

PLANNING BOARD MINUTES

Wednesday May 18, 2005

WORK SESSION 6:30 P.M.

Roll call Miscellaneous
Minutes Agenda items
Sign review Communications
Update on pending items
Committee reports
Zoning reports

AGENDA ITEMS 7:30 P.M.

ITEM I

**MASTER PLAN 2015 - FORMAL RESPONSES/
COMMENTS / RECOMMENDATIONS TO THE
TOWN BOARD AFTER ANNUAL PUBLIC
HEARING.**

ITEM II

Lou Visone
Commercial

**REQUESTS CONCEPT PLAN APPROVAL FOR
DEVELOPMENT OF A 43,500 SQUARE FOOT
OFFICE PARK AT 9300 MAIN STREET.**

ITEM III

Holy Cross Lutheran Church
Restricted Business

**REQUESTS DEVELOPMENT PLAN APPROVAL
FOR A 2,835 SQUARE FOOT ADDITION TO
EXISTING CHURCH AT 8900 SHERIDAN DRIVE**

ITEM IV

Andrew Hunt
Traditional Neighborhood

**REQUESTS CONCEPT PLAN APPROVAL FOR
CONSTRUCTION OF A 15,467 SQUARE FOOT
WALGREEN'S DRUG STORE AT 6785 TRANSIT
ROAD.**

ATTENDING: Patricia Powers
Wendy Salvati
George Van Nest
Roy McCready
Jeff Grenzebach
Phil Sgamma
Gerald Drinker

INTERESTED PERSONS:
Donald Albrecht
Ron Talboys
James Blum
Lou Visone
Sean Hopkins
Councilman Bylewski
Attorney David Donohue
James Hartz
Kathryn Tiffany

MINUTES

Motion by Jeffrey Grenzebach, seconded by Patricia Powers to approved the minutes of the meeting held on May 4, 2005 as written.

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|-----------------|--------------------|
| Patricia Powers | AYE |
| Wendy Salvati | AYE |
| Jeff Grenzebach | AYE |
| Roy McCready | AYE |
| George Van Nest | AYE |
| Phil Sgamma | ABSTAIN new member |
| Gerald Drinker | ABSTAIN new member |

MOTION CARRIED.

ITEM I

MASTER PLAN 2015 - FORMAL RESPONSES/
COMMENTS/ RECOMMENDATIONS TO THE
TOWN BOARD AFTER ANNUAL PUBLIC
HEARING.

Jim Hartz said “These comments were received at the public hearing that was held on February 23, 2005. When the Planning Department receives comments they are taken under consideration and responses are prepared for the Planning Board to review. We prepared a document that we handed out showing a comparison between industrial and commercial lands in the previous zoning law and map, to the new zoning law and map. It does show significant additional commercial and industrial lands which counters some of the criticism of adopting the new zoning law. Also there was some talk about updating the Land Use Service Cost/Revenue Generation Study that was prepared by Nutter Assoc. in the development of the comprehensive plan. We have been criticized regarding what have we done to accomplish the goals in the Master Plan. We have included an action plan in the past about where things are in terms of accomplishing the goals in the Master Plan, and where we are in the fifteen year period - short, mid, long range plan. That will be included in the Town’s Comprehensive Plan when it is published or revised in the future. We are working on the Adequate Public Facilities Ordinance. Some of the comments that came out of that public hearing will be better addressed through the adoption of the Adequate Public Facilities Ordinance and the revised Subdivision Law, especially controlled growth and what we are doing with subdivisions in the future. The issue of private roads versus public roads was discussed, and responded to by the fact that we are going to include a response that each project will be reviewed on a case by case basis. A cost benefit analysis should be completed on those projects to determine whether the infrastructure should be public or private, and what issues are involved in doing that.

Chairman Powers said “I thought one of the most important responses was the table that was generated that shows the commercial and industrial tax base. The table shows that as a result of the revised zoning law there has been an increase of almost two thousand acres or almost a 75% increase in the industrial and commercial tax base in the Town. If there are no other comments I would look for a motion to refer this to the Town Board.”

ACTION:

Motion by Jeff Grenzebach, seconded by Wendy Salvati to refer the draft responses from the annual public hearing to the Town Board.

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|-----------------|--------------------|
| George Van Nest | AYE |
| Philip Sgamma | AYE |
| Gerald Drinkard | ABSTAIN new member |
| Jeff Grenzebach | AYE |
| Roy McCready | AYE |
| Wendy Salvati | AYE |
| Patricia Powers | AYE |

MOTION CARRIED.

ITEM II

Lou Visone
Commercial

REQUESTS CONCEPT PLAN APPROVAL FOR DEVELOPMENT OF A 43,500 SQUARE FOOT OFFICE PARK AT 9300 MAIN STREET.

DISCUSSION:

Jim Hartz gave a brief description of the proposed project, which is located off the north side of Main Street between DKS Accounting and the Park Plaza Motel. It is located in the Commercial zoning district. Lou Visone represented his project. He said “The parcel for the project and the Motel parcel were recently combined, even though it does not show on the plan, it is all one parcel at this point. Because of frontage requirements, I did purchase the Park Plaza Motel, and after I sold off DKS there was no address for the parcel, so I did combined them for tax purposes and to pick up the appropriate frontage for this project. Jeff Grenzebach asked what

the frontage is. Mr. Visone said there is 250 feet of frontage. Wendy Salvati said "We need you to give us a property survey. The site plan that you have provided to us, doesn't exactly show us what your entire property is. We need a property survey of the whole site so we know exactly what we are dealing with. You gave us a bunch of different surveys, we sat yesterday trying to piece them all together to try and get them to match this, and figure out what you were actually doing. Lou Visone said "This is what I am doing." Wendy Salvati said " But that doesn't show the motel. When I look at this, you only have 60 feet of frontage. We need to see the whole property, and then what you will have to do is - if the motel is not going to be subdivided off on a separate parcel - it needs to be factored in when you calculate your lot coverage, your open space area and all of that. It is going to be all those uses on one parcel so we need to estimate what your total land coverage is, and your Engineer should be doing that for you." Lou Visone said "I believe what is on here is enough frontage for this project." Wendy Salvati said "You need 100 feet of frontage." Mr. Visone said "Where are you coming up with 100 feet of frontage?" Wendy Salvati said "The Zoning Code." Wendy said "Mr. Visone we need a property survey of the whole piece you are planning to develop, because now the motel would be part of the parcel that you are developing. So, for us to look at what you are doing, we need to see everything that is on the property. There was more discussion about the design of the buildings, removal of mature trees, the septic system or systems, the parking lot, landscaping the islands, etc. Mr Visone said he wants to dress this area up with landscaping to make it aesthetically pleasing. Pat Powers asked if anyone in the audience wished to speak to this project. No one responded.

ACTION:

Patricia Powers told Mr. Visone the board will table this item and give his Engineer time to consider the points that he has agreed to this evening and come back with a boundary survey showing the entire project. Wendy added a survey showing the

structures as well so they can see the green space.

Phil Sgamma said he will recuse himself from any discussion and voting on this project, because he owns the adjacent property to the east.

ACTION:

Motion by Patricia Powers, seconded by Jeffrey Grenzebach to table the request for concept plan approval for a 43,500 square foot office park at 9300 Main Street.

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|-----------------|---------|
| George Van Nest | AYE |
| Phil Sgamma | RECUSED |
| Gerald Drinkard | AYE |
| Roy McCready | AYE |
| Jeff Grenzebach | AYE |
| Wendy Salvati | AYE |
| Patricia Powers | AYE |

MOTION CARRIED.

ITEM III

Holy Cross Lutheran Church
Restricted Business

REQUESTS DEVELOPMENT PLAN APPROVAL
FOR A 2,835 SQUARE FOOT ADDITION TO
EXISTING CHURCH AT 8900 SHERIDAN DRIVE

DISCUSSION:

Jim Hartz gave a brief history of the project which is located east of Shimerville Road in the Restricted Business District. The property has received full development plan approval under an earlier review process. They have consolidated their site plan, and will just be constructing the wing A addition off the east side of the existing building. The addition will match the existing architectural roof pitch, shingles, and look. Architect Don Albrecht said he had nothing to add but would answer any questions the board has. Jeff Grenzebach asked if the septic system was going to be new. Mr. Albrecht said they will use the existing septic system, Erie County Health Department has asked them to add to the capacity of the septic tank itself. The septic field for distribution is lightly taxed at this point. Pat Powers asked about the cross access to the west when the plan was larger and they were adding

another driveway. With the scale they are planning on they will only be adding to the east side, not the west side so they will not be doing that at this time. Pat asked if they still intended to have a construction road. Mr. Albrecht said that has been eliminated. There really is not a need to come in on the west side at all, because all the activity will be on the east side of the property and near the existing driveway. Pat Powers said they received traffic safety approval on February 2, 2004, a negative declaration was issued on March 10, 2004, they have landscape plan approval which was approved on March 23, 2005, and Engineering approval dated April 21, 2005.

ACTION:

Motion by Roy McCready, seconded by Wendy Salvati to recommend development plan approval to the Town Board for an addition to the Holy Cross Lutheran Church for a 2835 square foot addition at 8900 Sheridan Drive with the following:

1. Conditions of the Engineers approval.
2. Recommend Town Board waives the open space fee for this project.

ALL VOTING AYE. MOTION CARRIED.

ITEM IV

Andrew Hunt
Traditional Neighborhood

REQUESTS CONCEPT PLAN APPROVAL FOR CONSTRUCTION OF A 15,467 SQUARE FOOT WALGREEN'S DRUG STORE AT 6785 TRANSIT ROAD.

DISCUSSION:

Jim Hartz gave the board a brief description of the proposed project. This project just received a recommendation for a Negative Declaration from the MRC based on it conforming with zoning and the Comprehensive plan. It is located in the Traditional Neighborhood District of Swormville. The site plan shown here does have the zoning issues related to parking in the front, and could require a Special Exception Use permit. Anything over 10,000 sq.ft. does require a Special Exception Use permit. The site plan is an alternative to the one submitted to the MRC and the Town for discussion purposes. The aerial of the

site shows the two barns being eliminated. The ranch home remains, as well as the main residence.

Sean Hopkins shared new information on the project. The MRC has recommended issuance of a Negative Declaration. One of the outstanding issues that we needed to address with them was whether or not there were jurisdictional wetlands on the project site. URS Corporation did prepare a wetland delineation and issued a letter that, in their opinion, there was only one portion of the site that was questionable. It consisted of 5/100's of an acre. The letter went on to state that they believe it was non-inhabitable, an isolated wetland, and therefore, not subject to the jurisdiction of the Army Corps of Engineers. Even if it was, it's less than a tenth of an acre and would require a permit. I believe there are two issues that need to be resolved before this project can go forward. The Swormville traditional neighborhood district does not allow any parking in the front yard. As a result that this is a corner lot, located at the intersection of County and Transit, we are proposing a decorative wall that will surround the site and screen the parking. It will also enhance the landscaping. A lot of this has been done with the input of the Executive Committee of the Planning Board. The second issue is the need for a Special Use Permit from the Town Board, as we are more than 10,000 square feet. I know you can't approve this project this evening, or even recommend approval. We will go to the Zoning Board of Appeals and see whether they would be willing to consider the granting of a area variance. We may do that next month. Our client, Andy Hunt and Myron Hunt, Inc. are not the owners of the site. They have a contract to purchase the site with, I believe, Exxon Mobile. They are in a position now to either move forward or scrap this project. They are hoping that the project will go forward, and have expressed a willingness, on many occasions, to work with this board and other municipal boards in this town. The site itself is 3.1 acres. We are going to deed restrict the portion of the site that does contain some wetlands and probably is located largely in the flood

plain. There would be no future development; we would preserve that as permanent open space if this project goes forward. We also have a residence on County Road directly next to the project site. We are proposing a wooden stockade fence. If there is anything else we can do to make sure we minimize the impact of this project on their home, we would certainly be more than willing to do so. That's the project in a nutshell. I don't know what decision making ability the Board has this evening, but we would welcome any additional input.

Patricia Powers requested Jim go back to the site that was prepared and presented for the Municipal Review Committee purposes.

Sean Hopkins said that it shows exactly what they are not willing to do, but something that would strictly comply with the zoning code. In terms of not having any parking in the front yard on County Road, or the front yard on Transit Road, would of course require a Special Exception Use Permit.

Patricia Powers stated that this is because of the size of the building and because of the drive-thru. She wondered what the purpose was of presenting it to the MRC.

Sean Hopkins stated that it was prepared and presented to the Planning Board in November or December. This Board made it very clear that the Town would, in the approval process, adopt the new zoning code; that, of course, did happen.

Phil Sgamma stated that the MRC gave a negative declaration with the provision that you meet the requirements of the zoning laws. He also stated that the proposed wall was contrary to Traditional Neighborhood District and it blocked off the store and the ambient light from the store. The concept of a traditional neighborhood district is to make it user friendly, where people can walk by your store and see

your wonderful merchandise. That's the purpose of the old fashioned traditional neighborhood districts. I think your wall defeats that purpose.

Sean Hopkins stated that he understood that the character of the intersection had to be taken into consideration. He also stated that they were trying to make it pedestrian-friendly. With respect to that particular intersection in the Town of Clarence, customers are primarily going to arrive by car. In the future, if more pedestrians utilize Transit Road we could accommodate them. It is difficult at this time, given the previous land use decisions (which many are on the Amherst side), to make this site comply strictly with the TND zoning. There is a conflict because you want to see something that complies, but yet you have to take into consideration the character of that area.

Patricia Powers stated that Clarence has no control over land use decisions on the Amherst side and Sean Hopkins agreed.

Sean Hopkins stated that they have tried to go the "extra mile" in terms of the architecture. If you look at this plan in terms of the elevation, compared to the Walgreens that was approved sometime in the last ten years, I think we have come a long way. It's difficult to do this particular use on that corner without the parking and, obviously, the drive-thru.

Wendy Salvati stated that she didn't agree. She understands that the other corners are developed differently but feels that this is the gateway to the hamlet of Swormville. We have to start someplace to make it more pedestrian friendly. We can't always be finding reasons why we shouldn't do it, we believe it should start here. In fact, it should start on the other side of the street, which is also in the Traditional Neighborhood District - if those properties ever re-develop over time. Based on the decision that the MRC made, they issued their Negative Declaration based on the fact that you have a design that meets

zoning and the Master Plan. I don't think we have any other option but to go along with that and make a recommendation to deny it. I think if you were to go to the Zoning Board of Appeals and seek an area variance, they have to be cognizant of the SEQR decision as well. If they issue you an area variance the SEQR has to be re-opened. They can't over turn the SEQR decision. So I am not sure what your options are.

Sean Hopkins said "If we get an area variance we do comply with the zoning code. I guess that if SEQR has to be re-opened it has to be re-opened.

Patricia Powers said "If no one else has anything to say or any questions, I guess we are ready for a motion."

Motion by Jeff Grenzebach , seconded by Patricia Powers to DENY recommendation to the Town Board based on the fact that the project is in the Traditional Neighborhood District section 3.4.11 B-1 design standards. All parking shall be located on the side and in the rear of the building.

Roy McCready said "I think this design is most fair to the public. With the other design you have to walk to the entrance, you have the traffic problems."

Wendy Salvati said "When we were meeting with the applicant, there was even an attempt to perhaps negotiate. But they are sticking with this particular design."

Roy McCready said "I think we have to take into consideration what is the safest for the people using the facility. If you are talking about moving the building out further to put the parking in the back, that building is going to be right on Transit Road ."

Wendy Salvati said "We also looked at some designs that didn't have the building absolutely all the way up there on Transit, there was one plan somewhere in between, where you had a little more green space.

Pat Powers said "I think there is a way to design that building and still insure that it is pedestrian friendly, as well as safe for the customers. It is a matter of will."

Pat Powers asked if there were any questions.

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| George Van Nest | AYE |
| Philip Sgamma | AYE |
| Gerald Drinkard | AYE |
| Jeff Grenzebach | AYE |
| Roy McCready | NAY |
| Wendy Salvati | AYE |
| Patricia Powers | AYE |

MOTION CARRIED.

Sean Hopkins asked if it would be worth it to come into the Planning Board Executive meeting and see what we can.....

Wendy Salvati said "If you are willing to look at designs that meet the zoning code, and put the parking behind the building."

Phil Sgamma said "In Traditional Neighborhood Districts the building does not have to be right up at the corner, it can be set back. In fact, if you look at the other properties, they are set back, with a nice green space in front. Perhaps there can be some kind of driveway or some compromise in that manner."

George Van Nest said "I would agree with Roy's comments. I have a problem putting the building directly on the street."

Pat Powers said "I would like to speak to the Planning Board regarding a project that we looked at about four weeks ago - the Bevilacqua Medical Office complex. Their 45 foot green belt that was to be maintained has been clear cut right to the property line. I would like to

suggest that we consider a recommendation to the Town Board that a certificate of occupancy not be issued on the buildings down there, until such time as they have submitted a new landscape plan that has been approved by the Landscape Committee specifically showing the buffering.

Roy McCready and Wendy Salvati said the green belt landscape plan should not only be approved by the landscape committee - it should be implemented!

Phil Sgamma said they may have violated the Negative Declaration.

Motion by Roy McCready, seconded by Wendy Salvati to recommend to the Town Board that a stop work order be placed on the project, and the approved landscape plan must be implemented before a certificate of occupancy is issued for the buildings.

ALL VOTING AYE. MOTION CARRIED.

Meeting adjourned at 9:00 p.m.
Patricia Powers, Chairman