

**Village of Lansing
Planning Board Meeting
September 13, 2010**

1 The meeting of the Village of Lansing Planning Board was called to order at 7:34 P.M. by Chairman
2 Mario Tomei. Present at the meeting were Planning Board Members, Phil Dankert, Richard Durst and
3 Lisa Schleelein; Alternate Planning Board Member Ned Hickey; Village Attorney David Dubow; Code
4 Enforcement Officer Marty Moseley; Trustee Liaison Lynn Leopold; Resident Nick Vaczek; Community
5 Party Observer Gerry Monaghan; Matt Haney from Carina Construction; and Steve Flash from the CIAO!
6 Restaurant.

7
8 Tomei appointed alternate Ned Hickey as an Acting Planning Board member for Maria Stycos
9 who could not attend the meeting.

10

11 **Public Comment**

12 Tomei opened the public comment period. Gerry Monaghan introduced himself as the Community Party
13 Observer. With no one else to speak Durst moved to close the public comment period. Seconded by
14 Dankert. Ayes by Tomei, Durst, Schleelein, Hickey, and Dankert.

15 **CIAO! Landscaping**

16 Tomei introduced Matt Haney for Carina Construction who is the project manager for the CIAO!
17 restaurant. Haney noted that the landscaping plan that was submitted to the Planning Board is the one that
18 is preferred by the owners of the restaurant. Haney explained that there is another plan available, but hope
19 that this would be sufficient for the Board. Haney noted that they have improved some of the existing
20 plantings already. Haney stated that he has hired Scott Landscaping to prepare the plans and install the
21 plantings. Haney noted that there is some variation in the first plan and the second has about 40 Burning
22 Bush plants, which would not leave room for much creativity. Tomei asked if there was only one sign.
23 Haney explained that there will be two signs, one on the building and one freestanding. Haney noted that
24 he was aware of the sign laws for the Village and they are working through the process. Haney stated that
25 the freestanding sign will replace the old Watercress sign. Leopold asked about deer resistant plants.
26 Haney explained that the plantings are supposed to be deer resistant. Hickey noted that there is supposed
27 to be a sidewalk and pear trees installed by the Village at some point in time and expressed concern about
28 planting in the road right of way. Haney explained that there should be enough room for the future
29 sidewalk and trees. Haney noted that the landscaping is further to the west, which should accommodate
30 the potential for a future sidewalk. Haney added that there will be more plantings planted next spring.

31 Moseley explained that the plantings were to act as a softening buffer for the parking lot, and the
32 plantings were not intended to block the view of the building. Hickey asked if the buffer would be paid by
33 the money that was in escrow. Moseley noted that the approximate amount of two thousand dollars would
34 be used to reimburse the CIAO! Restaurant owners for the plantings along Triphammer Road. Hickey
35 explained that there was no sidewalk installed because the empty lot across from the new CIAO!
36 Restaurant has not been developed yet. Hickey asked if the Planning Board considers this to be a buffer,
37 and that it would need to be maintained in perpetuity. Hickey explained that a conventional buffer is
38 intended to visually screen a building or a parking lot. Haney stated that the alternative idea of
39 approximately 40 burning bush plants along Triphammer Road might work better. Dubow noted that the
40 buffer that is being discussed appears not to be governed by the Village Zoning Law, and was probably
41 intended to visually soften the businesses associated with the Triphammer Road project. Dankert added

42 that 40 burning bushes are boring. Tomei noted that the current plan enhances the restaurant appeal. Durst
43 asked about the height of the berm that abuts the parking lot. Haney noted that the berm is approximately
44 8 feet in height. Durst stated that the berm alone would buffer the parking lot to an extent. Hickey asked
45 what the distance is between the plantings. Haney noted that it was approximately 70 feet. Hickey asked
46 if the center planting could be extended to a width of 25 feet. Haney agreed that the plantings could be
47 extended to 25 feet. Haney asked if the Zoning Officer was the person who would inspect and verify that
48 the plantings have been installed correctly. Tomei agreed. Dankert moved that the CIAO! Planting design
49 presented at the meeting be approved with the condition that the center planting area be extended from a
50 minimum of fifteen (15) feet to a minimum of twenty five (25) feet. Seconded by Durst. Ayes by Tomei,
51 Durst, Schleelein, Hickey, and Dankert.

52 **Zoning Amendment - Ground Cover**

53 Dubow noted that Moseley did not find in the Zoning Law a clear requirement for installing ground cover
54 on a lot that has been disrupted by construction or any other means. Dubow noted that the policy has been
55 in the past that ground cover needed to be installed before a Certificate or Temporary Certificate of
56 Compliance could be issued. Dubow explained that the Temporary Certificate of Compliance is typically
57 issued for a project that could not plant the ground cover due to the lack of growing season. Dubow stated
58 that Section 145-83 of the Village Code references landscaping but does not specifically include ground
59 cover. Dubow explained that Section 145-11 of the Village Code had been deleted at one point in time
60 and reserved for future sections to be added. Hickey asked if there needed to be a definition added for
61 ground cover. Dubow replied that Section 145-83 appears to sufficiently define ground cover. Dubow
62 proposed that Section 145-11 would work well for the new ground cover language to be added, and he
63 provided a proposed local law for consideration by the Planning Board and for possible recommendation
64 to the Board of Trustees. The local law reads as follows:

65 **PROPOSED LOCAL LAW C (2010)**

66 **AMENDMENT TO VILLAGE OF LANSING CODE - ZONING LAW –**
67 **GROUND COVER REQUIREMENTS**

68 Be it enacted by the Board of Trustees of the Village of Lansing as follows:

69 SECTION I. **PURPOSE & INTENT.**

70 It is the purpose and intent of this local law to clarify and confirm the requirements for the
71 establishment of ground cover on parcels in the Village of Lansing on which construction and/or
72 development occurs, and to amend Chapter 145 (entitled “Zoning”) of the Village of Lansing
73 Code accordingly so as to:

- 74 (i) provide such ground cover requirements in Section 145-11 of Article III (entitled
75 “General Use Regulations”) of Chapter 145, which ground cover requirements are
76 intended to be applied and enforced in conjunction with and consistent with all
77 provisions of the Village of Lansing Code related thereto, including, but not limited
78 to, (i) such Article III of Chapter 145 of the Village of Lansing Code; (ii) subsection
79 B (entitled “Landscaping”) of Section 145-83 (entitled “Performance standards”) of
80 Chapter 145 of the Village of Lansing Code; and (iii) all applicable provisions of
81 Chapter 124 (entitled “Stormwater Management, Erosion and Sediment Control
82 Law”) of the Village of Lansing Code; and
83 (ii) revise Subsection B (entitled “Landscaping”) of Section 145-83 [entitled
84 “Performance Standards”] of Chapter 145 [entitled “Zoning”] of the Village of
85 Lansing Code to be consistent with the new provisions in such Section 145-11.

86 SECTION II. AMENDMENTS TO THE VILLAGE OF LANSING CODE.

- 87 A. Section 145-11 [currently identified as “Reserved”] of Chapter 145 [entitled “Zoning”] of the
88 Village of Lansing Code is hereby amended so as to read in its entirety as follows:
89

90 **§ 145-11 Ground cover.**

91 **Where a parcel of land has been disturbed by construction and/or**
92 **development, appropriate ground cover shall be established and maintained**
93 **on such parcel as provided for in this Chapter 145, and, if applicable, as**
94 **provided for in Chapter 124, such ground cover being intended for the**
95 **purposes of (i) preventing soil erosion and maintaining sediment control, and**
96 **(ii) maintaining sightly and well-kept conditions.**

- 97 B. Subsection B (entitled “Landscaping”) of Section 145-83 [entitled “Performance Standards”]
98 of Chapter 145 [entitled “Zoning”] of the Village of Lansing Code is hereby amended so as to
99 read in its entirety as follows:

100 **B. Landscaping and Groundcover. All required yards and undeveloped open**
101 **space areas must either be open landscaped and green areas or left in a**
102 **natural state. If any such yards and/or undeveloped open space areas are**
103 **to be landscaped, they must be landscaped attractively with lawn, trees,**
104 **shrubs, etc. Any areas left in a natural state must be properly maintained**

105 **in a sightly and well-kept condition. Parking areas must also be**
106 **maintained in a sightly and well-kept condition.**

107

108 SECTION III. SUPERCEDING EFFECT.

109 All local laws, resolutions, rules, regulations and other enactments of the Village of Lansing in
110 conflict with the provisions of this local law are hereby superceded to the extent necessary to
111 give this local law full force and effect.

112 SECTION IV. VALIDITY.

113 The invalidity of any provision of this local law shall not affect the validity of any other
114 provision of this local law that can be given effect without such invalid provision.

115 SECTION V. EFFECTIVE DATE.

116 This Local Law shall be effective upon (i) its filing in the office of the Secretary of State and (ii) ten (10)
117 days after publication and posting as required by law; provided, however that it shall be effective from
118 the date of service as against a person served with a copy thereof, certified by the Village Clerk, and
119 showing the date of its passage and entry in the Minutes of the Village Board of Trustees.

120 Dubow noted that Section 148-83 of the Village Code has been altered slightly to accommodate
121 the proposed ground cover law. Dubow explained that Tomei and Moseley both came up with the idea
122 not to issue Temporary Certificates of Compliance (TCC) for landscaping and/or ground cover. Dubow
123 pointed out that the concept of a TCC is intended to allow a building to be occupied, but also keep control
124 over the property or building until all code requirements for New York State and the Village of Lansing
125 have been satisfied. Dubow explained that with the issuance of a TCC the applicant typically is required
126 to deposit some money with the Village to secure performance of any open items, which is returned upon
127 the issuance of the final Certificate of Compliance. Dubow noted that Moseley has a number of open
128 permits that need to be closed, some of which have a TCC. Dubow stated that the situation that Moseley
129 has is more of an administrative process involving the need for follow up appointments with the property
130 owners. Dubow suggested that the amount of money to obtain a TCC could be increased for the
131 applicants to entice them to return and finalize the building permit process.

132 Dubow explained that the Zoning Law provisions for issuing a TCC prior to the codification of
133 the Village's laws was for the Code/Zoning Officer to present his or her recommendation to the Board of
134 Trustees, which included a sum of money that was to be deposited with the Village if a TCC was
135 requested. The Board of Trustees would then consider whether to approve the Code/Zoning Officer's

136 grant of a TCC to the applicant. As part of the codification in 2005 the Code/Zoning Officer was granted
137 the authority to grant a TCC without approval by the Board of Trustees. Dubow noted that the Board of
138 Trustees has the right to amend the current Zoning Law provisions if deemed appropriate or necessary.
139 Dubow explained that this new proposed local law would allow the Code/Zoning Officer to attach
140 completed ground cover as a requirement of a TCC. Hickey asked if requiring a deposit specifically for
141 landscaping would be acceptable. Dubow noted that in the Village Subdivision Law there is a section that
142 deals with the escrow/letter of credit provisions that ensure that the work will be finished, and if the work
143 is not finished the Village can then step in to complete the work without spending Village funds. Tomei
144 asked if the Planning Board would like to forward a recommendation to the Board of Trustees for the
145 proposed local law. Hickey asked why it was now necessary for the new ground cover provisions to be
146 incorporated into a local law. Moseley explained that in his opinion there was insufficient text in the
147 current Zoning Law to clearly regulate the ground cover, and since this was already being enforced
148 Moseley thought that there should be some clearer requirements in writing. Hickey moved that the
149 Planning Board recommend Proposed Local C (2010) to the Board of Trustees. Seconded by Schleelein.
150 Ayes by Tomei, Durst, Schleelein, Hickey, and Dankert

151 **Approval of Minutes**

152 Dankert moved to approve the minutes of July 12, 2010. Seconded by Hickey. Ayes by Dankert, Tomei,
153 Hickey and Schleelein. Abstention by Durst.

154 **Reports**

155 *No Trustees meeting.*

156 **Adjournment:**

157 Durst moved to adjourn at 8:30 P.M. Seconded by Schleelein. Ayes by Dankert, Durst, Tomei, Hickey
158 and Schleelein.