The Planning Board met at 6:30 PM local time Thursday, February 10, 2011 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: Arsen Markarian, Chairperson  
Jim Burton  
Sue Kreiser  
Doug McCord  
Terry Tydings  

ABSENT: John Albright  
Allyn Hetzke, Jr.  

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: January 13, 2011

The Board approved the minutes.

Vote: Moved by: Kreiser Seconded by: Tydings

Chairperson Markarian - Aye  
Albright – Absent Burton – Aye Hetzke - Absent  
Kreiser – Aye McCord - Aye Tydings - Aye

Motion was carried.

January 27, 2011

The Board approved the minutes.

Vote: Moved by: Kreiser Seconded by: Tydings

Chairperson Markarian - Aye  
Albright – Absent Burton – Aye Hetzke - Absent  
Kreiser – Aye McCord - Aye Tydings - Aye

Motion was carried.

II. PUBLIC MEETING:

A. Walter Baker/SDSJ Associates, Inc. requests and informal discussion with the Board regarding the construction of a maximum 31 residential lots on 24.9 +/- acres located at 1617 Creek Street to be known as Caroline Court. Appl# 11P-0001. SBL# 108.15-1-31.
Appearances by:

Walter Baker, DSB Engineers
Sam Miceli, SDSJ Associates

The applicant presented the proposed application to the Board and the public. The proposal for 1617 Creek Street consists of developing the parcel into 31 single family residential lots utilizing Town Law 278 plan. Per the requirements of the Town Law 278 the applicant has submitted a conventional plan as well as a Town Law 278 plan. The conventional plan illustrates the 20,000 sq. ft. lots that are allowed by the current zoning code. The Town Law 278 plan shows 31 lots and allows the preservation of the existing house and the barn. The existing house was built in 1850 and has been well maintained by Mr. Miceli. Per the town code requirements the proposal includes maintaining 5 acres of land for the existing barn and homestead. The proposal includes a dedicated road with a cul-de-sac. The existing cell tower was approved in the 1990’s and will remain on the property as a stand alone lot. The applicant will maintain the 200 feet fall zone which is required by Town code for a cell tower. The applicant stated an on-site detention water facility for the increase storm run-off is proposed for the rear of the property and complies with the New York State regulations. The existing steep slopes and woodlot to the west of the proposed property will be maintained and will not be developed. The applicant received comments from the reviewing agencies and will respond in writing.

The applicant stated the Town Law 278 plan benefits to the Town are:

- Preserving the existing house
- Preserving the existing barn with 5 acres
- Preserving and maintaining the existing vegetation throughout the parcel
- One dedicated road entrance onto Creek Street
  - No additional curb cuts onto Creek Street
- Conservation Easement for the Steep Slope and woodlot area to preserve the environmental protection overlay districts

Chairperson Markarian asked what the length of the proposed dedicated road is and has the site distance been verified? The applicant stated the proposed conventional plan road length is 1,400 feet and the Town Law 278 proposed plan road length is less than 1200 feet. The applicant stated both proposed plans site distances has been verified and are the same.

Board member Kreiser requested the following clarifications:

- Proposed conventional plan shows a property line through the existing house to the south of the property
- Proposed Town Law 278 plan shows double property lines
- Conventional plan lot sizes appear to be different
  - Lots 9 and 10 appear tight
- Location of the access road to the Cell Tower on the proposed Town Law 278 plan

The applicant responded with the following statements:

- The lines are off on the proposed plans because of the aerial photo but it doesn’t exist as shown on the property.
- The proposed Town Law 278 plan lines reference the existing driveway along side of the property that will remain.
- All the proposed lots on the conventional plan meet the setback requirements
  - Lots 9 and 10 meet the minimal 50’ setbacks
- Cell Tower will have a new access point off of the dedicated road

Board member Burton requested clarification of the proposed disturbance to the existing land. The applicant stated the proposed Town Law 278 plan includes 5 acres of preserved land for the existing barn and house but the proposed conventional plan shows the removal of the existing structures. Both proposed plans will be preserving the existing woodland and steep slope area.
Board member McCord requested clarifications regarding the 5 acre preserved land for the existing cell tower and the location of the stormwater facility. The applicant stated due to the requirements for the cell tower there will be no construction within 5 acres. The stormwater facility will be located in the rear of the property.

Mr. Henry Schnepf of 480 Wilbur Tract Road shared his concerns with the Board regarding drainage and surface water. Mr. Schnepf recommends an alternative plan to redirect the water in another direction away from Wilbur Tract Road.

Mrs. Carol Saj of 485 Wilbur Tract Road shared her concerns with the Board regarding drainage and flooding on Wilbur Tract Road. Mrs. Saj is also concerned with the existing trail along the steep slope and the increase of pedestrian traffic.

Board member Kreiser requested clarifications of the following regarding Mrs. Saj property:
- Location of her property on the plans
- What is the steepness of the slope?
- Are the drainage issues because of the conditions of the pipes?
- Is Wilbur Tract Road a private road?

Mrs. Carol Saj of 485 Wilbur Tract Road provided the following details for Board member Kreiser:
- Location of her property on the proposed plans
- The slope is steep
- The drainage issues are because of the different steep hills throughout the area, natural stream that flows through the properties, and erosion caused by the development over the years
- Wilbur Tract Road is private and is maintained by the homeowners

Mr. Mark Tytler of 1639 Creek Street shared the following concerns and requests with the Board:
- The preservation of his 20 acres property adjacent to the proposed application
  - Does not want his property being disturbed
- Currently has a natural buffer of trees on his property
  - Is concerned of this being disturbed
- Traffic increase onto Creek Street
- Concerned of dumped materials on the property over the past years
- Conventional plans shows the location of the proposed road but there is an easement in that location which he owns
- Relocation of wildlife onto his property
  - Increase of car accidents due to the deer crossing Creek Street
- Requested the stormwater facility be shown on the proposed plans
- Requested the lot sizes and setback be correct
- Requested the plans to show the exact location of the steep slope area
- Requested clarifications of the cell tower property owner
- Requested plans for the adjacent apartment building’s parking area
- Requested the possibility of a stub road to his property for future development
- Requested information regarding the proposed houses
  - What size and price range
- Requested the timeframe of the application process

Planning Board Clerk, Katie Evans, explained the sketch plan process and the timeframe of the application to Mr. Tytler. She also invited anyone who would like to discuss the application in more detail to contact the Planning Department to set up an appointment.

Mr. Greg Ross of 36 Greening Court recommends the soil to be tested because approximately 50 years ago the property was used for a dumping area for cars, refrigerators, and much more.
Mr. Shawn Kammerdiener of 80 Maple Park Heights prefers the Town Law 278 plan for it appears to have the most preserving of land. Mr. Kammerdiener is concerned with drainage and presented photos of the flooding that has previously occurred. Mr. Kammerdiener is also concerned with light pollution from proposed street lights and house lights.

Mrs. Donna Miceli of 1633 Creek Street shared her concerns with the Board regarding drainage. Drainage has been an issue for her since top soil was sold off the land. Water sheets off the subject parcel and flows directly into her house.

The Board discussed this application following the public meeting. The Board looks favorably upon the use of the Town Law 278 plan for this property. The Board has considered input from the applicant and from residents and has determined that the Town Law 278 plan provides natural and scenic benefits that justify the property uses. The Board itemized the following concerns:

1. Any future submission should include the total acreage of disturbance of both the conventional and cluster plans and should include a statement discussing the benefits of the Town Law 278 plan for this project and inventory the proposed departures from the Code.

2. The Board has received resident concerns regarding historical dumping of refuse and organic material in multiple areas on and near the steep slope. To investigate these concerns, the Board will require the completion of a Phase I Environmental Assessment and deep hole testing in locations identified by the Town Engineer prior to submission of a Preliminary/Final application. Depending on the results of the Phase I audit, a Phase II study may be required. The agent conducting the deep hole testing should consult the Engineering Department regarding testing sites. These studies should be completed and submitted with any future submission to the satisfaction of the Town Engineer.

3. The Board would like to see a concept plan that shows a realignment of the dedicated road along the southern boundary of the property. The Board feels this relocation will address issues with access easements to the adjacent properties to the south. Also, this would enable a longer stretch of the existing tree line to remain unbroken. The Board agrees with the applicant that the tree line is an important feature of the site and should be maintained to the greatest extent possible. The Board intends this alteration to potentially incorporate access to the multi-family residence owned by Donna Miceli. This could benefit the area by eliminating a curb cut on Creek Street.

4. During the public meeting it was stated that lot 16 is intended to contain the cell tower without construction of a residence. The intended ownership and maintenance of this parcel should be explained with any future submission. The intended owner should be made aware that under Town Law 278 no future subdivision of lot 16 would be permitted if the cell tower were removed at some future date.

5. Physical access to the cell tower has been identified. However, the existing and proposed utility access to the cell tower has not been presented. Any future submission should provide mapping of all current easements and establish the proposed utility access, including the location of any required easements.

6. Any future submission should demonstrate compliance with the Town’s Sidewalk and Street Tree Policies.

7. Any future submission should identify any proposed lighting and state whether the creation of an intensified lighting district is requested. Lighting should be designed to minimize its impact to neighboring residences.

8. It is unclear based on the sketch application whether the existing access easement to the two adjacent southern properties is intended to remain as an easement or whether the sliver of land is intended to be given to those residents. If the latter is intended, the subdivision and any required access easement should be shown with any future submission.
9. Any future submission should show the proposed building envelope of each lot and should show an approximate intended building footprint. The Board has some concern regarding the lot widths and desirability of lots 1-5 in the existing layout. Buffering to adjacent properties should be considered where practical and may be required upon future review.

10. Currently the sketch plan shows lots 8, 9, 10, 14, and 15 with substantial excess backyard space. Within any future submission, the Board recommends this area be included within the conservation easement that will also contain the steep slopes. In addition, this may be an excellent location for stormwater treatment facilities.

11. The Board requests that future road and utility connection to 1639 Creek Street be explored and included in any future submission should the property be developed at some point in the future.

12. Any future submission should comply with any Town of Penfield and New York State stormwater regulations that are in effect at the time of submission. The applicant should contact the Engineering Department for assistance with this requirement.

13. Any future submission should comply with the recommendations found in the PRC memo dated February 9, 2011 and should provide itemized responses to said memo.

14. Proof of adequate sewer capacity will be required as condition of approval. Any future submission shall provide details on the intended pump station upgrade and the easement location.

15. The Board requests additional information regarding the intended home construction, including home styles and the target market demographic.

The Board directed staff to prepare a draft sketch plan review response letter for their review and consideration at the next meeting.

This application has CONCERNS NOTED pending preparation of the Sketch Plan review response letter.

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<th>Vote:</th>
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<td>Chairperson Markarian - Aye</td>
<td>Albright – Absent</td>
<td>Burton – Aye</td>
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<td>Kreiser – Aye</td>
<td>McCord - Aye</td>
<td>Hetzke - Absent</td>
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<td>Tydings - Aye</td>
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Motion was carried.

III. TABLED:

A. Jared Lusk, Nixon Peabody Attorneys at Law, 1100 Clinton Square, Rochester, NY 14604/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 Local Law #3 of 1996. The Planning Board, acting as lead agency, has accepted a Draft Environmental Impact Statement for the proposed action. A public hearing was held October 14, 2010 at 7:00 PM, at which time the Planning Board heard all interested persons on the content of said document.

*Jim Burton recused himself from the Board regarding this discussion.*

The Board is awaiting submission of requested materials from the applicant.
There was NO ACTION TAKEN regarding this application.

IV. MISCELLANEOUS:

A. Town Board Applications – Staff provided the Board with an update of pending Town Board applications. The following are the applications currently being reviewed by the Town Board:
   - Barry Turkey Farm
   - Abbington Place
   - Ashlyn Rise
   - Arbor Ridge East
   - Windham Woods
   - 2014 Five Mile Line Road

There being no further business to come before the Board, this meeting was adjourned at 8:46 PM, Thursday, February 10, 2011.

These minutes were adopted by the Planning Board on February 24, 2011.