

In the matter of the application of

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Appeal/Interpretation of Building Inspector's determination of August 11, 2016

In regard to

Interlaken Planned Unit Development

Affidavit

David R. Carr, Jr. being duly sworn deposes and says:

1. I am a licensed Landscape Architect having practiced my profession in Saratoga County for the past 29 years. I am currently a partner in The LA Group, a landscape architectural firm in Saratoga Springs. I have been associated with The LA Group for the past 23 years. Prior to my joining The LA Group in 1993, I was employed by The Environmental Design Partnership as a Landscape Designer and Landscape Architect from 1987 to 1993.
2. While at EDP, I worked on various aspects of the Interlaken PUD. Our project team consisted of Richard F. Mullaney, Esq., Richard Eats, a landscape architect with EDP; Jim Mitchell, an engineer with EDP additional staff members and myself.
3. As it pertains to Zones B and D of the Interlaken PUD, the property owner, Louis Farone asked our project team to develop plans for a residential project within Zones B and D¹. Previously, Mr. Farone had secured approvals for the Canterbury (now Longfellow's) in Zone AA and the Interlaken townhouse development on the south side of Union in Zone A.

¹ The terms "Zone" and "Phase" are used interchangeably in this affidavit. The Planning Board frequently labeled the project using the term "phase." At the City Council meeting in 1982, the term describing the seven areas was "zone." The overall concept plan approved by the Planning Board on June 19, 1991 depicts the seven areas and within the areas notes one or more phases. For example, within the area labeled "B" the plan shows Phases 1, 2 and 3.

4. During the first half of 1989, our team worked with then City Planner Geoff Bornemann to prepare an official sketch plan for the entire PUD project. A discussion of our draft PUD sketch plan dated May 17, 1989 occurs in the Planning Board minutes of July 19, 1989 at page 224 of the exhibits to the Project Narrative. In those minutes, Mr. Bornemann describes his understanding that

“an official sketch plan of the entire PUD project was never filed with the ordinance as required in 1984. If the appropriate sketch plan can be located or reconstructed, it can be used as a guide in future phases of the planned unit development. The draft sketch plan submitted by the applicant and dated May 17, 1989, fails in a number of ways to conform to the Ordinance requirements for an official sketch plan map.

*The various requirements for a sketch plan were discussed and it was agreed that the applicant would work with the staff to resolve the differences and bring another proposal back to the Planning Board. **In the meanwhile, the Board agreed that the applicant could apply for Phase B PUD site plan approval. However, the Board stated that no final PUD site plan approval should be granted until the sketch plan matter was resolved.**”*

5. At the September 6, 1989 Planning Board meeting (Exhibit V, p. 225), the Board discussed a sketch plan for Phase B and a sketch plan for the 191 units in the second phase of the PUD project at 509-531 Union Avenue. Mr. Mullaney indicated that he is still working with the staff on clarifying the original sketch plan and legislation for the PUD. He suggested that the discussion of this issue be postponed until October. The Board agreed.
6. Mr. Eats described the proposed sketch plan for Phase B and D. Planning Board Chairman Bill Cummings adjourned the matter to the October meeting at the request of the applicant.
7. At the December 6, 1989 meeting, the Planning Board again reviewed the sketch plan for Phase B. Mr. Mullaney appeared before the Board. The minutes note that “the final issue related to the amount of open space or common areas that would be diminished with a shift toward more single family detached housing units. The Board agreed that this is not a problem and the original language in the draft

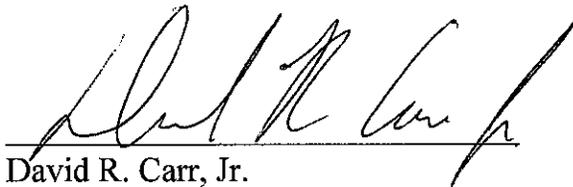
legislation can stand. The Planning Board then agreed that with these latest changes the Ordinance could go back to the City Council for consideration.

8. At this same December 6, 1989 meeting, the Planning Board continued to discuss the details of approval for Phase B and D. Following discussion of a variety of issues, the Board granted preliminary PUD site plan approval by unanimous vote.
9. Final approval for the Interlaken PUD Phase B and D appeared on the April 11, 1990 agenda (Exhibit R, p. 184). Inasmuch as the applicant needed additional time to prepare responses to board concerns, the matter was adjourned to the May meeting.
10. At the May 16, 1990 meeting, the Board conducted a review of the application for 61 residential units at 509-531 Union Avenue (Phase B and D). The Planning Board granted final site plan approval in a unanimous vote at page 100.
11. Fourteen months later I appeared with Mr. Mullaney to seek re-approval of the PUD site plan that had been approved on May 16, 1990. Mr. Mullaney explained that this application was identical to the one submitted last year, but needed to be approved again because the previous one had lapsed due to the absence of financing. I explained that there was a total of 68 lots of which 63 were buildable and that one belonged to Mr. Farone, two remained to be developed in future phases and two were not buildable and would be owned by the HOA. Following discussion and public input, the PUD site plan approval was approved by the Planning Board in a unanimous vote. The approved plan bearing the signature of Planning Board Chairman Todd Curley appears as Exhibit K in the application. At page 68 of Exhibit K is the Overall Concept Plan approved by the Planning Board depicting layouts for all seven zones. This Overall Concept Plan also bears the signature of Mr. Curley as Planning Board Chair and indicating that it was approved by resolution of the Planning Board on June 19, 1991. Notwithstanding the approval, Zone B was not built out pursuant to this plan.
12. Importantly, my drawing in Phase 3 of the Overall Concept Plan depicts **units consisting of duplexes and fourplexes similar to the units that have been constructed directly across Union Avenue in the Interlaken townhouse development – Phase A**. We distinguished Phase 3 from the single family units in Phase 1 so as to provide customers with a choice of living style within Zone B.

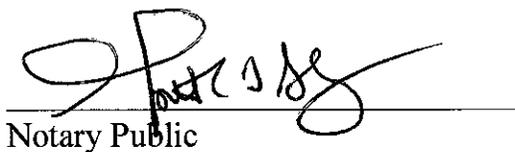
13. On July 17, 1996, the Planning Board reviewed a modified plan for the first phase in Zone B (the minutes of the Planning Board meeting of July 17, 1996 and September 25, 1996 are attached as Exhibit P to the Application Narrative; these minutes appear at pages 133-169).
14. At the July 17, 1996 Planning Board meeting, I appeared with Mr. Mullaney, Mike Ingersoll of the LA Group and the applicant, Peter Belmonte. We described the revised plan that Mr. Belmonte proposed to build and we indicated that we were seeking to abandon the subdivision lines from the prior approval. Following a thorough discussion of this revised plan and comment from the public, the project was continued to the September meeting.
15. On September 25, 1996, our project team returned to the Planning Board (page 158). I again appeared with Mr. Mullaney, Mr. Ingersoll and Mr. Belmonte. In our presentation, Mike Ingersoll and I described the buildable lots being a total of 89 upon which there would be 93 units, i.e. four lots would be duplexes. Mike Ingersoll noted the phasing of this plan advising the Board that the applicant intends to file the entire subdivision and he seeks flexibility to trigger building permits for future phases. He indicated that Mr. Belmonte had not decided the type of housing for the undeveloped areas (one of those areas is the six-acre parcel – Phase 3 – that is currently pending before the Planning Board). He further indicated that no buildings would be constructed on the vacant parcels until a future PUD site plan approval is obtained.
16. We decided to mark Phase 3 with the notation “reserved for future development” in order to provide the flexibility that Mr. Ingersoll described. We no longer wished to be limited to the duplex or fourplex units depicted on the overall concept plan approved in 1991. Mr. Ingersoll noted that the flexibility was sought to “move around with market conditions.”
17. During the public hearing, some neighbors raised concerns over this new plan. Mr. Frizzera opined that Regatta View doesn’t fit in with the two acre lots in the area. At the top of page 164 the Planning Board minutes reflect that Mr. Frizzera “noted the potential for litigation of the original PUD. Lorraine Tharp (Chair of the Planning Board) said there is no challenge to the legal status of the PUD granted in 1982.”

18. Following the completion of the public hearing, the Board approved the final PUD site plan by a unanimous vote of members Wallace Allerdice, Clark Brink, Robert Bristol, Norman Fox, James Murphy, Joseph O'Hara and Loraine Tharp – Chair.
19. In the ensuing years, Regatta View was built out under the 1996 approval. We continue to look at the options for Phase 3 and Mr. Belmonte prepared sketch plans for this six-acre parcel, but the May 19, 2016 application (Exhibit C) represents the first formal application we have made under the approved Overall Concept Plan of 1991 and the revised plan of 1996.
20. Based upon my personal knowledge with the development of the sketch plan in 1989 and the approvals in 1991 and 1996, I believe the Planning Board successfully reconstructed the PUD sketch plan of 1982 when it approved the Overall Concept Plan at its meeting on December 6, 1989. The Overall Concept Plan has served as a guide to the development of the seven zones within the Interlaken PUD.

Sworn to this 16th day of October 2016 at Saratoga Springs, New York


David R. Carr, Jr.

Sworn to before me this 16th
day of October 2016


Notary Public

