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

PLANNING BOARD
MEETING MINUTES

MARCH 10, 2016
The Planning Board held a work session meeting at 6:30 PM local time Thursday, March 10, 2016 in the Town Hall Auditorium to discuss, in a meeting open to the public, tabled matters and other business that was before it. The board then held a public hearing meeting at 7:00 PM to hear new applications.

I. CALL TO ORDER:

PRESENT: Allyn Hetzke, Jr
Bill Bastian
Jim Burton
Bob Kanauer
Terry Tydings

ALSO PRESENT: Mark Valentine, Town Engineer
Michael O’Connor, Assistant Engineer
Zach Nersinger, Town Planner
Douglas Sangster, Planning/Environmental Technician
Alison Sublett, Board Secretary

II. APPROVAL OF MINUTES:

The board voted and APPROVED the draft meeting minutes for February 23, 2016.

Vote: Moved by: Kanauer Seconded by: Bastian

Motion was carried.

III. PUBLIC HEARING:

1. J. Lincoln Swedrock P.E., BME Associates, 10 Lift Bridge Lane East, Fairport, NY 14450, on behalf of Oak & Apple LLC, requests under Chapter 250 Article XII-12.2 of the Code of the Town of Penfield for Preliminary and Final site Plan approval for the construction of a 2,546/- square foot farm cider mill with associated site improvements on a total of 26.97/- acres located at 1381 Sweets Corners Road, to be known as Oak and Apple Ciderhouse. The property is now or formerly owned by Oak and Apple, LLC and zoned RA-2. Application # 16P-0003, SBL # 125.01-1-10.4.

APPLICATION ADJOURNED

Mr. Nersinger read a statement prepared by James J. Bonsignore of Woods Oviat Gilman LLP, on behalf of the applicant for the record.
2. Passero Associates, 242 West Main Street, Suite 100, Rochester, NY 14614 /Midlakes Management, LLC, requests under Chapter 250 Articles VI-6.1, XI-12.2 and XII-12.2 of the Code of the Town of Penfield for Preliminary and Final Site Plan, Subdivision, and EPOD Permit approval under Town Law 278 for the construction of 33 townhomes with associated site improvements on 32.67 +/- acres. The parcels are located at 1185 Empire boulevard, 1211 Empire Boulevard, and 41 Woodhaven Drive. The properties are now or formerly owned by Howitt-Bayview, LLC and are zoned LLD and R-1-20. Application # 16P-0004. SBL # 108.05-2-8.5., 108.05-2-8.33, and 108.10-1-1.111.

Jess Sudol of Passero Associates presented the proposed project to the board. Also present was Hans DeSelms of Midlakes Management, LLC.

- Mr. Sudol reviewed for the board that previous plans for development had included development in the LaSalle’s Landing District (LLD) portion of the site. The plans have since been amended to only include 33 townhome units in the R-1-20 zoning district portion of the site.
- Mr. Sudol explained that the Town Law 278 Cluster provision allowed for this type of development. The proposal includes 33 townhomes on approximately 22 acres of land, which for density equates to greater than the half an acre per lot. This is greater than the required lot size under the current zoning. Therefore, the proposal calls for less lots than that which is allowed in the R-1-20 District.
- The cluster development would disturb less than half the total acreage of the site.
- Mr. Sudol explained that the amount of traffic would be less than the Conventional Plan. The majority of the units only have two (2) bedrooms and similar projects completed by the applicant have mainly attracted “empty nesters.” Typically, developers build homes with three or four bedrooms.
- Traffic reports for this project anticipate roughly fifteen (15) cars per hour during peak travel times which would not greatly impact the existing traffic conditions. The NYS DOT was provided a copy of the plans and there were no comments issued requiring any improvements to Empire Boulevard.
- Mr. Sudol explained the proposed project site has several EPODs present: steep slopes, federal and state wetlands, floodplains, and woodlots. The cluster development plan would be the least impacting form of development to the EPODs. The proposed site plans have been designed to avoid any impacts to the wetlands and wetland buffer areas, and the floodplain areas as well. The plans also avoided most of the woodlots and steep slopes throughout the perimeter, which also provides a natural buffer for existing neighborhoods.
- One of the amenities offered in the proposal is the maintenance of the emergency access road that is identified under an easement to the town that connected to Woodhaven Drive. The entire subdivision through Woodhaven Drive and Old Westfall Drive is currently only accessible at a single point from Browncroft Boulevard to the south. Mr. Sudol recalled that recently the main road was blocked by a fallen tree, which impacted access for most of a day. This project would provide a private emergency access drive at the southern end of the proposed dedicated road to connect to Woodhaven Drive. To avoid adding traffic to Woodhaven Drive, the emergency access road would be gated and locked, and it would only be made accessible during emergency situations only.
The emergency access road is proposed to be rebuilt with a permeable pavement geo grid system that could feature a grass like surface to blend with the existing lawns.

- The proposed project includes improvements to 1,200 feet of paved road from Empire Boulevard to the proposed entrance to the project, which is the majority of Wilbur Tract Road. The proposal includes dedication of this road to The Town for regular maintenance and plowing. The proposal included regrading and stoning a further section of Wilbur Tract Road that will not be dedicated to The Town but would improve accessibility to existing homes along this section of the road. The reason for not paving this area is due to regulation from the state DEC as a buffer to the wetlands. The plan reduced the maintenance costs to the existing residents on Wilbur Tract Road to a limited area.

- The subdivision plan show a new parcel for each of the 33 units. The townhouses are proposed to be rented only. Mr. Sudol explained this type of marketing worked successfully in the applicant’s development project in the town of Chili. With this project, like others previously, Midlakes Management will own the land and the units, which are then rented to clients, and their company performs all the grounds work and maintenance under their own company. The clients who rented the units were mainly 55 years old or older.

- Due to the downward slope of the site the units are proposed to feature walk-out basements. The units will appear to be single-story structure from the front entrance. From the rear, it will appear as a finished two-story structure. The townhomes are limited to two and three units each. The applicant has made an effort to reduce the number of townhomes with three units as the value to the end units is greater as they have more windows and a side-yard. A mixture of materials was proposed for the exteriors.

- Additional soil testing has been conducted since the Sketch Plan application in terms of geo-technical data, and Phase I and Phase II Environmental Surveys. An updated wetland delineation was also completed.

- During the sketch plan review process, there were concerns expressed regarding the existing sandy soils and leaching of existing septic systems from neighboring properties to the west and south. The Town had plans underway to extend sewer service to those neighborhoods that would eliminate any future concerns.

- The site plans include erosion control measures along the entire project to stabilize soils and slopes.

- Sidewalks were proposed throughout the development and continue to Empire Boulevard along one side of the road.

- Per the comments received in the 239-M county review form, the NYS DOT determined the development did not warrant additional traffic signals or turn lanes on Empire Boulevard. The DOT suggested extending the dedicated road to Woodhaven Drive. The applicant does not agree with that comment and does not desire to increase traffic to existing neighbors. The elevation changes would make developing that section of the roadway challenging.

- Mr. Sudol is in the process of reviewing and preparing responses to PRC Comments with revised plans and felt confident that all comments could be addressed.

Board Comments:

- Board member Kanauer asked Mr. Sudol to review the protection plan for the EPODS to the east of the property. Mr. Sudol responded that these wetland and floodplain areas
would be avoided. During construction the wetlands would be heavily delineated with a
double row of silt fence as well as construction fencing. Additionally, a Storm Water
Pollution Prevention Plan is required with inspections to be conducted twice a week by a
certified professional. Mr. Sudol explained the preventative measures that would applied
during construction and how requirements by the governing bodies would be met. Mr.
Sudol also explained requirements placed upon the developer once construction is
completed. Grading and seeding in order to stabilize each area that is no longer affected
by construction would be addressed immediately. There was a large stormwater pond that
will retain the runoff water generated from the development, which will then slowly
discharge into wetlands per the requirements of the DEC.

- Board member Kanauer asked if non-phosphorous fertilizers would be used to treat the
  lawns on the development. Mr. Sudol explained that the applicant planned to take that
  into consideration due to the presence of EPODs and Irondequoit Bay.
- Board member Kanauer asked if the applicant had any concerns to the PRC Comments
  submitted on March 3, 2016. Mr. Sudol stated the applicant had no concerns addressing
  the staff comments in the PRC memo.
- Board member Kanauer had no objections to the proposed geo-grid road design for the
  emergency access road.
- Chairman Hetzke had concerns regarding the building elevations of the proposed units.
  He observed that drivers would view the rear of the buildings when entering from the main
  road and asked if the backs of the buildings could be modified to be more attractive in
  appearance. Mr. Sudol agreed with the comment and pointed out the topography of the
  site required driveways to face away uphill.
- Chairman Hetzke asked for a description of the topography. Mr. Sudol explained the
  existing slopes ranged from 15% to 40%. The proposed plan limited the clearing and
  grading to avoid the steeper slopes. The proposed area of development had a slope limited
to under 20%. Small retaining walls were proposed in order to contain the steeper slopes.
The proposed grading meets the maximum threshold for slopes according to Town’s
Design Criteria.
- Board member Burton stated the submitted elevation plans appear to be the same from the
  Chili project that had been referenced previously. He also asked if architectural plans and
  materials would be submitted to the board. Mr. Sudol explained the buildings in Chili are
  the same design and planned to submit elevations specific to this proposal. Mr. Sudol did
  not have colored architectural plans with materials to submit to the board but was willing
to provide these items.
- Board member Burton asked how the emergency access road would be accessible to
  emergency responders given the proposed materials and gate. Mr. Sudol explained the
  road would have some slopes exceeding the 8% Town limit as it approached the dedicated
  road to the north and the road surface materials not being traditional pavement. The
  proposed road would be approximately eleven to twelve percent (11%-12%) which would
  be navigable for automobiles but not ideal for heavy duty vehicles such as fire trucks.
  Therefore, primary access for emergency vehicles for calls to the adjacent neighborhood
  would continue to route through Parkview Drive off of Old Browncroft Boulevard. The
  proposed development would be serviced from Empire Boulevard and Wilbur Tract Road.
The crash gate will be penetrable from both directions in the event the residents need
access out of the adjacent neighborhood.
Public Comments:

- Henry Schnepf, 480 Wilbur Tract Road, stated his had concerns with drivers turning left onto Empire Boulevard from Wilbur Tract Road. He also stated that the water level of the wetlands near his property had risen due to a pedestrian bridge that has collapsed and has since become part of a beaver dam, which has narrowed the outlets for the watercourse. Mr. Schnepf wanted to know where the stormwater runoff would discharge for the proposed development.

- Steven Siegel, 14 Old Westfall Drive, addressed the board and requested the installation of delineation markers or fencing that would indicate where the western borders of the property are located to avoid trespassing or confusion of property boundaries.

- Carol Saj, 485 Wilbur Tract Road, voiced her concerns regarding the application.
  - While the proposed dedicated sidewalk near Empire Boulevard would be an improvement she was concerned whether there was room for both a sidewalk and dedicated road at the entrance to Wilbur Tract Road.
  - Ms. Saj was concerned with the stability of the existing ground and how it would be affected by development. She also claimed that there were some springs on the property according to the previous owner.
  - Ms. Saj requested the installation of delineation markers or fencing that would indicate where the borders of the properties are located to avoid trespassing or confusion of property boundaries.

- Ralph Meleo, 43 Woodhaven Drive, addressed the board with his concerns regarding the project. His main concern was the thought of the emergency access road becoming a dedicated road in the future and he expressed that would be detrimental to the neighborhood. He does supportive of the proposed permeable surface that the applicant presented that would be sued to rebuild the emergency access road.

- Jeffrey Peters, 262 Parkview Drive, expressed concerns regarding the proposed emergency access road. He was concerned the State DOT would require the emergency access road be made into a dedicated road at some future time. Chairman Hetzke explained the emergency access road was under Town jurisdiction, unlike Empire Boulevard, which was under State DOT jurisdiction, and that there has been no indications from town staff that there would be any support for such a change.

- Keith McPhail, 2 Old Westfall Drive, addressed questions to the board regarding his concerns for:
  - Clarification as to whether the proposed townhome units would be strictly rentals or if any would be for sale.
  - Existing soil conditions and the stability of proposed structural foundations.
  - The character of townhomes being built adjacent to their neighborhood
  - Subsidized housing for this development.
  - The ability for the housing market to support the proposed number of townhomes as rental units.

- David Guadagnino, 40 Woodhaven Drive, had concerns regarding increased traffic due to the proposed development. He also asked for clarification regarding the fallen tree that prevented access to Browncroft Boulevard. Mr. Nersinger explained the incident occurred earlier in the year where a tree fell onto the powerlines across from the daycare center on Old Browncroft Boulevard. The tree was resting on power lines
and it was several hours before RG&E was able to respond and remove the tree. In this instance the traffic was diverted through the daycare’s parking lot. Mr. Hetzke added this was an incident that validated the necessity of an emergency access drive.

- Kevin Dunn, 35 Woodhaven Drive, submitted copies of a photo for the record of the project site that he believed was taken sometime in the early 1980’s. The photo was taken after the area had been filled and prior to vegetation covering the area.
- Lawrence Saj, 483 Wilbur Tract Road, had concerns and requests regarding the proposed project.
  - Believed Empire Boulevard to be a dangerous road. The traffic increase from the Southpoint Cove apartments was not yet fully realized as it was still being developed.
  - He was pleased the applicant reduced the number of units from the previous proposal but felt the proposed project was still too densely populated.
  - He explained there have been neighbors wandering on his property in the past from Woodhaven Drive and Old Westfall Drive and also some hunters trespassing on his property.
  - There was a steep drop along his property line and trash blows down from neighboring properties at higher elevations. He desired a tall fence to act as a barrier for trash and people from entering his property.
  - Concerned with fill materials from the previous projects that included large jagged concrete slabs and affluent from septic systems.

**Applicant responses to public comments:**

- Mr. Sudol provided responses to some of the public comments.
  - With regards to the size of the proposed development, the current site plans represent a near 70% reduction in the density of residential uses compared the first concept plan that was presented in previous years that included the town homes and apartment units.
  - Regarding the entrance to Wilbur Tract Road at Empire Boulevard, the proposal includes a dedicated entrance with defined curb cuts that was an improvement compared to existing curb cuts in the area.
  - Mr. Sudol explained that new development inherently slows traffic. In the case of Empire Boulevard, he anticipates that the presence of the Southpoint Cove apartments and the defined curb cuts the traffic would slow traffic over time as driver would have to pay more attention to traffic entering Empire Boulevard from these developments.
  - The stormwater runoff is proposed to be directed into the freshwater wetlands after it was treated in the new retention pond at a rate that is acceptable to the State regulations.
  - If the developer were to put up a fence it would not be a typical residential fence but rather a commercial grade fencing that would be more environmentally invasive to install. The applicant did not wish to disturb the natural buffers. Private property owners always have the option of demarcating their own property lines however they wish. The expected demographic of the residents for proposed project would not likely wander into the areas of concern considering the steep slopes and vegetation.
  - Mr. Sudol highlighted the amount of work that was invested into the proposed plan in order to address slopes and soil stability and best placement of structures. Adjustments were made to the size and location of some of the proposed units in order to address some setback concerns from the Sketch Plan application.
Mr. Sudol stated that the Southpoint Cove apartments appeal to a different market of renters than the townhomes and those markets are non-competing. However, there has been a strong market for rentals overall as the Southpoint Cove apartments were nearly 100% filled for the completed buildings.

- The proposed project did not receive and funding for affordable housing. This particular project did not qualify for that type of funding as the cost of the project exceeds the required threshold.
- This project, through the property management company, will reduce the amount of noticeable trash crossing over the neighbors’ property. Any trash blowing down from the existing neighborhoods would be retrieved during regular site maintenance. Therefore, the development can act as a buffer to residents of Wilbur Tract Road with respect to the trash and debris.

- Hans DeSelms spoke on behalf of Midlakes Development/Midland Management LLC in response to public comments.
  - The units are intended as rental units only. There are no intentions to sell the units at any time in the foreseeable future. The property is owned and managed by the same family and they prefer to conduct their business that way.
  - The purpose for subdividing the lots is to be able to dedicate portions of the land to the Town and better manage water resources and other utilities with separate meters.
  - Mr. DeSelms restated that there were no subsidies nor tax breaks for the proposed project.

- Chairman Hetzke asked what the target customer for the proposed units was. Mr. DeSelms replied that the units would attract clients with an income that can produce $1,500 to $1,600 per month in rent per unit.

The board discussed the application in work session following the public hearing. The board voted and TABLED the application pending the submission pending the review and/or submission of the following items:

- Submission of the applicant’s responses to staff and agency comments with revised site plans.
- Submission of stormwater calculations for the Engineering Department’s review.
- Submission of a geotechnical report for the Engineering Department’s review of soil conditions.
- Submission of the latest wetland and floodplain delineations for the site.
- Submission of colored building elevations with samples of the proposed building materials. The board reserves the right to ask for the opinion of the Town’s Architecture consultant to review the proposed building designs.
- Specification for the board if any ground monument signs would be considered new the entrance or beginning point of the residential subdivision.
- Submission of the Penfield Fire Marshal’s thoughts on the proposed geogrid road system proposed to be installed in the location of the emergency access road.
- Provide clarification for the intended use of the lands shown on the plans that are assumed to be donated to the Monroe County Parks. This was previously stated during the sketch plan application in 2013.
- The Board will continue to review the conventional plan last revised March 9, 2016.
• Staff will review the proposed development with the Town Board at the next available work session meeting and provide an overview of the associated site improvements for the Wilbur Tract Road that are proposed in the LaSalle’s Landing (LLD) Zoning District.

• The applicant must submit a letter to the Town Engineer for the request of a partial sidewalk waiver for sidewalks to be installed only on one (1) side of the proposed dedicated road. The Town Engineer will present the request to the Town Board in a work session meeting.

Vote: Moved by: Kanauer Seconded by: Tydings
Tydings - Aye

Motion was carried.

III. TABLED APPLICATIONS:

1. Marathon Engineering, 39 Cascade Drive, Rochester, New York 14614/ Mike D’Amico, Combat Construction requests under Articles VIII-8-3 and IX-9-3 of the Code for Preliminary Overall Subdivision and Final Site Plan approval Section 1 under Town Law 278 to construct an 86 lot single family residential cluster subdivision with associated site improvements on 42.95 +/- acres located at 2826 Atlantic Avenue, Penfield, NY 14526. The property is now or formerly owned by Dolomite Products Co. Inc., and zoned R-1-15. Application # 15P-0018, SBL # 124.01-2.1.

• Mr. Nersinger provided the board with updates to the project status.
  - The applicant plans to submit an updated landscaping plan submitted prior to the next board meeting.
  - Mr. Valentine met with the Town Board regarding waivers for sidewalks and green infrastructure items that are required for this project. The Town Board tabled the application in order to have more time to review the items and will meet again on March 23, 2016 to make a decision.
  - Staff contacted the Penfield Central School District again regarding its initial concerns for the potential of new students to be accommodated from the proposed development. The correspondence between staff and the PCSD included providing letters from the NYS DOT and MC DOT to the Assistant Superintendent of Schools for his reference. Both DOT letters stated that the proposed subdivision will have a minimal impact to the roads and traffic. The school district responded that it would be able to accommodate the additional students but still had concerns regarding increased traffic at the traffic intersection.
  - Mr. Valentine noted that the NYS DOT did acknowledge in their response that there are issues with the current intersection and they are reviewing this issue for possible improvements.
  - Mr. Nersinger explained the factors of consideration have nearly all been resolved for this application.
• Mr. Hetzke asked the board if a draft approval resolution could be prepared for this application to be acted on at the next meeting. The board was in agreement.

The board voted and CONTINUED TABLED the application pending:
• Submission of the applicant’s revised site plans per the comments of the February 12, 2016 PRC Memo and the March 1, 2016 memo from the Town’s Landscape Consultant.
• Staff was directed to prepare a draft approval resolution for the Board’s review and consideration at the March 22, 2016 work session meeting.

Vote: Moved by: Burton Seconded by: Tydings
Tydings - Aye

Motion was carried.

IV. MISCELLANEOUS:

1. The DiMarco Group contacted the Planning Department staff with a request from Walmart and their attorney regarding a condition set in the June 12, 2014 approval resolution regarding the use of outdoor speakers. Staff submitted the request to the Planning Board for its interpretation the conditions set in its approval resolution.

• Excerpt from approval resolution, condition #25, item 9, page 7:

    *Prohibiting any type of outdoor amplified intercom or speaker system.*

The applicant has requested the board interpretation of the above condition as it relates to the proposed use of a small speaker for the pharmacy drive-thru system to communicate with customers picking up prescriptions. The building will utilize a pneumatic air tube system to deliver items from the pharmacy at the north end of the building to the drive thru located at the south end. This would be the primary means of communication for customers using the pharmacy drive-thru.

Mr. Valentine reviewed the details of the Board’s approval resolution as it related to the request for interpretation.
• He explained the board’s previous approval of this project had conditioned there be no amplified outdoor speakers added to the building with the idea that these would impact the surrounding residential areas. An example of such a system would be similar to a loud speaker paging system that some retailers use to summon employees to specific locations.
• In this case, the applicant proposed to install a small speaker at the pharmacy drive-thru location in order to allow customer communication with the store’s pharmacy staff.
The board reviewed the request and agreed that the use of speaker for the pharmacy drive-thru system does not conflict with the intent of the condition set in the resolution and will allow this device to be allowed in this specific location.

The board voted and directed staff to send a response letter with an interpretation.

Vote: Moved by: Bastian Seconded by: Kanauer
Motion was carried.

2. Mr. Nersinger gave clarification to the board regarding the Heathwood extension of the plat map that the board approved at the previous meeting on February 23, 2016.

There being no further business to come before the Board, this meeting was adjourned at 8:50 PM.

These minutes were adopted by the Planning Board on March 22, 2016.