

PUBLIC HEARING NO. 1

PUD MODIFICATION WALDEN OAKS SUBDIVISION  
CONVERSION OF PROPERTY FROM  
PUBLIC SPACE TO RESIDENTIAL  
MEILINDA SUSMAN, APPLICANT  
PARADIGM PROPERTIES, LLC, OWNER  
WALDEN OAKS BLVD.  
TAX MAP #106.05-01-24.000

A Public Hearing was held by the Town Board of the Town of Cortlandville at the Raymond G. Thorpe Municipal Building, 3577 Terrace Road, Cortland, New York, concerning an application for a conversion of property from public space to residential within the PUD of Walden Oaks Subdivision, submitted by Meilinda Susman for property owned by Paradigm Properties, LLC, located on Walden Oaks Blvd., tax map #106.05-01-24.000.

Members present: Supervisor, Richard C. Tupper  
Councilman, Theodore V. Testa  
Councilman, Ronal L. Rocco  
Councilman, John C. Proud  
Councilman, Gregory K. Leach  
Town Clerk, Karen Q. Snyder, RMC

Others present were: Town Attorney, John Folmer; Highway Sup't. Carl Bush; Ken Angell; Daniel Clark; Meilinda Susman; Barb Leach; News Reporters: Eric Mulvihill from WXHC, Tyrone Heppard from the *Cortland Standard*, Peter Blanchard from the *Cortland Voice*, Sharon Stevans from Channel 2, Access TV.

Supervisor Tupper called the Public Hearing to order.

Town Clerk, Karen Q. Snyder, read aloud the published, posted and filed legal notice.

Supervisor Tupper offered privilege of the floor to those in attendance.

Daniel Clark introduced himself and Meilinda Susman to the Board as the applicants. He explained that she was requesting the PUD modification to build a duplex home for her parents. The parcel was planned to be a daycare facility in 1994, however there was no demand for such a facility and it was never built.

No further comments or discussions were heard.

The Public Hearing was closed at 5:08 p.m.

TOWN BOARD MEETING

The Regular Meeting of the Town Board of the Town of Cortlandville was held at the Raymond G. Thorpe Municipal Building, 3577 Terrace Road, Cortland, New York, with Supervisor Tupper presiding.

Members present: Supervisor, Richard C. Tupper  
Councilman, Theodore V. Testa  
Councilman, Ronal L. Rocco  
Councilman, John C. Proud  
Councilman, Gregory K. Leach  
Town Clerk, Karen Q. Snyder, RMC

Others present were: Town Attorney, John Folmer; Highway Sup't. Carl Bush; Ken Angell; Daniel Clark; Meilinda Susman; Barb Leach; News Reporters: Eric Mulvihill from WXHC, Tyrone Heppard from the *Cortland Standard*, Peter Blanchard from the *Cortland Voice*, Sharon Stevans from Channel 2, Access TV.

Supervisor Tupper called the meeting to order.

Councilman Proud made a motion, seconded by Councilman Testa, to approve the Draft Town Board Minutes of November 18, 2015 with corrections. All voting aye, the motion was carried.

Councilman Proud made a motion, seconded by Councilman Testa, to approve the Draft Town Board Minutes of December 2, 2015 as written. All voting aye, the motion was carried.

RESOLUTION # AUTHORIZED SUPERVISOR TO SIGN  
PURCHASE ORDER #1257

---

Motion by Councilman Proud  
Seconded by Councilman Leach  
VOTES: AYE – Tupper, Testa, Rocco, Proud, Leach NAY – 0  
ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign Purchase Order #1257 submitted by Highway Sup't. Bush to be paid to STS, to purchase a Harder Sander E114, 14'6" overall length, for the total cost of \$6,923.00.

RESOLUTION # AUTHORIZED SUPERVISOR TO SIGN  
PURCHASE ORDER #0122

---

Motion by Councilman Leach  
Seconded by Councilman Testa  
VOTES: AYE – Tupper, Testa, Rocco, Proud, Leach NAY – 0  
ADOPTED

BE IT RESOLVED, the Town Board does hereby authorize and direct the Supervisor to sign Purchase Order #0122 submitted by Supervisor Tupper to be paid to The Computing Center, to purchase one HP ProLiant DL360 G9 Server (\$7,199.00); two HP EliteDesk 800 Workstations (\$946.00); one HP LTO-5 Ultrium tape drive (\$2,539.00); one SAS Tape Drive controller (\$250.00); and one HP LaserJet P3015dn (\$479.00), for the total cost of \$11,413.00.

RESOLUTION # AUTHORIZED PAYMENT OF VOUCHERS – DECEMBER

---

Motion by Councilman Rocco  
Seconded by Councilman Leach  
VOTES: AYE – Tupper, Testa, Rocco, Proud, Leach NAY – 0  
ADOPTED

BE IT RESOLVED, the vouchers submitted have been audited and shall be paid as follows:

Funds A, B, DA, DB	Voucher #1117-1188	
	General Fund A	\$ 19,871.03
	General Fund B	\$ 2,677.45
	Highway Fund DA	\$ 0.00
	Highway Fund DB	\$ 52,892.87
Funds CD1, CD3, CD4	Voucher #55-56	
	BMills Rehab CD1	\$ 0.00
	Town Wide Rehab CD3	\$ 13,819.50
	Business Devl CD4	\$ 0.00
Fund HA, HB, HC, HD, HE, SS, SW	Voucher #463-481	
	Luker Rd Water HA	\$ 0.00
	Owego St Water HB	\$ 0.00
	NYS Rt 13 Sewer Rehab HC	\$ 593.75
	Oakcrest/Pendleton Sewer HD	\$ 0.00
	Saunders Rd Sewer HE	\$ 0.00
	Sewer SS	\$ 4,286.34
	Water SW	\$ 9,717.69
Funds SF, TA, TE	Voucher #42-42	
	C'Ville Fire District SF	\$ 0.00
	Trust & Agency TA	\$ 495.00
	Expendable Trust TE	\$ 0.00

Supervisor Tupper offered privilege of the floor to those in attendance.

Councilman Rocco apprised the Board that he met with Cortland County Highway Sup't. Philip Krey and discussed the Town's request for a reduction in speed limit on McLean Road. He gave Mr. Krey the history of the Town's previous requests. He suggested the other members of the Board take the time to meet Mr. Krey if they had not already.

Councilman Rocco also indicated that he spoke with Gene Cilento, Public Information Officer for the Syracuse Region of the New York State Department of Transportation regarding the speed limit on McLean Road. The NYS DOT would conduct a complete review of the speed limit on McLean Road. Councilman Rocco, Mr. Cilento, and the Engineer involved in conducting the review had a conference call today and discussed the speed limit. The Engineer discussed different things the County and Town could do together to reduce the speed limit, without actually reducing the speed limit.

Councilman Rocco also noted that Carl Ford, the previous Regional Director of the NYS DOT, still works for the NYS DOT but in a different capacity.

The monthly reports of the Water & Sewer Department for the month of November and December were on the table for review and are filed in the Town Clerk's office.

Councilman Rocco made a motion, seconded by Councilman Leach, to receive and file correspondence from Time Warner Cable, dated December 16, 2015, regarding programming services, as well as correspondence regarding price changes for services and equipment. All voting aye, the motion was carried.

Under old business there was a brief discussion regarding the application for a conversion of property from public space to residential in the Walden Oaks Subdivision. When the Walden Oaks Planned Unit Development (PUD) was established the particular lot was set aside with the intent that a daycare would be constructed on the property. The plan had not developed. Attorney Folmer explained that all the Board had to do was approve the classification within the PUD. The Town Planning Board had no objection to the change in classification.

RESOLUTION # GRANT A CLASSIFICATION CHANGE FOR A WALDEN  
OAKS SUBDIVISION PUD PARCEL FROM PUBLIC USE TO  
RESIDENTIAL USE

---

Motion by Councilman Rocco

Seconded by Councilman Leach

VOTES: AYE – Tupper, Testa, Rocco, Proud, Leach

NAY – 0

ADOPTED

WHEREAS, a letter dated November 20, 2015 was presented to the Cortlandville Planning Board for a parcel in the Walden Oaks subdivision for a PUD classification change by Meilinda Susman, who entered into a purchase agreement from the current owner of record, Paradigm Properties, LLC, and

WHEREAS, said parcel within the Walden Oaks PUD has been set aside and is designated as a "Public Use – Daycare Parcel", and

WHEREAS, the Town Planning Board reviewed said request and recommended to the Town Board that they grant the classification change, now therefore

BE IT RESOLVED, the Town Board does hereby grant a classification change for a Walden Oaks subdivision PUD parcel, tax map #106.05-01-24.000 from "Public Use – Daycare Parcel" to "Residential Use".

Town Clerk/Tax Collector Snyder reported that she attended a tax collection meeting with the tax collectors in Cortland County in which she met Peg Mousaw, the new Director of Budget & Finance for Cortland County. She also mentioned that she was in possession of the 2016 Town/County tax bills.

Attorney Folmer reported:

Proposed Local Law - Retail Petroleum Sales Facilities:

Attorney Folmer presented the Board with copies of a proposed Local Law for Retail Petroleum Sales Facilities in the Town. The proposed Local Law was reviewed by the Cortland County Planning Board who recommended adoption of what was submitted with some changes to the language. A suggestion was made that the proposed Local Law be a separate chapter of the Code rather than within the Zoning Code so that it would not be subject to variances.

The Town Planning Board has not commented on the proposed Local Law yet. He suggested the Board review the language but not take any action until after it is reviewed by the Town Planning Board.

Article 78 Proceeding:

Attorney Folmer apprised the Board that an Article 78 Proceeding commenced questioning the actions of the Town Zoning Board of Appeals, Town Planning Board, and Town Board with regard to the Leach application.

RESOLUTION #	ACKNOWLEDGE RECEIVING NOTICE OF VERIFIED PETITION IN THE MATTER OF PAMELA JENKINS, CHERI SHERIDAN AND OLGA SMITH V. LEACH PROPERTIES, LLC, LEACH'S CUSTOM TRASH SERVICE, SUIT-KOTE CORPORATION, TOWN OF CORTLANDVILLE ZONING BOARD OF APPEALS, TOWN OF CORTLANDVILLE PLANNING BOARD, AND TOWN OF CORTLANDVILLE TOWN BOARD
--------------	---

---

Motion by Councilman Proud

Seconded by Councilman Testa

VOTES: AYE - Tupper, Testa, Rocco, Proud RECUSED -Leach NAY - 0  
ADOPTED

BE IT RESOLVED, the Town Board does hereby acknowledge, by receiving and filing, the Notice of Verified Petition in the matter of the Application for a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules of: Pamela Jenkins, Cheri Sheridan and Olga Smith v. Leach Properties, LLC, Leach's Custom Trash Service, Suit-Kote Corporation, Town of Cortlandville Zoning Board of Appeals, Town of Cortlandville Planning Board, and Town of Cortlandville Town Board.

Councilman Rocco asked for an interpretation of the different boards (ZBA and Planning Board) in the Town in regard to the recommendations that are made to the Town Board. He questioned whether it was the Town Board’s responsibility to review the recommendations and discuss how they came to their conclusions to better understand what went on at the meetings, rather than to just accept the recommendations. He also questioned the substance of the Minutes from the ZBA and Planning Board, mentioning that all that was required to be in the minutes was the ayes and nays and that discussion was not required.

Attorney Folmer explained that the ZBA and the Planning Board are independent bodies; their proceedings are theirs. The Town Board does not have the authority, legal or otherwise, to counteract, rescind, change, or alter the actions that those boards take. Every action those two boards take “is entitled to a presumption of correctness”. When the recommendations come to the Town Board, the Town Board acts on their recommendations until such time that it is indicated that they have done something incorrect. It is not the Town Board’s function to make that judgment.

Councilman Rocco thanked Attorney Folmer for the clarification.

RESOLUTION # APPOINT DELEGATE AND ALTERNATE TO VOTE AT  
THE ASSOCIATION OF TOWNS ANNUAL MEETING

---

Motion by Councilman Proud  
 Seconded by Councilman Testa  
 VOTES: AYE - Tupper, Testa, Rocco, Proud, Leach NAY - 0  
 ADOPTED

BE IT RESOLVED, Supervisor Richard C. Tupper is hereby appointed as Delegate, and Town Clerk Karen Q. Snyder, RMC is hereby appointed as Alternate, to represent the Town of Cortlandville at the Association of Towns Annual Meeting, to be held in New York City February 14-17, 2016.

Councilman Leach made a motion, seconded by Councilman Proud, to receive and file recommendations from the Cortland County Planning Department, dated October 30, 2015, and Cortland County Planning Board Resolution #15-33, dated October 30, 2015, regarding the Town’s proposed Local Law for Retail Petroleum Sales Facilities. All voting aye, the motion was carried.

Attorney Folmer mentioned that the comments made by the County Planning Department were incorporated into the draft Local Law for Petroleum Retail Sales Facilities that he provided to the Board tonight.

RESOLUTION # ESTABLISH MILEAGE RATE FOR PERSONAL VEHICLES  
USED FOR TOWN BUSINESS FOR THE YEAR 2016

---

Motion by Councilman Leach  
 Seconded by Councilman Rocco  
 VOTES: AYE - Tupper, Testa, Rocco, Proud, Leach NAY - 0  
 ADOPTED

BE IT RESOLVED, the mileage rate to be paid by the Town, for personal vehicles used for Town business, is hereby established at the Federal IRS mileage rate for the year 2016 at \$0.54 and is subject to audit by the Town Board, effective January 1, 2016.

There was a brief discussion regarding the relevy of the delinquent water and sewer accounts to the 2016 tax roll. Town Clerk Snyder apprised the Board that the amount to be relevied for sewer was \$21,485.94, while the amount to be relevied for water was \$18,871.11. Councilman Proud questioned how the amounts to be relevied compared to the 2015 relevy. Town Clerk Snyder indicated that the amounts to be relevied decreased from the prior year.

RESOLUTION # AUTHORIZATION TO RELEVY DELINQUENT WATER AND SEWER ACCOUNTS TO THE 2016 TAX ROLL OF THE TOWN

---

Motion by Councilman Proud  
 Secoded by Councilman Leach  
 VOTES: AYE - Tupper, Testa, Rocco, Proud, Leach NAY - 0  
 ADOPTED

WHEREAS, the list of delinquent accounts of the Water & Sewer Department of the Town was submitted, as required, therefore

BE IT RESOLVED, the Town Board does hereby receive and file and forward the list of delinquent water and sewer accounts of the Town of Cortlandville to the Cortland County Real Property Tax Office, to be relevied onto the 2016 tax roll of the Town.

There was discussion regarding correspondence received from the NYS DEC regarding an application submitted by Dave McMasters, LLC for a new sand and gravel mine, for property located at 4216 McCloy Road. Supervisor Tupper explained that the NYS DEC proposed to act as lead agency for the SEQR review.

Attorney Folmer indicated that he spoke with Planning/Zoning Officer Bruce Weber regarding the matter. PZO Weber suggested the Town write a letter to the DEC objecting to them assuming lead agency status for two reasons. First, the Town has not received an application and cannot make a determination as to what the Town’s interest should be. Secondly, in the EAF submitted to DEC, the applicant indicates they will need approval from the Planning Board, but say they do not need approval from the Zoning Board of Appeals, when in fact they would need a variance. Attorney Folmer drafted a letter to the DEC objecting to their lead agency status, and requested the Board authorize him to send it.

RESOLUTION # AUTHORIZE TOWN ATTORNEY TO WRITE A LETTER TO THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION OBJECTING TO THEIR PROPOSAL TO ACT AS LEAD AGENCY FOR THE APPLICATION OF DAVE MCMASTERS, LLC FOR A SAND AND GRAVEL MINE IN THE TOWN OF CORTLANDVILLE

---

Motion by Councilman Proud  
 Secoded by Councilman Leach  
 VOTES: AYE - Tupper, Testa, Rocco, Proud, Leach NAY - 0  
 ADOPTED

WHEREAS, the Town Supervisor received correspondence from the New York State Department of Environmental Conservation, dated November 30, 2015, proposing that they act as lead agency for the SEQR review of the application submitted by Dave McMasters, LLC for a sand and gravel mine on property located at 4216 McCloy Road in the Town of Cortlandville, and

WHEREAS, the Town has not received an application for such sand and gravel mine and cannot make a determination as to what the Town’s involvement should be, and

WHEREAS, in the EAF submitted to NYS DEC, the applicant indicates they will need approval from the Town Planning Board, but indicates that they do not need approval from the Town Zoning Board of Appeals, when in fact they would need a variance, therefore

BE IT RESOLVED, the Town Board does hereby authorize and direct the Town Attorney to write a letter to the New York State Department of Environmental Conservation objecting to their proposal to act as lead agency for the application of Dave McMasters, LLC for a sand and gravel mine for property located at 4216 McCloy Road in the Town of Cortlandville, and it is further

RESOLVED, that correspondence from the New York State Department of Environmental Conservation, dated November 30, 2015, is hereby received and filed.



Councilman Leach suggested that the Board take a trip through Blodgett Mills to see the Christmas lights that were decorating Main Street. He commented that the hamlet has come a long way since receiving grant funds to help with home improvements and the sidewalks.

No further comments or discussion were heard.

Councilman Testa made a motion, seconded by Councilman Proud, to adjourn the Regular Meeting. All voting aye, the motion was carried.

The meeting was adjourned at 5:40 p.m.

Respectfully submitted,

Karen Q. Snyder, RMC  
Town Clerk  
Town of Cortlandville

\*Note:

The draft version of this meeting was submitted to the Town Board for their review on January 8, 2015.

The draft version of this meeting was approved as written at the Town Board meeting of \_\_\_\_\_.