

Saratoga County
Planning Department

Tom Lewis, Chairman **Jason Kemper, Director**

Saratoga County Planning Board
Meeting Minutes
August 15, 2013

The meeting held at the office of the Saratoga County Planning Department located at 50 West High Street in Ballston Spa was called to order at 4:00 p.m.

The following members, staff and guests were present:

Members Present: Tom Lewis, Chairman; Ed Vopelak; Beth Liebich; Don McPherson and Ian Murray.

Staff: Michael Valentine, Senior Planner; Jaime O'Neill, Planner, Cynthia Nick, Secretary

Guests: Jeremy Smith, Couch, White, LLP; Claudia Braymer, Caffry & Flouer (Citizens for a Clean Environment); David Pierce, biologist and concerned citizen; Bill Goseling, Ballston town board and Jerry Smith, representing Dolomite

Approval of Minutes:

The minutes of the June 20, 2013 meeting were unanimously approved on a motion made by Mr. McPherson, seconded by Ms. Liebich.

Referrals:

13-115MV Town of Waterford Town Board

Mr. Valentine presented an application for a PDD Zoning Amendment for Middletown Square PDD for a change in zoning from R-100 to PDD on Middletown Road (County Route #96). Mr. Valentine recommended approval.

13-121JO Town of Ballston Town Board

Ms. O'Neill presented an application for a Text Zoning Amendment for the Town of Ballston to amend the Industrial Zone to become Light Industrial. After discussion and by presentations by the following Guests: Jeremy Smith, Couch, White, LLP, Claudia Braymer, Caffry & Flouer (Citizens for a Clean Environment), David Pierce, Biologist and concerned citizen; Bill Goseling and Jerry Smith, representing Dolomite it was decided that the file represents No Significant County Wide or Inter Community Impact.

13-122MV Town of Ballston Planning Board

Mr. Valentine presented an application for a Site Plan Review in the name of Stock for the construction of a two-family dwelling on NYS Route 50. Mr. Valentine stated No Significant County Wide or Inter Community Impact with the following comment. Mr. Valentine stated that we recognize the site plan for a residential use in a commercial district in which single family and two-family residences are permitted as being part of an application for demolition and new construction associated with the replacement of the home lost in a fire. The residence will be served by public water and septic and is seeking a waiver on a front setback (for commercial siting, greater than called for) and on parking in rear (as if a comm. use). We see no significant impacts as would relate to matters of county or intercommunity matters, but suggest that consideration be given to a condition that if future use convert to a commercial use then at that time parking be assigned to side or rear yards.

13-123MV City of Saratoga Springs Zoning Board of Appeals

Mr. Valentine presented an application for a Use Variance in the name of Verizon Wireless for a new cell tower inside the Saratoga Gaming and Raceway on Nelson Avenue/Crescent Avenue (County Route #22). Mr. Valentine stated No Significant County Wide or Inter Community Impact with comment. Mr. Valentine stated that we would encourage a discussion between the city zoning board of appeals, Verizon (appellant) and the owner/user of the current cell tower for co-location onto the new proposed higher tower. Recusal by Tom Lewis.

13-125MV Village of Corinth Village Board

Mr. Valentine presented an application for a Text Zoning Amendment for the Village of Corinth to amend Chapter 138 “Zoning” of the code of the Village of Corinth to add Multi-Family Dwelling and Retirement Community as allowable uses in the Village Business District. Mr. Valentine recommended approval with the following comments. We note that the addition of **Retirement Community** as a use permitted in the Village Business District by site plan review will require minimum lot sizes of 15,000 square feet and 50-foot lot frontages in contrast to the 5-acre minimums and 200/150-ft minimum lot widths respectively for this use in the Gateway Corridor and Suburban Residential districts. While there appears to be roughly five relatively large parcels with no or minimal street frontage in the core downtown area, the addition of **Retirement Community** as a use in the business district is seen as a favorable means of meeting the needs of an aging village population and providing walkable access to the necessary services in an urbanized setting (in addition to being a means of incentivizing the development of vacant or underutilized business district lots).

Presently, **Multi-Family Dwelling** is a use allowed with site plan review in the Village Residential I and II Districts and the Secondary Gateway Corridor District. The differences in the respective Use, Area and Bulk Regulations relate to the increased amounts/dimensions for the Secondary GC District, which is away from the village’s true urban core. We note the same concern for the larger parcels in the Village Business District that have little or no direct access to existing street frontage. Development or re-development of such lots may result in the reliance of off-street parking which will use

up valuable village property and reduce the village-core appearance of commercial/residential development in the business district.

We would encourage the site plan review process to involve a thorough discussion of parking needs and requirements, both for on and off-street parking related to both newly listed uses for the Village Business District.

Please take note of some textual revisions that may be needed to the current Schedule 1-Use, Area and Bulk Regulations. For the Multi-family Dwelling and Townhouse uses listed in Village Residential-I and II found on both pages 9 and 10 of the Zoning Law there are double asterisks (**) indicating a note at the bottom of each chart that states “2,500 square feet per unit should be added to the minimum lot area for each additional unit.” There is, however, no indication of a base or foundational number of units after which this additional 2,500 sq. ft. is to be applied. Also, should such requirement be applied to a multi-family dwelling in the SR and SGC districts?

13-126JK Town of Clifton Park Zoning Board of Appeals

Mr. Valentine presented an application for a Sign Variance in the name of Firehouse Road Associates II, LLC for the offsite freestanding sign to remain, addition of a third sign to non-conforming sign structure on Northside Drive (NYS Route 146). Mr. Valentine stated No Significant County Wide or Inter Community Impact.

13-127MV Town of Wilton Zoning Board of Appeals

Mr. Valentine presented an application for an Area Variance in the name of Saratoga Health and Wellness for the new construction for an indoor fitness center and two variances; lot width and side yard set-back on NYS Route 9 (Town of Greenfield). Mr. Valentine stated No Significant County Wide or Inter Community Impact with comment in reference for the need for a new curb cut permit from NYSDOT. Mr. Valentine stated the following comment; while not a requirement for the area variance, the site will require a new/commercial curb cut permit from NYS DOT. The applicant should contact Chad Corbett at the Saratoga Springs West Avenue Residency of DOT (584-3790).

The proposed project, which involves the demolition of the current structure (a nonconforming residence) to build a new 15,000 sq. ft. indoor recreation/fitness center, is located in the CR-1 District along NYS Rt. 9. The property is a pre-existing, nonconforming lot of 76,230 sq. ft. (where 40,000 sq. ft. is required) with insufficient lot frontage (160' vs. 200') which needs a 17-ft. variance to meet the required side yard setback. The record should show evidence of the applicant's efforts to purchase land from owners on north and south and verify that those efforts were not workable.

13-128MV City of Saratoga Springs Planning Board

Mr. Valentine presented an application for a Special Use Permit and Site Plan Review in the name of Hamilton Street Parking Garage for the construction of a parking garage on Broadway. Mr. Valentine stated No Significant County Wide or Inter Community Impact with the following comment, to determine if this will be significant parking for the hotel. As the project is located in a T-6 District within which there are no

requirements for parking, of principal concern to the city will be a determination of whether the proposed parking garage provides sufficient parking for all needs of the associated hotel. Currently there exists on the site roughly 65 vehicles/spaces for surface parking. The proposed garage must provide for the needs of a 170-room hotel w/valet parking plus the banquet hall and a 40-space requirement in the deed for Palio. Our review of the approved hotel was based upon an understanding that off-premises parking would be provided to meet the needs of all hotel uses. Recusal by Tom Lewis.

13-129MV Town of Northumberland Town Board

Mr. Valentine presented an application for a Zoning Comprehensive Plan for the Town of Northumberland to create a landfill district changing designated parcels from Agricultural Protection District to Landfill District on Kobor Road in the Agricultural District. Mr. Valentine recommended approval with the following comment. The Saratoga County Planning Board recognizes the need and desire of the town of Northumberland to effect the change in zoning of the above-noted parcels for the purpose of reviewing, permitting and operating of landfills in what is now designated the Agricultural Protection District.

The zone change affects and impacts three principal parcels involving approximately 267 acres: 104.-1-84.21 (Harrier hawk habitat, 35 acres), 85.2 (Saratoga County landfill, 64 acres), and 85.1 (Finch Paper landfill, 168 acres), properties and property owners fully aware of and in concurrence with the proposed zone change. Comment from the public is scheduled to be heard at a public hearing to be held on August 29, 2013 by the town of Northumberland town board.

13-130MV Town of Moreau Planning Board

Mr. Valentine presented an application for a Special Use Permit and Site Plan Review in the name of Rogge for an existing facility, addition of one self-storage building on NYS Route 9. Mr. Valentine stated No Significant County Wide or Inter Community Impact with comment. The proposed project expansion is located in the C-1 District, General Commercial; therefore, the use requires a special use permit. The Saratoga County Planning Board reviewed the material for both a special use permit and for site plan review. The project is located on a 2.07-acre parcel behind an existing convenience store that fronts on NYS Rt. 9. Currently there are seven buildings for self-storage on site with an additional building for the same use (20'x155', w/32 units) proposed behind the retail structure. We note the proposed additional use and structure to be consistent with the existing buildings. It appears that development of the site for the existing use/structures has occurred without benefit of a landscaping plan due to the way in which any concern for visual impacts of the self-storage buildings has been absent because of way in which those buildings are shielded by the retail use fronting Route 9.

13-131MV Town of Milton Town Board

Mr. Valentine presented an application for a Zoning Map and Text Amendment for the Town of Milton-Old Mill Town PDD to extinguish the Old Mill Town PDD and add parcel. Approve in concept, pending a final determination to be considered at September 19, 2013 meeting (awaiting public hearing comment by property owners and agencies)

Referral materials for the proposed zoning change were received by SCPB after both our cut-off date for office review (Aug. 7) and for staff recommendations to Board (Aug. 9). A meeting was held between SCPB staff member and town representatives on August 13th to review and prepare materials for presentation at the August 15th meeting of the county planning board. We understand that a public hearing will be held by the Milton town board on September 4th. Comment by Saratoga County Planning Board members at their meeting of August 15, 2013 focused on the need for the town to provide notice and receive comment and feedback from landowners whose property interests may be impacted by the zoning change/rezoning prior to action on the zoning change. Noting that there may be concerns voiced and that there may be impact on the value of properties now located within the planned development district and those abutting it, the SCPB determined to await comment that may result from an interchange between those property owners and the town board.

In 1998 the town adopted Local Law #3 of 1998, Old Mill Town PDD, which was followed by the Hannaford site plan in 2000 (first large site plan within the PDD). In 2003 an amendment to the PDD was proposed but never adopted by town board. Presently (2013) consideration is being given by the town board to dissolve the existing PDD and bring all parcels within that District under the zoning of the Town Center District. The current PDD divides the property into three sections at the northwest quadrant of the intersection of Geyser Road and Rowland Street:

Area A (7.5 acres) – runway protection zone (RPZ)

Area B (22.05 acres) – retail/commercial

Area C (23.51 acres) – retail/light industrial

There are other properties or outparcels impacted by the proposed zone change, lands owned by the Boghosian Brothers, by Hannaford, by McDonald's Corporation, and by Saratoga County (airport). It is noted that by town law adjoining landowners can protest a zoning change and for that reason the Saratoga County Planning Board is interested in obtaining such feedback prior to rendering a full determination.

There may be comment by other agencies, such as: NYS DEC regarding an impact addressed in the original PDD legislation; Saratoga County DPW regarding the County Airport; and, the FAA. SECTION V – AREA A – RUNWAY PROTECTION ZONE, of the PDD states: “The Federal Aviation Administration will be notified of any additional changes in the future regarding Area A, and will be given the right to comment on any changes or revisions with 30 days of notification.”

In addition, we would like to obtain for our complete record any advisory opinion on the proposed zoning change that may have been provided by the town's Comprehensive Plan Update Committee. From the town of Milton planning board we received on September 3, 2013 an August 15, 2013 memo in which a favorable advisory opinion was stated.

From material provided as part of the referral and from the August 13th meeting at town hall it is understood that the principal reasons presented for the proposed dissolution of the PDD are:

1. The desired streetscaping components within the Town Center District are not part of the PDD and this change is seen as a means of correcting that deficiency,

2. The town desires (through the zoning change) to include lighting and sidewalks to create connectivity and a pedestrian-friendly atmosphere through use of Town Center zoning, and

3. The desire to remove any negative impacts associated with some of the PDD's uses, particularly the light industrial uses in Area C as they buffer the 8.5 acres of town land proposed for a recreational park abutting and north of Area C (there is now a concept plan for recreational fields on this land). In the town's eyes, uses such as self-storage, warehousing, and a contractor's yard do not create a suitable buffer between what is now Area C and the possible park land.

In our review of the proposed zoning change we have noted several issues which require further clarification or additional comment from others in order for the county planning board to render a final decision beyond its conceptual recommendation.

One of the critical issues which in itself leads to creating other criteria requiring input is that of the increased density in development on the lands presently part of the PDD. By folding the PDD lands into the Town Center District, the following lead to increased density:

1. Building height increase from 35' to 50' (max of 3 stories)
2. A density of 16 dwelling units per acre is permitted with public water and sanitary sewer, leading to a residential development of either multifamily buildings of apartments or condominium units
3. Maximum building coverage – 75%
Maximum area of impervious surface – 90%
Minimum side yard setback of 15 feet is not a requirement of the TC District
Green space required is reduced – from overall PDD green space of 33-1/3% and 25% for each site down to 10% for each site plan

As a result of the proposed change in zoning for the lands now within the Old Mill Town PDD the type of permitted uses will change. Property owners in the Town Center District will gain the benefit of developing multifamily dwelling units within three-story buildings with commercial/retail uses allowed on the first floor. Changing the zoning of the PDD to that of TC will permit a mix of retail business, accessory retail (definition of use permitted?), office, hotel, bar, restaurant, home occupation (however, no single family use is permitted – home occupation in apt unit), personal service business, accessory structures (definition of uses permitted?), a hospital by Special Use Permit, day care by SUP, and sexually-oriented business by SUP.

The change from PDD to TC zoning will remove light industrial uses from the subject properties, uses such as self-storage, warehousing, and a contractor's yard. In reviewing the intensity of development that is possible with the proposed zoning change and the change in uses (principally the multifamily use in 3-story buildings) it may be beneficial for the town to consider drawing up build-out scenario of the PDD lands. Such an analysis (even an informal one) will provide the town with a picture of the potential

number of residential units and square feet of office/commercial/retail space. Also, such a picture would help to identify the potential for development to impact existing infrastructure, such as public water, sanitary sewer, storm water and drainage, and the nearby aquifer.

It may also be a desire of the town to analyze the impact of the development resulting from the change to Town Center zoning along Rowland Street as that impact affects property values in surrounding residential neighborhoods.

As a result of the proposed zoning change, is there a need for an updated traffic impact analysis? There will be an overall greater density in future development and it should be determined if new internal roads and new intersections will result.

What will the projected overall increase in development and density result in regarding increased vehicle trips? Are there any traffic improvement requirements of the PDD that have not yet been met? Will the four intersections along Rowland Street continue to operate at acceptable levels of service with the projected increase in overall density? Can intersections continue to operate as unsignalized intersections?

These questions may be important to answer prior to extinguishing the PDD, as SECTION XVII – SEQR REVIEW states that “the Town of Milton Planning Board may require in conjunction with the site plan review process that the ‘OWNERS’ conduct an updated traffic study. The ‘OWNERS’ agree that any traffic mitigation deemed necessary as a result of the traffic study be paid for by the ‘OWNERS’”.

Critical to the interests of Saratoga County as a principal property owner adjoining the lands subject to the proposed zoning change are the issues of building height, flight patterns, slopes and overall impacts based upon future projects’ proximity to the county airport and the need for plans to be submitted to the FAA for review and any associated permitting. In two different sections of the PDD it is noted that “the town will include provisions in the PDD legislation which will protect the 20:1 approach clearance to the runway by providing adequate heights restrictions” and the PDD requires (Section XXIV – NOTICE TO FAA) that the town “will include provisions in the PDD for notification to the FAA for any future changes in this PDD.” We believe that in order to protect the safe use and integrity of the air space approaching the airport that wording to the same effect (as that in the PDD language) become a part of permitting and requirements of applications within the Town Center District.

Reference was made in the legislation noting that any kind of change in the PDD (such as this referred action) requires submittal to FAA. See comment within this department’s July 1, 2003 letter to then-supervisor Gnip regarding the then-proposed PDD Amendment: “The proposed amending local law would delete section XXIV which provides for the FAA to be notified of any future changes in the PDD. Removing this notice requirement would be contrary to Federal Aviation Regulation Part 77 (49 CFR Part 77), “Objects Affecting Navigable Airspace”. It appears from our reading of 49 CFR Part 77 that any construction proposed within the boundaries of the PDD requires the filing of a Notice of Proposed Construction or Alteration form (FAA form 7460-1) with

the FAA New York Airports District Office.” Because the 2003 PDD amendment proposed to remove Section XXIV of the existing PDD legislation regarding FAA notification, the Saratoga County Planning Board then determined that “the proposed local law [amendment] should therefore not be approved as currently written.” The same determination could be justified in review of the current proposed zoning change absent any written provision for FAA review.

Whether the current PDD is extinguished and the underlying lands be incorporated within the Town Center District, in the eyes of the FAA only a change in name of the local zoning classification will have occurred. For the benefit of the joint efforts of the town of Milton and Saratoga County to provide for the general welfare and safety of residents and users of air space, we refer you to Federal Aviation Regulation Part 77 (49 CFR 77), “Safe, Efficient Use, and Preservation of the Navigable Airspace” (<http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=183d1a3459b9102ca73f3994c92ed01f&rgn=div5&view=text&node=14:2.0.1.2.9&idno=14>) regarding the applicable criteria for FAA review of development projects. Note from the criteria (particularly Section 77.9) that neither the 20:1 approach clearance to the runway nor whether the project is located in the RPZ are the sole criteria for FAA review. It is our understanding that this zoning change will not in and of itself negate the need for FAA review of individual future development projects that may be located on lands that are now part of the PDD.

As noted in 2003 and as pertinent to our review in 2013, “it is essential to the safety of the public that notification of all future construction activities proposed be made to the FAA”... and that regardless of the uses allowed for the PDD’s folding into the Town Center District, “the focus of the county planning board’s review will be to insure that all new construction complies with airport safety standards promulgated by the FAA.”

A motion to approve Planning Department recommendations for the referrals as presented was made by Ms. Leibich. The motion was seconded by Mr. Murray, and unanimously approved.

DISCLAIMER: Recommendations made by the Saratoga County Planning Board on referrals and subdivisions are based upon the receipt and review of a “full statement of such proposed action” provided directly to SCPB by the municipal referring agency as stated under General Municipal Law Section 239. A determination of action is rendered by the SCPB based upon the completeness and accuracy of information presented by its staff. The SCPB cannot be accountable for a decision rendered through incomplete or inaccurate information received as part of the complete statement.

Subdivisions

13-A-38JO Town of Charlton Planning Board

Ms. O'Neill presented an application for a Subdivision Review in the name of Brewster and Fibiowski for the subdivision of a 39.6 acre parcel into four building lots on Packer Road in the Agricultural District. Ms. O'Neill stated No Significant County Wide or Inter Community Impact.

13-A-39JK Town of Clifton Park Planning Board

Mr. Valentine presented an application for a Subdivision Review in the name of Shenendehowa Central School District for a two lot subdivision on Maxwell Drive Extension (NYS Route 146). Mr. Valentine stated No Significant County Wide or Inter Community Impact.

13-A-40MV Town of Halfmoon Planning Board

Mr. Valentine presented an application for a Lot Line Adjustment in the name of Flanagan for a minor subdivision of 0.22 acres to increase the side yard setback of the existing home on 39 Church Hill Road to bring it into compliance with Town Code on Church Hill Road (County Route 99). Mr. Valentine stated No Significant County Wide or Inter Community Impact.

13-A-41JO Town of Galway Planning Board

Ms. O'Neill presented an application for a Subdivision Review in the name of Sanders for a two lot subdivision of 128 +/- acres into two lots on NYS Route 147. Ms. O'Neill stated No Significant County Wide or Inter Community Impact.

A motion to approve Planning Department recommendations for the subdivisions as presented was made by Mr. Vopelak. The motion was seconded by Mr. McPherson and unanimously approved.

Adjournment

As there was no other business, on a motion made by Ms. Liebich and seconded by Mr. Murray, the meeting was adjourned with all in favor.

Respectfully Submitted,
Cynthia T. Nick, Secretary