40, Block 9, Lot 11 and is in the RR (Restricted Retail) Zone.

Documents are available for inspection in the Planning and Zoning Office. All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

By Order of the Planning Board

Dale Bellantoni, Secretary

DATED: December 6, 2013

The certified mailing receipts were submitted and the sign was posted

Joanne Landau, one of the partners of the Wildey Group introduced herself and John Kirkpatrick, her attorney. Ms.

Landau is here because they would like to rent out the empty space on the north side of the shopping center to a food retailer, mostly like a fast food restaurant. She said she understand that it is subject to the Zoning Board and Architectural Review Board approvals. Originally this tenant wanted the space where the Dollar Dream store is.

They wanted a drive-thru but once that was pulled off the table; they preferred this space because it is larger. Ms. Landau said the area is zone RR, Restricted Retail, which allows the sale of food and restaurants. The space was formerly a dry cleaner and it has been empty for approximately two years. This will be a change of use. She said this is a shopping center where people can come in and get their food quickly and reasonably. Most of the prospective tenants that come to them are fast food establishments. Other types of restaurants prefer the Main Street area. A big attraction is parking. She said John Collins did a traffic survey at that the busiest time of the day they are 40% full and on average they are 30% full.

Ms. Landau said the garbage set-up was an issue for the neighbors but they have changed the set-up and they now have better containers and more pick-ups.

Mr. Tedesco asked if there would be any change to the façade aside from the signage. Mr. Landau said no.

Counsel Shumejda said the potential client will take on or the other, not both. Ms. Landau said yes, one or the other; but we do have someone else interested as well.

Counsel Shumejda said since the first application has not been filled, it is just out there waiting to be filled. If this one is approved, there will be another one out there to be filled. Ms. Landau said she had someone very interested. It is someone who grew up in Tarrytown who wants to open a Little Caesar's.

Ms. Raiselis said so you will have three fast food places in that shopping center. Ms. Landau said yes and 6 non-food establishments.

Chairman Friedlander said the reality is it's a retail shopping center and in that area you are not going to get high-end stores. What is going to go there is what the people want. It's the same in lots of other places. There are all different kinds of restaurants right next to each other. That's what small towns are now; if you are convenient and can provide the products and services, that's what people want; it's the reality of today's economy.

Paul Birgy said once this shopping center gets focused on this type of establishment, it will become a hard-core fast food shopping center.

John Kirkpatrick said we have to realize that times have changed. It is zone for this type of establishment and my client should be allowed to have it.

Ms. Raiselis asked if the Dollar Dream Store is completely approved. Ms. Landau said yes it is approved for some sort of fast food.

Mr. Tedesco and Mr. Aukland said for the moment this is the type of tenant that is available and we have to go with it. Things might change in the future.

Mr. Birgy asked if we have any legal recourse. Counsel Shumejda said no, it is allowed in the RR zone. Mr. Birgy said then why are we here? Counsel Shumejda said because it is a change of use from dry cleaners to a restaurant.

Ms. Landau said they have talked with many people with all sort of stores, but have not been able to rent until now.

Mr. Tedesco moved, seconded by Mr. Aukland, to close the public hearing. All in favor; motion carried.

Mr. Tedesco moved, seconded by Mr. Aukland, that the Planning Board declares itself lead agency for the application. All in favor; motion carried.

Mr. Tedesco moved, seconded by Mr. Aukland, that there will be no significant adverse environmental impacts as a result of this proposed action. All in favor; motion carried.

Mr. Tedesco moved that the board approve the lease of the store at 138 Wildey Street, Tarrytown Shopping Center for use as a food establishment subject to the following conditions:

- Approval by the Building Inspector/Village Engineer.
- Payment of any outstanding escrow fees prior to the granting of a building permit.
- Approval by the Architectural Review Board for any signage proposed for the store.
- Approval by the Zoning Board for the required parking variance.
- Signing of the final site plan by the Planning Board Chair.

Mr. Aukland seconded, Ms. Raiselis abstained. Four approved one abstention. Motion carried.

NEW PUBLIC HEARING – Split Development Corp. – 10 Emerald Woods

The Chairman read the following Notice of Public Hearing:

PLEASE TAKE NOTICE that the Village of Tarrytown Planning Board will hold a public hearing on Wednesday, December 18, 2013 at 7:00 p.m. at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

*Joseph DeNardo
83 Harriman Road
Irvington, NY 10533*

For site plan approval for property located at 10 Emerald Woods to construct a single-family house with a 3-car garage. The property is shown on the tax maps as Sheet 1.190, Block 112, Lot 16 and in the R-60 (Residential) Zone.

Documents are available for inspection in the Planning and Zoning Office. All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

By Order of the Planning Board

Dale Bellantoni, Secretary

DATED: December 6, 2013

The certified mailing receipts were submitted and the sign was posted

James Annicchiarico, of Cronin Engineering, introduced himself and presented the application on behalf of Split Development Corp. He stated they are proposing a single-family house in the Emerald Wood subdivision which was previous approved. It is in an R-60 zone but the original subdivision was approved under the cluster provision so it is under the R-40 regulations. It is a 6,500 s.f. house with a 3-car garage. The proposed drainage improvement include roof leaders, footing drains and yard drains through property which will be direct the water into the existing drainage basin. He showed the streetscape and stated that the house sits down lower than the other house. The street elevation is 166; the first floor of the house is 162.5. It gets steeper as you go up the road and then flattens out; it's at 186.

Mr. Annicchiarico said he has shown the steep slopes on the plan as requested as well as a detail for a meter pit. We have provided a tree removal plan with the number, size and species and have gone over the landscaping with Ms. Munz, the Village Landscape Architect. Chairman Friedlander asked if they show the new trees. Mr. Annicchiarico said yes. We provided a planting list and the locations of the plantings. We made the changes Ms. Munz requested. Chairman Friedlander asked how they are going to handle the slope stabilization. Mr. Annicchiarico said we have incorporated plantings that Ms. Munz suggested for stabilization. Chairman Friedlander asked if there are any walls; it's very steep. Mr. Annicchiarico said there are no walls. Mr. Aukland said you are no disturbing the steep slopes, it is just a matter of making it more attractive and maintaining the stability.

Mr. Tedesco asked about the tree removal plan saying that there are many trees removed in the rear of the house and asked for a rational for their removal. Mr. Annicchiarico said most to provide a back yard and one for the drainage. Mr. Tedesco asked the nature of the tree being removed for the back yard. He feels that the homeowner may like trees in their back yard to provide shade. Mr. Annicchiarico said they are planting about 20 trees.

Ms. Raiselis asked why they are taking down the 20" tulip. Mr. Annicchiarico said he believes it is in bad shape.

Chairman Friedlander asked why would you want to take out large healthy shade trees and plant smaller one unless the large ones are of poor health. Trees are a nice part of a yard. Ms. Raiselis said we preserve as many trees as possible. Mr. Annicchiarico said nothing significant changes to the tree removal plan since the original HAS approval.

Chairman Friedlander asked that they stake out the property and mark the trees and we will do a site work before we make a determination on the trees. Also, we need a streetscape. Mr. Annicchiarico showed the streetscape.

Mr. Aukland asked if it is completely zoning compliant. Mr. Annicchiarico we need a 2' height variance. Mr. Aukland said normally I would ask for a justification for the variance but in this case it is not necessary because it was part of the original approval with HSA.

The board agreed to continue the public hearing at the January 27, 2014 meeting.

NEW PUBLIC HEARING – Streit – 65 Castle Heights Avenue

This application has been adjourned at the request of the applicant.

PRELIMINARY PRESENTATION – Ridgcroft Estates Owners Inc. – 154 Martling Ave.

This application has been adjourned at the request of the applicant.

PRELIMINARY PRESENTATION-Makan, Davinder/DM Equities of NY-200 Sheldon Ave.

This application has been adjourned at the request of the applicant.

ADJOURNMENT

Ms. Raiselis moved, seconded by Mr. Tedesco, and unanimously carried, that the meeting be adjourned – 10:45 p.m.

Dale Bellantoni
Secretary

