

TOWN OF GATES
PLANNING BOARD MINUTES
June 27, 2016

The regular meeting of the Gates Planning Board was called to order at 7:30 PM by Chairman Wall.

PRESENT MEMBERS: M. Wall, Chairman; D. Cambisi, T. May, K. Rappazzo, J. Argenta, D. Chamberlain, Frank Cassara, Deputy Town Attorney; L. Sinnebox, Town Engineer; L. Cordero, Councilman

ABSENT MEMBERS: G. Lillie, J. Amico

The first matter on the agenda was approval of the May 23, 2016 Planning Board minutes. Ms. May made a motion to approve the minutes as received. Mr. Argenta seconded the motion. All were in favor; the motion carried.

TUSCAN WOODS APARTMENTS
OWNER: Fiore Buttarazzi
LOCATION: 837R Spencerport Road
ENGINEER: Lantech Surveying

PRELIMINARY/FINAL SITE APPROVAL
MR (Multiple Residence Zoning District)

Mr. Winans, Engineer from Lantech Surveying & Planning introduced Bob Spencer, from Buttarazzi Construction and Mr. Buttarazzi. He described the project and showed pictures of the proposed project. He stated that the pictures and color rendering should coincide with the set of plans he submitted to the Board. He also stated that they are here seeking preliminary and final site approval for Tuscan Woods Apartments. This is a 5.6 acre property zoned multi family residential and the zoning allows for this apartment style residential living units. The properties to the west of this property and to the south are zoned single family residential. The property to the east is zoned multi family like this property, and there are apartments already built on that property pretty substantial to the east and out to Spencerport Road is commercial.

We are proposing to construct 4 buildings which will have 32 units. The two-story buildings will be a residential in style as you can see from the photos and the appearance of these similar to residential homes. Half the units will have garages and will have 2 garages at the end of each so that the lower units will have their own garages. As part of the construction for the 4 buildings we will put in asphalt driveways, sewers, storm sewers and sanitary sewers and water mains to service the buildings. Vehicle access to the site will be provided by an access easement to Spencerport Road granted by the property at 835 Spencerport Road. The existing driveway will be upgraded and relocated slightly out on Spencerport Road to facilitate our entrance and the increased traffic that will be coming into the site but we also allow for the existing business out on Spencerport Road to use that entrance and we will provide access to their parking lot at the same time. As part of our improvements we will have to comply with NYS DEC storm water regulations which include an outlet structure which we will incorporate into the storm sewer system with bio retention areas with catch basins picking up some of the rear yard and building run off. We will totally comply with the DEC storm water regulations along with the town regulations. As part of our water quantity and quality improvements we will be putting a storm water pond located on the southern end of the site which will take all the storm water from our area and take it down to that pond and then we will throttle everything down prior to going to the

existing channel throttle down to a less flow than actually is going out now. Water sanitary sewer will be picked up out of Spencerport Road. There is existing sewer water out there. I have received comments from the Town Engineer and the plans you have a lot of the comments were addressed when we resubmitted these plans. I did meet with the Town Engineer last week and we went over a few more things and I got a mark up from him and I don't really see anything on there that we can't address fairly easily on the final plans prior to signature.

Mr. Spencer stated that they will be adding a dumpster to take care of the trash for the buildings that will be located down in a good location that will not be visible and surrounded by a fence and easy access for the garbage truck to get it. Also on the southern end of the site is an existing roadway by Winter Hazel Court and our building is about 300 ft. off of that and our private drive is 250 ft. off of that. What we plan on doing is preserve the existing trees that are down there and at the same time while there is some open space right around Winter Hazel Court it is grass and has been mowed, we are going to create a slight berm in that area and plant some trees and we will also will be putting a fence in that area. Keep the fence off the roadway so that we don't pond any water in that area. The fence would be 10 ft. off of the roadway and a circular shape of the roadway. Out near the side of the entrance as you come out of Spencerport Road, there is an existing retaining wall that apparently was put in when the commercial site to the east was there. It is a concrete retaining wall that is showing signs of tipping and old age. I have looked at that and talked to the Town Engineer and I feel that our roadway is going to be 20 ft. off of that so the vehicle impact is not going to affect the wall at all from our improvements. We do not plan on doing any grading near it and what we will do is make sure during construction to put up orange fencing and stay 8 ft. to 10 ft. away from that wall. We will make sure that when we are putting in the sanitary sewer we take all the spoils and put them on the west side.

Ms. May asked about safety issues- lighting, speed limit for children. She envisions this area to be a busy area. What are you doing for safety and speed limit and making sure children are safe and not running in the road?

Mr. Winans stated that the buildings will all have lights at the doors, lights on the garages and everything will be well lit. They have also discussed putting in some pole lighting to help with that.

Ms. May stated that as far as speed limit she worries about children running in the road. Is there going to be a speed limit or speed bump to help cars slow down?

Mr. Winans stated that they will look at that. He also said that it is a good point.

Mr. Argenta wanted to know what the colors are for the apartments.

Mr. Spencer said that they have not picked the colors of the buildings yet. They will use commercially available vinyl siding. He also stated that they are building the same buildings that have already been built and therefore pictures that were brought to the meeting show what the buildings will look like.

Mr. Argenta stated that they have two different building types in the photos that were presented and one building type on the plans. He stated that they are not consistent.

Mr. Argenta wanted to know about handicapped parking. He stated that it does not look conforming. They have no loading zone. And that will impact the number of spaces. He said for conforming handicap accessible space you need to have a loading zone and he said he does not see that in the plans.

Mr. Winans stated that they have initially anticipating that the end units would be handicapped parking.

Mr. Argenta added that they do have handicap spaces showing but they are not conforming. They have to conform to accessibility standards. Mr. Argenta also added that at least one space has to be van accessible.

Ms. May wanted to know if the apartments are a double unit for one person or is there four separate units in each building? It will help piggy back on the handicap accessible questions.

Mr. Spencer stated that they have to have 2 handicap accessible units for the number of units they have. They are going to designate 2 handicap units in the bottom unit on each building that would give them six. Out of those six they are going to designate two handicap and come with a garage and is accessible by wheelchair and also the sidewalks are accessible by wheelchair to the front door. So we will meet the code that way. The interior door goes to the upstairs apartment. Or can be shut and rented to someone else. They are adaptable.

Mr. Argenta asked if there were details of the dumpster enclosure. He wanted to know what the materials will be.

Mr. Winans stated that he can provide that. They will be solid board fence. Mr. Argenta added that boards don't seem to hold up too well in this area.

Mr. Argenta wanted to know if parking is allowed in the setback. Northside there is a setback line.

Mr. Cassara stated that a variance is needed for that.

Mr. Rappazzo wanted to know what kind of screening is there going to be from these buildings to the existing buildings to the east and the west of this site?

Mr. Winans said that at this point there are trying to maintain as much of the existing vegetation along the property line right now. They have planned on doing some evergreens along the southern end and along the entrance.

Mr. Rappazzo said that it looks like most of the trees are going to be gone.

Mr. Winans stated that on the west side there is a buffer. The trees right now on the left are in the buffer. Which are supposed to remain.

Mr. Rappazzo is concerned that there is going to be a lot of ditching and grading in that area that is going to be difficult to maintain that vegetation. He thinks maybe a clearing limit and landscaping plan would be appropriate to help the Board gage what this will look like when all set and done.

Mr. Rappazzo also asked if there will be full-time staff on site or maintenance folk on site.

Mr. Spencer stated that they have an office right down the street at Gateway Plaza.

Mr. Cassara asked how that office is manned.

Mr. Spencer stated that they have regular business hours. Tenants will have an emergency number. He also stated that they have rental property that they already manage.

Mr. Rappazzo wanted to know if periodic inspections are done at the site?

Mr. Spencer replied yes.

Ms. May wanted to know if the tenants are allowed to have pets and if there is a space for the pets (dogs) to go to the bathroom. Any green space?

Mr. Spencer said there is green space all around.

Mr. Chamberlain wanted to know because it is a state highway if he has gotten any comments back from the state.

Mr. Winans stated that he has not other than a DRC comment which were general in nature. He has submitted plans to them and has not gotten anything back from them.

Mr. Chamberlain said that he would like to see a standard set by the town that when there is apartments and they are allowing pets in the apartments that they have cleanup stations installed throughout the site. It does take someone to maintain them but it is important that pet waste is picked up. He would like to see if they can improve the situation with pet waste. He also stated that the town parks now have pet stations. We would like to press new properties to have pet waste stations.

Mr. Chamberlain stated that because they have five bio retention stations and a pond, an agreement is needed that they will maintain that through the years. He also stated that on the one set of plans they have the construction entrance right out at Spencerport Road and that means that anyone going to chiropractor office will have to bump over that. It should be moved back to the beginning of Mr. Buttarazzi's property. Or some kind of arrangement should be made with the owner of the chiropractor's office. Also on the back of the buildings will there be decks or patios?

Mr. Winans stated no decks or patios.

Mr. Chamberlain wanted to know if there is going to be a lot of soil brought in.

Mr. Winans stated that other than the stone base and everything for the roadway it is going to be pretty close. There will be no basements only foundation to the buildings.

Mr. Chamberlain stated that he would like to see a landscaping plan. He would also like to see the sign location and would like to know what is the street name.

Mr. Winans stated that they are going to try to name the street Tuscan Way.

Mr. Chamberlain wanted to know why they need the extra parking lot behind the chiropractor's building?

Mr. Winans stated that when people have guests it is good to have overflow parking area.

Mr. Spencer stated that they will have assigned parking spots so every parking spot will be numbered so there is no place for a guest to park.

Ms. May asked how many bedrooms these apartments will have.

Mr. Spencer said that all apartments have two bathrooms and the only difference is that the end ground units have three bedrooms. So for each building there will be 2 three-bedroom units.

Ms. May asked if there will be sprinklers in case of fire.

Mr. Spencer stated that sprinklers are required.

Mr. Chamberlain asked about the existing drainage that goes from the west to the east. He stated that they have to add to the construction sequence that they are going to maintain that drainage across the property. Even though it could be a temporary pipe, or something to maintain that drainage until such time that you have created the piping system that you are proposing.

Mr. Winans stated that they can add that.

Mr. Argenta asked about the north end suggested parking that they have.

Mr. Buttarazzi asked about the storm pipe/drainage pipe.

Mr. Chamberlain answered that there is no drainage, no storm pipe.

Mr. Buttarazzi, owner of the property, stated that from Appian Drive to his property unbeknown to him there is a 24 inch pipe that caused a lot of drainage problem but we are taking care of it.

Mr. Chamberlain agreed with Mr. Buttarazzi that they will take care of this but before the storm line is put in there, they will be digging up and blocking the existing ditch.

Mr. Buttarazzi stated that they will not be blocking it up. That is one of the first things they are going to do is run the pipe before construction.

Mr. Buttarazzi concluded by saying that they will not have pets in every building. Maybe designate one building to have pets and that is all.

Mr. Argenta said that at the north end of the property they have the guest parking and then sidewalk across an island. Can you give consideration moving the sidewalk more to the east so that when they exist the sidewalk there are behind any vehicles that are parked there. He also asked if there is any curbing along the pavement.

Mr. Winans stated no there is no curbing.

Mr. Argenta then asked if they have had a GEOTECH done as far as where the rock elevation might be. Will that be an issue?

Mr. Winans stated that they did test holes and went down about 8 ft. and found no rock.

Mr. Wall stated that a structure analysis will be needed for the retaining wall to have a comment on and have an opinion on the longevity of that wall.

Mr. Cassara also stated that the retaining wall clearly presents an issue for concern for the Planning Board and the town for safety purposes. He was not sure if there is some question of ownership or co-ownership with the neighbor. At this juncture since this proposal is before the board, right now providing an engineer's structural report for that retaining wall before the next meeting. There is some question if it is co-owned.

Mr. Winans answered that the retaining wall it is right on the property line and it appears that it was installed as part of the neighbor's parking lot. It's what it looks like. From my engineering perspective, as long as we don't get within 5 or 6 ft. of that wall, we won't be doing anymore damage. We are not going to do anything more to it. At this point, the wall is probably 8 ft. high at points, but on the upper level the ground only runs 5 or 6 ft. of ground gravity forces on that wall. So as far as safety wise, it is not going to collapse tomorrow. That was our point to stay away from it and not create more pressure on it.

Mr. Cassara stated that at this point without a proper engineer report or review provided to this board, to ensure that it is ok. If you have some ownership in this wall, I feel that a full engineer's report to make sure the safety and anything that is done to the property is ok. Want to make sure there is no damage to neighboring properties or your own tenants.

Mr. Winans stated that it is something they have discussed at length with Mr. Sinnebox and he did ask me to provide a written report and we are also going to add notes to the plans that we will take care we will not hurt the integrity of the wall and the plans will be signed by a licensed engineer. If you want a written report by GEO Technical, we can provide that.

Mr. Cassara is going to leave that up to our town engineer.

Mr. Wall asked if the multi family resident needs to have open recreation space.

Mr. Sinnebox answered yes. He stated to outline an area on the plans.

Mr. Wall said that they made mention of the traffic generation from here and wanted to know if they had any idea what kind of traffic levels might be incurred with the project.

Mr. Winans stated that they estimate during morning peak and evening peak to be 20 to 25 cars at the most. Assuming there will be one car per unit. Obviously Spencerport Road is a busy road and this is a small impact regarding the overall traffic count on Spencerport Road. Most people will be making a right hand turn onto Spencerport Road and coming back at night making a left hand turn into the complex with much less traffic coming at them.

Mr. Wall stated that we need to approve that to the Town Engineer. We need at least some trip generation numbers for our Town Engineer to review.

The meeting was opened to the public.

Mr. Renda, 58 Appian Drive addressed the Board. She stated that some things she was going to speak about have already been addressed. The pipe between 56 & 58 Appian Drive bring the water between those properties and the property behind them. She stated that when she purchased her home from Mr. Buttarazzi, they were at the low point and that is where all the water was settling. They put a swale between 56 & 58 Appian Drive. After a few years there was water there that would not drain into the ground. She approached a councilman at the time and he looked at the situation and said she was

correct that it should not be open and he got the town to put pipes in and go into the property behind that Mr. Buttarazzi owned behind her home. She was told at that time that the ditch would be periodically cleaned out. It was cleaned out once. The runoff from Appian Drive and the streets coming off Appian Drive, West Crest and East Crest comes down to her area and goes out back. That water is carrying pesticides and fertilizer, road salt and oil leaking from cars. The reason I am here is that this water problem if it is not in their plans before they start their project. If the water flows and it is covered it is going to be a hazard to our health. As you know if you have an open ditch or pond I don't think that is very good. First place kids are going to go is to the water. It will be a breeding place for mosquitoes and that is not good. When we bought our home we were told that Appian Drive would not be a through street and that Wegman Road would go right through to Spencerport Road. Well that never happened. Had to fight to get stop signs put on Appian Drive. So now what is going to happen with the young couples and children and the traffic on Appian Drive.

Ms. Toni DiGiore, 47 Appian Drive, addressed the Board by saying the road that is coming for these people to get to these apartments, how wide will it be? Is it going to be wide enough for two way traffic? Will it be two lanes? Mr. Winans answered her by saying it will be two lanes, 25 ft. wide. She also reiterated what Ms. Renda said about Wegman Road going through to Spencerport Road and that never happened. There are a lot of little children in the area and she is worried about the retention ponds.

Mr. Buttarazzi explained the situation with the parcel of land. In 1948 the county sent him a letter that they wanted him to reserve 50 ft. right away from Wegman Road to Spencerport Road that they were going to continue Wegman Road to Spencerport Road. That is why the parcel of land is there. There is nothing we can do about it. Now that we have it, I have paid thousands of dollars of taxes on that parcel and I feel I have the right to use it. In regard to the drain pipe, all drain pipes will be covered, especially the large 24 inch pipe. I don't see any problems. We are not adding too much traffic to Spencerport Road. I think it is very reasonable 24 to 30 cars. We really need this apartment complex approved. It is up to the board. That is the reason that parcel of land is there and that is the reason I am answering why we must put a road in to get out of that parcel. It is better than running Wegman Road to Spencerport Road. You are much better off this way than you would have been before. Thank you.

Ms. Wantke, 56 Winter Hazel Court addressed the board. She stated that the berm is fine. The line of trees is fine but she does not understand what the fence is for and how high it is going to be. In all honesty she does not want to look at a fence.

Mr. Spencer answered by saying some of the neighbors did not want people to be cutting through to their street. Ms. Wantke is concerned with teens cutting through to her street but she doesn't want to look out her window and see a fence. She prefers to see trees. Where is the fence going to go? Mr. Spencer stated that the fence was an accommodation to the neighbors. They were going to stay 10 ft. away from pavement and be 6 ft. high. Ms. Wantke believes that the fence is not going to stop kids from coming around. Mr. Spencer stated that they will work that out with the neighbors. Ms. Wantke again stated that she would like to see trees and not a 6 ft. fence. She did not know about the pond and that is a concern to her. The fence is her main concern and she was hoping to look out to forever wild and she stated that Mr. Buttarazzi has the right to do whatever he wants with his land and we have to make sure that it is right for everybody.

Mr. Dwayne Blave, 64 Appian Drive and 865 & 869 Spencerport Road. He stated that he is probably affected more than anybody since his property is adjacent to the chiropractor property. First of all he wanted to go on record to say that he doesn't feel that the advertisement for the zoning variance was

properly placed. He measured it today and it is 65 ft. off of Spencerport Road. Directly behind the chiropractor office could not be seen from either one of his houses. He stated that the barrier of trees that were left, there were none left on his end. All the trees are gone. He believes they even took one of his trees down. He is upset about the parking lot. He already looks out at one parking lot for the chiropractor office. He has had to put surveillance cameras, no trespassing signs, and has people pulling in his driveway all the time for the chiropractor's office. He has actually caught people on camera driving across his lawn to get to the chiropractor's office. So now he has another parking lot just feet away that he has to worry about the same thing.

Ms. Gosh, 42 Appian Drive, bought her house last year and wanted to get away from apartments. She does not want apartments there. She has kids. Does not want apartments near her home. They cut down trees. What is going to happen next?

Mr. Collella, Appian Drive, said that he has a back yard that has been soggy until now. Floods all the time. There is not much space back there. I don't accept that. It is a problem. There is water all the time in the back yard. I have been there 20 years. I wish they would not build anything back there. He would like them to fix problems with the water

At this point the Planning Board was declared in Executive Session.

After discussion among the Board Members, Mr. Wall made a motion to TABLE this application pending the presentation of information that is required for the Board to render a preliminary determination; The Board requested:

- 1) Landscape and Lighting Plan,
- 2) Masonry Dumpster Enclosure Details,
- 3) ADA Handicap Parking Spaces are to be detailed per ADA standards. This may affect the final parking counts.
- 4) All ADA Handicap Accessible Units are to be defined on the plans.
- 5) Open Space is to be depicted on the plans in an amount sufficient to satisfy the Town Code requirements,
- 6) Building elevations are to be completed, building colors are to be selected, and building samples are to be presented to the Planning Board,
- 7) TripGen information presented for the Town Engineer's review, and
- 8) The public notification sign is to be posted per Town requirements.

That being said, the Board considered the Application as a Sketch Plan and offer the following comments:

- 1) The Applicant is to provide an Engineer's Analysis / Structure Analysis of the retaining wall for the Town Engineer's review.
- 2) All Easement agreements shall be reviewed and approved by the Town Attorney.
- 3) Parking in the front setback will require a Zoning Variance.
- 4) All received variances shall be added to the Site Plan and the date of the granted variance.
- 5) Fire Marshal comments are to be incorporated into the plans
- 6) Snow Storage locations are to be delineated.
- 7) Outstanding Town Engineer's comments are to be addressed
- 8) Applicant is to review speed limits signs and / or possible speed humps for the development
- 9) Applicant is to review the screening to the east and west. Applicant is to speak with the neighbors that spoke at the meeting and address their concerns.

- 10) Storm water agreements will be required.
- 11) Stabilized Construction Entrance is to be located on Buttarazzi's property.
- 12) Applicant is to review the bearings and distances discrepancies depicted on the property line
- 13) Applicant is to depict the proposed sign location shown on the plans.
- 14) Applicant is to add the proposed street name and address to the plans.
- 15) That the construction sequence shall be revised to construct the proposed drainage pipe and swale as one of the first items to prevent drainage being cut-off.
- 16) Applicant shall add Pet Clean-up Stations.
- 17) The Applicant is to relocate the sidewalk (at the north end) so as not to conflict with parked cars.
- 18) The plans will be constructed as depicted on the plans with no outdoor patios.

Seconded by Ms. May. All were in favor, the motion carried.

CHURCH OF THE HOLY GHOST
OWNER: Church of the Holy Ghost
LOCATION: 250 Coldwater Road
ENGINEER: Costich Engineering

RESUBDIVISION OF LAND
R-1-11 (Residential Zoning District)

Dan Brock, Costich Engineering, spoke requesting final subdivision approval to subdivide the tax account # 118-19-01-38 which is the Church of the Holy Ghost property located east of Coldwater Road. He is here tonight with Brian Stiles, Director of Operations for The Open Door Mission and Michael Condon of Harris Beach Attorneys and Fr. Michael Schramel, representing Church of the Holy Ghost. He states they are requesting to subdivide a .31 acre parcel out of the main property. On that parcel is an existing two-story brick building which is currently vacant. The Town Board granted them a conditional use permit on May 2nd of this year to operate a woman and children supportive housing program to be located inside that building. The property is currently zoned R-1-11 and he believes they meet the proper setbacks for set zoning. The property has along with the subdivision a few easements which would allow this property. There is a typical snow storage easement and a parking spot easement, which does include handicap parking up front adjacent to the building. It is a straight forward subdivision.

Mr. Argenta asked Mr. Brock to discuss the parking. Mr. Brock stated that they have two parking spots which they will have an easement over, one the handicap parking spot and will be immediately adjacent to the building and also parking across the road.

Mr. Wall asked if the two parking spaces all they will need.

Mr. Stiles stated that the two spaces does meet their full-time staffing needs and their part-time staff will have the parking across the street which is more than sufficient and very close walking distance.

Mr. Chamberlain referenced that in their document, reference #2 has a misspelling.

At this point the Planning Board was declared in Executive Session. After discussion among the Board Members, Mr. Wall made a motion to grant final subdivision approval for Church of the Holy Ghost with the following conditions:

- 1) That the easement agreements be reviewed and approved by the Town Attorney before the Planning Chairman signs off on the plan.
- 2) That Map Reference note #2 be checked for spelling.

Mr. Argenta seconded the motion. All were in favor, the motion carried.

THE VILLAS AT COLDWATER, SECTION 4 FINAL SITE APPROVAL
OWNER: RM EQUITY HOLDINGS LLC LCR-1-11 (Residential Zoning District)
LOCATION: 351 Coldwater Road
ENGINEER Schultz Associates

Kris Schultz of Shultz Associates and Bob Marcello, Owner of the project were present. Mr. Schultz stated that this is the 4th section at Coldwater Villas. They have an overall preliminary for this project and at the time went through and did all the environmental reviews, SEQR and a lot of the preliminary engineering done and reviewed by the Town Engineer so what they agreed to was that they would come in with each section for final approval. This is section 4. They have worked their way along Coldwater Road. Section 4 takes them around the bend. The project has been very successful. Nothing is changed as far as grading, utility, etc. We are following the overall preliminary plan. This project does involve offsetting flood plain and we are ahead of the game making sure ample storage is provided. Plans were submitted to the Town Engineer including calculations for flood storage and looking for contingent final approval this evening to move ahead with construction this year.

Mr. Chamberlain stated that the fill material was brought into the site and is there still going to be a need for it in this next section.

Mr. Shultz stated that there is no need for importing fill. This section the existing grade is higher and a good portion of that is not even in the flood plain. Plus Bob is getting a lot of materials from the excavation of the basements. So we do not anticipate any import.

Mr. Chamberlain asked about the construction entrance.

Mr. Shultz said that the construction entrance would be right at the end of section 3. He will make sure that it is noted in the plans.

Mr. Chamberlain went on to say that on Sheet C3, there is proposed pond access drive.

Mr. Shultz stated that typically what they will do is put a cross section that will support larger vehicles coming in. I think we do have a detail of that which consists of at least 12 inches of stone. We usually don't pave them. We used cover, grass or aesthetics. We like to do that especially for the ones that are the small access to end sections to the main pond. If you are familiar on how we did this project, we developed a large water surface around that ran through the whole project and served the purpose of taking care of the flood storage but it also acted as a large storage area. This is one of the projects that we walked into with tons of surrounding issues, flooding issues, and this has improved conditions from Mercury Drive and basically around the whole perimeter.

Ms. May asked if there will be pet stations as well.

Mr. Shultz stated that these properties are all owned so the people living there are actually buying the units.

Mr. Sinsebox states that this is consistent with the overall plans and has no comments.

At this point the Planning Board was declared in Executive Session. After discussion among the Board Members, Mr. Wall made a motion to grant Final Site Plan Approval for the Villas At Coldwater, Section 4 with the following conditions:

- 1) That all conditions from the preliminary site approval to be incorporated into the final plan.
- 2) All stamps from all approval from regulatory agencies, including the Fire Marshal are to be affixed to the final plan prior to the signature of the Planning Board Chairman.
- 3) That the site continue to be built and constructed according to the renderings of buildings presented to the Planning Board.
- 4) That the applicant is to pay particular attention to the maintenance and cleanliness of the bordering roads to the property during construction phase to the satisfaction of the town's Department of Public Works.

Mr. Argenta seconded the motion. All were in favor, the motion carried.

PARKVIEW PLACE, SECTION 1
OWNER: RMEQUITY HOLDINGS LLC
LOCATION: 3990, 4060 Lyell Road
ENGINEER: Schultz Associates

REVISED SITE APPROVAL
TH (Town Home) Zoning District

Kris Shultz of Shultz Associates stated that they have obtained approval from the Board with the first three buildings in section 1 showing patios instead of the typical sunroom being used throughout the development. This was a desire on the developer's part to switch from patios to sunrooms and we had an opportunity to go to the Zoning Board to obtain variances to allow the sunrooms to be a little bit closer to the setbacks. Since it was a fundamental change to what was presented to this board, as far as the type of building, we are coming back to the board to make sure we have an updated approval showing the intent to place building on the first three pads that are consistent with the balance of the buildings in the project. We did get the Zoning Variances earlier in the month so we are seeking re-approval for the building type.

Mr. Cassara stated that the Zoning Board approved the variance conditionally upon review of any material changes that may exist with the new proposed changes.

Mr. Schultz said that the two parties that would be impacted the most, the church to the left and the single family residence to the east both provided letters of support for the variance. So basically the Zoning Board felt that there weren't significant changes to the neighborhood. We actually had no neighborhood comments during the Zoning Board meeting.

Mr. Cassara asked Mr. Schultz to describe the agreement made with Mr. & Mrs. Santiago regarding the variance.

Mr. Shultz stated that prior to the meeting with the Zoning Board, Mr. Marcello had meetings with the Santiago's the reason for the request and the desire to offset any potential additional impacts and as you are aware, when we approved this, we went out of our way to mark and save any mature trees that were between the residence and the proposed development. There was to be additional landscaping within part of this next step to go from patios to the full bump outs, Mr. Marcello has agreed to place berm and some additional trees.

Mr. Cassara stated that the Zoning Board minutes are uploaded to the town website with the Town Clerk, and if anyone would like to review them further, they will be in the Building Department under the Zoning Board folder also as well. Fr. Schramel from St. Jude's was one of the parties that wrote and also Mr. & Mrs. Santiago.

Mr. Wall stated that we have a letter from the Fire Marshal stating that the proposed change to add sunrooms or patios does not impact his initial review from 8/7.

Mr. Chamberlain asked if they have presented Mr. Sinsebox with plans that shows drainage on the Santiago side of the property.

Mr. Schultz stated that it was so minor and that he can follow up with that for sure. He can give the exact buffer. The reason it was not done is that the extent of the buffer is almost going to be one of these. The reason is is that there is going to be a number of trees there. Mr. Marcello is going to make them happy.

Mr. Chamberlain asked about decks?

Mr. Shultz stated that the way it works is that with the sunroom if there is to be a deck, it will be located to the side. It is not going to extend any further out. It will be adjacent to the sunroom.

The meeting was opened to the public.

Connie Kominski, 21 Elmford Road stated that she lives on the other side of the project. She stated that she is in favor of this board moving this project along and giving them the approvals. She is not hearing any major issues with it and would like to see the noise and the dusk done as quickly as possible. She would appreciate all the cooperation this board can give.

At this point the Planning Board was declared in Executive Session. After discussion among the Board Members, it was decided that the addition of the sun room caused no material change compared to the originally approved Site Plan. At this time, no further action is required however, should there be additional revisions, the Board reserves its right to review the revisions.

Mr. Wall than made a motion to approve the Revised Site Plan for Parkview Place, subject to the following condition:

- 1) That the ZBA conditions be incorporated into the Site Plan including the screening agreement between the Applicant and #4020 Lyell Road (N/F Terri Santiago).

Mr. Argenta seconded the motion. All were in favor, the motion carried.

FAITH OUTREACH MINISTRY
OWNER: RMEQUITY HOLDINGS LLC
LOCATION: North side of Buffalo Rd.

PRELIMINARY SITE APPROVAL
R-1-11 (Residential Zoning District)

East of Elmgrove Rd. intersection
ENGINEER: Vanguard Engineering P.C.

Mr. Joe Ardieta of Vanguard Engineering representing Faith Outreach Ministry Church for the proposed 6100 sq. ft. church to be located on Buffalo Road. He stated that they have been before the board before and gave a brief summary. He stated that they have addressed all site comments and have verbal approval from Monroe Co. Water Authority, Pure Waters, Health Department and NYSDOT with the proviso that the applicant hires the contractor who will get the bonds and then the DOT issues the permit. With regard to engineering and the applications, the DOT is satisfied as well. The project requires no variances. We exceed the required parking by 12 spaces. They negotiated with the next door neighbor who requested that they stripe their parking area. They propose to do that and in addition they are putting in a drive lane line to distinguish the drive lane from the parking.

Mr. Ardieta then turned it over to Mr. Joe O'Donnell, architect for the project. He stated the last time he was before this Board, one of the major questions and concerns was the height of the building and how it was determined and how it was defined in the code. He stated that he met with the staff to try and determine how building height is developed and measured in the Town of Gates and it was clear in the definitions of the Gates Zoning Code of how that is done. The height of the building is the vertical distance from the finished grade level to a point midway between the highest and lowest points of the roof. Providing that chimneys, spires, towers, elevators, penthouses, tanks and similar permitted projections shall not be included in determining the height. If you refer back to what grade level is, it is the final grade level at the front line of the building. As a result we put together a diagram showing how the building height is measured and was included in the package and he also has a large scale graphic of it. Basically to take the midpoint between the high point and the low point and that is the 35 ft. limit is measured from there. He also brought a sample of the brick to be used and the metal panel on the side walls of the building. He also provided a rendering of how this building is placed on this site on Buffalo Road. This is just a graphic representation and how it would fit in next to the adjacent houses. Lastly what he did for the Board is that he put together photographs of churches that are adjacent to similar properties like this one is. You can see that churches are unique structures in architecture and are generally more prominent and larger in scale than their surrounding properties basically because most churches are situated in residential neighborhoods and residential areas.

Mr. Argenta questioned about the light colored panel.

Mr. O'Donnell stated that what he brought is a swatch of it.

Mr. Wall asked where the metal is going to be.

Mr. O'Donnell stated that it will be on the side walls and the back wall. Brick on the front of the building on Buffalo Road.

Mr. Wall asked what they are proposing for the windows of the church.

Mr. O'Donnell stated that they would be pre-finished aluminum store front windows typical in a commercial application with clear glass.

Ms. May asked where someone in a wheelchair would enter the church.

Mr. O'Donnell stated that there is a handicap ramp in the back of the building.

Mr. Wall asked what they are proposing for the roof structure.

Mr. O'Donnell stated that it will be just a rubber membrane roofing system. He also stated that the second floor is a cathedral area.

Ms. May asked about sidewalks around the building. Mr. O'Donnell said any point of entry into the building is connected by sidewalks around the site.

Mr. Argenta asked about the parking area and fencing.

Mr. Ardieta stated that he met with neighbors and discussed screening. Fencing was discussed and then trees to screen the fence which they have provided with two different types of evergreens and a non-white PVC fence connecting an existing fence. They have also moved the parking lot as far east as they could.

Mr. Chamberlain stated that the proposed building and the existing surrounding homes was not in the package.

Mr. O'Donnell stated that it was in the package.

Mr. Chamberlain stated that the pictures that were submitted from other area churches in the Town of Gates show plenty of room on either side of these churches. They want to shoehorn their church into this site. It is a poor site to be used for what they want to use it for. Also trees shown in their photo are gone and it is not a true representation.

Mr. Ardieta said that the church fits within the setbacks.

Mr. O'Donnell added that unfortunately today people don't have the luxury of buying pieces of property because land is not cheap but if they can accommodate a building on an existing piece of land.

Mr. Ardieta also added that this church is only 6100 sq. ft. and is a small footprint for a church.

Mr. Wall asked Mr. Ardieta to update the board on the easement agreement for the cross access.

Mr. Ardieta replied by saying the project has 4 easements. One is Water Authority, Pure Water, and two is with Lifetime Assistance – the neighbors to the west. They already have the easements for the two agencies and the easements have been given to the applicant's attorney. The two private easements – he has been in contact with Ernest Haywood, the representative for Lifetime Assistance, and has given the boundary descriptions to the applicant's attorney. He will communicate with Mr. Haywood on obtaining the easements. So two easements may not be executed by the client but they are in the client's attorney's hands and the other two easements are being prepared by the client's attorney who is in communication with the other party.

Mr. Cassera asked when the estimated time for those easements to be executed or reviewed by both parties will be because the Town Attorney would like to review them.

Mr. Ardieta said that unfortunately it is not in his hands and that it is in the hands of Mr. Feldman and Mr. Haywood's hands. However, they have standard boiler plate easements that they can provide to try to expedite the process so they don't have to create legal documents themselves if they so ask.

Mr. Cassera stated that both he and Mr. DiCaro will review them when he provides them. Mr. Ardieta will provide the two private easements to them.

Mr. Wall asked for the ramp in the back what is the height of the retaining walls.

Mr. Ardieta stated that they do not exceed 3 ½ feet. They may go 4 feet.

Mr. Rappazzo stated that they may have to raise that because of the extra door on the back corner.

Mr. O'Donnell stated that they have some flexibility if they have to move that door to one side. They can do that.

Mr. Chamberlain stated that in the parking lot they have wheels stops preventing people from gliding into the main garden. These should be labeled. Mr. Ardieta agreed.

Mr. Argenta asked for fencing dimensions and length of the fence

Mr. Ardieta stated off three or four feet. There is an elevation difference there and it varies from 0 to 2 feet. Mr. Argenta said it is something to think about. Mr. Ardieta stated that it is something they can do.

Mr. Sinsebox stated that we need all of the paperwork signed and executed. Maintenance agreement and pond agreement.

The meeting was opened to the public.

Mr. Anthony Monaco, representing Mrs. Gionta who lives at 1000 Elmgrove Road. She has asked me to speak on her behalf. She has concerns about the water, the bugs, the potential safety hazard for children. They would like it piped. On behalf of Mrs. Gionta, and all the other neighbors feel that way, we have met with the pastor and the engineer, Joe Ardieta, is excellent and has met with the neighbors and very gracious and accommodating knowing that the neighbors object to this. He has done everything that he can. The architect, Joe O'Donnell is an excellent architect so we have no problem with the pastor, a growing church, with the engineer and with the architect. What Mrs. Gionta and the other neighbors have a problem with is this church being located here. One of the items I mentioned briefly at the Town Board is once the pastor and congregation have no evening services and the go at the end of the day, the neighbors are left with this in their back yards. And while you are creating a beautiful sanctuary for the day time, what you are creating in the evening is a potential incubator for juvenile crime. You've got a hidden parking lot, not very visible at all from the road, with parking spaces, a little pond and teenagers doing what teenagers do, the neighbors and Mrs. Gionta believe you are going to create a safety hazard and the neighbors are going to have to live with this because the pastor and the congregation are not going to be there in the evenings. The other concern Mrs. Gionta, and I believe the other neighbors have, is the pastor is moving into this church or moving into this church because he has a growing congregation but by their own admission it is not a very big church. You can't build a very big church because you are land locked, you are right next door to a house with a guy who has young kids and you have to literally shoehorn a parking lot into people's back yards. Well, I started by saying the pastor has a growing congregation and what

happens when he outgrows this? And if he continues to have this success, what is going to be left for the town and for the neighbors? You are going to have a building that's not ideally suited for a growing congregation. This is not a small office building that you can easily fill with someone else. If this congregation continues to grow, and we hope it does, they are eventually going to outgrow this building and you are going to have an abandoned church and a parking lot in people's back yards. So I think this Planning Board beyond, have they met their requirements and the flood zone and the amount of water and the lighting, I think the Planning Board is charged with making the determination is this beyond meeting all the technical requirements, does this enhance and provide for the safety, the beauty, the value for the neighbors for the homes that they have invested in. And again, nothing against the wonderful people of this church, the neighbors strongly believe that this is simply the wrong place for this church.

Mr. Cassara asked if Mr. Monaco was representing Mrs. Gionta and only Mrs. Gionta. Mr. Monaco answered yes. Mr. Cassara then asked that he only limit his comments to his clients. He did state that the others neighbors have asked him to speak on their behalf so I technically represent them.

Adam Norton, 2900 Buffalo Road, which is the property directly east of this location. He was not able to be at the April meeting but he did read the meeting minutes and the subject of the spire came up and in those meeting minutes it was agreed that the 35 ft. total height would be agreed to upon with the pastor and I was surprised to hear that now we are drawing straws, technically the height of the spire adds another 10 ft. elevation from grade level. Just a little concerning when you are told at the beginning of the project that there would be no zoning changes and here we are drawing straws to make it 10 ft. higher than what the zoning code calls for. It might be legal or within your rights when you get in technicalities but you are adding an additional 10 ft. directly between two residential houses. He thanked Mr. Ardieta for working with them and adding more trees to the site plan and he appreciates that to help shield some of the noise and keep it a little more residential on his side. He thanked Mr. Ardieta for working with them. He appreciates it.

Dave Siles, 974 Elmgrove Road, stated that one of the reasons he bought his property 15 years ago because he had a 600 ft. deep back yard. He left the City of Rochester to have that type of privacy. That is what he enjoys. Yes he has Elmgrove Road out in front of his home, that was a given and Kodak was there when he moved in and he knew that. However, now in the back yards there is going to be a lighting issue. He brought in pictures of the amount of geese they have in their back yards, which is a natural thing, however, no one is going to convince him by adding more water in the back yards that it is not going to draw more wild life or whatever it might be. He said the wildlife is beautiful and they love the deer, he loves that part of it. However, a lot of this, and he agrees with everyone that was there, this is not about a church, this is a piece of property that was left over. This property is owned by someone who is not even a resident of the Town of Gates. All of these accommodations are meeting on his behalf. But what about the 25 neighbors that are going to be immediately affected, either by traffic, light, water, 50 people. Any of you that live in the Town of Gates, can you imagine your homes having a 50 car parking lot right next door to it or right adjacent to it. A lot of this comes down to a common sense situation trying to shoehorn what is a residential piece of property. Yes it is not a commercial building, but it a 6100 sq. ft. piece of building, 35 ft. high, which is 3 times higher than any house in the area. He said that this is not about a church, it's about common sense at this point. And he hoped that everyone can understand how it can affect the property values within the area if or once this project takes off.

Don Ioannone, Lyell Road, wanted to reiterate Mr. Monaco's thoughts about the fact that it is going to be a dual sanctuary. A sanctuary for worshipers and in the evening hours it is going to be a sanctuary for teenagers and hoods and whatever. He stated that they see this at Holy Ghost daily and they are

not bounded by anything there, it is wide open. You can go in there any morning of the week and you can find where the kids have been there overnight and the handicap signs are all bent or bent over the poles and the cemetery always has destruction. So I what he wanted to reiterate was that Mr. Monaco was correct that you are creating not only a sanctuary for worship but also a sanctuary for kids.

Mary Schlaefer, 1004 Elmgrove Road stated that at the last meeting right before it ended, the pastor did get up, and she wants to agree with what Adam said, and said that he will meet the guidelines that we said the 30 or 35 ft. and yet that didn't. Yes they can have this because the property can have a church on it, even though it is residential, and we all know that, but it is a detriment to the neighborhood. It is going to cause problems and that needs to be looked at over the fact that can they have it legally? Yes, but if it's going to be a detriment to the neighborhood it needs to be looked at that way.

Patrick Schlaefer, 1004 Elmgrove Road, said he heard this new formula for the height of the building and he thinks that any part of the building that goes over the 35 ft. would be automatically disqualified. He heard them talk about the highs and the lows and did not hear the word average in the definition of 35 ft. So he wanted Mr. O'Donnell to re-read it.

Mr. O'Donnell stated that the way the Town Zoning Code measures a height of a building, the vertical distance from the finished grade level to a point midway average, between the highest and the lowest points of the roof provided the chimneys, spires, elevators, pent houses, tank and similar permitted projection shall not be included in determining the height. This is right from the Town Zoning Code.

Mr. Schlaefer replied by saying he is not sure when that went into effect.

Mr. Ioannone asked if that pertains to residential or commercial buildings? He asked if that meant that he can build a house 35 ft. high?

Mr. O'Donnell said that it is his understanding. He also stated that at the last meeting the Reverend, in an effort to get the project approved, he was willing to reduce the height because there was nobody here at the meeting that knew the definition of the height or how the height was measured. We met with staff subsequent to that and we all agreed that this is how buildings are measured.

Mr. Cassera stated that subsequent to that meeting the Town Attorney and the Town Engineer all reviewed the plans that were presented that evening. It was reviewed thereafter. It was determined that the definition quoted was correct for a residential area for that structure.

Mr. C. stated that he lives in Gates and that he is a member of the Faith Outreach Ministry. He stated that he has been following the trend of things and wished to point out one thing that he has seen that is lacking in all the objections we are having or comments we are having from neighbors. He said he would be worried if he was in that position, however, he calls for objectivity. He stated that they have been talking about themselves. He has not heard anyone talking about what we gain. He doesn't see anyone talking about our future. He doesn't see anyone talking about the benefits and that is the objection he wants to bring up. The generations that are coming after us and what we think we can benefit from the project. He thinks that if we call our minds to such objectivity he thinks that some of the problems we are having about this project would begin to cushion it. He said that the nice young man that spoke about the hazard of the parking lot, of course, that place currently is an empty lot. He said has there been people gathering there smoking, shooting – NO. Secondly, with that place been developed he tells you think about the youths out there looking for someone to say hey, come and experience the love of God. We don't talk about that. Of course we have empty places. Beauty is

abandoned around the Town of Gates. How many have we had that every minute somebody is shooting somebody there – NO. Yet we see killings and shootings happening around us. He wants us to take away our mind from this too much fear and try to be objective. Also he wanted to respond to something someone said about over an overgrown church. About 5 or 6 years ago he started in an apartment and at that point his need has overgrown it. He had to move on and bought a house and moved to Gates. We stand as a church and we feel that we have overgrown it. We moved on and bought a place on Lee Road. We all started somewhere. Why are we cutting down on the future we have just because we don't know what future holds. He said that if they have outgrown it, then it is a beautiful thing for the Town of Gates. Where they are now on Lee Road was abandoned for some time. They came, they bought it and they used it. He believes that if they outgrow the planned church, someone else might have a need for it. If they overgrow it he believes it is a good thing. No man, no woman, no young adult, no child prays to remain where he is. That is why they invested in health, in business and even in our children because we want to have a better tomorrow. He understands the neighbor's fears. He stated that these won't be issues if we begin to be objective.

At this point the Planning Board was declared in Executive Session. After discussion among the Board Members, Mr. Wall made a motion declaring the Gates Planning Board Lead Agency. For this project pursuant to SEQR regulations and finds that this project is an Unlisted Action under SEQR. There is no significant adverse impact on the environment; no further SEQR action is required.

Mr. Argenta seconded the motion. All were in favor, the motion carried.

Mr. Wall then made a motion to grant Preliminary Site Approval for a 6,100 square feet Church, ancillary parking, and drainage features, subject to the following conditions:

- 1) The easements between the Church and Lifetime Assistance (Cross Access Easement and Temporary Grading Easements) will be submitted to the Town Attorney for review prior to applying for Final Site Plan Review.
- 2) Final Subdivision of Land Application (Chapter 36A) should be applied for by the Applicant.
- 3) That the northern drainage shall be revised to show a piped-system instead of an open swale.
- 4) That all Town Board conditions are added to the site plan, including the hours of service.
- 5) That the height of the retaining wall be adjusted to comply with the grading at the rear entrance door.
- 6) That the signed NOI and Maintenance Agreement be submitted to the Town for review.
- 7) That the applicant to look at means to secure the back parking lot for the Planning Board's Review at Final Site Plan review.
- 8) Final building materials, including roofing, window glass transparency, window trim, and copper fascia, are to be presented at the Final Site Plan review. Please have the building samples consistent / match the submitted color Building Elevations.

Seconded by Mr. Argenta. All were in favor, the motion carried.

There being no further business to come before the Planning Board, Mr. Wall adjourned the meeting at 9:54 PM.

Respectfully submitted,

Linda M. Saraceni
Recording Secretary