

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD April 21, 2011

PRESENT were CHAIRMAN RUSSELL OSTER, FRANK ESSER, GORDON CHRISTIAN, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ABSENT was MICHAEL CZORNYJ.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board opened the public hearing regarding the site plan application by Tamarac Auto Sales, LLC for the operation of a used car business located in the Bruno Law Offices at the Tamarac Plaza, with the display of vehicles in the parking lot of the Tamarac Plaza. The Notice of Public Hearing was read into the record. The Notice of Public Hearing was published in The Troy Record, posted on the Town Sign Board, posted on the Town website, and sent to adjacent property owners. George Rizk, presenting for the Applicant, gave a brief overview of the site plan. Chairman Oster opened the floor for receipt of public comment. Jim Slicher, 591 Brunswick Road, commented that the area for the proposed used car display was already a parking lot, and that this use should not present any issue so long as there are appropriate safety barriers in place. Hearing no further public comment, Chairman Oster closed the public hearing.

The Planning Board then reviewed the draft minutes of the April 7, 2011 meeting. Upon motion of Member Mainello, seconded by Member Wetmiller, the minutes of the April 7, 2011 meeting were unanimously approved as drafted.

The first item of business on the agenda was the site plan application submitted by Tamarac Auto Sales, LLC for operation of a used car business located in the Bruno Law Offices and Tamarac Plaza, with the display of vehicles in the parking lot of the Tamarac Plaza. Chairman Oster noted that the current site plan map was distributed at the April 7 meeting. Member Esser commented that all of these used vehicles should be test driven on the highway only, and no test driving should be allowed in the parking lot area. Mr. Rizk confirmed that all test driving of used vehicles will be on the highway, and that test driving of the vehicles will not be allowed in the parking lot area. Member Wetmiller stated that all cars should be plated, and therefore test driven on the public road, and not the parking lot. Mr. Rizk confirmed that dealer plates will be available, and used for all test driving of vehicles on the public road. Chairman Oster confirmed that this site plan is limited to the 8 parking spaces and display of 8 used vehicles only, and if there were any planned expansion in the future, the owner/applicant must come back to the Planning Board for amendment to the site plan. Member Esser also commented that there should be no used car display on any greenspace or grass surface, and that the display should be limited to the 8 parking spaces only. Chairman Oster confirmed that any used car display is limited to the 8 parking spaces depicted on the site plan. Mr. Kreiger stated that the safety barriers should be required to be installed before any cars are offered for sale, and that the Building Department will inspect the barriers. Chairman Oster inquired whether there were any further comments or questions on the application. It was confirmed that the Rensselaer County Department of Planning had commented that local consideration shall prevail. Thereupon, Member Mainello made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Christian. The motion was unanimously approved, and a negative

declaration adopted. Member Mainello then made a motion to approve the site plan subject to the following conditions:

1. All safety barriers depicted on the site plan must be installed prior to the offer of any vehicle for sale, and the Brunswick Building Department must inspect the safety barriers prior to the display of any vehicles;
2. All cars must be test driven on a public road with dealer plates, and no test driving the vehicles in the Tamarac Plaza parking lot is permitted;
3. No cars may be displayed on any greenspace or grass surface, and the area for used car display is limited to the 8 spots as depicted on the site plan.

Member Esser seconded the motion subject to the stated conditions. The motion was unanimously approved, and the site plan approved subject to the stated conditions.

The next item of business on the agenda was the major subdivision application by Charles Farrell for property located at the intersection of McChesney Avenue Extension and Town Office Road (Tax Map ID #102-2-3.12). The Applicant seeks to create 23 building lots on 54.57 acres of property with a new subdivision road. Brian Holbriiter and Scott Reese were present for the Applicant. Mr. Holbriiter stated that a full plan set for this proposed subdivision had been submitted to the Town for review, and that he has received initial review comments from Mr. Kestner's office. Mr. Holbriiter also stated that application had been submitted to the Rensselaer County Health Department for water and septic, and that he has received back a comment letter from the Health Department, and he is making minor changes to his application to address those comments. Mr. Reese has met with the Rensselaer County Highway Department regarding the subdivision road entrance and driveway entrances, and reports that the County Highway Department finds those locations to be suitable. Mr. Reese has also met with the United States Army Corps of Engineers regarding the overall project as well as the subdivision road entrance, and specifically the culvert that needs to be addressed for the subdivision road

entrance. Mr. Reese reports that the Army Corps of Engineers has determined that the culvert location is acceptable, and that limited work in wetland areas to address the culvert construction will be allowed but requires coverage under an Army Corps of Engineers Nationwide Permit, an application for which would need to be filed. Mr. Reese also confirms that the Rensselaer County Highway Department finds the culvert size and location to be acceptable. Chairman Oster inquired whether the New York State Department of Environmental Conservation would be involved regarding wetland issues. Mr. Reese stated that the application for coverage under the Army Corps of Engineers Nationwide Permit Program would be a joint application, in that the New York State Department of Environmental Conservation would need to issue a Water Quality Certification in conjunction with the Army Corps of Engineers Nationwide Permit. There was general discussion regarding the location of a stream on the project site. Mr. Holbriiter confirmed that three test wells had been installed on the project site, and that a pump test had been undertaken in one of the wells, with the remaining two wells being monitored during the pump test. Mr. Holbriiter also confirmed that a water quality test had been undertaken, and sent to a laboratory for analysis. Chairman Oster inquired whether there was adequate area being provided along the proposed subdivision road for potential future installation of public water and/or public sewer lines. Mr. Holbriiter stated that the Applicant was not proposing to install any dry lines. Mr. Kestner confirmed that the 60 foot right-of-way for the proposed subdivision road will leave adequate room for future utility installation. Mr. Kestner commented that the location of an electric power line running through the site needed to be addressed. Mr. Holbriiter confirmed that he had researched the easement for this utility across the project site, and has determined that there is no specific width identified in any recorded easement. The Applicant is proposing to grant to National Grid a 20 foot easement, being 10 feet on either side

of the power line on the project site. Mr. Holbriiter further confirmed that there were crossings underneath the power line, and that he is beginning discussions with National Grid concerning appropriate crossing approvals. Mr. Holbriiter will prepare a sketch of the proposed road height and power line height in the areas of the crossings for review by National Grid and the Planning Board. Mr. Kestner also commented that four of the proposed driveways were over 150 feet in length, and therefore the Town's Private Road Standards would apply. Further, Mr. Kestner commented that one of the proposed driveways is 900 feet in length, which raises concern regarding stormwater management and wetland issues. Mr. Reese responded that stormwater issues had been considered in conjunction with the driveway design, mindful of wetland location and potential impacts. Mr. Kestner commented that in regard to the pump test, he feels that there is a great distance between the well which was pumped and the wells that were monitored, and that he would like to review that observation with the Rensselaer County Health Department. Mr. Reese also reviewed vegetation plans for stormwater features and trees in the area of the culvert for the subdivision road off Town Office Road, noting that the Rensselaer County Highway Department would like that stream culvert cleared but that the Army Corps of Engineers prefers to maintain all vegetation in place. Chairman Oster noted that there are 23 private wells proposed for this project, and the Planning Board should investigate any potential impact of pumping 23 wells upon existing surrounding properties. Mr. Kestner stated that he would investigate that issue. The Applicant requested that a public hearing be scheduled on the preliminary plat submission. The Planning Board generally discussed the completeness of the application. Mr. Kestner stated that he feels the application is complete for purposes of moving the application forward to public hearing. The Planning Board determined that a public hearing will be

scheduled on the preliminary plat submission. The public hearing will be held at the May 5 meeting commencing at 7:00 p.m.

At this point, the regular business meeting of the Planning Board was adjourned, and a public hearing held with respect to the Berkshire Properties PDD major subdivision. The Notice of Public Hearing was read into the record. The Notice of Public Hearing was published in The Troy Record, placed on the Town Sign Board, placed on the Town Website, and mailed to all property owners within 500 feet of the project site. Chairman Oster opened the floor for receipt of public comment. Jim Sliecher, 591 Brunswick Road, commented that he is not opposed to the residential subdivision, but felt that the public sewer line and public water line were close enough to undertake an assessment as to whether public water and public sewer should be included in the project, and questioned whether any cost analysis was done prior to proposing any private well and private septic. Norman Fivel, 101 Wilrose Lane, questioned whether a Homeowner Association would be created, whether there would be any deed restrictions for the project, and whether any architectural review would be undertaken regarding the proposed homes. Ian Baumes, 44 Betts Road, inquired whether Betts Road would be widened in conjunction with the project, raising a safety concern. Hearing no further comments, Chairman Oster closed the public hearing on the Berkshire Properties PDD major subdivision.

The Planning Board then reconvened its regular business meeting.

The next item of business on the agenda was the Berkshire Properties PDD major subdivision. William Doyle, Esq., was present for the Applicant. Attorney Doyle responded to the comments received during the public hearing. First, Attorney Doyle stated that the Applicant did assess extension of public sewer and public water to the project site. The Applicant and its engineers assessed extending utilities through the Brunswick Little League parcel to the project

site, but given the presence of federal wetlands, utility installation through that area would be very costly and subject to regulatory requirements. Also, future maintenance of utility lines through wetland areas can be problematic, in terms of access to those utilities and wetland regulatory restrictions. The extension of utilities along Betts Road was also analyzed, and the economics were such that additional residential density is required to support the investment on extension of public utilities, and the Applicant does not want to increase the density but keep the lots at a minimum of one acre. Attorney Doyle also stated that public utilities are proposed to be extended on Betts Road in conjunction with the Hudson Hills Apartment PDD, and that the Berkshire Properties PDD major subdivision road has been laid out to accommodate future installation of water and sewer lines in the event those utilities are extended in conjunction with the Hudson Hills project. Attorney Doyle stated that there would be deed restrictions proposed for the subdivision, and that those were being prepared and will be submitted to the Town for review. Attorney Doyle stated that there was no architectural review committee in the Town, but stated that Berkshire Properties, LLC will be the developer of the parcels, and that an upscale – style home is being proposed. Attorney Doyle did state that some home depictions have been prepared in conjunction with the PDD materials, and would submit those to the Planning Board for review. Chairman Oster noted that the Planning Board would like to see these photographs as to home style and quality. Attorney Doyle stated that Betts Road is not being proposed to be widened in conjunction with the Berkshire Properties PDD residential subdivision, and that the subdivision road being proposed in conjunction with the project has been reviewed and approved by the Town as part of the PDD approval. Attorney Doyle did note that Betts Road is being proposed to be widened and realigned in certain areas in conjunction with the Hudson Hills PDD project. While not connected to the residential portion of this PDD, Attorney Doyle did state that

Betts Road will be widened with an additional turn lane in conjunction with the commercial portion of the PDD project along Route 7. Finally, Attorney Doyle did state that a Homeowners Association may be considered in conjunction with stormwater facilities, subject to review by the Town. Mr. Kestner confirmed that the Town had reviewed the Applicant's engineering analysis of alternate public water and public sewer proposals, and that the installation of private wells and private septic systems is supported given the constraints and considerations discussed by Attorney Doyle. Mr. Fivel questioned whether a number of "spec" houses would be built, or whether one "spec" house will be built. Attorney Doyle stated that his client's proposal would be to build one "spec" house, and then build out on a lot by lot basis. Mr. Sliecher wanted to confirm that there was enough area included in the subdivision right-of-way for future utility installation. Mr. Kestner confirmed that area for future water and/or septic lines were engineered into the right-of-way design. Member Tarbox asked whether final stormwater design had been prepared. Mr. Kestner stated that a stormwater report has been prepared, and that the area of the proposed residential lots has been addressed for stormwater management. Mr. Kestner did note that additional stormwater investigation will need to be undertaken in conjunction with the commercial site portion of this PDD project. Mr. Kestner did also state that the State's new Stormwater Regulations are promoting immediate infiltration of stormwater back to groundwater, rather than creating a series of detention ponds, and that this stormwater plan is consistent with the new regulations. Member Mainello inquired as to an area noted on one of the residential lots adjacent to Betts Road, marked as a 50 foot right-of-way for future road construction. Attorney Doyle explained that this 50 foot right-of-way, which will be put into the deed for this residential lot as a deed restriction, was put in place for potential road construction to the Hudson Hills PDD, but that no future plan for road construction is made. Chairman Oster

inquired whether the Applicant was looking for any initial approval for preliminary grading of the subdivision road. Attorney Doyle stated that his client would be requesting an excavation permit for preliminary grading work for the subdivision road. The Planning Board generally discussed the road grading issue at this stage of the application process, and determined that this was a question for the Town Building Department. However, the Planning Board did recommend that the grading permit be issued, subject to the requirement that the area be restored to its original condition in the event this project did not move forward to final approval, and that the Town consider requiring some sort of financial security to insure restoration. The Board confirmed that SEQRA had been completed on this application. Thereupon, Member Wetmiller made a motion to grant preliminary subdivision approval on the major subdivision application subject to final engineering review comments by Mr. Kestner's office. The motion was seconded by Member Esser. The motion was unanimously approved, and preliminary subdivision approval granted on the application. This matter has been placed on the May 5 agenda for consideration of the final subdivision plat.

Also in connection with the Berkshire Properties PDD matter, Attorney Doyle confirmed that his client had filed a waiver of subdivision application to divide off the 5± acre parcel for transfer to the Town of Brunswick for recreation and/or open space use consistent with the PDD approval. Again, SEQRA has been completed on this project. Upon motion of Member Mainello, seconded by Member Wetmiller, the waiver of subdivision application was unanimously approved.

The site plan application by Sphere STP, II, LLC for construction of a proposed Tractor Supply Store at 864 Route 7 (Tax Map #91.00-2-18) has been adjourned at the request of the

Applicant to the May 5 meeting. Mr. Kestner confirmed that the Applicant still needed to respond to the comment letter by NYSDOT.

The next item of business on the agenda was the waiver of subdivision application by Deb Roden for property located on White Church Road (Tax Map #103.-7-18.2). Deb Roden was present on the application. The Applicant seeks to divide an existing building lot into three pieces: a western portion to be merged into an adjacent residential parcel, a center portion to create an access area to adjacent agricultural property, and an eastern portion to be merged into an adjacent residential parcel. An existing building lot will be eliminated as a result of the application. The Planning Board generally reviewed the application with Ms. Roden to confirm the intent of the Applicants. Chairman Oster inquired whether there were any questions or comments regarding the application. Hearing none, Member Tarbox made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Wetmiller. The motion was unanimously approved, and a negative declaration adopted. Thereupon, Member Tarbox made a motion to approve the waiver of subdivision application subject to the following conditions:

1. This waiver application results in the elimination of one building lot, and the waiver does not create any new or additional building lots;
2. The western portion of this subdivision must be merged into the adjacent western residential parcel, with proof of legal merger filed with the Town Building Department;
3. The eastern portion of this subdivision must be legally merged into the eastern adjacent residential parcel, with proof of legal merger filed with the Town Building Department;
4. The center portion of the subdivision must be merged into the adjacent agricultural parcel located to the rear of this current lot, with proof of legal merger filed with the Town Building Department.

Member Mainello seconded the motion subject to the stated conditions. The motion was unanimously approved, and a waiver of subdivision approved subject to the stated conditions.

One item of new business was discussed.

An application for site plan approval has been submitted to the Planning Board in conjunction with the proposed Stoneledge residential project located in the City of Troy, with a portion of the project site located in the Town of Brunswick adjacent to Oakwood Avenue. The project site is located adjacent to Farrell Road and the existing High Point project. A portion of the project site located in the Town of Brunswick consists of a proposed access road off Oakwood Avenue into the project site located in the City of Troy. The Planning Board had several questions regarding the application, including whether the proposed access road would be a public road or private road, the location of a stormwater detention pond on property located in the Town of Brunswick, and the status of this matter under SEQRA before the City of Troy Planning Board. This matter has been placed on the May 5 agenda for further discussion, with the intent of coordinating with the City of Troy Planning Board to answer these and other questions the Brunswick Planning Board may have on this application.

One item of old business was discussed.

The Oakwood Property Management, LLC site plan applications pending before the Planning Board, and the related action of the Petitions to Rezone Parcels located on Oakwood Avenue pending before the Brunswick Town Board, were discussed. Attorney Terresa Bakner was present for Oakwood Property Management, LLC. Attorney Gilchrist reviewed the procedural history and status of both the Petitions to Rezone property as well as the pending site plan applications before the Planning Board. Also present was the Town's consulting engineer on these applications, Ronald Laberge, P.E., who reported to the Board that based upon his

technical review, as well as the technical review of his sub-consultant Sterling Environmental Engineering, P.C. with respect to noise impact issues, the applications were complete for purposes of moving the applications to public hearing. Attorney Gilchrist then reported that this matter has been discussed by the Brunswick Town Board at its April 14 meeting, and that the Town Board determined that the Petitions to Rezone were complete to move forward to public hearing, and concurred that a joint meeting and joint public hearing with the Planning Board on these related applications would be appropriate. The Brunswick Town Board recommended that a special meeting be scheduled for purposes of holding a joint meeting and joint public hearing on the applications submitted by Oakwood Property Management, LLC, both with respect to the Petitions to Rezone Parcels as well as the site plan applications. The Planning Board generally concurred that this was an appropriate procedure, and concurred that a special meeting and joint public hearing be scheduled. Accordingly, a special meeting and joint public hearing will be scheduled for purposes of conducting public hearing by both the Town Board and Planning Board regarding the Petitions to Rezone and site plan applications by Oakwood Property Management, LLC.

The **index** for the April 21, 2011 meeting is as follows:

1. Tamarac Auto Sales, LLC – site plan – approved subject to conditions;
2. Farrell – major subdivision – 5/5/11 (public hearing to commence at 7:00 p.m.);
3. Berkshire Properties, LLC – major subdivision – preliminary subdivision approval – final plat consideration at 5/5/11 meeting;
4. Berkshire Properties, LLC – waiver of subdivision – approved;
5. Sphere STP, II, LLC – site plan – 5/5/11;
6. Roden – waiver of subdivision – approved with conditions;

7. Stoneledge project – site plan – 5/5/11;
8. Oakwood Property Management, LLC – site plan – joint public hearing to be scheduled with Brunswick Town Board.

The **proposed agenda** for the May 5, 2011 meeting currently is as follows:

1. Farrell – major subdivision (public hearing to commence at 7:00 p.m.);
2. Berkshire Properties, LLC PDD – major subdivision;
3. Sphere STP II, LLC – site plan;
4. Wal-Mart Real Estate Business Trust – Brunswick Square PDD amendment – referral and recommendation/site plan;
5. Stoneledge project – site plan.