

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

MINUTES OF THE PLANNING BOARD MEETING HELD December 2, 2010

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

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

The Planning Board reviewed the draft minutes of the November 18, 2010 meeting. Several corrections were noted. Upon motion of Member Czornyj, seconded by Member Wetmiller, the draft minutes were approved with the corrections noted. A revised, final set of minutes will be filed with the Town.

The first item of business addressed by the Planning Board was a request by Landmark Development Group, LLC concerning the Highland Creek Planned Development District subdivision approval. Robert Marini was present for the Applicant. Mr. Marini is requesting a 90 day extension on the final conditional subdivision plat approval. The reason for this request is that the Applicant is finalizing a bonding security agreement and financial security issues with the Town concerning project infrastructure, which should be resolved shortly. Once those issues are solved, the Applicant will be in a position to have the final plat stamped and signed by the Planning Board and recorded in the Rensselaer County Clerk's Office. Mr. Marini confirmed that there were no changes made to the final plat, and that the Applicant was merely seeking the statutory 90 day extension for satisfaction of conditions attached to final plat approval. Chairman

Oster inquired whether there were any questions regarding the request. Hearing none, Member Czornyj made a motion to approve a 90 day extension for the final conditional subdivision plat approval on the Highland Creek Planned Development District, which motion was seconded by Member Wetmiller. The motion was unanimously approved, and a 90 day extension granted with respect to the final conditional subdivision plat approval on the Highland Creek Planned Development District.

The next item of business on the agenda was the site plan application in connection with the Duncan Meadows Planned Development District. Francis Bossolini, PE was present for the Applicant. Mr. Bossolini confirmed that a meeting was held on December 2, 2010 with Mark Kestner, Gus Scifo of the Brunswick No. 1 Fire Department, John Kreiger, Joseph McGrath of the New York State Building Code Department (NY Department of State), and Mr. Bossolini concerning Fire Code compliance issues for the project. Mr. Bossolini reported that fire apparatus access roads, road geometry, and building configuration was discussed, and that a consensus has been reached on configuration of the project that meets the letter and intent of the New York State Fire Code. Mr. Bossolini reports that this resolves all issues concerning Fire Code compliance issues raised by the Brunswick No. 1 Fire Department. Gus Scifo, who was present at the meeting concurred that Fire Code compliance issues have now been resolved. Mr. Bossolini will be submitting a letter for the record to that effect. The Planning Board confirmed that the issue of inclusion of a helicopter landing pad in the parking lot of the recreation field for this project has been referred to the Town Board for consideration. Mr. Bossolini confirmed that a full set of the current drawings for this project, with all detailed updates, are on file with the Town of Brunswick and have been distributed to the Planning Board members. Mr. Kestner stated that he had spoken with Town Superintendent Eddy and the County Highway Department

concerning the sight distance from Riccardi Lane onto McChesney Avenue with respect to the entrance road for the Duncan Meadows project. Mr. Kestner stated that more information was being developed, which may include removal of trees and some grading along McChesney Avenue. Mr. Kestner also confirmed that he will be meeting with Mr. Bossolini on details concerning sewage pump station for the project, and that this issue will be coordinated with the Highland Creek project. Member Mainello inquired as to the status of the stormwater and sight distance issue for the Warren parcel, 142 McChesney Avenue, in relation to the Duncan Meadows project. Mr. Bossolini stated that stormwater issues have been addressed in the stormwater plan for the Duncan Meadows project, and with the construction of the stormwater management facilities for the Duncan Meadows project, the Warren parcel should see an improvement in terms of stormwater impacts. Mr. Bossolini confirmed that he was continuing to work on the sight distance issue with respect to the parking of vehicles by Warren in front of his house, which do appear to be within the County highway right-of-way. Chairman Oster stated that a private lot owner parking vehicles in a County highway right-of-way should not be the Applicant's issue. However, Mr. Bossolini stated that he was continuing to work on this, and will coordinate with Mr. Kestner to insure that sight distances are compliant. Member Tarbox had some questions concerning the stormwater facility to the rear of the Warren lot, including whether a drainage pipe is open and may cause a safety issue. Mr. Bossolini stated that the structure is designed with adequate safety features. The Planning Board determined that all updated plans have now been filed with the Town, and all Fire Code compliance issues have been resolved, and is prepared to continue the public hearing on this project. The Planning Board has scheduled the continuation of the public hearing on the site plan and minor subdivision applications for its December 16 meeting at 7:00 p.m.

The next item of business on the agenda was the Oakwood Property Management, LLC applications concerning property on Oakwood Avenue. These applications include a site plan application before the Planning Board, a petition to rezone property pending in front of the Town Board which has been referred to the Planning Board for recommendation, a waiver of subdivision application concerning a proposal by Oakwood Property Management to transfer property to an adjoining property owner (Murray), as well as the SEQRA Lead Agency Coordination Notice received from the Town Board concerning these matters. It is noted on the record that Mr. Kestner has recused himself from consideration of these applications. LaBerge Engineering, P.C. is retained by the Town to serve as the review engineer for the Oakwood Property Management project. Teresa Bakner, Esq. and Scott Reese were present for the Applicant. Chairman Oster noted that he had received a telephone call from Sean Gallivan, who explained that he unfortunately had a business conflict and could not attend the meeting, but that his attorney and technical consultant would be present. Chairman Oster confirmed on the record the receipt of two letters from the office of Donald Zee, P.C., dated November 18, as well as a letter from Teresa Bakner, Esq. dated December 1, 2010 responding to the Zee letters. Mr. Reese and Attorney Bakner also handed up to the Planning Board a color photograph of concrete bins on the site in which landscaping materials are stored, and also an updated site plan with revision date 12/2/10. Chairman Oster wanted to confirm that the issue of a 50' setback on "Parcel 14" will need to be addressed, either through an area variance from the Zoning Board of Appeals or whether the Planning Board has the authority to waive that setback requirement. Attorney Gilchrist stated that he will research that issue. Member Czornyj noted that the updated site plan does show the existing building on the southern portion of "Parcel 14", but it does not appear to have a 50' setback. After discussion, it was noted that this building has existed on the

site since prior to acquisition by Oakwood Property Management, LLC, that it was not the subject of the current site plan application, and that any issue associated with that existing building was within the jurisdiction of the Building Department. Attorney Bakner then reviewed the response dated 12/1/10 to the two letters dated November 18 from Donald Zee, P.C. Chairman Oster confirmed that all wood mulching operations will occur entirely on "Parcel 14", which was the original parcel subject to the 2002 site plan approval. Attorney Bakner confirmed that was accurate. The Planning Board engaged in discussion concerning a proposed berm to be constructed by Oakwood Property Management on property that it currently owns as well as on property it seeks to transfer to an adjoining property owner (Murray), which is subject to a waiver of subdivision application pending before the Planning Board. Attorney Bakner stated that the part of the berm that will be located on the parcel to be transferred to Murray will be owned by Murray and all future owners of the Murray lot, whereas the part of the berm to remain on property retained by Oakwood Property Management, LLC will be owned by Oakwood Property Management. Chairman Oster inquired whether Murray or any future owner of the Murray lot could remove the berm in the future. Attorney Bakner stated that Murray and all future owners of the Murray parcel will be owning and managing that portion of the berm located on that property. Member Czornyj inquired whether the Planning Board could require the entire berm, including that portion located on the area sought to be transferred to Murray, to remain in perpetuity. Mr. Reese stated that portions of the berm will be owned and managed by two separate property owners, but that given the height and slope of the berm, it is not likely that the portion to be owned by Murray could be removed while the portion on the Oakwood Property Management parcel is maintained. Ronald LaBerge, P.E. concurred that if Murray were to remove the portion of the berm on his lot, the grade is so steep that a retaining wall

would be required to maintain the berm on the Oakwood Property Management parcel. Further, Mr. LaBerge stated that the Planning Board could certainly place a restriction on that part of the berm to be retained by Oakwood Property Management, requiring that the berm remain in place. The Planning Board generally discussed distinction between a deed restriction and a condition to be placed on any action on the site plan application. Member Mainello inquired whether the noise study which had been undertaken for this application showed that the berm will act as noise mitigation. Attorney Bakner stated that the berm will serve as a noise mitigation. Member Mainello then asked when Oakwood Property Management sought to transfer the property to Murray. Attorney Bakner stated that Oakwood Property Management is looking to transfer the property to Murray as soon as possible, and then build the berm after the property transfer. Attorney Bakner explained that the agreement between Oakwood Property Management and Murray includes the requirement by Oakwood Property Management to complete construction of the berm as well as permission for Oakwood Property Management to enter the property for berm construction. Member Esser asked how high the berm will be. Mr. Reese stated that the berm would be between 22' – 30' in height, with a 3/1 slope. The Planning Board then had questions concerning the proposed 101' buffer associated with the Petition to Rezone “Parcel 12” and “Parcel 13”. Member Czornyj inquired whether the rear and side yard setbacks would be measured from the property line, or from the 101' buffer line. Attorney Bakner stated that the answer depended on the proposed use, and that all potential B-6 uses would need to be located exclusively on the rezoned area and that the 101' buffer would need to remain intact, whereas a multi-family housing proposal, which is allowed in all zoning districts in the Town of Brunswick pursuant to special use permit review, could include structures or accessories within the 101' buffer area. Attorney Bakner stressed that any future proposal for “Parcel 12” and “Parcel 13”

would be subject to Town review and approval. The issue of hours of operation for the Gallivan operations was also discussed by the Planning Board. It was noted that the original site plan approval for "Parcel 14", as well as the Best Management Practices for this facility included in the Memorandum of Agreement, limit the hours for operation of the grinders from 7:00 a.m. to 7:00 p.m. Attorney Bakner stated that there were no restrictions on the other activities on the Gallivan operation, including the parking and dispatch of trucks. Member Esser stated that complaints have been received by the Town concerning starting up large trucks in the middle of the night. A general discussion was held concerning those instances where a Planning Board could place hours of operation restriction in connection with site plan review. Concerning the issue of trucks leaving the site, Attorney Bakner reiterated that Oakwood Property Management was responding to public comments received that the neighbors did not have a problem with the Gallivan operations when they were on the original 5 acre "Parcel 14", which did include truck parking and dispatch, and that the current site plan application was seeking to again put those operations on "Parcel 14". Also, Attorney Bakner stated that the Town of Brunswick did not have a noise ordinance. Finally, Attorney Bakner stated that both "Parcel 14" and "Parcel 15" are within an industrial zoning district in the Town. The Planning Board also discussed the Petition to Rezone "Parcel 12" and "Parcel 13", particularly with respect to the presence of wetlands adjacent to Oakwood Avenue and the ability to construct an access road directly onto these two parcels off Oakwood Avenue. Attorney Bakner stated that the wetland delineation was pending with the Army Corps of Engineers, and a jurisdictional determination was expected soon. Regardless, Attorney Bakner stated that an Army Corps Nationwide Permit for road access through this wetland area to uplands would, in her opinion and experience, not be any issue to provide an access road into these two parcels directly off Oakwood Avenue. Attorney Bakner

also reiterated the request by the neighbors that a “filling station” not be permitted on “Parcel 12” and “Parcel 13”, even though a filling station is a special permit use within the B-6 Zoning District. Attorney Bakner stated that Oakwood Property Management, LLC was agreeable to this condition. The Planning Board also discussed the location of vegetative screening as required on the 2002 site plan approval. The Planning Board began discussion concerning the Town Board’s SEQRA Lead Agency Coordination Notice. The Planning Board members will further deliberate on that issue at its December 16 meeting. Attorney Gilchrist also stated that the Town Board has formally referred the Petition to Rezone “Parcel 12” and “Parcel 13” to the Planning Board for review and recommendation, and that the Planning Board members should start their deliberation on that recommendation as well. The Planning Board members will contact Oakwood Property Management directly for individual site visits to review current site operations. This matter is placed on the December 16 agenda for further discussion.

The **index** for the December 2, 2010 meeting is as follows:

1. Landmark Development Group – extension to final conditional subdivision plat approval/Highland Creek PDD – approved;
2. Duncan Meadows PDD site plan – 12/16/10 (public hearing to continue at 7:00 p.m.);
3. Oakwood Property Management, LLC – site plan/waiver of subdivision/rezone petition referral – 12/16/10.

The **proposed agenda** for the December 16, 2010 meeting currently is as follows:

1. Duncan Meadows PDD – site plan and minor subdivision – public hearing to continue at 7:00 p.m.;
2. Oakwood Property Management, LLC – site plan/waiver of subdivision/rezone petition referral.