

**Planning Board Minutes - December 13, 2004**

Those present at the December 13, 2004 Planning Board meeting were:

Planning Board Members: Steve Watts – Chairman  
Don Roberts – Vice Chairman  
Marcel Nadeau  
Rich Berkowitz  
Tom Ruchlicki  
John Higgins

Planner: Jeff Williams

Deputy Town Attorney: Lyn Murphy

Town Board Liaisons: Walt Polak

CHA Representative: Mike Bianchino

Mr. Watts opened the December 13, 2004 Planning Board Meeting at 7:01 pm. Mr. Watts asked the Planning Board Members if they have reviewed the November 8, 2004 Planning Board Minutes.

Mr. Higgins made a motion to approve the November 8, 2004 Planning Board Minutes. Mr.

Berkowitz seconded. Motion carried.

Mr. Watts asked the Planning Board Members if they have reviewed the November 22, 2004 Planning Board Minutes.

Mr. Higgins made a motion to approve the November 22, 2004 minutes with changes. Mr. Berkowitz seconded. Motion carried.

Public Hearings:

02.218 PH Sheldon Hills PDD, Route 146 – Major Subdivision-PDD

Mr. Watts opened the Public Hearing at 7:04 pm. Mr. Watts asked if anyone would like to have the Public Notice read. No one responded. Mr. Gordon Nicholson of Environmental Design presented a residential Planned Development District (PDD) located on Route 146 across the Vosburgh Road intersection. Mr. Nicholson stated he has been representing Abele Builders and the Michael's Group known as A&M Holdings over the past two years. Mr. Nicholson stated that he would give a brief overview of the proposed PDD. Mr. Nicholson stated that the subdivision consists of 215-acres of land with approximately 107-acres or 50 percent of the site would be open space. Mr. Nicholson stated that the layout consists of 323 units. Mr. Nicholson stated that part of the project is in the GEIS area and the remaining portion of the project is outside. Mr. Nicholson stated that the applicants have agreed to contribute to the Town approximately \$935,000 in mitigation fees. Mr. Nicholson stated that there would be approximately 1,400 linear feet of public road. Mr. Nicholson stated that a private road in Phase III would be owned and maintained by the Homeowner's Association who will also own and maintain the open space. Mr. Nicholson stated that there would be a clubhouse, pool, tennis courts and other recreational facilities. Mr. Nicholson stated that Creighton Manning has completed a traffic study and they have agreed to construct left turn lanes in the north and southbound lanes of Route 146 before the first CO. Mr. Nicholson stated that DOT has recommended at 75 percent occupancy there would be traffic signal installed. Mr. Nicholson stated that DOT and CHA have recommended that various stages of the project be monitored depending on activity in the surrounding areas. Mr. Nicholson stated that DOT and CHA recommend that if the traffic study suggests that the traffic signal be installed before 75 percent occupancy, the applicants will do so. Mr. Nicholson stated that CHA had expressed some concern regarding some lots in terms of visual impact that was discussed with the Planning Board and the Town Board. Mr. Nicholson stated that the applicants have agreed to limit the houses along that edge of the slope as well as adding a no cut buffer. Mr. Nicholson stated that there would be single-family homes along the Route 146 corridor. Mr. Nicholson stated the PDD would be 3 Phases to be completed in approximately 5 years. Mr. Nicholson stated there would be a public multi-use path that will run along the edge of site and a private multi-use path throughout the development. Mr. Nicholson stated the CHA was provided with an update set of plans that they believe addresses the concerns. Mr. Nicholson stated that he is before the Planning Board to ask for preliminary approval on the project. Mr. Watts asked if anyone from the public wished to speak. Ms. Cheryl Decker of 275 Upper Newtown Road asked if there would be green space and an access road along Upper

Newtown Road. Mr. Nicholson stated there would be green space and the access road has been eliminated. Ms. Decker inquired if water would be brought in from Vosburgh Road. Mr. Nicholson stated that water would be brought in from Vosburgh Road and the project would be connected to the sewer trunk line on Route 146. Mr. Watts closed the Public Hearing at 7:09 pm. Mr. Berkowitz asked if an emergency exit was still proposed. Mr. Nicholson stated that there would be an emergency access in a common area near the multi-use path that would be maintained by the Homeowners Association. Mr. Watts asked Mr. Bianchino if he had additional information. Mr. Bianchino stated that a majority of the comments that CHA raised regarding the buffering along Route 146 and storm water management have been addressed. Mr. Bianchino stated he had just received the information today and would review. Mr. Higgins asked if Mr. Chauvin needed to review the Homeowners Association legislation. Mrs. Murphy stated that there will be adequate time to review the legislation before the project is started. Mr. Higgins stated for the record that it would be the applicant's responsibility for the total cost associated with the traffic signal and traffic improvements.

Mr. Roberts made a motion to grant preliminary approval contingent upon NYSDOT, NYSDOH, NYSDEC and the County Sewer District #1 review and satisfaction of CHA's concerns. Mr. Nadeau seconded. Motion Carried.

#### 04.191 PH Campbell Subdivision, 405 Hudson River Road – Minor Subdivision

Mr. Watts opened the Public Hearing at 7:11 pm. Mr. Watts asked if anyone would like to have the Public Notice read. No one responded. Mr. John Campbell, who is representing Dewitt Campbell, proposes to separate two existing residential units on a 0.81-acre parcel located at 405 Hudson River Road. Mr. John Campbell proposes the 0.81-acre parcel be subdivided into two lots. Mr. John Campbell stated that on each parcel there is an existing single-family home. Mr. John Campbell stated that on July 12, 2004 the Planning Board referred him to the Zoning Board of Appeals to obtain variances as the two proposed lots did not meet the minimum lot area and not having road frontage. Mr. John Campbell stated on November 1, 2004 the ZBA granted approval on the requested variances. Mr. John Campbell stated the issue with the road frontage was mitigated by the fact that the parcels are provided access by 15-foot ingress/egress that is deeded into the existing deeds since 1983. Mr. Watts asked if any one from the public wished to speak. No one responded. Mr. Watts closed the Public Hearing at 7:13 pm. Mrs. Murphy stated that it was her understanding that Mr. Williams had mentioned to Mr. John Campbell with regards to the easement issue. Mrs. Murphy stated that there was some disparity between the descriptions provided in the written language of the easement compared to what is shown on the map. Mr. John Campbell stated that Mr. Williams discussed the easement issue with him. Mr. John Campbell stated that there is a note on the survey map that states that the survey was prepared on NYS Canal Corporation bearing base per map reference number 1 and that the deed bearings differ by one minute. (Map note #3). Mrs. Murphy requested that Mr. John Campbell obtain a statement from his licensed surveyor stating such so the Planning Board would have a record why there is a disparity so as not to have future problems with the issue. Mr. Higgins asked which lot line had the existing fence. Mr. John Campbell stated it was located on Mr. Dewitt Campbell's property.

Mr. Nadeau made a motion to approve the minor subdivision contingent upon receipt of a letter of affidavit from the surveyor stating the easement is to be true and is accepted by the Town Attorney. Mr. Roberts seconded. Motion carried.

#### 04.240 PH Marchand Subdivision, 91 Devitt Road – Minor Subdivision

Mr. Watts opened the Public Hearing at 7:19 pm. Mr. Watts asked if anyone would like to have the Public Notice read. No one responded. Mr. Steve Elsbree L.S. proposes a minor subdivision on Devitt Road of a 116.26-acre parcel that is currently bisected by Niagara Mohawk Power Corporation right of way. Mr. Elsbree stated the proposal is to subdivide and convey a 5.88-acre parcel to the Lands of Frank and Marie Riberdy. Mr. Elsbree stated the Marchand's would retain the 0.940-acre parcel in order to preserve 150 ft of road frontage on Devitt Road. Mr. Elsbree stated a deep hole percolation test has been performed and the parcel is currently serviced by municipal water. Mr. Elsbree stated the parcel met all acreage and set back requirements. Mr. Watts asked if any one from the public wished to speak. No one responded. Mr. Watts closed the Public Hearing at 7:20 pm.

Mr. Berkowitz made a motion to approve the minor subdivision. Mr. Ruchlicki seconded. Motion carried.

#### Old Business:

#### 04.109 OB A-1 Septic, 392/423 Hudson River Road – Commercial Site Plan

Mr. David Taylor proposed a commercial site plan for 392/423 Hudson River Road. Mr. Taylor stated 392 Hudson River Road was previously known as the Dion Oil Building. Mr. Taylor stated the Planning Board committee met with him and went over several items. Mr. Taylor stated these items were parking arrangements, location of equipment and type of equipment, number of vehicles, portable toilets, egress, boundaries, screening and stockade fencing. Mr. Taylor stated that original plans were for stockade fencing on the southern portion of the property with borders Costanzo's Restaurant. Mr. Taylor stated he would like to use an 8-foot high fence instead of the current 6-foot high fence in that area. Mr. Taylor stated that at the present time there is no fence

between a residential parcel and the applicant's site. Mr. Taylor stated it would be beneficial if they installed some screening around the portable toilets so they were not visible from the road. Mr. Roberts stated that Mr. Higgins and he visited the site and they had some concerns regarding unregistered vehicles on the site and these vehicles must be removed before the Planning Board could move forward on the application. Mr. Higgins stated there were also a number of empty fuels tanks on both sites that do not meet Federal Regulations that would need to be removed along with the unregistered vehicles that are in violation of the Town's regulations. Mr. Higgins stated that in addition to the proposed 8-foot fence, they felt additional screening would be beneficial to the adjacent residential property owner. Mr. Higgins stated the applicant agreed regarding the significance of fencing around the storage units so they would not be visible from Routes 4 & 32 and for security purposes. Mr. Higgins stated they had talked to the applicant several times regarding the odor from the units stored and the applicant assured them the units would be totally cleaned before they are put into storage. Mr. Higgins stated the applicant stated there would be no sign so there is not a sign application at this time. Mr. Higgins stated that the applicant uses on site well and septic. Mr. Higgins stated there would be a small office that would be utilized by the applicant's employees. Mr. Higgins stated there would not be any food preparation and the restrooms would be strictly used by the employees. Mr. Taylor stated that the 3 empty tanks were septic tanks and he has arranged to have the 3 tanks and 1 truck removed. Mr. Taylor stated that there are 3 trucks and 3 cars on the Dion Oil Site that are all unregistered. Mr. Taylor stated that he did use 3 of the vehicles seasonally. Mr. Higgins stated to the applicant that he could obtain special use commercial plates from the State to operate the dump truck that is used strictly on site. Mr. Taylor stated he was aware of the commercial use plates but he was concerned regarding insuring the vehicles. Mr. Berkowitz asked the applicant what the consequences would be if one of the vehicles got into an accident on site. Mr. Taylor stated he has general liability and blanket liability insurance on all of his vehicles. Mr. Watts asked if there were zoning or code violations at the site at the present time.

Mr. Taylor stated that the septic tanks could be removed from the site. Mr. Polak stated that Tim Murphy, Director of Code Enforcement, would make an inspection. Mr. Polak stated the applicant should identify which vehicles would be used seasonally. Mr. Taylor stated he could either sell the tank to someone who would use it for a tank or sell it for scrap metal. Mr. Watts asked Mr. Williams if there were any compliance issues. Mr. Williams stated that the applicant needed approval from the Planning Board to utilize the two proposed sites and presently there is no approval to operate the business. Mr. Williams stated the area is in the Industrial zoning district and that the storage of rental equipment and construction equipment was listed as a permitted use. Mr. Higgins stated the former Dion Oil site will be a change of tenant application and that the applicant wishes to fix up the site and office. Mr. Williams stated the original application was to use the vacant site to store the septic equipment and port-o-potties with a proposed trailer/office. Mr. Williams stated the Board decided the office trailer was inappropriate. The applicant is asking to utilize the Dion Oil site for the office and to store equipment on the vacant piece of land. Mr. Nadeau stated that he feels the Board should have the use researched along with the storage of the various unlicensed vehicles before taking action. Mr. Watts stated that he is asking people from the audience, as a total exception to the common rule of conducting the planning board meetings, in order to gain further information over this difficult application. Mr. Lee Heim owner of Constanza Restaurant stated there has been a running conflict with the applicant and people in the area over operating the septic business. Mr. Heim stated he is concerned with the conflict of a restaurant and a septic service operating next to each other. Mr. Heim asked about the fence. Mr. Higgins stated the proposed fencing is to buffer the portable toilets from the road. Mr. Heim stated that there is a strong smell from the site which conflicts with the restaurant use. Mr. Taylor stated that is when he is transferring the septic from his small truck to the larger truck. Mr. Taylor stated that the smell last for about 30 seconds. Mr. Heims son stated that the restaurant use has been there for a long time and that the septic business is inappropriate. Mrs. Diane Campbell stated that Mr. Taylor has cleaned up the area and that there are a number of properties out of compliance in the area. Mr. Watts stated that she can submit a complaint in writing to the Code Enforcement office and that the Code Enforcement office will look into the issues she wishes to raise. Mr. Watts questioned if the submitted site plan was appropriate. Mr. Watts stated this item would be tabled. Mr. Watts asked the applicant to review the concerns coming from the Board and public and asked him to look at the possibility more fencing or higher fencing. Mr. Nadeau asked if all the equipment could be stored at the Dion Oil site. Mr. Taylor stated no, the site is too confining. Mr. Higgins stated that they did talk to the applicant over that issue. Mr. Watts asked the applicant to update the site plan showing the fence for extra buffer. Mr. Watts stated he would have Code Enforcement to visit the site for compliance issues. Mr. Nadeau stated he would have concerns with any odors coming from the site and asked the applicant to think how he could address the problem. Mr. Berkowitz stated that the County wanted to store the equipment on the other side of the site. Mr. Taylor stated the site has a lot of clay and that area would be impossible to reach with a truck without getting stuck. Mr. Watts stated this item would be tabled for further review of the issues.

#### 04.223 OB Vosburgh Road Commercial PDD, Vosburgh Road – Minor Subdivision

**PDD & GEIS**

Mr. Scott Lansing of Lansing Engineering proposes a Commercial PDD on Vosburgh Road. Mr. Lansing stated the PDD includes approximately 62-acres of which the applicant is proposing 58-acres to be dedicated to the Town. Mr. Lansing stated the remaining 4-acre parcel south of the Vosburgh Road/Route 146 intersection is proposed for commercial development. Mr. Lansing stated he was before the Planning Board to advance the process with the Board to set a Public Informational Meeting and to entertain any questions the Planning Board may have. Mr. Berkowitz made a motion to set a Public Informational Meeting for the January 10, 2005 Planning Board meeting. Mr. Roberts seconded. Motion carried.

**04.224 OB Cingular Wireless, Stone Quarry Road – Cell Tower**

Mr. Dan Schweigard stated that he was in receipt of CHA's engineering review. Mr. Schweigard stated that he had talked with Mr. Williams regarding the comments that Environmental Design Partnership had. Mr. Schweigard stated they are prepared to have all comments addressed by the time a Public Hearing meeting is scheduled.

Mr. Roberts made a motion to set a Public Hearing for the January 10, 2005 Planning Board meeting. Mr. Higgins seconded. Motion carried.

**04.237 OB Moss/Hebert-Croyle Subdivision, 34 Plank Road – Minor Subdivision**

Mr. Gil VanGuilder of Gilbert VanGuilder and Associates proposes a lot line adjustment between two existing homes located at 32 & 34 Plank Road both owned by Mary Moss. Mr. VanGuilder stated that lot 34 was the former resident of Ms. Moss. Mr. VanGuilder stated that Ms. Moss built a new home and the applicant wishes to adjust the lot line in order to access her rear yard. Mr.

Vanguilder stated the Planning Board denied the minor subdivision application at the November 8, 2004 Planning Board meeting on the basis that the proposed lot line adjustment would not meet the minimum lot width requirement. Mr. VanGuilder stated Ms. Moss was granted the requested area variance at the December 6, 2004 ZBA meeting.

Mr. Roberts made a motion to set a Public Hearing for the January 10, 2005 Planning Board meeting. Mr. Berkowitz seconded. Motion carried.

**New Business:****04.244 NB Gemini Electrical Design & Const. Inc., 164 Ushers Road – Change of Tenant**

The applicant is proposing to utilize 1,366 SF of building space located at Lawn Care Storage Garage on Ushers Road. The applicant proposes an electrical contracting business at this location. Mr. Watts asked the applicant if the hours of operation would be 8 am to 5 pm Monday through Friday. The applicant responded yes. The applicant stated that there would be seven employees who would be working in the field. The applicant stated that once a month there would be a meeting at the Ushers Road location that would last approximately 15 minutes. Mr. Roberts asked the applicant if there would be a sign involved. The applicant responded no. Mr. Watts stated to the applicant that any advertising should state the business is in the Town of Halfmoon.

Mr. Roberts made a motion to approve the change of tenant application. Mr. Nadeau seconded. Motion carried.

**04.245 NB Halfmoon Development PDD, Stone Quarry & Plank Road – Commercial Site Plan – PDD**

Mr. Joe Linaro of Chazen Company is representing Amedore Homes. Mr. Linaro stated the parcel consist of 7.3-acres located at Route 9, Plank Road and Stone Quarry Road. Mr. Linaro stated the parcel is zoned C-1 Commercial. Mr. Linaro stated the proposal includes a PDD development that would include approximately 3.6-acres of commercial development and 3.7-acres of residential development. Mr. Linaro stated the residential component would be (7)-four (4) unit condominium buildings. Mr. Linaro stated there would be 56 parking spaces required with 57 spaces being provided. Mr. Linaro stated this element would be included with a Condominiums Association. Mr. Linaro stated the Condominium Association would be responsible for maintaining all of the roadways, sidewalks and open space within that portion of the project. Mr. Linaro stated that the 3.6-acre portion is intended to be commercial. Mr. Linaro stated there would be three ~5,900 SF buildings with 89 parking spaces required with 90 spaces being provided. Mr. Linaro stated the one extra parking space would be for handicap parking. Mr. Linaro stated the commercial property management company would manage this infrastructure. Mr. Linaro stated the project includes 60 percent green space. Mr. Linaro showed a rendering of the proposed PDD. Mr. Linaro stated there would be parking in the rear of the buildings with pedestrian routes that connect the plaza areas of each of the three buildings. Mr. Linaro stated that provisions would be made for an inter-connect for future expansion of the commercial properties. Mr. Linaro stated the mix of commercial and residential is consistent with the Town's comprehensive plan. Mr. Linaro stated the four condominium units would have four units per building with 2



units on grade level and 2 units of the upper level. Mr. Linaro stated the parking that would be provided throughout the development as well as in the driveways to each unit that would have an attached garage. Mr. Linaro stated the floor plan shows at grade level 4 garages with 2 interior garages service the 2 first floor units and the 2 exterior garages service the 2 upper level units. Mr. Linaro stated that part of the advancement of the proposed project anticipates extending units for water and sewer to the site. Mr. Linaro stated the applicant proposes sanitary sewage extension along Stone Quarry Road into the project with laterals to accommodate the residential project. Mr. Linaro stated that preliminary discussions addressed concerns regarding water management. Mr. Linaro stated there are 3 alternatives to address that issue. Mr. Linaro stated the current proposal is looking at upgrades to an off-site pump station to accommodate the proposed development. Mr. Linaro stated that municipal water will be extended to the proposed site and also as a public benefit it will be extended passed the intersection of Route 9. Mr. Linaro stated for further public benefit, the water line would be extended from the intersection of Plank and Stone Quarry Roads to an intersection at Captain's Blvd. that will accommodate 6 residential properties that are currently on private water supply.

Mr. Linaro stated that storm water will be managed on site and will be in conformance with NYS storm water regulations. Mr. Linaro stated that either the Commercial property manager or the Condominium Association would maintain all of the on-site storm water management facilities. Mr. Linaro stated that as part of a public benefit there would be a \$2,000 per residential unit contribution being made for intersection improvements that equates to \$56,000 in public benefit. Mr. Linaro stated that within the zoning regulations for a PDD the Planning Board has discretion of allowing proposed PDD's to occur on lands less than 10-acres. Mr. Linaro stated due to surrounding parcels already developed the applicant is unable to acquire additional lands. Mr. Roberts asked where the access to the development would be. Mr. Bianchino stated it would be located at the current driveway to the Country Hair Hut. Mr. Roberts stated that the traffic situation should be reviewed due to the high rate of speed of vehicles traveling at that location on Route 9. Mr. Linaro stated that as part of the site plan review and approval process they will have to prepare a water supply report, a wastewater management report, a traffic impact assessment, storm water pollution prevention plan and any environmental issues will be need to be addressed. Mr. Roberts asked what the market price would be for the condominiums. Mr. Linaro stated the market price would be around \$120,000-\$140,000 range depending on the project's expenses. Mr. Nadeau asked if the entire project was currently zoned C-1 Commercial?

Mr. Linaro stated that it was zoned C-1 Commercial. Mr. Nadeau questioned due to all the development in the Town, why would the Town consider utilizing a commercially zoned parcel for residential use. Mr. Linaro stated the PDD was consistent with the Town's new master plan to create a transition between C-1 on Route 0 to the existing residential uses on Plank Road. Mr. Watts stated that when the application was presented to the Town Board the issue relative to the less than 10-acre requirement was discussed and the Town's Attorneys' and they felt that it was appropriate as long as the project made sense. Mr. Watts further stated that the mix of residential and commercial could be beneficial with the reduction in traffic. Mr. Polak stated that the Town Board discussed the possibility of having a sidewalk placed so that the Rivercrest residents could walk safely by not having to traverse on Stone Quarry Road. Mr. Watts stated that the pedestrian friendly atmosphere being proposed can be a hallmark for future development. Mr. Watts stated that the Board would like to see that that Commercial Buildings be moved toward Route 9 so that a the parking lots would not be visible from Route 9. Mr. Watts tabled the proposed project pending CHA's review.

#### 04.246 NB Flooring Environments, 1581 Route 9 – Sign

This applicant was not present and no action was taken on this item.

Mr. Roberts made a motion to adjourn the December 13, 2004 Planning Board Meeting at 8:22 pm. Mr. Nadeau seconded. Motion carried.

Respectfully submitted,

Milly Pascuzzi  
Planning Board Secretary