

Planning Board Minutes October 17, 2016

A meeting of the Planning Board, Town of Yorktown, was held on October 17, 2016, at the Yorktown Town Hall Board Room, 363 Underhill Avenue, Yorktown Heights, NY 10598. The Chairman, Richard Fon, opened the meeting at 7:00 pm with the following members present:

John Flynn
John Savoca
John Kincart
Anthony Tripodi
Bill LaScala, Alternate

Also present were: John Tegeder, Director of Planning; Robyn Steinberg, Town Planner; Tom D'Agostino, Assistant Planner; Michael Quinn, Town Engineer; Bruce Barber, Town Environmental Consultant; Anna Georgiou, Planning Board Counsel; and Councilman Gregory Bernard, Town Board Liaison.

Fon announced that the Triglia-Rezi Subdivision will not be heard tonight. The applicant withdrew from the agenda and the Board received a memo from the Town Engineer.

Correspondence: The Board reviewed correspondence.

Minutes:

Upon a motion by Kincart, seconded by Savoca, and with all those present voting aye, the Board approved the September 26, 2016 minutes by the Chairman's corrected copy.

REGULAR SESSION

Blumberg Subdivision

SBL: 47.15-1-21

First 90-Day Time Extension

Location: 1305-1307 Baptist Church Road

Contact: Kellard Sessions Consulting, P.C.

Description: Approved two-lot subdivision approved by Planning Board Resolution #16-09 and dated May 9, 2016.

Al Capellini, project attorney, was present. Capellini stated that the Board approved the subdivision with no new improvements proposed. The applicant is still obtaining approval from the Board of Health.

Upon a motion by Tripodi, seconded by Kincart, and with all those present voting aye, the Board approved a 1st 90-Day Time Extension for the Blumberg Subdivision.

Mongero Properties

SBL: 37.14-1-44

First 1-Year Time Extension

Location: Saw Mill River Road

Contact: Albert A. Capellini, Esq.

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Description: Approved site plan for a 3,848 SF bank on 2.2 acres in the C-1 zone approved by Planning Board Resolution #15-14 and dated November 9, 2015.

Al Capellini, project attorney, was present. Capellini stated this project has been in front of the Board for several years. The applicant has obtained approvals from outside agencies, however there is no end-user for the site yet, therefore it has not been constructed. Flynn asked about Capellini's letter in which it stated the applicant paid for the lowering of the AT&T cable. Capellini stated that historically the right-of-way was set up to connect Route 118 and Baldwin Road, however since the applicant required the lowering of the cable to access the site, the applicant paid to lower the cable.

Upon a motion by Savoca, seconded by Kincart, and with all those present voting aye, the Board approved a 1st One-Year Time Extension for the Mongero Properties Site Plan.

Dubovsky Site Plan

SBL: 59.14-1-18

Request Re-Approval

Location: 702 Saw Mill River Road

Contact: Site Design Consultants

Description: Approved site plan to construct a main building with 2 commercial spaces below and with 2 residential apartments above approved by Planning Board Resolution #13-21 and dated September 9, 2013.

Al Capellini, project attorney, was present. Capellini stated that the applicant obtained approval in 2013. The applicant is still working to obtain Health Department approval. Deep test holes were approved recently. Capellini stated the Board received a letter from the project engineer, Joseph Riina of Site Design Consultants, stating there have been no changes to the environmental conditions or proposed project since the original approval. Fon asked Riina to review his letter. Riina stated the applicant is still working with the Health Department as well as with NYCDEP, and NYSDOT.

Upon a motion by Flynn, seconded by Savoca, and with all those present voting aye, the Board reappraised the Dubovsky Site Plan.

Orchard View Realty Subdivision

SBL: 36.06-2-78

Adjourned Public Hearing

Location: 2425 Sherry Drive

Contact: Zappico Construction, LLC

Description: Proposed to subdivide a 9.2438 acres parcel in a R1-20 zone into 9 lots for single family housing.

Jim & Brandon Zappi of Zappico Construction were present. Jim Zappi described the proposed subdivision. The applicant worked on several plans before deciding on their proposed plan. The project will have public water and public sewer. The site needs to be added to the sewer district, which typically takes 12 months. The applicant is also working with the NYCDEP. Deep Tests and Perc Tests have been witnessed by the NYCDEP. An HOA (Homeowner's Association) is proposed. A 50 foot right-of-way is proposed to the east of the Sherry Drive access to provide future access to the adjacent property. Zappi presented the utility plan. There is one existing home and 8 additional homes

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proposed. The darkened squares on the plan are cul-tec drywells to infiltrate stormwater. Then the radiator shaped chambers under the cul-de-sac will take and store the stormwater from the road. A swale is proposed along the west side of the property behind the homes for stormwater quality. Whatever stormwater leaves the property now will be contained. Pre and Post construction will match and they are looping two water main dead ends from Pine Grove Court and Sherry Drive through the property. Water, sewer, and gas will be brought up through the easement from Pine Grove Court. The homeowners will be responsible for maintaining the stormwater. The homeowners will have a fee to maintain the stormwater and road. In addition, the applicant will add the regional basin, which includes drainage from several other subdivisions, to the HOA's responsibilities. Zappi presented the proposed landscape plan. Conifer trees are proposed between the homes and street trees are also proposed. Zappi presented the road profile, stormwater profile, water main profile, and sewer main profile. The road is at 6% slope. Zappi presented the details sheet. Every home will have a sewer cleanout before sewage leaves the property.

Pat Francois, Conservation Board

The Board met on September 22, 2016 to review the plans. The applicant was not at the meeting, however the Board submitted a memo to the Planning Board that lists their concerns regarding the application.

Shea MacDonald, 2406 Pine Grove Court

MacDonald asked if there was a risk of sewage backup to downhill residents with more homes being added to the system. MacDonald asked how an HOA works with this type of subdivision and whether common charges are only for maintenance or are there any other amenities like a pool. Savoca stated the Board has not seen the HOA agreement, but it would not include a pool. Only what is shown on the plan. Flynn stated the HOA will be responsible for maintenance of the road. Zappi stated the HOA is an agreement filed with the deeds on all the properties. If homeowners fail to pay into the HOA, the HOA can put a lien on the property. Usually the agreement will be reviewed by the Town Attorney and includes the ability for the town to step in and take care of any issues. The public sewer and public water are not included in the HOA due to health department requirements. These will be deeded to the town. Zappi stated the project will be constructed starting from the bottom of the hill at Pine Grove upward. The utilities and stormwater will be constructed first. An eight-inch sewer line can handle many homes worth of sewage without causing backups in the line.

Flynn asked if the town is responsible for the water and sewer main, what happens if the town has to repair a water main, would the town repair the road in that case or the HOA. Fon stated that if the Town had to do repair work in the private road, the road would have to be replaced to its prior condition once the work was complete.

Tegeder explained the difference between a major and minor subdivision approval. The threshold is more than 5 homes or any subdivision that includes the construction of a new town road. a Major subdivision is a two-part approval; preliminary approval which establishes lot count and general layout and a final approval which is more detailed. In the past when subdivisions were larger (20, 50, 60 homes) this two-step approval process was required to organize the work of reviewing the plans.

Sean Smith, 2404 Sherry Drive

Smith stated that extending Sherry Drive will make it one of the longest roads in the larger neighborhood. There is only one way in and out of the development. If there was an outlet on the northern end of this development, that would be nice. In March there was a discussion regarding cut

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and fill. Smith asked if the applicant has quantified how much cut and fill will be done and what the layout of the land will look like. The HOA would be a permanent association, not temporary. His comments then addressed the retaining pond. The east side is very overgrown. The ground is very wet in this area. When the Park Lane subdivision was built a swale was constructed behind his house and this did not stop water from coming across. There is a stream that runs under the roadway. Fon stated that the Board did make a site visit, the applicant has designed a grading plan. There is no way for the road to outlet anywhere else.

Zappi stated Sherry Drive will be extended. The worst thing for traffic to do is connect two dead ends. If the roads were connected, traffic from both roads would be able to drive through both neighborhoods. With just the one connection, only traffic from the 9 homes will be experienced.

Zappi described the topography of the site and the proposed cut and fill of the project. The homes once built will be level on both sides of the road. The homes on the west side of the street will have walk out basements.

Zappi stated that test holes were dug 12 feet deep and left for several days and no water was found in them. The stormwater system is designed to be balanced between pre-development and post-development.

Arnold Loeb, 2390 Pine Grove Court

Loeb was concerned still regarding water towards Pine Grove Court. Loeb asked how close the road, homes, and yards will be to the Pine Grove homes and what sort of buffer protection against noise will be provided.

Zappi stated the applicant will comply with the town's requirements for noise during construction. If one of the lots has to be affordable, so be it. The applicant will pay the recreation fee or perform work on an existing recreation facility at the town's request.

Zappi stated the applicant is seeking preliminary approval to take the next step and have the other agencies review the project. Unofficial applications have been made to outside agencies. Those agencies will look at the sewer and water. Zappi met with the DEP, completed testing, and the report will be done tomorrow and formally submitted to them. The Town, on Zappi's behalf, has made a formal application to the Westchester County Board of Legislators to enter the Peekskill Sewer District to accept flow and tax the homeowners. Zappi stated stormwater approval will be required from the NYSDEC.

Vincent Scotto, 2460 Mill Pond Road

Mr. Scotto was concerned that all runoff from developments in the Crompond area end up in the Hunterbrook and increased development means increased flooding to the neighborhoods adjacent to the brook. Fon stated newer regulations require the applicant retain and treat stormwater runoff on site. The stormwater runoff is not allowed to increase off the site. Scotto stated the cumulative effect of all these proposed developments are not addressing the Hunterbrook downstream behind McDonald's. Developments including Crompond Crossing, Crompond Terraces, and Lowe's will all have a cumulative effect.

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Zappi stated that because the project is high, the water needs to be retained on the site during a heavy rain event. This is why the stormwater structures are in the ground. Stormwater quality will be treated as well. There will not be silt leaving the site like in older subdivisions.

Fon asked Tegeder to review the original construction of the regional stormwater basin. The basin needs attention, however it was sized to take into account runoff from several subdivisions, including undeveloped land to the east and the self-storage site that was never connected to it.

Upon a motion by Flynn, seconded by Tripodi, and with all those present voting in favor, the Board closed the Public Hearing, and allowed a written comment period for 10 days.

RPG Properties

SBL: 15.15-1-22

Public Informational Hearing

Location: 3574 Lexington Avenue

Contact: RPG Properties Inc.

Description: Proposed to build a multi-family development consisting of 8 residential townhouse style units.

Al Capellini, project attorney, and the applicants, Gerry Walsh and Phil Sanders, were present. Capellini described the location of the project on Lexington Avenue. The site was rezoned by the Town Board to the R-3 multi-family zone. The Code allows up to 10-12 units to be built on the site. This project was limited to 8 units by the Town Board. Project manager Phil Sanders stated the rezoning approval was obtained in June. The resolution required good architecture and landscaping be incorporated into the site plan. Sanders described the site plan that has 4 units on either side of a parking lot. The site will be served by public sewer and water. A 50 foot buffer is proposed between the buildings and the neighborhood to the rear. All stormwater will be infiltrated underground. There is no surface detention proposed. Post development runoff will be equal to or less than the existing runoff on the site. The proposed dumpster is located closer to Lexington Avenue and will be enclosed and then shielded by landscaping and fencing. The Town Code requires 15 parking spaces. The plan provides for 22 spaces. Sanders presented elevation views of the proposed buildings and the proposed lighting plan. Sanders stated the development fits into the Lexington Avenue corridor.

Fon asked if any variances are required. Sanders stated the preferred plan requires side yard setbacks on the north and south and a variance to allow less than 90 feet between the buildings. Flynn asked about the elevations that showed mature trees in the background. Sanders stated all the trees in the rear of the site and shown in the 50 foot buffer area will remain. Fon stated that the dumpster looks well-hidden on the proposed elevation. Fon was pleased the utilities were now shown in the parking lot so more landscaping can be behind the homes in the side yards.

Thomas Perrone, 3563 Ellis Street

Perrone stated an as-of-right development should be shown. There is no place to walk on Lexington Avenue because there are no sidewalks and no lights. Perrone thought additional cars on the site would be undesirable. In the winter months when there is no foliage the property will be clearly visible from his neighboring home. The Town Board is not protecting the neighborhood by jamming eight units into what was a single-family area. Perrone stated that if this proposed development moves ahead, a sound wall should go up like on the highway so neighbors will not have to hear or look at these units.

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Fon stated the Town Board changed the zoning of the property from single-family to multi-family. The Planning Board can only work within that zone. This meeting is the first of many on this site plan. The Planning Board will be reviewing this plan at work sessions. Flynn stated the neighbors will also be able to comment on the variance application when that is in front of the Zoning Board.

Andrea Jeffries, 1724 Clover Road

Jeffries was concerned the height of the proposed buildings were higher than most of the other buildings on the street. On Clover Road, only one side of the road has a storm drain and when there is heavy rain, there is a river down the side of the road. More development in the area will make this condition worse. There are people that walk through the neighborhood mainly from the Cortlandt development. Jeffries was concerned that the tree law has been changed by the town. All the trees on the site, aside from the 50 ft buffer area, will be removed. Jeffries thought this site is a dangerous place to put additional people because there are no sidewalks to walk and that the development will change the feeling of the neighborhood.

Kincart stated the Board understands the neighbors' comments regarding the single-family neighborhood, however, the property is zoned multi-family and the Board must review the application as an R-3 zone.

Upon a motion by Kincart, seconded by Tripodi, and with all those present voting in favor, the Board closed the Public Informational Hearing.

Upon a motion by Kincart, seconded by Savoca, and with all those present voting in favor, the Board closed the Regular Session.

WORK SESSION

Lowe's Home Center former Costco Wholesale

SBL: 26.18-1-17, 18, 19 & 26.18-1-1

Discussion Amended Site Plan

Location: 3200 Crompond Road

Contact: Provident Design Engineering

Description: Proposed Lowe's with two restaurant buildings and a bank building on the former approved Costco Wholesale Club site.

Tom Holmes and Nick Panayotou, from Provident Design Engineering; Alan Pilch, from Evans Associates; Frankie Campione, from Create Architecture (architect for the additional buildings); Charles Sturdevant, representative from Lowe's; Vince Ferrandino and Carolyn Worstell, from Ferrandino & Associates; Perry Petrillo and Kevin Bulger from Petrillo Architecture, P.C. (architects for Lowe's); Phil Grealy, from Maser Consulting; Bob Rosenberg, from Breslin Realty; Al Capellini, project attorney; and Michael Bogin, project environmental counsel were present.

Tom Holmes stated the applicant submitted several more detailed plans to respond to comments have been added to the original set. Since the last meeting, the applicant met with the ABACA and the Conservation Board.

Barber stated he and staff made site inspection of the property of the NYSDOT property with Evan Associates. The purpose of the inspection was to verify there were no jurisdictional town wetlands on the additional 3.38 acre site. There is a small section of the buffer of wetland B on the parcel. It was

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also noted that there were no specialized or unique habitats on the site. The trees to be removed were all tagged.

Capellini stated that as a result of the revised tree ordinance, the jurisdictional tree size is now 8 inch dbh (diameter at breast height) and over. Barber confirmed the Town Board changed the regulated dbh from 6 inches to 8 inches, so fewer regulated trees are affected.

Barber reviewed his memo regarding the site visit. A Phase II investigation of the 3.38 acres is not requested by town staff. The proposed stormwater ponds are more typical design than the approved site plan. Thermal pollutants should be addressed. The overall stormwater design is found not to increase any impacts previously studied. The applicant will be requested to replant the wetland buffer area affected. The applicant proposes to plant 334 trees on the site. If appropriate the applicant can perform additional tree mitigation at Sylvan Glen Park. The impact of the tree removal can be fully mitigated.

Tripodi asked about replacing cut trees with new trees. Barber stated it is best to plant a mix of tree sizes to create diversity in age and to provide a function, not just to replace item for item. Fon stated the Board needs to focus on net impacts. Barber stated there are new impacts that weren't considered initially, but those impacts can be mitigated.

Flynn stated that the Costco building had proposed skylights, however the Lowe's building does not. Flynn asked the applicant to discuss the memo regarding green technology that was submitted. Petrillo stated that Lowe's reviews the different green projects they have implemented. Lowe's has installed solar systems, mainly on the west coast where there is more of an advantage. The company did have a test project in Massachusetts that became more of a maintenance issue. The memo outlines Lowe's green technology measures and Petrillo believes Lowe's can match Costco one to one except for in heat reclamation. Lowe's does not need this system because they do not have coolers for food. Lowe's is not proposing skylights but will have a building management system that is regulated centrally by the corporate office, not the individual store personnel; meaning temperature isn't manually adjusted for example. Lowe's also uses precast panels that have a 24R rating. Most likely the building will exceed energy code requirements. Fon asked about the use of concrete instead of asphalt paving on the site. Petrillo stated Lowe's uses concrete on the main truck and traffic routes in the parking area. All site lights are LED both inside and outside the building. Support areas have motion detector switches so lights automatically turn off. Lowe's proposes a white roof. This helps with the thermal load. Flynn asked about a Lowe's program where the company purchases alternative energy for the stores. Sturdevant stated Lowe's purchases utilities nationwide. What Lowe's does at this store depends on what the local area offers. He confirmed it is an option the company looks into.

Upon a motion by Kincart, seconded by Savoca, and with all those present voting in favor, the Board opened a Special Session.

Georgiou read the proposed resolution into the record:

WHEREAS the applicant, Yorktown JAZ, LLC ("Applicant") applied for an amended site plan of the Costco Project on September 23, 2016, which project now comprises a 120,663 SF Lowe's Home Center, including a 25,448 SF outdoor garden sales area, a 7,600 SF restaurant, a 4,500 SF restaurant, and a 4,000 SF bank ("Project"); and

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WHEREAS, the Planning Board has reviewed the original Environmental Impact Statement and Findings Statement for the Costco Project, all reports and correspondence from the Applicant and its consultants, including but not limited to, the Lowe's Technical Memorandum prepared by Provident Design Engineering dated August 31, 2016, and has reviewed correspondence, memoranda, and reports from Yorktown Planning Department staff and its consultants and Town advisory boards.

THEREFORE BE IT RESOLVED that the Project does not exhibit the potential for any new significant adverse impacts that were not previously identified or adequately addressed in the original Environmental Impact Statement and the Planning Board's subsequent findings for the Costco Project. The Board determines that the instant application is no less protective of the environment than the originally approved plan, and that the Project, as in its original form, remains consistent with social, economic, and other essential considerations from among reasonable alternatives and that the action avoids or minimizes adverse environmental impacts to the maximum extent practicable. The Board makes this determination based on the information presented to date, and will evaluate any and all information that is presented in support of the Project subsequent to the date of this resolution.

THEREFORE BE IT FURTHER RESOLVED that the Board determines that the Project does not warrant preparation of a Supplemental Environmental Impact Statement and directs that the application proceed to be processed under site plan review.

Upon a motion by Tripodi, seconded by Kincart, and with all those present voting aye, the Board approved said resolution.

The Board discussed edits to the Lowe's memo from the Planning Department dated October 14, 2016 that were the following:

- On Page 2 in the first sentence of Flora and Fauna, insert the word "Net" at the beginning of the sentence.
- On Page 3 under Stormwater, delete the reference to page numbers and insert "No new significant adverse impacts are identified."
- On Page 4 under Noise, in the second sentence, replace the word "less" with "fewer".
- On Page 4 under building Demolition and Construction, delete the last three sentences.

Upon a motion by Tripodi, seconded by Savoca, and with all those present voting aye, the Board closed the Special Session.

Flynn stated that in regards to the site plan, his priority was to get better pedestrian access to all uses on site. Also a connection from the bus stop to the other three businesses should be created. The sidewalks should connect.

Fon stated the ABACA memo stated their comments from the Costco application have all been carried forward. Flynn asked about invasive species in Wetland A. Barber stated there is not so much in Wetland A. More invasives are found in the disturbed area. Any mitigation plan will include the control of invasives.

Holmes stated that lighting was included in this submission. There is 16 ft lighting shown on the perimeter and within the out parcels. The 25ft lighting is in the main parking lot only. There are fewer light poles proposed than Costco. The perimeter lights are shielded where necessary. Holmes will

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indicate on the site plan which lights have shields. The entire perimeter of the site is under 1 footcandle and complies with code with the exception of the main driveway location. Panayotou stated fewer fixtures will be lit when the buildings are not open. Building mounted fixtures are included on the plan. Building mounted fixtures are at 20 ft height on the Lowe's. Tegeder asked about ATM lighting requirements for the bank. Holmes stated they had not included any specific lighting for the ATM because there is no bank tenant yet. Tegeder suggested the applicant include some typical ATM lighting and if more is needed the applicant will have to return to the Board.

Capellini requested a Public Hearing in November. Barber stated a conceptual tree mitigation plan should be submitted prior to a Hearing. The applicant agreed to return November 7th with additional information. The Board scheduled the Public Hearing for the November 21st regular meeting.

Crompond Terraces

SBL: 26.18-1-9,10,11,12,13,14,15,16

Discussion Site Plan

Location: 3258 Old Crompond Road

Contact: Mandalay Builders, LLC

Description: Proposed townhouse complex on 16.9 acres in an R-3 Zone consisting of 110 units.

Ann Kutter from Red Tape Rescuers; Anne Cutignola, from Tim Miller Associates; and Roy Biaita, Mandalay Builders, were present. Cutignola stated she had updated the EAF information based on the latest revised site plan and number of units. She stated the goal of the applicant is to provide an approvable project. The applicant would like a written indication from the Board that the project as shown is going in an approvable direction; including site layout, number of units, and buildings fitting into hillside. The current site plan shows 27 residential buildings (6 type A units, 7 type B units, and 14 type C units), 7 commercial buildings, and 1 recreational building. The height of the C type building is 37 ft. Cutignola indicated the way the average height is calculated had been acceptable to the Building Inspector when reviewed prior. Cutignola explained the submitted site section was created for the worst condition of proposed two C buildings. The section showed substantial amount of cut (26 feet or two-stories) of existing grade into hillside. Biaita stated there will be 30 feet of cleared area behind each building for yard space. Barber stated a similar wall was built for the construction of the BJs. The wall buckled due to hydrostatic pressure and had to be rebuilt. A geotechnical engineer needs to manage the construction of the slope if the plan goes forward with the proposed walls.

Flynn stated he would like to see an alternate plan with the same unit count, but more three-story buildings to avoid the severe topography. Cutignola stated the proposed plan is the plan that shows more three-story buildings than previously proposed. Flynn stated that in his opinion there are about six buildings on the site plan that he could not support building. Fon stated he would like to see a grading plan that shows all the grading proposed on the site.

Village Traditions

SBL: 15.16-1-32

Discussion Approved Site Plan

Location: 1821 East Main Street

Contact: Tim Mallon

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Description: Proposing to demolish and replace the existing rear yard building with a new 2-story building with 3,000 sf of office space on the first floor and a 2nd-story apartment.

Tim Mallon, property owner, was present. Mallon is willing to allow cross traffic from the adjacent site and will see how it works. The proposed plan widens the drive aisle to 34 feet by moving the sidewalk in front of the proposed building back 10 feet. The approved barn building was a 3,000 square foot, two-story building. Mallon was not happy with the appearance or function of this building for offices. An apartment is proposed on the second floor. Mallon stated parking is adequate and the neighbors are happy with the plan, but do not want left turns onto Lakeland Street through their neighborhood. Mallon has no problem with a no left turn sign at this site exit.

Tegeder stated the original resolution required a formal cross easement be filed with the adjacent property owner. The easement is probably not necessary. Most properties that share access don't have formal easements. Mallon stated the sprint store is the best store of 50 in the regional area. Tegeder suggested delineating the drive aisle with straight lines to only give the parking spaces the extra space for maneuvering. Mallon will continue to develop the plan.

Stahmer Minor Subdivision

SBL: 59.10-1-10

Discussion Subdivision

Location: 600 Birdsall Drive

Contact: Insite Engineering, Surveying and Landscape Architecture, P.C.

Description: Proposed 3-lot subdivision on 10 acres in an R1-80 zone. This application was previously presented as a 4-lot subdivision in 2006.

Al Capellini, project attorney; Rich Williams, project engineer; and the applicant, Bob Stahmer, were present. Stahmer owns three tax parcels, just under 10 acres, in the R1-80 zone. The first lot will be on Birdsall Drive, one home on Jerome Road with 50 feet of frontage, and one home off state street with 0 feet of frontage. Variances were granted for frontage for the previous 4 lot subdivision application. Georgiou stated the Building Department must opine whether new variances are needed. Williams stated there was testing on file from the previous engineer. His firm retested for their knowledge. Testing must be rewitnessed by the NYCDEP and the Town. The proposed plan shows the worst case scenario grading. The homes could use retaining walls in places to minimize grading.

The Board scheduled a Public Informational Hearing for the November 21st meeting. Williams will appear before the Conservation Board this Wednesday. Flynn questioned some large trees that were supposed to be preserved in the previous plan. Williams will take a look into this.

Town Board Referral – Mohegan Auto & Tire Center, Inc.

SBL: 15.12-2-8

Discussion Zone Change

Location: 1530 East Main Street

Contact: Site Design Consultants

Description: Requesting a zone change from R1-20 to Transitional Zone to accommodate the existing auto service and gas station.

Tegeder summarized the history of the site. The gas station was originally legal non-conforming. The prior owner wanted to have car storage on the second rear lot. The Town Board changed the zoning on

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that parcel to transitional zone so that was allowed. A fence and landscaping were required. The new owner of both parcels removed the fence and much of the landscaping exposing the rear of the building. The owner is in front of the Town Board replacing his gasoline storage tanks and adding a canopy. The owner is requesting the transitional zone on both lots and wants to sell used cars from the second lot. Fencing and some landscaping are proposed. Tegeder explained that the transitional zone allows whatever the Town Board approves for the site. No variances would be needed. The approval runs with the use, not with the land. Flynn took issue with the property owner not playing by the rules and then being rewarded with legalizing the operation. Planning-wise the site is surrounded by mostly residential development. It does not make planning sense to expand the non-conformity. There are three proposed free-standing signs.

The Board agreed more landscaping is needed and questioned what the traffic impacts of the used car sales would be. The Board collectively was not in favor of the request, but wanted to make a site visit to further understand the implications of the proposed plan. Tegeder will draft memo for the Board to review. Kincart asked about the used car sale license because a used car license requires an address in a commercial zone. It was asked whether Gulf is requiring the three free-standing signs or the owner. The used car sales use has been going on about one year. Susan Siegel stated there is signage on the rear of the building as well. The Board will make a site visit on November 5th if the Town Board allows for additional time to review the application.

Town Board Referral – Brennan

SBL: 37.10-2-66 & 67

Discussion SWPPP/Wetland Permit

Location: 2200 Saw Mill River Road

Contact: P.W. Scott Engineering and Architecture, P.C.

Description: Proposed to dredge the material from the pond and then deposit the 15,000 to 20,000 cubic yards of the material at a location more than 100 feet from the edge of any wetlands on the site.

Barber stated that the Brennan project is a pond dredging. The pond, which used to be called Chambers Pond, has a class A dam with structural questions. The action is to remove 10,000 – 15,000 cubic yards of material from the pond and put it into geotubes and spread it on the property. Barber agrees with the Conservation Board's comments regarding mitigation post construction. There are some wildlife issues to deal with as well. The spoils area is an area of invasives. This area will later be seeded and mitigation plantings will be installed. Francois summarized the Conservation Board site visit with the project engineer. The Planning Department will send a memo to the Town Board stating there are no planning issues with this application.

Town Board Referral – Affordable Housing

Proposed Local Laws:

To repeal Chapter 300-39 of the Town Code entitled "Affordable Housing," and enact a new Chapter 300 article XXXI of the Town Code entitled "Inclusion of Additional Housing Units."

To repeal Chapter 102 entitled "Affordable Housing," and enact a new Chapter 102 in the Town Code entitled "Below Market Housing Incentives."

To enact a new Article X entitled "Yorktown Community Housing Board," of Chapter 10 of the Town Code.

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Tegeder summarized the proposed local laws. Building affordable housing would no longer be required by developers. There is an optional density bonus. If applied, the projects would have to be processed under the flexibility or clustering & flexibility code sections. The Town Attorney's office did look at other incentive laws and a draft from HUD. Kincart doesn't like affirmative marketing included, however HUD will require language like this. Kincart had two corrections for page 10 Section F. The Board collectively supported the density bonus.

Upon a motion by Kincart, seconded by Savoca, and with all those present voting aye, the Board closed the meeting at 11:20 pm.