

A regular meeting of the Town of Victor Planning Board was held on Tuesday, October 08, 2019 at 7:00 p.m. at the Victor Town Hall at 85 East Main Street, Victor, New York, with the following members present:

PRESENT: Ernie Santoro, Chairman, Al Gallina, Rich Seiter, Heather Zollo

ABSENT: Joe Logan, Vice Chairman

OTHERS: Wes Pettee, Town Engineer; Lisa Boughton, Secretary; Lee Wager, David Nankin, Mike Guinan, Town Board Liaison, Greg Schwartz, Jean Krym, Enrica Sharp, Cynthia Sharp.

The meeting was opened, the Flag was saluted, and the Pledge of Allegiance was recited.

Chairman Santoro made the announcements regarding emergency exits; restrooms; attendance sheet; business cards; resolutions and agenda; conversations and cell phones.

**APPROVAL OF MINUTES**

On motion of Heather Zollo, seconded by Rich Seiter.

RESOLVED that the minutes of September 24, 2019 be approved.

Ernie Santoro	Aye
Joe Logan	Absent
Heather Zollo	Aye
Al Gallina	Aye
Rich Seiter	Aye

Approved 4 Ayes, 0 Nays, 1 Absent

**CORRESPONDENCE**

There were none

**BOARDS & COMMITTEE UPDATES**

Planning Board reported by Lisa Boughton

- October 22nd meeting
  - Public Hearing

- Kmart Building Redevelopment, located at 10-80 Cobblestone Creek Drive, requesting approval to modify the former 119,225 sf Kmart retail store by removing 20,865 sf of store area and converting the remainder space into two leasable areas.
- Victor Chrysler Dodge Jeep Ram for Overflow Parking, located at 6560 Anthony Drive, requesting approval to utilize two lots for overflow parking of new and used car inventory. There will be approximately 30 parking spaces at the 6548 location and 70 at the 6535 location.
- Gullace Project, located at Lynaugh road, applicant is requesting their first 90 day extension request. They received approval on April 23, 2019 to construct the 62 for sale condominium townhomes.

### **PUBLIC HEARING**

*Speakers are requested to limit comments to 3 minutes and will be asked to conclude comments at 5 minutes.*

#### **PARADISE ENERGY SOLUTIONS**

7330 St. Rt. 251

Owner – High Rustler LLC

Applicant is requesting approval to install a 100.1 kW DC solar system on the main roof of Finger Lakes Coffee Roasters. It will be used to offset energy usage on-site.

46-SP-19, 09-SU-19

Zoned – Light Industrial

Brad Stoltzfus 2351 Route 14 in Geneva

Mr. Stoltzfus – I think you have an application package from us. We are looking to do a solar project on two of the roofs at Finger Lakes Coffee Roasters. The one roof is a little lower than the other. I have the comments from LaBella about the project. Comment #1 regarding the roof slope as compared to the height of the project. The project will be parallel to the roofs surface and will not exceed the highest point of the roof when it is attached. As far as ground level equipment most of our equipment is going to be mounted inside and we will have a disconnect switch that needs to be outside the building for the fire department to access as well as the utility. We have a transformer as well that we are planning to mount on a small pad behind the building next to the existing electrical equipment. The dimensions on that are roughly 2' x 3' x 32". Fairly small. I do not have any comments on the other comments that they provided. I guess any questions on that or the application?

Chairman Santoro – Did you get the Code comments?

Mr. Stoltzfus – The what?

Chairman Santoro – Officer of Code Enforcement referral comments?

Mr. Stoltzfus – I did not see those.

Chairman Santoro – I will give you a copy now. We will not be able to do anything tonight since we are still waiting for the County comments.

Mr. Stoltzfus – As far as glare, the project will not even be visible from the ground. The roof pitches so flat it is not going to be visible from the parking lot or neighboring areas unless they are a lot higher. As far as the Fire Codes, I believe we had some back and forth about setbacks on the roof and we are providing a five foot setback on the one end of the upper roof and a setback that is larger than that on the other building. I do not know the dimension of that one. Both ends of that one have more than three foot setbacks and would meet that requirement.

Chairman Santoro – Did you see the comment from the Fire Marshal about having fire hatches?

Mr. Stoltzfus – Fire hatches in the building? I did not see that comment.

Ms. Boughton – These emails all went to the nypes email.

Mr. Stoltzfus – So that was Chad who was getting those emails and he is not with the company anymore. Some of that did not get handed off to me. I can look it up but I did not know it was there. Was that something they were asking us to add?

Chairman Santoro – Yes. Fire hatches to be installed in each fire area to allow smoke to be released. They should be operable from the floor.

Mr. Stoltzfus – Ok. Under the array? I guess I will have to look up that comment.

Chairman Santoro – You will have to talk to the Fire Marshal about that.

Ms. Boughton – Did you see this email from Chad?

Mr. Stoltzfus – Yes I do have that one. I guess my only comment on this would be that typically what we see Fire Departments asking for is access to the ridge of the roof so they can vent there.

This is not something I have seen requested before. I would say it is a little unusual. I would like some clarification from the Fire Marshal as far as what he is looking for.

Chairman Santoro – Why don't you contact him and find out what he is looking for. Ok. Anyone from the public wishing to make comment or ask any questions about this project.

Mr. Gallina – Just one question relative to the building structure itself, has there been any analysis to ensure that it can handle the load of the solar panels?

Mr. Stoltzfus – Yes, we already have had a structural analysis done by a NYS licensed engineer and they approved it for the system we have proposed. That has been done.

Mr. Gallina – My only other comment that which I think we have already addressed is to ensure the Fire Marshal comments are addressed.

Ms. Zollo and Mr. Seiter had no comments.

Chairman Santoro – We will keep the public hearing open because we still need County comments and will have them by the next meeting.

Mr. Stoltzfus – Thank you.

Chairman Santoro – If anyone is here for anything other than this one they are all off for the evening.

Enrica Sharp

Ms. Sharp – When I looked online it didn't say anything was cancelled.

Chairman Santoro – They all cancelled at the last minute.

Ms. Sharp – That's not fair, they should pay for the gas that it took us to get here.

Chairman Santoro – Victor Views Assisted Living is removed Oct. 22, Village East Apartments is removed and going to the Town Board.

Ms. Sharp – Highline? Wasn't even on there. It is online.

Ms. Boughton – Our HR person has been sick so I don't think it has been updated recently so I apologize for that.

Ms. Sharp – Ok, thank you.

**APPLICATION HELD OVER FROM 9/10 MTG**

**2. VICTOR VIEWS ASSISTED LIVING**

39-SP-19, 08-SU-19

**REMOVED FROM AGENDA TILL OCT 22**

1440 State Route 444

Zoned – Residential 2

Applicant is requesting approval to create a 12-bed Assisted Living Residence to an existing single story 4,204 sf structure.

**APPLICATION HELD OVER FROM 9/24 MTG**

**VILLAGE EAST APARTMENTS**

44-SP-19

**REMOVED FROM AGENDA – GOING TO TOWN BOARD**

7410 Forest Trail

Zoned – PDD

Owner – The Village East

Applicant is requesting to amend the current PDD to add 13 parking spaces plus 5 land banked.

Chairman Santoro – Next is a discussion item and Wes I should have asked you if you had any comments on that last one other than what was in your notes.

Mr. Pettee - No, the applicant addressed the first two questions that we had and the last two were simply fyi. Standards for special use permit. This particular project because it is not a ground mount portable system those special use standards found in Section 103 of the Code do not really apply. It is a SEQR Type II Action, which means classification as such concludes the SEQR process, there is no need to do a Part II or Part III EAF or a determination of significance.

Chairman Santoro – Will you take over the discussion item?

**DISCUSSION ITEM****Mixed Use Overlay Zoning Districts & Local Laws**

For review and comments from the Town of Victor Planning Board.

Mr. Pettee – So I think at the least meeting, Mark Tayrien was here and he talked a little bit about some proposed local laws that are before the Town Board. Namely one is a Mixed Use Overlay District. It is a creation of a mixed use overlay district within the Towns Zoning Law. It is designed to help maybe further promote or preserve the integrity of for example, the Eastview Mall area, to preserve the viability and the long-term viability of the mall itself. So what it is, is the mixed use overlay district is only allowed to be established upon underlying districts that are classified either commercial, commercial light industrial or light industrial. You would not be able to establish a mixed use overlay in any of the residentially zoned districts. What this does is allow for maybe unforeseen uses that aren't currently listed as an allowable use or allowable use with a special use permit in the commercial, commercial light industrial or light industrial zoning districts. For example if Eastview Mall had a thought to do some form of use that isn't currently prescribed but would be in the benefit of the community in the long run and the region and is not specifically allowed, rather than having the property owner seek a use variance thru the ZBA the Town Board has the ability to establish this mixed use overlay district. It would be a two-step process establishment of the district would first be a zoning map amendment to actually draw that district on the, map and then second step would be for adoption of a mixed use overlay plan upon which a developer or applicant would specify the particular land uses on that plan and would be adopted by the Town Board. If they were going to change the site plan they would also be required to come to the Planning Board for site plan review. This would allow some flexibility for the Town Board to establish a new land use. I don't know if anybody has had an opportunity to take a look at the local law. If you have questions I can try to answer them.

Ms. Zollo – I am just looking at the Section 211-15, on the second page where it says Planned and Overlay Zoning Districts designated. (A) The Planned zoning districts created here are as follows and then lists Multiple Dwellings, Senior, Manufactured home, Planned Development and Waste Management facility. Then lists the overlays. So what is the difference? What is a planned zoning district and an overlay zoning district?

Mr. Pettee – So a planned Zoning district that would be reclassification of an existing zoning district. For example, what was the High Point property previously zoned before it became a PDD?

Ms. Zollo – Residential.

Mr. Pettee - So that is a rezoning, a reclassification of a zoning district. The overlay is still going to remain. This would be kind of layered on top. This overlay would be layered on top of that particular underlying zoning district. All of those underlying district regulations still apply. For example the Route 96/251 corridor overlay district. That encompasses property and all sorts of underlying zoning districts right; residential, commercial, light industrial. All of those underlying zoning districts regulations still apply but there is either an additional layer or additional permissible uses in a mixed use overlay district that could be allowed. That is the main difference between the planned district and an overlay.

Ms. Zollo – I am still confused. Would they rezone to these planned districts?

Mr. Pettee – No no. The planned zoning district are already established. We are not changing those. These district descriptions under paragraph (A) already exist in the Town Zoning Code.

Ms. Zollo – Ok. I thought they were new and part of this overlay piece.

Mr. Pettee – Not at all. The MDD, multiple dwelling district, senior housing district, manufacture home park district, PDD and the waste management facility district all exist today.

Ms. Zollo – Thank you for clarifying this.

Mr. Pettee – I think if you have any comments we would like to record those and take those back to the Town Board so they have an idea of what your comments might be. Maybe you don't have any that is possible too.

Chairman Santoro – It is hard to know how these things are going to look in practice. Hard to give them comments.

Mr. Pettee – With the mixed use overlay district here is another little detail. The overlay district itself can be created on the town own initiative where they would map that new overlay onto the zoning district map. It could be a series of months or years before the developer or property owner decides, well- there is this mixed use overlay and I would like to do something a little bit different that isn't allowed with the underlying zoning so I am going to bring this mixed use plan to the Town Board for them to consider because the Town has already established this overlay. It does not have to be done that way. The Town does not have to drive that overlay district. That overlay district can be initiated thru a developer as well. That is another little detail. If we

go to Section 211-27.13 paragraph (A) it says here that the purpose of this district is to provide additional flexibility to authorize a mix of multiple principle uses on land areas within the community considered appropriate for a satisfactory combination of residential, recreational, commercial and or light industrial use without departing from the spirit and intent of these zoning regulations and in the absence of a planned development.

Chairman Santoro – Any idea what the practical effect of this is going to be?

Mr. Pettee – The way I see it the particle effect might be that the developer of the property owner for Eastview mall for example might be able to do something a little different or unique or not necessarily unconventional. I don't think that is the right term. Something that would provide for the long term viability of Eastview Mall, that area in particular. I think some people within the town recognize that the malls of yesterday are not necessarily going to be there in the future years to come. Retail stores are having a hard time competing with online retailers so if there is an opportunity for something unique that the current zone does not allow for this mixed use overlay could allow for a developer to pursue that with fond review of the Town Board.

Mr. Seiter – So in affect would we be pre approving a zoning change?

Mr. Pettee – No, well I suppose you could consider that. It is not necessarily preapproved. The overlay would be approved by the Town Board but before the developer could move forward with a mix use plan that was step two of this process. They would need a mixed use plan to the Town Board for review and approval specifying different types of uses whether they be commercial residential in nature.

Mr. Seiter – How would they do that? If they wanted to put it there now without this overlay in place?

Mr. Pettee - They might be looking at the planned development district process a rezoning in terms of specifying the uses they would like. For example we can consider the Pinnacle Athletic complex. That area was PDD and had a preliminary planned development plan that showed some retail, some hotel, some outdoor recreation fields and the athletic facility. It is very specific and prescribed. There is no deviation from that plan. This mixed use overlay the form and layout does not need to be so concrete. The development of the overlay district provides some flexibility for the developer to decide if they are not exactly sure what it is going to look like but we know what the different types of uses are going to be. If there was a change to the site in terms of the site in arrangement of parking or building configurations or onsite amenities that would then need to come before the Planning Board for site plan review. Either with today's



ongoing the developer might need to look at an either a use variance, which are rather difficult to get or seek a planned development district rezoning. That is a tool they can use. This mixed use overlay is just providing another tool for the Town to use.

Mr. Gallina – The other advantages as was described last week was that it could be done prior to a developer coming in with a specific request. The town could approve an overlay and encourage a certain type of use.

Mr. Pettee - A little more proactive then reactive. You are telling the development world that we recognize there is a change in the retail industry and we want to accommodate particular areas of the town where it is appropriate to consider a mixed use type of development that would not traditionally be allowed with our existing euclidean zoning and this is an opportunity for the town to say we understand the current conditions, the market conditions and here is a tool developers can use or bring something forward to the town. That way if the Town Board wished to establish that mixed use overlay district a developer could come forth and have their proposal considered.

Chairman Santoro – The Town Board will get these minutes of this meeting.

There were no other discussions.

Motion was made by Al Gallina seconded by Rich Seiter RESOLVED the meeting was adjourned at 7:30 PM

Lisa Boughton, Secretary

