

PLANNING BOARD MINUTES

Wednesday February 18, 2004

AGENDA 7:30 P.M.

ITEM I
Lou Visone
Agricultural

REQUESTS A FOUR LOT (4) OPEN DEVELOPMENT
AREA ON EIGHT ACRES LOCATED AT 4640
GOODRICH ROAD.

ITEM II
United Rental
Major Arterial

REQUESTS A SPECIAL EXCEPTION USE PERMIT
FOR A PORTABLE CONCRETE SALES SYSTEM
LOCATED AT 4811 TRANSIT ROAD.

ITEM III
K2M Architects
Commercial

REQUESTS CONCEPT PLAN APPROVAL FOR PHASE
THREE OF VICTORIA PARK PLAZA,
CONSTRUCTION OF A 8550 SQUARE FOOT
PROFESSIONAL OFFICE BUILDING WITH
ASSOCIATED PARKING AT 10225 MAIN STREET.

ITEM IV
Douglas Klotzbach
Agricultural

REQUESTS A THREE LOT (3) OPEN DEVELOPMENT
AREA ON 6.95 ACRES AT 10998 KELLER ROAD.

WORK SESSION 6:30 P.M.

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

ATTENDING: Patricia Powers
Joseph Floss
Christine Schneegold
Tim Pazda
Reas Graber
Jeff Grenzebach
Wendy Salvati

INTERESTED
PERSONS: Michael Metzger
Lou Visone
Kevin Thompson
Douglas Klotzbach
Councilman Scott Bylewski
James Dudo
Mike Fitzsimmons
Dave Gardner
Patricia Schultz
James Callahan
Kathryn Tiffany

MINUTES

Motion by Christine Schneegold, seconded by Joseph Floss to approve the minutes of the meeting held on February 4, 2004 as written.

ALL VOTING AYE. MOTION CARRIED.

ITEM I
Lou Visone
Agricultural

REQUESTS A FOUR LOT (4) OPEN DEVELOPMENT
AREA ON EIGHT ACRES LOCATED AT 4640
GOODRICH ROAD.

DISCUSSION:

Jim Callahan gave a brief description of the project. The location of the project is on the west side of Goodrich Road, north of Main Street. The existing vacant parcel consists of 29.41 acres with 70 feet of frontage and is zoned Agricultural. The Master plan identifies this area in a residential classification. The applicant is seeking to split the existing property and create an 8 acre parcel for development into a 4-lot Open Development Area, meeting all requirements of the Open Development section of the Subdivision Law. This was introduced to the Town Board on February 11, 2004 and is here tonight for further review by the Planning Board. A letter from property owners with existing potable water wells was read by Christine Schneegold.

The residents in the vicinity of the above referenced development have the following concerns:

1. There exists several potable water wells in the vicinity of this proposed development. With the number of injection wells, utilized in the handling of the drainage/storm water for projects along Main Street and in the vicinity, we are very concerned over the impacts to our potable water wells. Any construction in the vicinity of our wells is of major concern and we would like the Planning Board and the Town Board to consider this in making a decision on this proposal.
2. The property proposed for development is seasonally wet. As the property is underlain with rock, there is a major concern with the wet conditions in the spring and in wet water conditions. We have been informed that water rises from below the rock in the wet season up into this area and there may be no acceptable way of handling this reverse flow to allow construction in this area. Please consider these issues in reviewing this project.

Michael Metzger is the Engineer for the project. Mr. Metzger said his client is proposing four 2 acre building lots for single family homes off a private common driveway on 8 acres of land. Wendy Salvati asked how close is the existing driveway to the proposed road? Mr. Visone said "I own that driveway. We have given them a lifetime easement to it. Mike Metzger said it will all be one driveway for the neighbor and the four homes in the rear. Reas Graber asked if the pond shown on the plan exists at the present time. Mike Metzger said no it does not exist, it is a pond that would be constructed in an area

on the lower side of the property, that tucks in at the toe of the slope on the escarpment. Wendy Salvati said "So you will excavate below the water table, so that you will get standing water?" Mr. Metzger said "Yes. We will have to find out where the seasonal water table is, we may have to line it with clay." Jeff Grenzebach asked what the depth of the pond will be. Mike Metzger said it could be between eight and fourteen feet deep, and approximately one and a quarter acres in size. Wendy asked if there would be any impact on the drinking water supply of the well owners, if they line the pond with clay. It will be holding water that would otherwise recharge. Mike said "I can't imagine that it would. We are not going to be re-directing enough of the area water to that, so it would be a large impact. Jeff Grenzebach asked if there would be an exit to that pond. Mike Metzger said there would have to be an outlet for the pond, but just for extreme situations. We haven't gone through the full design yet, but I would expect that we are going to have to look to see if there are any reasonable outlets. I know there is a ditch along the north property line. If that is a reasonable outlet out to the ditch on Goodrich, then that direction. Or quite possibly as in other areas up and down Main Street - possibly an injection well. As is typically the case along Main Street, the aquifer that the injection wells go into is well below the same aquifer that anyone uses for potable water. Joseph Floss asked Michael Metzger if Mr. Visone owns any additional frontage anywhere on any contiguous parcels? Is this the only access? Mike Metzger said "No. Actually the same property has another access a little bit closer to Main Street, and actually there is a contiguous property that has frontage on Thompson Road, and a piece that comes out to Main Street as well." They are separate parcels all under the same ownership. Joe Floss said "Should we have a full build out? In other words, the segmentation question was raised earlier, what is your thought on that?" Mike Metzger said "We have already talked to the Executive Committee about that, and understandably under the SEQR law because of the fact that the properties are contiguous, owned and controlled by the same entity. Once it gets to the Municipal Review Committee We will have to talk to them about what the potential full build out will be for the entire property. Joe Floss said "I am prepared to send you out to gather more information and no more - Traffic Safety, the Municipal Review

Committee and

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Fire Advisory to gather their input before we vote on this. Is the pond a necessary element to this, and is there any forestation that is going to be removed as a result?" Mike Metzger said part of the pond will be in the open area, but there will be some trees taken out of there, but not an exorbitant amount. There are quite a few trees that are on the escarpment itself that would stay. Joe said "When you come back you can provide us with more accurate information regarding the trees to be removed. Wendy Salvati said "And also Joe's first question - Is the pond a necessary element?" Mike Metzger said "From an Engineering standpoint, it remains to be seen how the Town Engineer will handle drainage for this project, there may be a need for some storm water detention. If that is the case, it could occur through that pond as well. We are looking at it as more of an aesthetic feature for the project at this time." Patricia Powers asked "Who would be responsible for maintaining the pond?" Mike Metzger said "That would partly be the responsibility of the present owners of the land, but then there would probably be some responsibility of the residents of the open development area." Pat said "By way of deed restrictions?" Mike Metzger said "There is quite a legal document that is put together for open development areas that lays out the ground work for the shared driveway, and other common features. Again, it is something we have to put more time into in the design phase, but I would expect that there might be something in that document that covers the pond." Chairman Powers asked the audience to come forward with any concerns they might have regarding this project.

James Dudo is the owner of the property at 4630 Goodrich Road. The address of 4640 seems to be the address of the southern access to the 29 acres. They are talking about using the most northern access, which is more like 4720 or something close to that. I would like to have that clarified. The location of the pond looks like it is very close to the most southerly access, which means now you are limited with only one access. If you take their property which is about 66 feet of frontage at that point going south, actually enters into my property. My property is only 154 feet wide, so everything north of that parcel would have to be left as open space because there is not enough room to do anything with that. That is one concern. So the 29 acres

would actually be limited to, I should say the eight
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acres are somewhat constricting the access from the southerly road. That is something I am concerned about. Mr. Dudo said he has an outline of the plot line of the 29 acres. There are two entrances on Goodrich Road. There is a paper road that is called Bronson Road that is on his deed, and his driveway is on that paper road. It has a right restriction that forever it remains private. His property is south of Bronson Road. The distance from the edge of my property south is only 154 feet, and I would estimate the other one is about 60 feet - so depending on how far you cut that property up, that strip above, I should say below in this particular case, it is going to be fairly narrow. Narrow in the sense of around 210 feet, and should be looked at. Also, does this mean the property will be re-zoned to Residential? Pat Powers said "No, it will not be re-zoned."

Michael Fitzsimmons is the northern neighbor to the proposed project. He has a rock wall on the perimeter of his property, and he is concerned about snow removal with the configuration of the driveways, and the blasting that will have to be done to build this project. With only 70 feet of access for the driveway, they will be fairly close to his property line. Will this be a one way in, one way out driveway? Where will the mailboxes be located at the street or at the homes? Where will the garbage be picked up? The house closest to the driveway is very close to the existing home. The blasting there is going to be a tough deal. When you build a road, it becomes part of the association. Will the present homeowner have to join the association because his driveway is going to be part of their driveway? We have a horse farm, that is why we built there. I don't want to hear about the smell of horse manure down the road. If there is damage done by blasting, who is going to be responsible for any damage? All of these items will have to be addressed. If blasting is done, we would have to know exactly when it will be done, so we could take the horses out of the barn, and make sure my wife is out of harms way.

Dave Gardner is the next door neighbor with the driveway dilemma. It has been hard for him to sell his house, because he can't tell people what is going to happen. There is a utility pole that would have to be moved, the location is a

major concern to him if it has to be put on his property. When he bought the house, he was not told there was an easement for the driveway

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on it, he found out when he closed on the property. They have had several people interested in the house, but they backed away not knowing what is going in behind them. Is this four houses, or will there be four more, and then whatever. He would like to see a speedy resolution. Patricia Powers said there isn't going to be a speedy resolution, this will have to go to the Municipal Review Committee, Traffic Safety, and Fire Advisory Board. Pat asked for a motion.

ACTION: Motion by Wendy Salvati, seconded by Jeff Grenzebach to send this project to the Municipal Review Committee, Traffic Safety, and Fire Advisory.

On the Question? Patricia Schultz of 4660 Goodrich Road wanted to know if in the future there would be a thru road over to Thompson? Joe Floss said this is a private access road to service just four homes.

ALL VOTING AYE. MOTION CARRIED.

ITEM II REQUESTS A SPECIAL EXCEPTION USE PERMIT FOR
United Rental A PORTABLE CONCRETE SALES SYSTEM
Major Arterial LOCATED
AT 4811 TRANSIT ROAD.

DISCUSSION: Jim Callahan gave a brief description of the project. It is located on the east side of Transit Road, north of the Sheridan Drive intersection, adjacent to the Transit Road overpass. United Rental has an existing tool rental facility located on approximately 7 acres in the Major Arterial zone. The Master plan identifies the area in a commercial classification. It did receive a special exception use permit back in 1999 or 2000. The applicant made a similar request in April 2003 that was rejected by the Town Board. The revised request involves a smaller portable loader to address some of the concerns of the previous Town Board. Kevin Thompson is the general manager for United Rentals. This proposal is a different plan. It is much less visually intrusive, it is considered a portable plant. The unit itself is mounted on a trailer, it can actually be towed

to a job site, and used there. The water source for the unit is a garden hose, the power source is still up in the air. The proposed source was a generator on the unit itself. We can hook an extension cord to the building, or run an electric

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generator, or run electric into the building, or we can install an electric motor on the unit. There was a concern with noise from the Town Board. We feel it is a good opportunity for small contractors, homeowners in the Clarence, Williamsville, Amherst area to purchase small quantities of concrete without going to the expense of hiring a big concrete truck. We have had several branches, especially out west and in the mid-west, install similar systems, and they have been very successful. Christine Schneegold asked where they are going to locate this on their property. Mr. Thompson said "We are very flexible with that as well, it is a portable unit. The dimensions of the unit itself are - the hopper unit is about eighteen feet long. Our plan is to put it in the north east corner of the property. The concern is that it is probably the closest to the residential area from the rear of our property. We are prepared to put it anywhere on our property. We thought it would be better away from Transit Road. We could move it to the south east corner. There is a little bit of a grading issue there in the parking lot, but we can address that.

There is really only one storage bin for the portland cement. The only other bin per say is the sand and gravel mixture, that would be contained in a three sided concrete block wall structure. There would just be one load of that product stored at any one time. Reas Graber asked the height of the bin that they will use for the portland cement.

Mr. Thompson said he believes it is 13'6" in height, which is pretty close in height to the building. It will not be that visible in the back of the property for the residents. There are probably two or three homes back there, and they probably will be able to see it, there is very little vegetation, it is a relatively open field. Tim Pazda asked how far away the neighbors are in terms of feet. It is at least 1000 feet away, with the escarpment going through. Wendy Salvati clarified just exactly what equipment will be involved. Mr. Thompson said the large triangular unit that looks like a white space capsule is the portland storage container, and the smaller unit next to it is actually the aggregate loading bin. Tim Pazda asked where the water comes into the picture. The water is piped in via a garden hose. Reas Graber asked about dust. Mr. Thompson said

he has been told by the manufacturer there is zero dust. Chairman Powers asked if anyone in the audience had any questions. Tim Pazda asked how many yards does this hold? Mr. Thompson said there are two sizes, a one yard and a two yard size. They are going with

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the one yard size initially. For a two yard loaded trailer you would need at least a one ton dump truck to pull it. For a one yard you can pull it with a three quarter ton pick up truck loaded.

ACTION:

Motion by Joseph Floss, seconded by Reas Graber to recommend the approval of a Special Exception Use permit for a portable concrete sales system located at 4811 Transit Road subject to the following conditions:

1. It will be approved for the first year as a Temporary Conditional permit to make sure he is a good neighbor, and they uphold their end of the bargain.
2. That they use an electric motor instead of a gas motor for material mixing.
3. That a water halo is used in material mixing.
4. That the raw material used in the mixing should be stored on site in an optimal location as determined by the Director of Community Development.
5. The mixing unit and the aggregate loading unit should be located in an optimal site as determined by the Director of Community Development.

On the Question?

Christine Schneegold asked the hours of operation. In the summer they are open from 6 a.m. until 5 p.m. In the winter they are open from 8 a.m. until 5 p.m. On Saturdays in the summer they are open from 7 a.m. until 2 p.m. and in the winter from 8 a.m. until 12 noon.

Joseph Floss said "So we can easily add no Sunday hours as a condition - correct?" Mr. Thompson said "Correct"
Amended:

6. No Sunday operations.

ALL VOTING AYE. MOTION CARRIED.

ITEM III
K2M Architects

Commercial

REQUESTS CONCEPT PLAN APPROVAL FOR PHASE THREE OF VICTORIA PARK PLAZA, CONSTRUCTION OF AN 8550 SQUARE FOOT PROFESSIONAL OFFICE BUILDING WITH ASSOCIATED PARKING AT 10225 MAIN STREET.

DISCUSSION:

Jim Callahan gave a brief description of the project. The property is located on the south side of Main Street, on the west side of Shisler Road. The existing plaza is located on 3.4 acres in the Commercial zone. Concept approval for full build-out of the plaza was granted in 1988. Phase I Development plan approval for the first building was granted by the Town Board on August 8, 1988. Phase II Development plan approval for construction of the second building was granted on October 11, 1989. The Master plan identifies the area in a commercial classification. The applicant is seeking to construct Phase III of the build-out plan by developing a new building on the north east corner of the property, and adding required parking to accommodate the new use. Tim Pazda said "At the Planning session you were mentioning sewage capacity." Mr. Klotzbach said "Yes, that is something we have to address totally, that is really part of the development phase. We have to seriously start looking at what we are need to do in this corner. We are looking at hiring Bill Klementowski to start looking at this whole area here, and seeing what the capacity of that sewer system (septic) is, and what we have to do to modify. Supposedly the whole facility was designed that way."

Christine Schneegold said "You mentioned that the D.O.T. is allowing you to park in the right of way." Mr. Klotzbach said "Yes, we had that as part of the original area that is paved, that was part of the agreement when they came through there, we did that whole front there, they didn't take that paving or parking away from him. There were some they did, like at Finnlock's." Wendy asked "Was there a written agreement?" Mr. Klotzbach said "I think it was part of the design. I am almost positive it was designed into the D.O.T. project. We had the same situation at the old Mazia's and they allowed them to park on the front of the building, and it was part of the design. He did have to remove his sign, and there is an issue they

still have to address.” Patricia Powers said “The reason this was brought up is that the original approval back in 1988

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approved three separate buildings, it was granted subject to three phases, approval of drainage, no parking in the right of way, and an approved landscaping plan. In going through the file yesterday, I couldn’t find any record of the SEQR ever being done on this property. What I did come across is a letter from the Department of Health that was strange in itself, that it had no date on it. It was received in Town Hall on September 20, 1989. They asked that water use records for this operation in Victoria Park must be submitted prior to the construction of the third building. For that reason I am going to ask for a motion to send this to the Municipal Review Committee, Traffic Safety, and Fire Advisory .”

ACTION:

Motion by Reas Graber, seconded by Christine Schneegold to send this project to Municipal Review Committee, Fire Advisory, and Traffic Safety for review and comment.

ALL VOTING AYE. MOTION CARRIED.

ITEM IV
Douglas Klotzbach
Agricultural

REQUESTS A THREE (3) LOT OPEN DEVELOPMENT
AREA ON 6.95 ACRES AT 10998 KELLER ROAD.

DISCUSSION:

Jim Callahan gave a brief history of the project. The property is located on Keller Road on the north west side as the road enters into the Town of Newstead. It consists of 6.95 acres in the Agricultural zone. The Master plan identifies this area to remain in an Agricultural/Rural Residential classification. The applicant is proposing a three lot open development area. Mr. Klotzbach’s existing home is one of the three homes included in the three lot development. There will be two additional lots. Mr. Klotzbach will have to widen the existing driveway, and all three homes would access the private driveway. He already has a fire hydrant on the property which satisfies the 500 foot requirement. He has 90 some feet of frontage, which he received a zoning variance for back when he built the house. It isn’t enough frontage for additional single family homes, but it does more than satisfy the requirements of the open development area. Pat Powers

said “Jim, because this is on the Clarence - Newstead border is a coordinated review in order or is this something that MRC will take a look at?” Jim said

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“Certainly we could handle it through a 239-M at the County, and refer it to the Town of Newstead for any comments before it comes back” Pat asked for a motion.

ACTION:

Motion by Tim Pazda, seconded by Joe Floss to send this to the Municipal Review Committee, Fire Advisory, and Traffic Safety for review and comment.

ALL VOTING AYE. MOTION CARRIED.

Motion by Reas Graber, seconded by Christine Schneegold to adjourn the meeting.

Meeting adjourned at 8:45 p.m.
Patricia Powers, Chairman