TOWN OF PENFIELD
3100 Atlantic Avenue, Penfield, NY 14526-9798

The Planning Board met at 6:00 PM local time Thursday, October 14, 2010 in the Auditorium to discuss, in a meeting open to the public, tabled matters and other business that was before it.

I. CALL TO ORDER:

PRESENT: Sandy Kyle, Chairperson
John Albright
William Bastian
Allyn Hetzke, Jr.
Arsen Markarian
Terry Tydings

ABSENT:

ALSO PRESENT: Katie Evans, Planning Board Clerk
Deanna Herko, Planning Board Secretary
Evan Sheppard, Planning Technician
Mark Valentine, Assistant Engineer
Peter Weishaar, Legal Counsel

II. APPROVAL OF MINUTES: September 7, 2010

The Board approved the minutes.

Vote: Moved by: Markarian Seconded by: Tydings
Chairperson Kyle - Aye Albright – Aye Bastian – Aye Hetzke - Aye
Markarian – Aye Tydings - Aye

Motion was carried.

III. PUBLIC HEARING:

A. Mark Petroski, PE, Bergmann Associates/DiMarco Brandt Point, LLC requests the Town Board to consider their pending application for the proposed action. The proposed action has been classified as a Type I Action pursuant to applicable SEQRA Regulations, including 6 N.Y.C.R.R. 617.5 et seq, and the Penfield Environmental Quality Review. The Planning Board acting as lead agency accepted a Draft Environmental Impact Statement (DEIS) for the proposed action and opened a public comment period until 5:00 p.m. October 25, 2010.

Appearances by:
Tom Greiner, Nixon Peabody LLP

Chairperson Kyle explained the public hearing process. The public hearing is being held to invite all persons interested to provide comments to the Planning Board on the Draft Environmental Impact Statement (DEIS). The Board previously determined that the DEIS met all the minimum requirements of the final scoping outline. The document is available for viewing by the public and other government agencies. The DEIS is available on the Planning Department’s web page located at www.penfield.org. Written comments on the DEIS will be accepted until 5:00 pm on October 25, 2010. Following the public hearing the Board will await submission of all written comments by the closing of the comment period and
will begin preparation of the Final Environmental Impact Statement (FEIS). The contents of the FEIS are the responsibility of the Planning Board. It may contain any changes to the DEIS that the Board feels are warranted and will contain the Board’s responses to all substitutive comments made during the public review process. No agency can take any action on any part of this application until all aspects of the environmental review have been completed. If the Town Board continues to consider the rezoning application another public hearing will be required as well as a site plan application for any additional development on the proposed site.

Mr. Tom Greiner, member of the law firm Nixon Peabody spoke on behalf of the applicant. Mr. Greiner explained the public hearing process, goals and purpose of the DEIS, and the contents of the scoping outline. After the comment period is over all of the comments that are received within the connection of this project will be addressed in a form of an FEIS. The finding statement is a balancing document of impacts verses socio-economic benefits that the Planning Board will develop. Mr. Greiner explained the conclusion of the process of the DEIS.

Mr. Al Circelli of 100 Jewelberry Drive shared the following concerns with the Board:
- Development will destroy the surrounding buffer zones
- Precedent this action will set
- Decrease in property values in the area
- Increase the tax revenue
- Increase in noise

Mr. Circelli requested the following to be considered:
- New revised noise study data

Mr. Circelli stated the proposal for a Super Wal-Mart is an inappropriate use of the land.

Mr. Craig Maddock of 119 Jewelberry Drive shared the following concerns with the Board:
- Inappropriate use of the land
- Increase in noise, light, odor, and dirt
  - There are existing issues with noise, light, odor, and dirt

Mr. Maddock is opposed to the rezoning of the proposed property.

Mr. Frank DiPinto of 110 Jewelberry Drive shared his concerns with the Board. Mr. DiPinto stated the proposed action is too close to residential neighborhoods and the area should remain residentially zoned. Mr. DiPinto stated the revised proposal is very similar to the previous ones submitted. Mr. DiPinto is opposed to the rezoning of the land because it could have a negative effect on the surrounding property values. Mr. DiPinto requested the Board to encourage the developer to provide a more feasible plan then what currently being purposed.

Mr. Jaime Sanchez of 115 Jewelberry Drive shared the following concerns with the Board specifically regarding the DEIS:
- Noise Elements
  - Requesting the noise study use additional sites and take readings at a wider variety of days and times
- Drainage data used is outdated
- Traffic study was based on best case scenarios
  - Requesting the study be based on worse case scenarios
- Property values study
  - Requesting the study be based on Bay Towne

Mr. Sanchez supports the redevelopment of Bay Towne Plaza but not the rezoning of the property.

Ms. Jeanne Clement of 61 Seabury Blvd. stated she is confused by the number of plans that have been submitted by the applicant. Ms. Clement does have environmental concerns because of Bay Towne, specifically potential noise impacts. Ms. Clement supports the revitalization of Bay Towne Plaza but not the rezoning of the property.

Ms. Sandra Hansen of 104 Jewelberry Drive supports improvements to the Bay Towne Plaza but not the rezoning of the property. She also supports the right sized Super Wal-Mart. Ms. Hansen shared the following concerns with the Board:

3100 Atlantic Avenue, Penfield, New York 14526, USA
Tel: (585) 340-8600 • Fax: (585) 340-8667 • www.penfield.org
• Property is surrounded by residential homes
• Possibility of 24 hour store operations if the property is rezoned
• Mitigation was not done on the property
• Possibility of Super Wal-Mart utilizing the existing building
• Timeframe for developing the approved application for redeveloping the existing Tops Market

Mr. Terry Bauer of 1930 Empire Blvd. is a business owner and shared the following concerns:
• Speed of vehicles continues to increase on Empire Blvd.
• There are no attractions to keep consumers in the area of Empire Blvd.
• Decline of business in the area
• Possibility of improving the vacant property of the Mobil Gas Station

Mr. Bauer stated everyone needs to come together and improve the Empire Blvd. area. Mr. Bauer is supportive of the proposal and hopes it happens soon.

Mr. Tom Frank of 68 Seabury Blvd. shared the following concerns with the Board:
• There is currently not a lot of traffic or noise in the neighborhood
  o Is concerned with this increasing
• Wal-Mart stocks have lowered 10% recently
  o Possibility of Wal-Mart going out of business
  o Possibility of having a large unoccupied building
• Possibility of Brandt Point becoming an access point to the plaza
• Increase in traffic
• Increase in noise
• Increase in pollution

Mr. Frank recommends the construction of a Super Wal-Mart not be allowed because the building could be empty in a few years.

Mr. Sam Green of 58 Seabury Blvd. shared the following comments with the Board. Mr. Green addressed his areas of concern related to this proposal and detailed reasons he believes the rezoning that is described in the DEIS should not be approved. Mr. Green stated the revitalization of Bay Towne Plaza is vital to continue growth and livability of the North Penfield Crossroads area.
• Bay Towne Plaza is in need of improvement, including the parking lot and the choices of businesses contained within.
  o That is the reason Mr. Green supports Bay Towne
• The scope of the proposal is a concern
• Large discount retail are not local business friendly
• Quality of life currently enjoyed by residents will be lost and gone forever
  o Noise pollution will impact a once quiet avenue of neighborhoods
• Rezoning of property will create a 24 hour operation
  o Noise generated from plaza’s parking lot
    • Parking lot sweepers
    • Vacuum trucks
    • Rooftop air conditioner units
    • Trash compactors
    • Refrigeration units
    • Loading dock operations
• Possibility of turning a current 2 lane road (Brandt Point) into 4 lanes
  o Increasing the probability of accidents and decreasing safety
  o Creating a high potential of vehicle and pedestrian accidents
• Decrease in property values
• Sales will stagnate

Mr. Green stated the new anchor store is 30,000 sq. ft. smaller then the current Wal-Mart and the building formerly occupied by Tops combined. Mr. Green asked why seek rezoning when the space exists to build a new proposal of a super store within the current plaza and within the current zoning. Mr. Green supports Bay Towne redevelopment but doesn’t support any modifications, adjustment, or changes to the current classifications of the 26.6 +/- acres zoned multiple residential or R-1-12 residential.
Mr. Rick Bauer of 116 Guygrace Lane shared the following concerns with the Board:
- Impact on residential neighborhoods
- Decrease in property value

Mr. Bauer is in favor of revitalization of Bay Towne Plaza utilizing the existing property of the plaza.

Mr. Steve Chamberlain of 321 Valley Green Drive encourages the Town and the developer to come to an agreement to develop the proposed plaza. Mr. Chamberlain suggested everyone to work together to enhance the plaza because it needs improvement. By improving the plaza the following benefits will occur:
- Increase in tax base
- Increase in jobs
- Increase in shopping opportunities

Ms. Pam Bauer of 1930 Empire Blvd. stated currently Bay Towne Plaza is an eye sore. Mrs. Bauer is a business owner and stated her home is tied into her business. Mrs. Bauer stated business owners’ lives depend on their business. Mr. DiMarco does beautiful work and he does it with his own money.

Ms. Margaret Coley of 306 Wexford Place stated the residents of Daniels Creek do support the rezoning of the Bay Towne property and another grocery store is needed. Ms. Coley stated consumers are shopping in Webster and we need this income to stay in Penfield. The Developer is taking everyone’s concerns into consideration.

Mrs. Anna Orosz of 128 Guygrace Lane is in favor of revitalizing Bay Towne. Mrs. Orosz is concerned with the following:
- Noise from
  - Store speakers
  - Beeping of trucks
  - Snowplows
  - Trucks idling
- Additional ground pollution
- Decrease in property values
- Potential of an empty building if Wal-Mart goes out of business

Mrs. Mary Ellen Guon of 1900 Empire Blvd. owner of McDonald’s Restaurant is hoping to potentially expand her business’s hours of operation with the revitalization of Bay Towne Plaza. Mrs. Guon suggests everyone work together as a community to keep Penfield’s North Penfield Crossroads thriving.

Mr. Michael Hanscom of 145 Anytrell Drive shared the following concerns with the Board:
- Rezoning of property to General Business
- Reconfiguring Brandt Point will bring traffic to Wal-Mart but not the existing plaza
- Existing Bay Towne Plaza suffers from design
  - Stores are not visible from the street
  - Bay Towne Plaza doesn’t attract high end businesses
- Inadequacy of the stormwater impact analysis within the DEIS
  - Capacity calculations are unreliable because storm water facilities are not maintained well
  - Streams conduct very little water filtration
  - Water quality or quantity is not addressed in the DEIS
  - Increase of run-off due to parking lot expansion
  - Drainage study should be conducted again
- Noise study should be conducted again
- Tax benefit to Webster School District not Penfield School District

Ms. Anne McCombs of 133 Westford Place supports the rezoning of the proposed property. The developer has mitigated the effects Bay Towne Plaza will protect the neighbors by providing a buffer. Ms. McCombs stated the Super Wal-Mart in Gates does not have a buffer to the residents but has brought improvements to the area. The proposed enhancements will improve Bay Towne and create an experience that currently is not available in Penfield. This enhancement will benefit the Penfield residents as well as draw additional residents from the Greater Rochester area.
Mr. Peter Nowak of 35 Forest Creek Drive in Spencerport is a potential tenant at the Bay Towne Plaza and explained his process of becoming a tenant to the Board and to the public. The proposal isn’t a vision of the DiMarco Group but an investment to the business and the community. The DiMarco Group has the interest of Penfield in mind.

Mr. Peter Dohr of Honeoye Falls is the Vice President of Properties Managements for the DiMarco Group. Mr. Dohr supports the Bay Towne rezoning proposal of land. Mr. Dohr stated with the help of all the Bay Towne merchants a petition was created encouraging the people who shop at Bay Towne to voice their support for the proposed rezoning. Mr. Dohr submitted to the Board the petition with over 1,400 signatures of Bay Towne shoppers who support the proposed rezoning application. Mr. Dohr provided a statement from Mr. Tom deManincor of 1983 Empire Blvd. who was unable to attend. Mr. deManincor provided an email from a potential tenant who decided to withdraw his application for a conditional use permit due to the uncertainty of the area surrounding Bay Towne Center and corridor.

Mrs. Neilia Kelly of 11 Corral Burst Crescent shared the following concerns with the Board:
- Has not received an invitation from the DiMarco Group to attend any meeting for discussion regarding the proposal
- Impact on quality of life
- Visual impact on the area
  - Recommends installing a fence, berm, natural vegetation

Mrs. Kelly stated the rezoning of the property is an inappropriate use of the land.

Mrs. Rose Hanscom of 145 Anytrell Drive shared the following recommendations with the Board:
- Find out the reasons why business owners are leaving Bay Towne Plaza
- Recommend utilizing the existing space to construct a Super Wal-Mart
- Suggested the developer create a market to support the existing businesses
  - Create a mini version of the Waterloo Outlet Mall

Mrs. Hanscom supports the revitalization of Bay Towne Plaza.

Mr. Jeff Burns of 39 Scarborough Park shared the following concerns with the Board:
- Property tax benefits will mostly support Webster
  - Benefits of the sale tax

Mr. Burns stated the land can be developed without the need of rezoning.

Mr. Tom Trevett of 47 Canyon Trail stated per his understanding that the initial Bay Towne approval included a condition that the land be set aside to give protection to the surrounding residents and that should remain as a contract of agreement.

After the closing of the public hearing the public comment period will remain open until October 25, 2010 at 5:00 PM. Comments may be submitted via mail, hand delivery, fax, and/or email to the Town of Penfield Planning Department.

There was NO ACTION TAKEN regarding this application.

IV. TABLED:

A. Edwin A. Summerhays, L.S./Charles J. LaRocco requests Preliminary and Final Site Plan approval to allow an expansion to the existing parking lot on 0.63 +/- acres located at 1633 Empire Blvd. to be known as 1633 Empire Blvd. Parking Lot Expansion. Appl# 10P-0014. SBL# 093.19-1-21.1.

The Board reviewed the draft Part 2 Environmental Assessment Form and the draft approval resolution. The Board received written responses from the applicant to address the reviewing agency comments. The Town Engineer has resolved the outstanding issues with the applicant and is satisfied with the plans.

The Board AUTHORIZED the Chairperson to sign the Part 2 Environmental Assessment Form.

Vote: Moved by: Hetzke Seconded by: Tydings
Motion was carried.

This Application was APPROVED WITH CONDITIONS.

V. MISCELLANEOUS:

A. John Clarke/Heritage Christian Services requests Preliminary and Final Site Plan approval to allow an expansion to the existing parking lot on 2.08 +/- acres, to be known as Heritage Christian Services Parking Lot Expansion. Appl# 10P-0016. SBL# 125.01-1-35.13.

The Board received written responses and revised site plans from the applicant addressing the comments of the reviewing agency. The Board reviewed the Part 2 Environmental Assessment Form and the draft approval resolution.

The Board AUTHORIZED the Chairperson to sign the Part 2 Environmental Assessment Form.

Motion was carried.

This Application was APPROVED WITH CONDITIONS.

B. 1440 Scribner Road Concept Plan – The Zoning Board of Appeals has determined that the variance allowing accessory structures on less acreage than permitted will uphold under this new concept plan. The applicant is requesting the Board’s informal comments regarding the revised concept plan before submitting a formal preliminary/final subdivision and site plan application. Although various Board members have some concerns regarding this project, the Board looks favorably upon the concept plan. The Board recommends the following:

- The private drive entrance be aligned with Blue Pine Circle.
  - This alignment can be aided by reducing the “flag pole” widths to 10’.
- The applicant should review the Zoning Ordinance to ensure the correct setbacks are placed upon the plan.
• Landscaping plan should be similar in character and quality to that shown in the withdrawn May 14, 2009 application.
• The application should comply with the Town Street Tree Policy.
• Consideration of a cluster subdivision utilizing Town Law §278 maybe appropriate to facilitate improvements to the site design.

The Board AUTHORIZED staff to send the letter to the Applicant.

Vote: Moved by: Albright Seconded by: Hetzke
Chairperson Kyle - Aye Albright – Aye Bastian – Aye Hetzke - Aye
Markarian – Aye Tydings - Aye

Motion was carried.

C. Upstate NY American Planning Association Conference Materials – Katie Evans, Clerk to the Board provided materials to the Board from a recently attended American Planning Association Conference to review.

D. Cam’s Pizzeria, 2110 Fairport Nine Mile Point Road – The proposed application is the former Sunoco station on the east side of Rte. 250. The Board will have an informal discussion at the next meeting regarding the possibility of submitting a preliminary/final application for the December 9th public hearing.

E. Bailey Subdivision – The property is located at 1912 Salt Road and consists of two lots. The property owner is requesting approval to combine both lots into one large property with no proposed development.

The Board granted APPROVAL of the property owner’s request.

Vote: Moved by: Hetzke Seconded by: Bastian
Chairperson Kyle - Aye Albright – Aye Bastian – Aye Hetzke - Aye
Markarian – Aye Tydings - Aye

Motion was carried.

There being no further business to come before the Board, this meeting was adjourned at 10:00 PM, Thursday, October 14, 2010.

These minutes were adopted by the Planning Board on November 9, 2010.