

Planning Board Meeting Minutes – October 5, 2020

A meeting of the Town of Yorktown Planning Board was held on **Monday, October 5, 2020 at 7:00 p.m.** via Zoom video conference.

Chairman Fon called the meeting to order at 7:00 p.m. with the following Board members present:

- John Kincart, Secretary
- Bill LaScala
- Aaron Bock
- Rob Garrigan, Alternate

Also present were:

- John Tegeder, Director of Planning
- Robyn Steinberg, Town Planner
- Nancy Calicchia, Secretary
- James W. Glatthaar, Esq.

In accordance with the Governor’s Executive Order 202.1, the Town of Yorktown Planning Board will not be meeting in person until further notice. All Planning Board meetings will be held via video conferencing, and the regular session portion of the meetings will be uploaded to the Town of Yorktown’s website and Yorktown’s YouTube channel after the meeting. All regular sessions will be broadcast on the Town of Yorktown Government Channel.

Correspondence/ Liaison Reports

- Chairman Fon stated that there were some technical issues with public comments at the previous Board meeting. As discussed at that meeting, the agenda item was carried over, so there will still be an opportunity to be heard.
- Chairman Fon noted correspondence received from ABACA dated 9-18-2020 and Zappico dated 9-30-2020 with respect to Mohegan Commons Townhouses fka RPG. Mr. Tegeder stated that he wanted the Board to be aware of the treatment for the facades facing Lexington Avenue as it was part of the Planning Board approval and a requirement of the Town Board approval. The applicant stated that they added shutters to the sides of the buildings that face Lexington Avenue. He noted that the plans are unclear and show only one façade. With the Board’s approval, the Planning Department will submit a memo to ABACA stating the importance that the plans clearly show that the two facades on both buildings will have the same treatment. The Board agreed.
- There were no liaison reports.

Motion to Approve Meeting Minutes

Upon a motion by Bill LaScala and seconded by John Kincart and with all those present voting “aye”, the Board approved the meeting minutes of September 14, 2020 with minor corrections.

Board Member Note

Mr. Bock left the meeting after the approval of the meeting minutes.

Motion to Open Work Session

Upon a motion by Chairman Fon and with all those present voting “aye”, the Board opened the Work Session.

WORK SESSION

CVS Plaza - Yorktown Heights

Discussion: Site Plan
Location: 37.14-2-52; 1990 Commerce Street
Contact: Insite Engineering, P.C.
Description: Approved amended site plan to install curbed plant beds and bollards along the front of the current CVS Plaza in the C-3 zone by Planning Board Resolution #20-17 dated September 14, 2020.

Comments:

Dawn McKenzie of Insite Engineering and Chuck DeMilo, property owner, were present. Ms. McKenzie stated that they will need an MS4 permit for the project due to excavation associated with the curbs and bollards as they are over the 50 cubic yard threshold. The site plan has been revised based on comments from the previous Board meeting as noted in their response letter dated 9-24-2020. They are installing four additional bollards - two at the northern end and two at the southern end as shown on the plans. In response to the Fire Inspector's comments, they striped "No Parking Fire Lane" along the front and southern side of the building and will also provide "No Parking Fire Lane" signs in various locations. A 3-ft-wide paved path is proposed through the plant bed and will be centered on the Fire Department connection in front of the building. The plantings will be adjusted to accommodate the path. The parking spaces will be re-striped to provide wider parking spaces. They also provided 8-ft-wide handicapped access aisles for the handicapped parking spaces. The landscape plan has been adjusted based on the recommendations of the ABACA and the NYCDEP.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Kincart asked Mr. Tegeder if the Planning Department will oversee the lighting plan in terms of positioning the fixtures. Mr. Tegeder responded affirmatively. There were no other comments.

Upon a motion by John Kincart and seconded by Bill LaScala, and with all those present voting "aye", the Board opened a Special Session.

Upon a motion by Bill LaScala and seconded by John Kincart, and with all those present voting "aye", the Board approved the resolution approving an Stormwater Pollution Prevention Plan Permit #FSWPPP-051-20 for the CVS Plaza.

Upon a motion by John Kincart and seconded by Bill LaScala, and with all those present voting "aye", the Board closed the Special Session.

K & P Celebrations

Discussion: Decision Statement
Location: 15.15-1-44; 1950 East Main Street
Contact: Site Design Consultants
Description: The tenant, K & P Celebrations, is proposing to occupy additional square footage of the building on the lot to expand its business of catering and food preparation services.

Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina stated that he reviewed the draft resolution and had no issues. Chairman Fon asked the Board and Counsel if there were any comments, and there were none. Mr. Tegeder stated that the Planning Department reviewed the application and had no issues.

Upon a motion by John Kincart and seconded by Bill LaScala, and with all those present voting "aye", the Board opened a Special Session.

Upon a motion by Bill LaScala and seconded by John Kincart, and with all those present voting "aye", the Board approved the resolution approving K&P Celebrations located at 1950 East Main Street.

Upon a motion by Rob Garrigan and seconded by Bill LaScala, and with all those present voting "aye", the Board closed the Special Session.

Ricciardella Estates fka Dubovsky Site Plan

Discussion: Approved Amended Site Plan & Special Use Permit
Location: 59.14-1-18; 702 Saw Mill River Road
Contact: Site Design Consultants
Description: Request for re-approval and submission of amended Stormwater Pollution Prevention Plan.

Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina updated the Board with respect to the application. This is an approved site plan for a 1,900 sf building located on Saw Mill River Road. The proposed building will consist of two floors and contain three apartment style residences with garages under each unit in the back. The entry point is to be off of Saw Mill River Road. The parking area will be comprised of porous pavement.

There is a storage building to the rear of the site. They are requesting a re-approval and amendment to the site plan with respect to the stormwater plan. The approval was for an underground stormwater detention system and rain garden that will stay in place. The overflow and discharge from the system and rain garden was to tie into a drainage system that the state had within their right-of-way. However, it was discovered that the drainage pipe in front of the property does not continue, thereby providing no connection point. They are now proposing to increase the size of the on-site stormwater detention system and rain garden. With this updated design, peak flow conditions going off site are below the existing conditions. They have prepared and submitted an amended SWPPP to reflect this change. They are working with the NYSDOT to complete the process for the driveway connection.

Chairman Fon asked the Board and Counsel if there were any comments, and there were none. Mr. Kincart stated that he liked this stormwater treatment plan better than the previous design as this is near the reservoir and is somewhat sensitive. Mr. Tegeder stated that the stormwater treatment plan is amended but not sure if it was actually ever fully approved by the DEP. Mr. Riina responded that there is no SWPPP required by the DEP as it is less than an acre of disturbance. Mr. Tegeder informed the Board that the changes are enough to go through an amendment to the site plan approval which will include a stormwater treatment plan that the Planning Board has jurisdiction over. He noted that the Town Engineer had some comments and the Planning Department will have some additional comments to work through in order to move forward with a resolution.

Hilltop Hanover Farm Subdivision - Lot #10

Discussion: Change in Finished Floor Elevation & Stormwater Permit

Location: 48.19-1-27; 1220 White Horse Lane

Contact: Site Design Consultants

Description: Proposed change in finished floor elevation and requested approval of a Stormwater Permit for Lot #10 in the Hilltop Hanover Farm Subdivision approved by Planning Board Resolution #04-09 dated May 10, 2004.

Comments:

John Kincart recused himself. Joseph Riina, P.E. was present. Mr. Riina stated that he is here as a follow-up to the previous Board meeting. As noted at that meeting, he received comment memos from the Conservation Board, Planning Department and ABACA. A response letter was submitted to the Planning Board dated 9-22-2020. The septic system will remain in its exact location as approved on the subdivision plan as there were no other suitable locations on the property to relocate the system. The level spreader was moved further to the west, and a split rail fence will be installed to provide a delineation for the conservation easement. Based on their interpretation of the Town Code, the approved septic system does not fall under the requirement of the tree permit. The amount of fill proposed is 7,750 cubic yards.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Garrigan asked about the reference to the truck management plan noted in the Town Engineer's memo dated 9-29-2020 with respect to the amount of fill to be brought into the site and the timeline for that part of the project. Mr. Riina stated that they did not provide a plan as yet but will do so. Mr. Tegeder stated that the amount of fill proposed will require about 500 truckloads. The original subdivision approval and plan for this house had a lot less grading and fill and was done in a way to minimize disturbance and reduce impacts. He noted that it would make sense for the Board to schedule a site visit to better understand the impacts for this proposal and why it is necessary to do so. There were no other comments. The Planning Department will schedule a site visit for October 10th. The Board asked Mr. Riina to provide a marking in the general area where the fill is proposed.

Lowe's Home Center – Pad "A"

Discussion: Site Plan - Pad A

Location: 26.18.1-17; 3240 Crompond Road

Contact: Site Design Consultants

Description: Request to begin construction of amended retaining walls. Proposed amended site plan for a 12,500 sf building to accommodate a specialty grocer on the site.

Comments:

Joseph Riina, P.E.; Abigail Adams, Landscape Architect; Frankie Campione, Architect; and Michael Grace, Esq. were present. Mr. Riina stated that since the last Board meeting they have provided updated architectural elevations of the site for the Board's review. The trash and recycling enclosures have been relocated to the west side of the building off the loading zone area, which improved the visibility to the rear of the structure from Route 202. As discussed at the previous meeting, they met with the Planning Department to discuss the construction of the retaining walls on a separate track. The timeframe for the retaining walls would be during the fall season.

Frankie Campione reviewed the architectural elevations with the Board. Mr. Campione stated that they had two working sessions with the Planning Department to review the building facades. He noted that the Crompond Road elevation from a development standpoint is the back of the building but from the neighborhood standpoint and view is the front of the building facing Crompond Road. The architectural details (*facia, pylasters, awning extension*) were shown to the Board. The tenant signage was moved to the southeast corner. The refuse enclosures have been relocated. They are proposing landscaping across the back of the building along with a decorative screen that will slide back and forth to provide coverage for the utility cabinets that face Crompond Road. The screen will remain closed when no access is required. The building façade was raised slightly in order to shield the rooftop units from view.

Abigail Adams reviewed the landscape plan and plant details with the Board. Ms. Adams stated that the existing evergreen trees will be relocated on the site. Some are to be planted below the retaining walls to provide a triple row on the slope for additional screening and some will be used to screen the existing basin. The basin area will be cleaned out, with the exception of the existing Joe Pye Weed, and replanted with native materials. They are proposing green giant arbovitae to screen some of the riprap in addition to Winterberry and Shadblow Serviceberry to break up the wall of evergreens that will create an interface between Old Crompond Road and the slope. Discussion followed with respect to the landscaping detail for the slope, retaining walls, and site. The cross sections of the site were shown to the Board.

Mr. Tegeder noted that the slope is severe and asked if it will be mowed with a push mower or weedwacker and if it will be done weekly. Ms. Adams responded that it will be mowed weekly and thinks they would use a weedwacker but will confirm with the landscaper. Mr. Tegeder noted that this is a prominent corner and wants it to be an enhancement to the design and not look like a "bad haircut". The maintenance plan for this area should be noted on the site plan. Mr. Garrigan asked if the arbovitae are deer resistant. Ms. Adams responded that the green giant arbovitae are, but the emerald greens are not so there would need to be deer maintenance as part of the overall maintenance plan.

Mr. Riina stated that on the edge of Old Crompond Road, the property is not maintained. The property owner has agreed to take responsibility to maintain this area as a lawn. He is not sure how they will institute this and will need to discuss this further.

Chairman Fon stated that he was pleased with the revisions to the plan and attention to detail with respect to the landscaping and building architecture. The Board agreed. Chairman Fon asked the Planning Department if there were any concerns. Mr. Tegeder responded that he would like some more information about the rooftop units and overall maintenance plan for the landscaping. The bonding requirements will also need to be discussed. The Board will need to discuss the construction of the retaining wall on a separate track.

Chairman Fon noted that correspondence was received from residents Rose Mazzolla and John Flynn. Mr. Flynn commented that he thinks it may be necessary to have a public hearing since the site is changing. Mr. Grace stated that he did not think a public hearing would be required for the necessary retaining wall as it only requires a building permit and is a courtesy of the amended site plan. Mr. Glatthaar, Esq. stated that Ms. Mazzolla's letter was addressed with the landscaping. He looked at the Zoning ordinance and noted that there is no requirement for a public hearing on an amended site plan like there is for a normal site plan approval. The Planning Board has the right under another section to elect to hold a public hearing but does not see that one is required under these circumstances. Mr. Tegeder stated that the practice of the Planning Board is that when there are changes to a site plan that are significant in such a way that changes the operation of the site, or impacts to such an extent that they are considered significant adverse impacts, then they would elect to have a public hearing. This does not have enough modification to the site plan to require a public hearing. The building is getting larger but not exceedingly

larger in terms of the entire site plan that has already been approved. The applicant does have to go through an amended site plan proceeding as the wall is a necessary outgrowth of the proposal. In his view, the Board could allow the construction of the retaining wall to begin and continue along with the amended site plan given the development to date. Chairman Fon asked the Board if there were any issues and there were none.

Mr. Tegeder stated that if the Board agrees, he will prepare a memo to the Building Department stating that the Board has no issues with the applicant proceeding with the construction of the retaining wall. The Board agreed.

Lowe's Home Center – Pad “B”

Discussion: Site Plan - Pad B

Location: 26.18-1-18; 3220-28 Crompond Road

Contact: Michael Grace, Esq.

Description: Proposed amendment to retaining wall construction and amendment of the Master Sign Plan based on Zoning Board Referral #31/20 for additional signage.

Comments:

Michael Grace, Esq. was present. Mr. Grace stated that he is before the Board this evening as a referral from the Zoning Board. The applicant is seeking to obtain a variance to allow for additional signage for Pad B as it exceeds the allowable signage area under the code. Chairman Fon asked the Board and Counsel if there were any issues, and there were none. The Board asked the Planning Department to prepare a memo for the Zoning Board.

Martino Contracting

Discussion: Site Plan

Location: 6.17-2-62; 286 East Main Street, Jefferson Valley

Contact: Site Design Consultants

Description: Proposed subdivision for a two-story office/warehouse/garage and apartment building in the Country Commercial zone and one single-family house in the R1-80 zone.

Comments:

Joseph Riina, P.E. of Site Design Consultants was present. Mr. Riina stated that the site is located at 286 East Main Street and owned by Martino Landscaping. There is an existing building and driveway on the site that is currently used for servicing their equipment and trucks, which are left outdoors. The property is split into two zones - country commercial and R1-80. The applicant is proposing to develop both the country commercial and residential zoned areas. The proposal is to construct a 7,500 sf two-story building. The first floor will consist of the garage space for storage and maintenance of the equipment associated with the landscape business in addition to an office. The second floor will consist of three residential apartments (*1 one-bedroom unit and 2 two-bedroom units*). In addition, they are also proposing a 2,500 sf building that will be used for additional storage. The access to the site is on East Main Street as this location is of optimum sight distance from both directions. The topography and driveway were discussed. The property is served by public water. A septic system is proposed as there are no sewer systems in the area. They are not in the NYCDEP watershed, so this is a permitted operation. Access points to the building were shown. Two tiers of retaining walls are proposed at the back of the site. The parking shown is more than what is needed, so they meet the parking requirements.

Mr. Riina showed the entire property with the zone line noting the two potential building lots. One single-family residence is shown on the residential portion of the property. Riina noted that to construct a second residence would require a sewer. As a result, they are proposing to make this one lot for the time being until sewers become available. At that time, they would then subdivide the property as an additional lot. Riina prepared a conventional layout that shows a cul-de-sac, but would rather use the flexibility standards or obtain a variance instead of constructing the cul-de-sac.

Chairman Fon stated that he likes the second plan better with the cul-de-sac as this layout may work better for the Fire Department. Otherwise there will be no way to turn emergency vehicles around. Mr. Riina responded that he will look into it. Mr. Kincart stated that this is an unimproved right-of-way and it would be a stretch to create a turnaround but would want to see it as a requirement for the second lot down the road. He noted that in terms of the variance, they do have frontage on two roads. He understands the concern for the turnaround for the Fire Department and suggested the possibility of working the grades to create a hammerhead to turn around on the site.

Chairman Fon asked Mr. Riina where the fire hydrant is located and where the water main ends. Mr. Riina responded that there is a fire hydrant in front of the site but will look into it and report back. Chairman Fon asked if there were any elevations provided. Mr. Riina responded that none were prepared as yet since this is a preliminary discussion. Chairman Fon asked if there were any issues or violations for the site. Mr. Riina responded that there were none that he is aware of. Chairman Fon asked the Board and Counsel if there were any comments, and there were none. Mr. Riina stated that he will report back to the Board with more detail.

Colangelo Major Subdivision aka Featherbed

Discussion: Final Subdivision
Location: 35.16-1-4; 1805 Jacob Road
Contact: Site Design Consultants
Description: Approved 6-lot subdivision in the R1-160 zone by Planning Board resolution #18-23 dated November 19, 2018.

Comments:

Joseph Riina, P.E. of Site Design Consultants; Mark Blanchard, Esq.; and property owners John Colangelo and Maria Costanzo were present. Mr. Riina stated that an application was submitted for final subdivision approval to the Planning Department. He noted that they were last before the Board on May 4, 2020 with respect to the public sewer connection for the low pressure sewer system. They have since been working with the Health Department with respect to an amendment to the Town Code for low pressure sewer systems, which is to be adopted by the Town Board. In addition, the trail location has changed from what was on the previous plan. There is a public access easement for the parking area with a grass paver area and four public parking spaces. They are at the point where they need to finalize the trail location so that they can get the easement onto the subdivision plat for final approval by the Health Department.

Chairman Fon asked if the Westchester Land Trust and Trail Committee were aware of this change. Mr. Colangelo responded that he spoke with John Baker of the Westchester Land Trust however, he is no longer with them and is now working with Mr. DeFalco who is aware of this change. He also spoke to Walt Daniels last week and advised him of the meeting this evening.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. Kincart noted Walt Daniels comment stating that he has not walked the new location but is fine with it. Mr. Kincart stated that he doesn't have a problem with the relocation of the trail and noted that it is nice to have a definitive border for the trail as long as it is clearly marked out and not confusing for the public. Mr. Colangelo stated that they moved the trail from the cul-de-sac because they have a bio-swale that is pitched in that direction and whenever it rains the trail would be wet. In addition, it will cause less confusion as it will not interfere with the private road.

Mark Blanchard, Esq. added that he spoke with Mark Pennington, the Westchester Land Trust attorney. He stated that an issue has arisen relating to the original Planning Board resolution whereby if the donation of the conservation easement to the Westchester Land Trust is seen as having value to the applicant there may be an issue with the IRS classification. They are looking back at the record from two years ago and working on some proposed language that tweaks the conditions of the easement for the final resolution approval. Mr. Colangelo stated that this just pertains to the back five acres for the Westchester Land Trust and not the trail to avoid any confusion.

Chairman Fon asked Mr. Tegeder what the next steps were. Mr. Tegeder responded that this will be the final approval. The Planning Department will follow up with the Westchester Land Trust to discuss the new location of the trail. A resolution will need to be prepared for the sewer issue. The project will then return to the Board. Chairman Fon asked the Planning Department to involve the Trail Committee with respect to the trail location.

Mr. Riina asked the Board if they would consider waiving the public hearing for the final subdivision approval as it is optional. They will be back before the Board as soon as they have the Health Department approval and all issues are resolved.

Town Board Referral - Amendment to Chapter 240 of the Town Code – “Sewers and Septic Systems”

Description: A proposed local law to amend Chapter 240 of the Town Code entitled “Sewers and Septic Systems,” to add a new Article III entitled “Low Pressure Sewer Systems.”

Comments:

Mr. Tegeder stated that the amendment to the law was prompted by the Colangelo subdivision. The proposed homes will require low pressure sewer systems to connect to the sewer systems. The Health Department imposed requirements that were difficult to find in any code in which the town had to maintain and own the systems. As a result, there has been much research and discussion between the Town, Health Department, and applicant to create this law, which is accepted by the Health Department. The proposed law basically takes the town out of the ownership role and gives them a maintenance role in which they can back charge the homeowner if they are not maintaining their system properly. In addition to this requirement, the homeowner will have to provide back-up energy sources which includes either a generator or one day of storage of the effluent of the home in case the system loses power.

Mr. Riina added that over the years, the Health Department's policy on low pressure sewer systems has evolved as it keeps coming back to the maintenance. They want accountability to ensure that these systems stay intact and that the homeowner and town is protected from a health and safety situation. They are the latest in a line of projects that are requesting a low pressure sewer system. The last approved system was a couple of years back in North Castle. The Health Department is in agreement with this amendment and it gives the Town protection to go in if they have to take care of a problem and also back charge the homeowner for any work done. Mr. Riina stated that the town is fully responsible for the main on the road up to the curb stop. He noted that Mr. Colangelo will provide the town with a back-up pump that will be kept in storage and easily accessible in the event that there is a failure situation that needs to be addressed by the town.

Mr. Kincart stated that his understanding is that the homeowner would be responsible for their own equipment, including the pump. If they are negligent in their responsibility, the town then reserves the right to go in and take charge of the situation. The town would then back charge the homeowner for the necessary repairs. Mr. Riina responded that this was correct. Mr. Kincart asked if the language proposed satisfied the Town Engineer with respect to these applications. Mr. Riina replied that the Town Engineer was directly involved in the process. Mr. Riina noted that once this law is approved, it will be in place for future applications.

Mr. Kincart asked Mr. Glatthaar what kind of mechanism is in place legally for new proposals. Mr. Glatthaar responded that there are all sorts of tools that could be used by the town such as conditions of subdivision and site plan approvals which would be binding on future owners of the property, deed restrictions and homeowner association documents. He noted that any one of these tools would be sufficient. He suggested that the Board think about placing this in the resolution for the Colangelo subdivision approval as this is the first one to come before the Board. Mr. Riina added that there are two sections of the amendment that will go directly on the plat so this will be picked up in title reports and could be added as an attachment to the deed. Mr. Colangelo stated that they are forming a homeowner's association and will include this in the language.

The Board had no planning objections. The Planning Department will prepare a memo for the Town Board.

NY Self Storage aka CubeSmart

Discussion: Site Plan & Special Permit

Location: 16.08-1-14; 621 Bank Road

Contact: Insite Engineering

Description: Proposed 26,302 sf single-story additions to the existing 45,996 sf Toys 'R' Us building on 3.6 acres in the C-1 zone.

Comments:

Dawn McKenzie of Insite Engineering; Fred Koelsch, Esq.; Jared Coon of Hanlon Architects; and John Devito were present. Mr. Koelsch stated that they are here as a follow up to the previous Board meeting. Since then, they have submitted a site plan, architectural plan, landscape plan, EAF, and special use permit application.

Mr. Coon reviewed the plans with the Board. The proposed additions will be treated with an insulated metal panel system to transition with the existing building. The building will be two tone in color. The exterior access for the storage units will be treated with thin pilaster units. The signage element was reviewed with the Board.

Ms. McKenzie stated they are proposing to utilize the existing western entrance into the site and shifting the eastern entrance into the site. A total of 73 parking spaces are shown, of which they will only need 15. A mixture of

evergreens, understory trees, and low shrubs are proposed on the Route 6 side in the area along the side of the building underneath the existing limbed trees to buffer the building. In addition, they are proposing to update the landscaping along the front of the site. They are scheduled to meet with ABACA tomorrow and will develop the plant list further as they move along.

Mr. LaScala asked what the square footage is for the proposed addition. Mr. Coon responded that they are proposing a 26,000 sf addition on each side of the building. The existing building is 45,000 sf.

Mr. Tegeder asked the applicant to provide a sample of the metal panel system along with more detailed information with respect to the connection, seaming, etc. The rear of the building looks good, but the coping should mimic the front of the building. The first pilaster on each side of the front of the building should be extended to help with the visual appearance. The rear elevation shows the garage unit doors in the southwest corner of the building and should be completely screened from view. In addition, the Planning Department will need to look at the parking requirements. Ms. McKenzie responded that the applicant only needs 15 parking spaces. The plans show more than what is required as they were unsure at the time what was needed, so they provided 1 space per 10,000 sf. They will need confirmation from the Board to only provide the 15 parking spaces that the applicant needs. This will allow them to provide modifications to the site plan to provide other benefits with respect to stormwater, circulation, and additional landscaping. Mr. Tegeder noted that the wing walls in front may require removal of parking to make the site work better. Mr. Kincart stated that it may make sense to consider banking some parking spaces for future use in case the building is ever re-adapted. Mr. Tegeder agreed and noted there may be areas that could be planned as conservation parking areas that could be landscaped in case the use or nature of business changes.

Mr. Garrigan asked about the hours of operation. A representative from Columbia Specific Advisors responded that the hours of operation for Cubesmart are Monday through Friday from 9:30 a.m. to 6:00 p.m.; Saturday from 8:30 a.m. to 5:00 p.m.; and Sunday from 11:00 a.m. to 3:00 p.m..

Chairman Fon asked the Board and Counsel if there were any issues, and there were none. Mr. Tegeder noted that the site plan needs to be refined, and the application will be referred to various agencies for feedback. The Board advised the applicant to work with the Planning Department. A public information hearing will be scheduled for the next meeting.

Town Board Referral – Amendment to Chapter 300-75(A) of the Town Code

Description: A proposed Local Law amending Chapter 300-75(A) of the Town Code entitled “Warehouse or self-storage uses in retail shopping centers.”

Comments:

Mr. Tegeder informed the Board that this is a necessary modification to update the language in the code to accommodate the change in self-storage facilities with respect to visibility. Discussion followed. The Board had no planning objections. The Planning Department will prepare a memo to the Town Board.

Wells Fargo Bank

Discussion: Lighting Plans

Location 1: 16.09-2-14; 1342 East Main Street, Shrub Oak

Location 2: 37-14-2-59; 1937 Commerce Street, Yorktown Heights

Contact: Natalia Sell, Bureau Veritas

Description: Proposed lighting upgrades for existing sites.

Comments:

Amanda Hense was present. Ms. Hense stated that the Wells Fargo banks are required by the state and current Wells Fargo security policies to upgrade their lighting to meet foot-candles at all hours of darkness at different points inside the 50-ft and 60-ft radius of the ATMs. They have designed the lighting at the two sites to meet these requirements.

The Yorktown Heights lighting plan was shown to the Board. A marked up photo was provided depicting the fixtures to be replaced and installed, which include new structural concrete bases for light poles, replacement of wall and canopy fixtures, and the addition of new wall light fixtures. All fixtures specified will be replaced with LED lights. The light pole fixtures are to be fully cut off and angled downward so there is no tilt or glare.

The Shrub Oak lighting plan was shown to the Board. It was noted that the ATM and night deposit is located in the shopping center. In order to meet the foot-candle requirements, they are adding some wall lights and a structural concrete base for a new light pole that will match what is existing at the site.

Mr. Tegeder asked if the lighting levels shown take into account any other lighting such as the street lights that may be providing additional brightness. Ms. Hense responded that they do not account for the street lighting. The state requirements in terms of the ATMs were reviewed with the Board. Mr. Tegeder asked what the color temperature was for the lamps they are using. Ms. Hense responded 40k for all fixtures and will provide the cut sheets to the Board.

Chairman Fon asked the Board and Counsel if there were any comments and there were none. Mr. Tegeder stated they will need to review the application in detail. Ms. Hense stated that she will send the state code and requirements to the Planning Department for their review and information.

Yorktown Energy Storage LLC - 3901 Gomer Court - Tier 2 Battery Storage System

Discussion: Site Plan & Special Permit

Location: 6.17-1-24; 3901 Gomer Court, Jefferson Valley

Contact: Melissa Samaroo, PV Engineers, P.C.

Description: Proposed Tier 2 (5,000kW/15,000kWh) battery energy storage system, which will be no more than 15% of the lot coverage with a maximum of five containers.

Comments:

Robert Gaudio, Esq. of Snyder and Snyder, Melissa Samaroo and Mike Conway of PV Engineers were present. Mr. Gaudio stated that they were last before the Planning Board on 09-23-2019 as a referral from the Zoning Board. Since that time, the Town Board has amended the Town Code to provide specific requirements for battery storage facilities that include special permit applications be reviewed by the Planning Board. They submitted a letter dated 9-18-2020 with required documents to the Planning Board.

Ms. Samaroo stated that the proposal is for a battery energy storage system to be located at 3901 Gomer Court in an office zone off of East Main Street to the north and Route 6 to the south. The existing site is also an autobody shop. Access to the site will be from Gomer Court off of East Main Street. The actual parcel is just under 2 ½ acres and will be enclosed by a 7-ft-wide chain link fence with 20-ft-wide vehicle gates for access. Per the new zoning code, they meet the 15% lot coverage requirement as this parcel is just under 2 ½ acres (*15 % or 33,000 sf requirement*). The area within the fence is 15,755 sf or 14.5% of the site so the 15% governs. The storage containers were shown on the site. They meet all the Yorktown bulk storage requirements for the office zone and any requirements for clearance of shrubs or trees outside the energy storage facility. As far as environmental due diligence, they received a letter of map amendment from FEMA, so they are no longer in a flood zone. They do not require a permit from the NYSDEC Region 3 office per their letter dated 10-24-2019. In addition, they completed the phase 1 test to ensure that there are no environmental concerns on the site.

Mr. LaScala asked about the existing buildings and if they were to be removed. Mr. Gaudio responded that this is an addition to the site. The battery storage facility will be installed on the unused portion in the rear of the property.

Mr. LaScala noted that the buildings are occupied and asked about the fire safety procedures. Mr. Conway responded that the battery systems have a few layers of fire safety measures, each of which increase in complexity and severity if an event were to take place. The battery systems are containers filled with essentially the same type of batteries that you would have in a cell phone. Each of those batteries are monitored separately by a management system that sends signals back to the operations and management center to ensure the temperature and voltage is within the specs that they are designed to operate. The management system ensures that all the cells within the battery array are working properly and if not the system shuts down. The second layer is that the containers are installed with a temperature controlled system (HVAC) and fire suppression system. The condition that causes these systems to be potentially dangerous is called “thermal runaway” which is when you have excessive heat from the battery within the container. The actual fire suppression system used is a clean agent called Novec 1230 that releases within the container as an extinguishing agent to stop the fire reaction. The final measure is that the containers themselves have a 90-minute rated firewall on them.

Mr. LaScala asked how this facility benefits the Yorktown residents. Mr. Conway responded that the primary purpose of the system is to reduce stress and operating costs on the Con Edison system. These systems are designed as utility interactive devices and do not operate as backup systems when the grid goes down. This would not help with a power outage or provide back-up power but is something that acts as a preventative measure from this happening. A high percentage of grid outages are caused by equipment failure, and equipment failures are caused by age and stress on the equipment over the years. This storage facility will reduce the wear and tear on the Con Edison system. The residents would benefit by an increased resiliency of the Con Edison system. Mr. LaScala asked what happens when the grid goes down and how long does the battery last. Mr. Conway responded that the batteries are 4 hour rated at their maximum output.

Chairman Fon stated that it appears that the applicant is compliant with the zoning and permit requirements and crafted this project to comply with all. There are no variances required by the Zoning Board. Mr. Gaudioso responded that this is correct. They looked at the code carefully and tailored this application to meet those special requirements. Chairman Fon stated that this project is based on the requirements of Con Edison needs to help with their infrastructure. Mr. Gaudioso responded that this system is not a battery backup for when the power grid goes down. When the power grid goes down, the system shuts off automatically. This system is designed to keep the brown outs from happening to help avoid the need for new infrastructure such as new power plants, etc. Mr. Garrigan asked if the batteries are storing energy generated through solar. Mr. Gaudioso responded that the batteries are storing energy from the grid during off-peak hours and are purely storage devices.

Chairman Fon stated that the Board would need to look at the appropriateness on the site which includes screening. The Board could also request for a peer review by the State to look at the fire suppression system and code compliance and ask that the first responders within the area are trained on how to deal with this system. Mr. Gaudioso noted that with respect to the screening they added 9 additional Norway spruces on the Route 6 side and noted that the understory is intact. In addition, a 7-foot chain link fence is also proposed as requested by the Fire Department in order to see into the property. Mr. Gaudioso stated that he has no objections to making all the items discussed as conditions of approval prior to the building permit process.

Chairman Fon asked Mr. Tegeder what the next steps were, as this is the first project under a brand new code for Yorktown. Mr. Tegeder stated that the visual aspect (fence, landscaping) is important and can be handled on-site and a safety plan that includes training for the first responders can be put into place as was done with the battery storage facility at the Staples Plaza last year. Mr. Tegeder asked if there were any other existing utilities on the site that may have some conflict with the proposal such as underground water, electrical, etc. Ms. Samaroo responded that all is noted on the survey and they made sure to avoid storm drainage, etc. Chairman Fon asked if there were any issues with the rest of the site with respect to compliance. Mr. Tegeder responded that there were none that he knew of but would check with the Building Department.

Chairman Fon asked Mr. Glatthaar if it would be appropriate to ask the Building and Planning Departments to jointly look at the site. Mr. Glatthaar responded that he would recommend it and suggested that the Fire Department be included as well. The applicant agreed to stake the four corners for the location at the time of the site visit.

Mr. Gaudioso stated that he thinks this application will need to be referred to the County. Mr. Tegeder responded that the Planning Department will refer it.

Chairman Fon asked the Board and Counsel if there were any comments, and there were none. The Planning Department will schedule a Public Informational Hearing for the October 26th meeting.

Americo Realty LLC

Discussion: Pre-Preliminary Application

Location: 26.18-1-9; 3332 Old Crompond Road

Contact: Ciarcia Engineering, P.C.

Description: Proposed mixed use building in the C-2R zone with 6,750 sf office/retail space and 20 apartments above and two townhouse building with 6 units each in the R-3 zone on 2.58 acres.

Comments:

Dan Ciarcia was present. Mr. Ciarcia stated that this property is part of the Bear Mountain Triangle consisting of almost 24 acres and broken out into 8 parcels with 8 different owners that was re-zoned as part of the Mandalay project for a mini-master plan a while back. The area along Old Crompond Road became C-2R and the area in the back became R-3. The overall re-zoning was bookended by what is now the Hudson Valley Steakhouse on the western boundary and extends all the way up to Lowes. Ray Biotta who was advancing the Mandalay application for all the sites, has since deceased, and the deal with all the owners has unraveled. Mr. Ciarcia stated that his client would like to advance an application on his own. He noted the Town's latest proposal to amend the district overlay zones that cited three areas that they were considering which includes the Bear Mountain Triangle. If that law is adopted it appears that it will provide the Planning Board with some level of discretion to facilitate development.

The proposal is for a 10,500 sf mixed-use building in the C2-R zone with 20 apartments and 6,750 sf office retail use. Also proposed are two townhouse buildings with 6 units each in the area of the property for the R-3 zone which would be comparable to what is across the way in the adjacent development. The 50-ft setbacks in the R-3 zone will be an issue. The driveway and road were discussed. Mr. Ciarcia stated that this is a concept plan and is looking for feedback from the Board.

Chairman Fon noted that there is a holistic plan for traffic improvements in this area that was prepared by Maser Consulting and asked Mr. Ciarcia if he looked into this. Mr. Ciarcia stated that there are two signalized intersections (*BJ's intersection and Bear Mountain Parkway intersection*) that would be the main way in and out of the development.

Chairman Fon asked the Board and Counsel if there were any comments. Mr. LaScala stated that he liked the idea of the apartments. Mr. Kincart asked about the parking and rear yards and if the units were to be rentals. Mr. Ciarcia stated that no decisions have been made as yet with respect to the units. Chairman Fon noted that this is only a piece of the original project and is concerned about the area as a whole. He is concerned about the density, traffic, stormwater, and future expansion with the parking lot to the properties next door. Mr. Ciarcia responded that he understands but it is not within his client's control. The property has been re-zoned so his client would like to develop it within the zoning as it has been dormant for a while. Discussion followed with respect to the recreation requirement. Mr. Kincart pointed out that the Mandalay project was never approved and also feels that the proposal may be too dense for this narrow, deep piece of property. He likes the building in the front and the idea of rentals to provide more diversity in the housing stock. He noted that this area is developing and will likely be a driving force and center of commerce for the town with diverse options for housing, including rental where there is water and sewer. He thinks the use fits but may be too much for the site and suggested that they meet with the Planning Department to discuss what would be most reasonable and beneficial to the applicant and the area. He also suggested that the Board conduct a site visit with the buildings staked out to get a better idea of what is being proposed. Mr. Ciarcia stated that other than the setback issue, what kind of wiggle room would the overlay district afford the applicant that the zoning doesn't. Mr. Kincart responded that his idea of the overlay district is to see feasible plans for properties within the overlay district area that works with the current zoning restrictions and then go beyond those restrictions to adopt a plan that works for the site but will defer to Mr. Tegeder.

Mr. Tegeder stated that the amendment is about flexibility with respect to the use and requirements to benefit the town and developer. The town is looking to get the best possible set of development values for any particular property according to the location and its parameters rather than just having a fixed set of standards by looking holistically at the property and its location. If the town adopts this area to be within the zone, then it would apply.

Mr. LaScala stated that he liked the proposal but noted that it may need tweaking. Mr. Garrigan stated that he thinks it is a creative way of addressing the two different zones. In terms of density, elevations would be helpful and noted that it could fit nicely relative to what is next door. Although traffic is an issue, there are two signalized intersections near the site and feels that it is a good location for this proposal even though it's not part of the bigger plan.

Chairman Fon advised the applicant to meet with the Planning Department to discuss the application further and to review the traffic plan prepared by Maser Consulting.

Town Board Referral – Amendment to Chapter 300 of the Town Code

Description: A proposed Local Law amending Chapter 300 of the Town Code entitled “Zoning” by adding a new Article XXXI entitled “Planned Design District Overlay Zones.”

Comments:

Mr. Tegeger stated that the proposed amendment will be reviewed in several stages with respect to the language. The proposal is to add language to the Town Code setting with respect to the development district by providing flexibility in design, dimensional requirements, and uses. For example, if the developer is willing to provide and produce things that the town feels is important (*i.e. – historical preservation, adaptive re-use, pedestrian amenities, connections as part of a master plan, etc.*), they could reap the benefits of additional density, relaxation of parking requirements and setbacks. This amendment is geared toward the current situation as more people are leaving the city because of Covid-19, and rentals are becoming more desirable. There are a lot of apartment complexes proposed lately and with this in mind, the Board is looking to move these type of applications forward. He noted that the proposal is self-explanatory, and there are a few sections on the intent and areas of flexibility that are very broad. Mr. Kincart added that it is important to note that it is keeping in spirit with the master plan. After discussion, the Board had no planning objections. The Board asked the Planning Department to prepare a memo for the Board’s review. Mr. Glatthaar stated that he would be happy to review the memo and offer suggestions.

Motion to Close Meeting

Upon a motion by Bill LaScala, seconded by Rob Garrigan and with all those present voting “aye”, the Board closed the meeting at 11:10 p.m.