TOWN BOARD WORK SESSION AGENDA

Wednesday, April 26, 2017, 2017, 7:00 PM
Supervisor R. Anthony LaFountain, presiding

I. Call to Order
II. Approval of Minutes – March 22, 2017
III. Monthly Reports - March
IV. Public Hearings - None
V. Guests
   a. None
VI. Action Items
   a. Oak and Apple - Review of Planning Board and Conservation Board Memos - LaFountain
   b. Oak and Apple - Out of District Sewer Agreement and Sidewalk Waiver - Valentine
   c. Ron LaMagna, Permit Requirements for Fences - Costello/LaFountain
   d. 2000 Empire Blvd., Directional Signage in Town Sanitary Sewer Easement - Valentine
   e. Easement Abandonment at 4 Crowne Pointe - Valentine
VII. Informational Items
   a. None
VIII. Held Items
   a. Jomanda Way, Expanding No Shooting Petition - LaFountain
   b. Preservation of Curb Cut and Parking Requirement Relief, 2136 Penfield Road - Costello
   c. Sign Ordinance Update/Proposed Ordinance Revisions - Costello/LaFountain
   d. Vision Dodge Additional Parking, 920 Panorama Trail - Valentine
   e. Outside Storage of Tires at 1821 Penfield Road - Costello
   f. Public Golf Course Moratorium Extension - LaFountain
IX. Old Business – None
X. New Business
XI. Executive Session
XII. Next Meeting:- May 10, 2017
XIII. Adjournment

This meeting will be video recorded and broadcast live via the town’s website www.penfield.org and the Town’s Government Access Cable channel 12, digital 5.12. Questions regarding video coverage contact Penfield TV at (585) 340-8661.
Town Board Work Session Minutes  
April 26, 2017  
7:00 PM

I. Call to Order

Present:
Supervisor LaFountain
Councilwoman Kohl
Councilwoman Metzler
Councilman Quinn

Also Present:
Dick Horwitz
Lisa Grosser
Mark Valentine
Peter Weishaar

Absent:
Councilman Moore

II. Approval of Minutes – 3/22/17
CM Quinn moved for the approval of the Minutes of March 22, 2017, CW Metzler seconded the motion.

III. Monthly Reports – The majority of the reports for March have been submitted, the balance should be in by weeks end.

IV. Public Hearing – None

V. Guests – None

VI. ACTION ITEMS

a. Oak and Apple – Review of Planning Board and Conservation Board Memos – LaFountain
Supervisor LaFountain stated that there are three (3) matters for discussion. The Board has asked Mark Valentine to present a summary of the history of the site including Planning Board and Conservation Board comments. The Town Board and legal counsel can then ask questions.

Mark Valentine presented the following summary:

1) A detailed list /synopsis of how the project plan has changed since it was first presented as a sketch plan.

The responses below describe the evolution of the Applicant’s proposed site plan from the initial Sketch Plan application, presented to the Planning Board on January 14, 2016, versus the approved site plans last updated on December 5, 2016.

i. The total number of parking spaces proposed for the site was reduced from 47 down to 13 total spaces. Of the 47, 34 were proposed as land banked parking.
ii. The proposed acreage of the Farmstead Area was reduced from 5 acres to approximately 1 acre.

iii. The proposed decorative pond located near Dublin Road, as shown on the Sketch Plan dated 11/25/2015, was removed from the site plan.

iv. Utilities were relocated in such a way as to not disturb any of the Steep Slopes EPOD delineated on the site plans.

v. Relocation of the farm access lane away from neighboring properties as shown on the Sketch Plan dated 11/25/2015. The access lane, as approved, is located along the main entrance drive.

vi. There was initially some concern over the use of the second floor space based on the Applicant’s originally submitted floor plans. The Applicant revised the floor plans and explained the second floor space would be used for the owner’s office with a small kitchen for staff’s use and a full bathroom for health code requirements for any workers who need to wash up and/or change clothes.

In addition, the Planning Board imposed the following conditions in its approval resolution, dated December 8, 2016, regarding the operations of the cidery:

Condition #26 includes:

a. The hours of operation for the proposed tasting room shall be limited to 11:00 AM to 7:00 PM on Thursday, 11:00 AM to 8:00 PM on Friday and Saturday, and 11:00 AM to 7:00 PM on Sunday during the fall harvest season.

   NOTE: There are no set hours of operation for an agricultural use within the RA-2 Zoning District.

b. Per the language of the Easement found in Section III(B)(1): Farm Operations, the cidery shall be used to make cider only from apples grown on the property which may be blended with other apples and ingredients from offsite sources and also in accordance with New York State Agriculture and Markets Law.

c. Per the representations of the Applicant, there shall be no outdoor speakers or live music on the premises. All sources of music shall be limited to the interior of the cidery structure.

d. All building mounted and light pole fixtures are dark sky compliant and shall not spill onto adjacent properties. Decorative low wattage uplights are approved for street trees. Light fixtures will have a control mechanism to keep the lights off during non-business hours.

Condition #28
Consistent with the provisions of the Easement, and the representations of the Applicant, the Applicant shall not be permitted to conduct tastings of, or sell at retail for consumption on or off site, any other non-cider alcoholic product such as New York state labeled beer, wine or liquor manufactured by a licensed brewery or licensed farm brewery, licensed winery or farm licensed winery, and/or licensed distiller or licensed farm distiller.

Condition #29
No banquet, party facilities, or outside storage shall be permitted except as otherwise provided for herein or specified in the Easement.
2) Response to Mr. Mazur's recent submission, point by point.

Regarding the comments raised by Mr. Mazur in his letter submitted to the Town Board, dated February 22, 2017, the following responses have been provided by the PRC for the Board’s review and consideration.

i. All buildings and accessory uses comply with the 150 foot setback required by the Easement.

- References to the suggested alternate farmstead location from the anonymous submitter on November 15, 2016.
- The suggested location would place the farmstead at or near the minimum front setback allowed by the Easement. It does not account for the additional site improvements, such as an adequate parking layout, which would then be located within the 150 foot setback area.
- The approved plan meets the requirements of the Easement’s condition for a 150 foot setback from all property lines.
- The farmstead, as approved, is located 280 +/- feet from the nearest setback line (430 +/- from the property line).
- This location provides the greatest amount of setback from all adjacent properties.

Peter Weishaar confirmed that the alternative sketch received was not an engineered drawing.

Valentine said yes, PRC reviewed the drawing and submitted comments to the Planning Board, after review the Planning Board submitted comments to the Town Board. The Conservation Board also reviewed and concurred that the proposed area was the best location for the farmstead.

ii. Viewshed & iii. Viewscape

Mazur states these would be much better.

- PB: Cidery structure is in kind with the rural nature of the surrounding area
- PB: Location of the cidery is an acceptable site for the farmstead area.
- PB: Approved farmstead area location allows for the public to access the hilltop through the patronage of the cidery under the supervision of the property owners.

- Neighbors have expressed concerns about visibility of parked vehicles, including the headlights at night, and the impact that it may have on the rural setting.
- By moving the parking lot within the 150’ buffer of the road, vehicles and lights will be more visible and may have a negative impact to adjacent with unwanted light glare.

- Approved location of the farmstead reduces visibility of the parking due to the natural topography of the site.
- Applicant provided photographs and renderings to demonstrate vehicles in the parking lot at the top of the hill will not easily be visible from the road.
- See Applicant’s response letter, dated October 21, 2016, regarding the memo provided by the Town’s Architecture Consultant; and page 2 of the Applicant’s renderings.

iv. Scenic Vista

Mazur states the suggested alternate location would be much better.

- The alternate farmstead location would not provide any public access to the hilltop and its vista. This area would likely be used for the cultivation of crops instead.
- PB: Cidery structure is in kind with the rural nature of the surrounding area
- PB: Location of the cidery is an acceptable site for the farmstead area.
- PB: Approved farmstead area location allows for the public to access the hilltop through the patronage of the cidery under the supervision of the property owners.

v. Topography
Mazur states the topography would not change with the alternate farmstead location.
  - Alternate location would impact Steep Slope EPOD and a drainage way leading to a Watercourse EPOD.
  - Although the sketch plan submitted with the anonymous comment attempted to show a more compact site plan, the disturbance to the EPODs would still be a cause for concern.
  - According to the PRC’s letter to the Planning Board, dated November 30, 2016, the sketch places the buildings and parking right between these two EPODs, with no consideration for site access or the necessary filling and grading to level off the pad area for the proposed buildings.

Applicant Response Letter, dated December 5, 2016, to anonymous submitter.
  - Applicant provided a map with an overlay of the proposed site improvements in the suggested alternate location.
  - The mapping overlaid the necessary site work to accommodate for parking and emergency vehicle access around the site and showed a greater disturbance to the Steep Slope and Watercourse EPODs.

Planning Board Letter to Town Board, dated December 8, 2016
  - Planning Board provided responses regarding the suggested alternate farmstead location following a deliberation of the merits to the proposal.
  - Planning Board stated that throughout the review process, it worked with the Applicant and their engineer to ensure that any disturbance to the EPODs were avoided. The access driveway, the building locations, and the parking area were specifically designed and sited to avoid any impacts to either of these environmentally sensitive areas.

Valentine submitted photos of the site with standing water in the drainage way from recent rainfall. PRC and the Planning Board are concerned that changing the location of the farmstead would negatively impact the drainage way.

Weishaar asked if changing the location would also create a larger area of disturbance.

Valentine stated, yes it would.

Fire Department Access
Mazur states fire department access would be the best in the alternate location as it would be a mostly flat driveway with easy access in the winter.

PRC’s letter to the Planning Board, dated November 30, 2016
  - The sketch shows a very compact layout that doesn’t take into account the necessary turning radii of these larger vehicles. Notes concerns with the ability for emergency and other larger delivery vehicles being able to properly access the site.
  - Without proper turning radii, emergency apparatus won’t be able to negotiate their way around the entire site, and therefore it won’t be considered in compliance with the NYS Fire Code.
  - Driveway was designed to meet the necessary standards for civilian and emergency vehicle access.
vi. Vegetation
Mazur states the alternate location would be best for the existing vegetation and the Applicant’s approved location would cut through a hedge for the driveway.
- Existing vegetation consists of tall grasses and fallow crops. Like any property owner, the owners have the right to remove any unwanted vegetation.
- Planning Board reviewed the driveway location and determined the site distance was sufficient for accessing the property.

vii. Sightlines, driveway, farm vehicles
Mazur states the alternate location would be very good for sightlines, driveways, and farm vehicles, and the approved location is restricted due to topography and vegetation.
- PB reviewed the access driveway location and determined the site distance was sufficient for accessing the property.
- Driveway designed to meet the necessary standards for vehicular and emergency vehicle access. Drainage is directed away from the driveway surface to minimize runoff and erosion of the gravel surface.
- Property Maintenance Agreement required for the maintenance and upkeep of the driveway surface.

viii. Field access
Mazur states the current field access lane is the best place and it should remain.
- Applicant reviewed several locations the farm access lane as the existing one travels through the Steep Slope EPOD. Its use pre-dates the establishment of the Town’s EPODs.
- Applicant relocated the farm access lane to stub off from the main access driveway to eliminate disturbance to the EPODs.
- Previous versions of the plans proposed the farm access lane in different locations: First version featured the lane at the southern property border; Second version from Sweets Corners Road.
- Applicant abandoned both options based on the request of the Planning Board and the testimony of the adjacent property owners at the sketch plan public hearing meeting.
- Approved plans show a formal curb cut access for the driveway on Dublin Road for vehicular and farm equipment access the site through a single location, with adequate site distances, thus reducing potential traffic conflicts along Dublin Road.

ix. Acres available for farming
Mazur states the alternate location would be better and it would reduce acres used.
- Anonymous submitter’s sketch plan attempted to show a more compact site plan.
- PRC’s letter to the Planning Board, dated November 30, 2016: the sketch places the buildings and parking right between these two EPODs, with no consideration for site access or the necessary filling and grading to level off the pad area for the proposed buildings.
- Applicant Response Letter, dated December 5, 2016, to anonymous submitter.
- Alternate location is in a low/wet/flat area that is located between a Steep Slope EPOD and a Watercourse EPOD. This area consists of a large drainage area where natural runoff from the upland sloped areas collects.
- Natural conditions of the soil structure changed over time such that existing soil structure would not be conducive to the building of structural foundations, or for long-term farming operations as required to support the proposed agricultural use.
Mr. Mazur’s comments also made reference to land banked soil area on the approved site plans.
- It should be noted for clarification that the plans only include an area for a temporary topsoil stock pile, which typical for any new site development.
- It is possible that Mazur’s comment was directed at the land banked parking. With regards to the matter of land banked parking, the Applicant originally proposed 34 land banked spaces.
- However, the Planning Board had the land banked parking removed from the site plan to continue to reduce the potential impact of the development.

x. Light and noise
Mazur states the alternate location would be better and would shield neighbors from noise and light including cars.
- Approved plans ensure lighting and noise sources are centralized on the property allowing for the greatest possible distance from all adjacent properties.
- PB App Res: all building mounted and light pole fixtures are dark sky compliant and shall not spill onto adjacent properties. Decorative low wattage uplights are approved for street trees. Light fixtures will have a control mechanism to keep the lights off during non-business hours.
- Regarding the noise impact, the use of the property is primarily for agriculture operations.
- PB App Res: Per the representations of the Applicant, there shall be no outdoor speakers or live music on the premises. All sources of music shall be limited to the interior of the cidery structure.
- PB App Res: The hours of operation for the proposed tasting room shall be limited to 11:00 AM to 7:00 PM on Thursday, 11:00 AM to 8:00 PM on Friday and Saturday, and 11:00 AM to 7:00 PM on Sunday during the fall harvest season.
- Customary Agricultural Operation: Applicant is permitted to perform the necessary work to tend to the crops and orchards grown on the lands. This type of work is consistent with surrounding parcels in the area that also farm the lands for the cultivation of crops.
- The use of a cidery is a permitted use consistent with agricultural operations.

Valentine submitted photos to the Board in which the applicant drove his truck to the top of the slope to show that it is not visible from the road. The location of the parking in the back also eliminates lights from vehicles being visible from Dublin Road.

Weishaar added that the Planning Board requested this information to determine the best location for the parking lot.

xi. EPODs & xii. EPODs II
Mazur states the alternate location would be better and the construction and water runoff would not impact the steep slope EPODs. In addition, Mazur states water runoff could be directed south (to potential pond location).

PRC’s letter to the Planning Board, dated November 30, 2016
- Applicant has consciously designed their site layout to avoid the Watercourse EPOD on the northwest corner, and the Steep Slopes EPOD that wrap around the property from the west side, around the north end and to the east.
- The anonymous submitter’s sketch plan places the buildings and parking right between these two EPODS, with no consideration for site access or the necessary filling and grading to level off a pad area for the proposed buildings. If more detail were provided, it could be expected that the associated grading would impact both of the aforementioned EPOD’s, which the applicant has shown, can be avoided.
Applicant Response Letter, dated December 5, 2016, to anonymous submitter.

- Applicant provided a map with an overlay of the proposed site improvements in the suggested alternate location. The mapping, which included the necessary site work to accommodate for parking and emergency vehicle access around the site, shows a greater disturbance to the Steep Slope and Watercourse EPODs.

- Proposed area identified is in a low/wet/flat area that is located between a Steep Slope EPOD and a Watercourse EPOD. This area consists of a large drainage area where natural runoff from the upland sloped areas collects.

- The soil structure has changed over the years such that the existing soil structure would not be conducive to the building of structural foundations, or for long-term farming operations as required to support the proposed agricultural use.

- Due to soil structure and physical conditions of the suggested location, substantial drainage improvements would be required to collect runoff from the sloped area and convey it away from any proposed building or parking areas necessary for a farmstead.

- This would require greater disturbance within the farmstead area itself

- More disturbance to the slope EPOD and waterbodies EPOD buffers would be required to properly account for vehicular and farm equipment access and required turning movements that would be affected by the necessary drainage improvements.

Planning Board letter to the Town Board, dated December 8, 2016

- PB provided responses regarding the suggested alternate farmstead location following a deliberation of the merits to the proposal.

- PB states throughout the review process, it worked with the Applicant and their engineer to ensure that any disturbance to the EPODs were avoided. The access driveway, the building locations, and the parking area were specifically designed and sited to avoid any impacts to either of these environmentally sensitive areas.

3) Concern about drainage, pesticides and runoff from a "top of the hill" farmstead vs one near the road.

Regarding the matter of site drainage from stormwater runoff, the project:

PB Approved plans for the cidery structure that will require less than one (1) acre of land. The plans call for gravel driving surfaces throughout the property for vehicular circulation. Roof leaders (downspouts) will be directed to splash blocks and the water will infiltrate naturally on the surface.

Due to the small size of the project a SWPPP (Stormwater Pollution Prevention Plan) will not be required. Further, due to the overall size of the property, listed at 26.97 +/- acres, all stormwater runoff will be handled on site and is not expected to negatively impact any adjacent parcels. Therefore, the data sufficiently supports the findings of the Planning Board’s approval resolution regarding the matter of stormwater runoff.

Mr. Braman submitted comments about the potential for erosion and runoff impacting his property, located at 1411 Sweet Corners Road.

The PRC reviews these matters during its internal review process of site plan proposals. For this application, the limits of disturbance for the project are contained to the flat plateau area of the hill and to a portion of land that is not in the Steep Slope EPOD area that faces away from Braman’s property. The existing topography of the property allows this area to be the most feasible location for the farmstead area based on the Applicant’s site plans.

The Town requires developers to install and maintain erosion control measures through the construction process, which is reviewed and inspected regularly by the Engineering Department. These measures are designed and installed to prevent erosion caused by runoff and to protect neighboring properties.
Further, the Planning Board worked with the Applicant in its site plan review process to ensure the sensitive EPOD area will remain undisturbed throughout the construction and build out of the farmstead area.

Regarding the matter of pesticides, the property has been historically used agriculturally for more than 50 years, and likely more. The Applicant intends to plant 530 dwarf apple trees. The orchards, shown on the plans, are on the west side of the property at a lower elevation. The Applicant has stated they have secured the necessary licenses/permits to apply the approved chemicals to maintain the orchards. This past growing season a portion of the lands on the property were leased out to a local farmer who grew and harvested corn.

The parcel is a listed within the Monroe County Agricultural District and is identified as an agricultural property in the Town of Penfield in the RA-2 Zoning District. The use of approved of pesticides and other chemicals is regulated by the State of New York and the Applicant must comply with the rules and regulations set forth by the State to obtain the necessary licenses and/or permits to apply chemicals.

It should be noted that three (3) of the four (4) properties sharing a border with this site also conduct agricultural operations for the cultivation and harvesting of crops annually, and likely use similar or the same chemical and pesticide treatments.

Valentine added that PRC, Planning Board and Conservation Board all support the location of the farmstead.

Councilwoman Metzler stated that the Conservation Board reviewed the application and submitted two (2) reports from August of 2016 and February of 2017. They also reviewed the placement of the farmstead and believe that the location meets all of the criteria.

The Board discussed and agreed to the location of the farmstead.

Valentine will submit a resolution at the next Legislative Session on May 3, 2017

b. Oak and Apple – Out of District Sewer Agreement and Sidewalk Waiver – Valentine

Mark Valentine reviewed a sewer map of the area. The closest sewer is on Dublin Road. The owner is proposing to install a Town dedicated sewer on their side of the road that will be brought onto the property and will be deep enough for future access for neighboring properties. The sewer would be dedicated to the Town. The adjacent property owners can then petition the Town Board to create a Sanitary Sewer District Extension.

Councilman Quinn asked if the property to the north of the sewer connection is residential?

Valentine said it is the same property owner, and he is supportive and has granted easements for the sewer installation.
Valentine then reviewed a map of the sidewalks in the Town. The closest sidewalks are at Dublin Road or NYS RTE 250, there are no sidewalks east of the area. The closest sidewalk is 2/3 mile away.

The Board discussed and agreed to both the out of district sewer agreement and the sidewalk waiver.

Valentine will submit a resolution at the next Legislative Session on May 3, 2017.

c. Ron LaMagna, Permit Requirements for Fences – Costello/LaFountain

Supervisor LaFountain stated that this item will be held for the next Work Session on May 10, 2017.

d. 2000 Empire Blvd., Directional Signage in Town Sanitary Sewer Easement – Valentine

Mark Valentine introduced Teresa Viggiani, the Property Manager for the project. They are requesting a Hold Harmless agreement to place their sign in a Sanitary Sewer easement.

Valentine continued to say this is a medical building, and there is another medical building located behind it, as such the public needs some directional signage to find it. The applicant has discussed the location with Andy Suveges, Code Compliance Officer and he supports the location. The building is on the southeast side of Empire Boulevard, the sign requires a 20 foot front setback and there is a required 10 foot setback to a travel lane. The sewer is of no concern.

Councilwoman Metzler asked if the sign location is optimal.

Teresa Viggiani said the sign could go closer to the road, but would require a Zoning variance which would create a time constraint. The location is sufficient for visibility from Empire Boulevard.

The Board discussed and agreed to issue the Hold Harmless Agreement.

Valentine will submit a resolution for the next Legislative Session on May 3, 2017.

e. Easement Abandonment at 4 Crowne Pointe – Valentine

Mark Valentine submitted a photo and record map of the site to the Board for review. The property backs up to the Town’s regional pond. Valentine then explained that the easement was originally given to secure additional space for the pond. The pond was established through Incentive Zoning as part of the Windham Woods development, and the extra space was not needed.
Valentine stated that the model home at 4 Crowne Point has been sold and the owner would like to install a fence. The easement is no longer needed and can be abandoned. Valentine added that the easement also includes a portion of the properties at 6 and 8 Crowne Point.

Supervisor LaFountain asked the Board if they would be okay allowing the easement abandonment for all three (3) properties.

The Board discussed and agreed to allow the easement abandonment for 4, 6 and 8 Crowne Pointe.

Valentine will submit a resolution at the next Legislative Session on May 3, 2017.

VII. INFORMATIONAL ITEMS
a. None

VIII. HELD ITEMS
a. Jomanda Way, Expanding No Shooting Petition – LaFountain
b. Preservation of Curb Cut and Parking Requirement Relief, 2136 Penfield Road – Costello
c. Sign Ordinance Update/Proposed Ordinance Revisions – Costello/LaFountain
d. Vision Dodge Additional Parking, 920 Panorama Trail – Valentine
e. Outside Storage of Tires at 1821 Penfield Road – Costello
f. Public Golf Course Moratorium Extension – LaFountain

Supervisor LaFountain requested that item f. of the Held Items be removed as a resolution was approved in March extending the Moratorium.

IX. Old Business – None

X. New Business – None

XI. Executive Session – Real Estate, Litigation and Human Resource Matters – None

XII. Next Meeting – May 10, 2017

XIII. Adjournment – Supervisor LaFountain adjourned the regular Work Session at 7:46 PM.

Lisa Grosser, RMC
Deputy Town Clerk