

## **Town of Milton Planning Board October 14<sup>th</sup> 2009**

Attendance: Keith Leal (Chair), Jim Staulters, Ron Lacey, John Frolish, John Whittel, Larry Woolbright, Ben Zlotnick, Martin Pozefsky (Attorney), Wayne Howe (Zoning Official), Frank Blaisdell (Town Board Liaison), Garry Robinson (Town Engineer), Susan Talmadge (Secretary).

The meeting was opened with the Pledge to the Flag.

Chairman Leal announced the Norton subdivision public hearing would be postponed to the November 11<sup>th</sup> meeting.

### **Public hearing Kaydeross Village LLC – Subdivision**

Mike Touhey (attorney) represented the application. Tom Samascott (property owner) was also in attendance.

Mr. Touhey reintroduced the application explaining 123 acres on the southwest corner of Greenfield Avenue and Geyser Road – the area known as Winter Circle has been built with apartment buildings and is considered phase I. All units are owned by Tom Samascott only. The property is zoned for the purpose of use and complies with the town Master Plan, SEQR was done for the exact use as it is today, the items in the SEQR are exactly the same as before including all of the agreements upon approval of the site plan.

Mr. Touhey indicated his client has a right to subdivide his property, he is doing it because of financial reasons - a project of this size requires construction financing that asks for security - permanent financing takes place at a time during construction - the bank does not need security in all of the remaining land, only where the buildings are built.

Touhey continued - a subdivision is needed so Mr. Samascott can give security for the remaining land separate from phase I - there is no affects from subdividing. The number of units, roads, storm water, infrastructure, traffic analysis, and build out is all the same. No segmentation was done when applied for original approval.

Mr. Touhey referred to the Long Form SEQR submitted – and stated there are no changes in the project, the application is for subdivision of the land and there are no new environmental impacts because nothing has changed – traffic and etc - the subdivision has no environment impact. Declarations included in the application cover everything that is an interaction – access roads, trails, storm

water, recreation, pathways, ingress and egress – it explained who pays and who maintains. Upon filing at the Saratoga County Clerk, any future owners would be subject to the regulations and approvals.

Board discussion ensued.

Jim Staulters – stated the town has these things already – does not feel it is the Board's problem – it is a financial problem with the applicant – is a mistake to grant the subdivision – ownership will change.

Touhey addressed concerns – indicating the Site plan and Special Use Permit runs with the land independent of who owns the property – allowing a subdivision will not alter what has to be done – the same conditions would be required. The subdivision would not change anything as there are no changes. Financing is required for every project. The town will continue to have control and continue to have the same plan.

Staulters – believe the garages and building design was changed.

Samascott – stated that all changes were made prior to approval and no changes whatsoever were made after approval of the project.

Frolish – indicated he is concerned that four separate owners could cause a headache for the town – maybe breaking out one phase at time would be better.

Touhey explained they are trying to avoid segmentation – if two lots will be back for the same thing then it becomes segmentation – he is not sure if that is permitted. Section 1 is already built and the four lots would be code compliant - if Tom cannot complete this project then another person would be tied back into the approvals.

Woolbright noted the documentation has covered the entire basis for a subdivision however page 7 Schedule A – the titles do not match the map.

- Touhey explained where the easements are placed the title on the map will be the same as on the document filed. It would be corrected.

Whittel – indicated he was pleased with the covenants being made clearer and asked if the subdivided parcels, if granted, would ever be put back together.

Touhey explained that if they were separately financed, then the likelihood would be they would not be put back together.

- Pozefsky advised the board that the Declaration of Covenants have some minor changes to be made, but he is in agreement with the substance of the document. He will get together with Mr. Touhey about the minor changes. He also advised that phasing is not unusual as a request from the applicant as opposed to the board requesting it.

The public hearing was opened.

Jim McCale of North Line Road asked if one of the four phases fails then what does the town have to do.

Touhey indicated the cost and expense of all infrastructures is shared by the property owner/owners based upon the number of units built. There is no mechanism to go back to the town. The idea of multiple lots and multiple units runs a certain risk. Everybody wants this project to be completed. There can't be financing to finish it if it can't be divided – a homeowners association will rule for all four parcels. The town has been given the right and the other property owners are given the right to enforce - an interrelated responsibility is put into it.

McCale – indicated if something goes wrong, he believes the town will assume a larger responsibility than they have now.

Touhey explained the town doesn't have to take responsibility but the town has a "right to demand and enforce".

Leal asked if there were any other public comments. There were none. Everyone had an opportunity to speak. The public hearing was closed.

Whittel noted the Declaration of Covenants Part 9 allows the Town of Milton expenses to be reimbursed to the town.

Pozefsky advised that with any property the town has the right to act.

Leal indicated he shares concerns but the property owner has the right to subdivide his property. Good points have been made and just across the street (from town hall) the same risks are in Hannaford, Allerdice, Mavis and etc. It is the same risk. Is there a reason why this applicant cannot legally subdivide his property?

Woolbright indicated he shares concerns also and is persuaded that financing has changed since the original approval. If the project were to be blocked the town

could end up with an unfinished project. Based upon the different financing environment today the subdivision should be allowed.

Leal indicated that SEQR appears to have no changes from the last approval, but proceeded to review Part II. No changes were mentioned by any board member.

Zlotnick made a negative Type I SEQR motion. Lacey made a second. All members voted in favor of the motion.

Whittel made a motion to grant preliminary approval with the following conditions:

1. Inclusion of all of the original approval conditions of site plan and special permit.
2. Parcel No. 1 will pay for the traffic mitigation as originally approved.
3. The applicant is subject to 7/23/09 Declarations and Covenants Schedule A updated to reflect titles and names, subject to any conditions and changes as per Planning Board attorney.

Lacey made a second to the motion.

Vote: Frolish – No., Staulters – No., Lacey – Yes., Zlotnick – Yes., Woolbright – Yes., Whittel – Yes., Leal – Yes. (5-2 motion passed)

Discussion regarding waiver of the public hearing for final.

Touhey requested the board waive the final public hearing provided the preliminary approval conditions are met.

Woolbright made a motion to waive the final public hearing provided the preliminary approval conditions are complied with.

Lacey made a second. Vote: Frolish – No., Staulters – No., Zlotnick – Yes., Lacey – Yes., Woolbright – Yes., Whittel – No., Leal – Yes. (4-3 motion passed)

## **Public hearing Cumberland Farms Site Plan**

Stephanie Bitter reintroduced the application explaining they would like to install a diesel tank and pump on the corner of Geyser and Rowland Street.

Bitter explained there is an increase in fuel efficient vehicles and diesel is economical. The type of hose is 10 GPM and is too slow for a large vehicle. This is not a destination site.

Board discussion ensued.

Frolish indicated he is concerned about the site not being large enough to handle larger vehicles as Rowland Street is a big mover of traffic from Pallette who uses subcontractors.

Leal indicated that last month the board was worried about the traffic increase and the applicant was considering limiting weight by way of signage.

Howe referred to zoning and indicated there is an aggregate total for signage for the property.

Bitter explained the lot is not large enough to accommodate large vehicles and they want their site to be accessible – it would take a lot of time to put the diesel in a large truck.

Lacey suggested an idea of putting the tank on the interior.

Frolish agreed that an inner lane would not give a lot of room.

Bitter explained a box truck would be easier to access on an end island and the piping would be more efficient. Diesel is located traditionally on the outside because you are looking for a different tank color.

The public hearing was opened.

Tom Boghosian mentioned that trucks are already on the corner as they stop for lunch at the donut place.

Bruce Boghosian mentioned that the board has an opportunity to look at problems within the site plan since the last approval and could ask for changes at this time that need to be made. Also, trucks are going in that site anyway – suggest putting a canopy where trucks can't get in there. Diesel is on the outside because of less confusion.

Public hearing was closed.

Board discussion ensued.

Bitter agreed it is a good idea to put in a lower canopy.

Howe informed the board that there is some standing water on the site and Bruce had brought up a good point. A site visit is needed.

Whittel indicated that alternate fuels are a good idea.

Robinson agreed he would be willing to work with the pipe height and the drainage as a condition to any approval.

Leal asked if the board would want to condition approval or wait until Garry goes on the site for an inspection.

Frolish indicated that conditional approval would handle the drainage issue.

Lacey indicated that standing water would not affect his decision.

Zlotnick made a negative SEQR motion. Lacey made a second. All members voted in favor of the motion.

Whittel made a motion to approve the site plan application allowing a 8,000 gallon tank as per site plan 7/22/09 with one pump at 451 Geyser Road with the following conditions;

1. The town engineer and the town enforcement official visit the site and determine what the applicant has to do to remedy the standing water problem.
2. Final height of the diesel fuel pipe lane be determined by the town engineer.
3. A 10 gallon per minute maximum flow for the diesel pump.

Lacey made a second. All members voted in favor of the motion.

In other business Chairman Leal invited board comments and public comments. Public comments were limited to 3 minutes.

The meeting was adjourned.