



PLANNING BOARD

MINUTES (FINAL)

THURSDAY, JULY 30, 2020

6:00 P.M.

ZOOM WEBINAR

CALL TO ORDER: Mark Torpey, Chairman called the meeting to order at 6:01 P.M.

SALUTE TO THE FLAG:

PRESENT: Mark Torpey, Chairman; Jamin Totino, Vice Chairman; Ruth Horton; Todd Fabozzi; Sara Boivin; Kerry Mayo

ABSENT: Lexie Bonitatibus

STAFF: Susan Barden, Principal Planner, City of Saratoga Springs
Mark Schachner, Counsel to the Land Use Boards

ANNOUNCEMENT OF RECORDING OF PROCEEDING:

The proceedings of this meeting are being recorded for the benefit of the secretary. Because the minutes are not a verbatim record of the proceedings, the minutes are not a word-for-word transcript of the recording.

A. APPROVAL OF MEETING MINUTES:

Approval of meeting minutes was deferred to the end of the meeting.

B. POSSIBLE CONSENT AGENDA ITEMS:

NOTE: The intent of a consent agenda is to identify any application that appear to be "approvable" without need for further evaluation or discussion. If anyone wished to further discuss any proposed consent agenda item, then that item would be pulled from the "consent agenda" and dealt with individually.

NONE AT THIS TIME

C. APPLICATIONS UNDER CONSIDERATION

- #17.061 STATION LANE APARTMENTS (ASKEW),** Station Lane, approval of an extension for a previously issued Special Use Permit for up to 29 units multi-family residential units in the Transect-5 (T-5) Neighborhood Center District.

Mark Torpey, Chairman stated this application is before the Board this evening for an 18-month extension of a previously approved Special Use Permit which expired on July 14, 2020. The new expiration date will be January 14, 2022.

Applicant: Richard Askew

Agent: Scott Lansing, Lansing Engineering

Mr. Lansing stated the reason for extension request is the process to obtain a site plan approval has taken longer than expected and requires an extension of the previously approved Special Use Permit. The applicant has obtained DRC approval and is now working with the Arts Commission.

Ruth Horton made a motion in the matter of the application of the Station Lane Apartments, Station Lane, and request for an 18-month extension on a previously approved Special Use Permit be approved. Jamin Totino, Vice Chairman seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

VOTE:

Mark Torpey, Chairman, in favor; Jamin Totino, Vice Chairman, in favor; Ruth Horton, in favor; Todd Fabozzi, in favor; Sara Boivin, in favor; Kerry Mayo, in favor

MOTION PASSES: 6-0

2. **#20200205 KAYDEROSS AVENUE EAST SUBDIVISION**, 227 Kaydeross Avenue East, preliminary plat review for a proposed 15-lot conservation subdivision in the Rural Residential (RR) District.

Mark Torpey, Chairman stated this is a previously opened application and has appeared before the Board on several occasions. Sketch Plan Review was completed on January 26, 2017. We requested input from the Open Space Advisory Committee in January of 2018 and received a response from them outlining suggestions on how to optimize and improve the project. This project has been noticed for a public hearing this evening.

SEQRA:

This is a SEQRA Type I action. Coordinated review is required and involved agencies are the DOH, DEC and ACOE. The Board initiated coordinated SEQRA review and sought Lead Agency Status on June 11th. Notices were sent to other involved agencies on June 16th. Part I of the Long EAF has been submitted by the applicant.

Mark Torpey, Chairman stated the Archeological Phase I analysis was completed. We received formal input from the Department of Parks and Recreation for Preservation and ACOE. We also received input from SHPO regarding the archeological sensitive sites. Input from DEC and the Open Space Management Plan have been posted on the web and available for the Board to review. Tonight, the Board will receive an update and summary of the project. Our main discussion this evening will center on SEQR.

Applicant: 227 Kaydeross Avenue, Inc.

Agent: Dave Carr, LA Group; Doug Heller, Engineer for the project, LA Group; Libby Coreno, Attorney

Mr. Carr stated since our last appearance before the Board Lead Agency has been established and the Planning Board is the Lead Agent. We received comments from City Staff and Chazen, the city's designated engineer and have responded to those comments. The plan the Board has reflects all the changes that were requested by Chazen. A visual of the two-parcel site which exists on two sides of Kaydeross Avenue East as well as the neighboring parcels was provided. Mr. Carr provided information to the Board on his 2017 walk of the neighboring parcels noting the critical areas on both parcels and the reasoning for the location of the connecting points. Mr. Carr then addressed the 15% slopes provided a visual of the mapping of the steep slopes. The current regulations for the density calculation require 25% slopes. There is 1.3 acres on the entire parcel of 25% slopes and greater. The area of 15% slopes covers 3.9 acres of the 78 acres. Mr. Carr reviewed the project layout which consists of 15 lots. The conservation area is 68 acres of the 78-acre site, so 86% of the parcel area will be placed in conservation easement. Onsite septic is proposed there is no sewer in the area. City water is accessible, and the city's designated engineer reviewed our flood test calculations and the water is fine. All information has been sent to the DOH who is involved in this project because of the septic systems. We are seeking no permits or approvals from FEMA since we are not disturbing any flood plains.

Mark Torpey, Chairman questioned if the City has officially approved the language of the management plans so there is no issue to be maintained. Is it advantageous to have two lot owners versus shared ownership among the lots?

Mr. Carr stated the finer points of the management plan come during final approval. We have had preliminary conversations with the City Attorney regarding ownership and maintenance. The actual details have not been finalized. What the Board has is what we are proposing; the actual plan may be different.

Ms. Coreno stated her conversations with the City Attorney have centered on what is the most meaningful form of the intent and purpose of the conservation area. The draft plan has been submitted and it will be tailored to meet the Board's intent.

Mr. Carr stated we have a proposal from a geotechnical engineer; it is not unusual for a road that would be turned over to maintenance by a municipality. They will design this section of the road to last.

Mr. Heller stated there are two points the geotechnical engineers are looking at; one is during construction and post construction. During construction to check the sub-base and the materials to ensure it has not been over-excavated. Post construction the main thing is to keep the road sub-bases dry.

Discussion ensued among the Board regarding parcel #2, regarding the view shed and buffering.

Mr. Carr stated parcel #2, Lot 15 will have one house on it and that lot would own the entire parcel with 96% of it in conservation easement. A view shed analysis was completed from two vantage points and was presented to the Board on a previous appearance as well as no cut buffering in the conservation easement area.

Sara Boivin questioned if there was any discussion for mutual enforcement.

Ms. Coreno stated since her involvement in this project there has been conversation with the City Attorney regarding reciprocal enforcement. It is noted in the Planning Board conditions and within the conservation easement language providing two different enforcement mechanisms along with the owner of Lot #1 and Lot #15.

Mark Schachner, Counsel to the Land Use Boards stated any concern regarding the demise or inactivity of an HOA or entity of that sort and the conservation easement regulations are not being enforced is an extremely valid concern. It is important that the ownership provisions and insurance be pinned down and subject to review by the City Attorney's Office.

Discussion ensued among the Board regarding maintenance of the ponds and the notation on the roadway for a no salt area due to the proximity to the wetlands.

Mr. Heller stated the maintenance of the ponds would be the responsibility of the City. Along the roadway area near the wetlands curbing is proposed to capture that water and direct it to the catch basins where it can be treated.

Sara Boivin suggested that some consideration to the road management be in the conservation language.

Mark Torpey, Chairman questioned access road to Lots 2, 3, 4, 9, 10 and the ability to have turnarounds and access to individual driveways.

Mr. Carr stated their intent is to have it appear as driveways until the roadway is developed in both locations so as not to have more impervious areas and less disturbance than needed.

PUBLIC HEARING:

Mark Torpey, Chairman opened the public hearing at 7:00 P.M.

Mark Torpey, Chairman asked if anyone in the audience wished to comment on this application.

The Rich Family, direct neighbor to the left of parcel #1. Mr. Rich voiced concerns regarding the area being swampland and the ability to be able to build.

Mark Torpey, Chairman stated the public hearing will remain open.

Todd Fabozzi stated he has made some comments over time regarding this project and feels there is a conflict between some of the goals of the Comprehensive Plan specifically policies that reduce sprawl. The intent of the district which falls within the Conservation Development District and the designation reflects rural agrarian character. He feels the proposal before the Board does not reflect rural character while it does conform to the code. He sees a series of conflicts between what is said in the code and what the plan says. What he sees when he looks at a development like this is clearly a suburban development. If it were not for the large wetlands and floodplain complexes in the rural residential zone or conservation development area according to the plan, we would see this across the entire area. These types of developments are being wedged into every viable spot where there is not a wetland, floodplain or very steep slope. To me this does not represent rural character in any way. I will not support this development because of the conflict I see at odds with some of the goals of the plan and the statements of what this zone is to represent.

Sara Boivin stated she brought this up at a previous meeting and was informed the current zoning does support this type of development. She agrees with Todd that this does appear like a suburban development. We are compelled to approve it based on what is on the books in terms of zoning and ordinances until those are adopted based on the comprehensive plan.

Discussion ensued among the Board regarding the current code requirements, what is proposed in this application and as well as other developments of this type who meet the current code requirements and zoning but do not feel rural residential.

Mark Schachner, Counsel to the Land Use Boards provided information to the Board regarding tension between the more specific language in the zoning ordinance in the City and the less specific language of the City's Comprehensive Land Use Plan. The Comprehensive Land Use Plan is more of a guidance document and the zoning law establishes more rigid criteria. The Board in making their determination needs to look more heavily towards the zoning law than the Comprehensive Land Use Plan because it is the legal governing document.

Mark Torpey, Chairman stated we will be looking at another draft of the UDO and it seems appropriate for the Board to note our recommendations and perhaps capture the spirit of what Todd is suggesting. We do have an opportunity there to influence the City Council prior to their voting on this document.

Susan Barden, Principal Planner, City of Saratoga Springs stated we should be receiving and circulating that document to the Board and the public next month. There will be an opportunity for the Board to provide a formal Advisory Opinion to the City Council on the final draft of the UDO.

Jamin Totino, Vice Chairman stated what strikes him is parcel #2 and parcel #1 are not immediately adjacent to each other. Assuming the conservation calculation includes parcel #2 which is why there are so many homes on parcel #1. This presents a unique challenge to this project. In reviewing this it does achieve some of the goals we have required other developers to achieve in the past. Particularly clustered subdivision, clustered housing with each home butting up against open space, which is achieved here. There are two different clusters which are often seen in conservation subdivisions. The difference is if parcel#2 were immediately adjacent to Parcel#1, there would be more contiguous open space. We do not achieve contiguous open space with this because the two parcels are separated from each other.

Mark Torpey, Chairman stated the parcel to the north of these parcels is owned by the City. So, there is a degree of interconnectivity that is envisioned for this which is why it makes sense for the City to assume responsibility for the management and hold the conservation easement here. There could be an opportunity here that we are not yet seeing.

Sara Boivin questioned if house #15 on parcel #2 could be removed. That house is surrounded by conservation easement land where no one would have access ever. The other parcel at least lends some of that.

Mr. Carr stated Parcel #2 was not originally included in the submission back in 2016. City staff requested we add parcel #2 for many of the reasons the chair mentioned and offered the possibility of future public access just like Parcel #1. Mr. Carr stated you must take what the land gives you. These parcels are small to give more opportunity for the conservation areas. We must utilize what is in the here and now.

Ms. Coreno stated one of the other things which are identified in the UDO is the recreational access and kayak launch to the Ramsdale property. Parcel #2 is contiguous to the creek and does have the ability to construct a trail on or through those two parcels and was added for future recreational benefit.

Mark Torpey, Chairman closed the public hearing at 8:07 P.M.

SEQRA REVIEW:

This is a SEQRA Type I action. Coordinated review is required and involved agencies are the DOH, DEC, ACOE. The Board initiated coordinated SEQRA review and sought Lead Agency Status on June 11th. Notices were sent to other involved agencies on June 16. Part I of the Long EAF has been submitted by the applicant.

The Board reviewed Part II of the Long EAF.

SEQRA DECISION:

Jamin Totino, Vice Chairman stated that based upon the information provided by the applicant in Part I of the SEQR Full Environmental Assessment Form, and analysis of the information provided and presented in Part II of the SEQR Full Environmental Assessment Form, I make a motion for a SEQR negative declaration since the project will not result in any large and important impacts and, therefore, is one that will not have a significant adverse impact on the environment. Kerry Mayo seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

VOTE:

Mark Torpey, Chairman, in favor; Jamin Totino, Vice Chairman, in favor; Ruth Horton, in favor; Todd Fabozzi, in favor; Sara Boivin, in favor; Kerry Mayo, in favor

MOTION PASSES: 6-0

Mark Torpey, Chairman stated the next step for this project this evening is the preliminary subdivision approval. We have several conditions as noted this evening:

- City Attorney's review and approval regarding reciprocal enforcement and appropriate insurance coverage.
- City Attorney's review and approval of the shared driveway language.

Ruth Horton made a motion in the matter of the application of Kaydeross Avenue East Subdivision, 227 Kaydeross Avenue East preliminary subdivision be approved. Kerry Mayo seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

VOTE:

Mark Torpey, Chairman, in favor; Jamin Totino, Vice Chairman, in favor; Ruth Horton, in favor; Todd Fabozzi, opposed favor; Sara Boivin, in favor; Kerry Mayo, in favor

MOTION PASSES: 5-1

Susan Barden, Principal Planner, City of Saratoga Springs requested clarification regarding additional conditions for the maintenance of the conservation easement area. The proposal is that the City DPW maintains those conservation areas. Is this to be specified in the conditions as well.

Mark Schachner, Counsel to the Land Use Board stated the Board could include provisions including common area ownership and maintenance subject to the City Attorney's review and approval.

Discussion ensued among the Board regarding the addition to the previously approved motion.

Kerry Mayo made a revised motion in the matter of the application of Kaydeross Avenue East Subdivision, 227 Kaydeross Avenue East preliminary subdivision be approved with the following conditions.

- City Attorney's review and approval regarding reciprocal enforcement and appropriate insurance coverage.
- City Attorney's review and approval of the shared driveway language.
- Ownership and maintenance of the common areas subject to the City Attorney and DPW's review and approval.

Jamin Totino, Vice Chairman seconded the motion.

Mark Torpey, Chairman asked if there was any further discussion. None heard.

VOTE:

Mark Torpey, Chairman, in favor; Jamin Totino, Vice Chairman, in favor; Ruth Horton, in favor; Todd Fabozzi, opposed favor; Sara Boivin, in favor; Kerry Mayo, in favor

MOTION PASSES: 5-1

8:15 P.M. The Board Recessed.

8:20 P.M. The Board Reconvened.

3. **ZBA APPLICATION #20200208 STEWART'S SHOP REDEVELOPMENT**, 402 Lake Avenue, coordinated SEQRA review for the redevelopment/expansion of this facility for a 4,130 sq. ft. convenience store with two Self serve gasoline canopies in the Rural Residential (RR) District.

Mark Torpey, Chairman stated this is a previously opened application. The applicant is before the Board this evening for review of SEQRA prior to their appearance before the ZBA for Area Variance consideration and approval. The applicant will return before this Board for Site Plan Review. This project did appear before this Board three decades ago in 1990 and received a SEQRA Negative Declaration. The previous ZBA in 1990 also granted a Use Variance for this site. The ZBA, DRC, DOT and the Planning Board are involved agencies. We did provide input and requested some additional information from the applicant at their previous appearance before the Board.

REQUIRED REFERRALS:

The County Planning Board has responded with no significant countywide or intercommunity impact which was received on May 26.

Applicant: Stewart's Shops

Agent: Chuck Marshall, Stewarts Shops; Mark Nadolny, Creighton Manning; Libby Coreno, Attorney

Mr. Marshall stated regarding the materials which were requested. We have provided correspondence from Creighton Manning Engineering, a wetland investigation report citing no impact from the LA Group, as well as archeological information. There are no identified sites and the City had completed a Phase 1A and Phase 1B investigation for a new

water line in 2000 and 2001. We have relied upon those results since the existing site has been fully developed. No new historical or archeological impacts found between then and now. A visual of the site was provided for the Board. We are not proposing the alteration of any of the driveways. The existing store will be demolished. The previous use variance allows for two fueling canopies and we are proposing two fueling canopies. We are adding one pump or two fueling positions to each of the canopies. We will go from 8 fueling pumps to 12. The previous use variance does not denote the number of fueling pumps only the number of canopies. The current store will remain open during construction until the new store is complete and opened. The old store will be demolished at that time and the new fueling facilities will be installed.

Mark Torpey, Chairman stated the key issue is the transportation issues, traffic issues, intersection issues and truck movement issues. We have received comments from Code Enforcement, the Fire Department and Police Department triangulating to the same exact issues. It would be helpful if Mark Nadolny from Creighton Manning review what they have observed and provide information to the Board.

Todd Fabozzi stated at the workshop he noted what the Police Department provided and his own personal use of the site. He is noted the issues regarding the conflict between the driveway that exits onto Route 29 and the one on Gilbert Road which exits onto Route 29. Not only is Route 29 a busy road but Weibel Avenue exits onto Route 29 nearby. It seems if we could limit ingress only from Route 29 and egress onto Gilbert Road to get to Route 29 thereby reducing the congestion at that point exiting from two locations. This may help to ameliorate traffic congestion at this point. He is interested in crash data and those types of impacts and where the conflict exists.

Mark Torpey, Chairman stated he is also interested in this type of information as well as the increase in traffic in this area over the years. It is not just sufficient to look at traffic counts but how that correlates into a greater risk for accidents and how safe that area really is.

Mr. Marshall stated the increase in traffic in this area is not totally related to the Stewarts. The SEQRA determination needs to be based on what has attributed to the store, not what has attributed to the corridor.

Mr. Nadolny, Creighton Manning stated they have produced a trip generation AM and PM peak times report pre-covid. A detailed traffic intersection assessment has not been completed. We did install some cameras when the trip generation study was done so we could provide the Board with a more detailed analysis of the adjacent intersections, traffic accidents and safety issues in this area. The trip generation report was done to evaluate the existing use and provide analysis on how that will increase with the increase in size of the store. The new store would provide 45 new AM and PM trips to this area. Typically, that level of increase in traffic would not necessitate a detailed analysis. To summarize the trip generation report reviewing existing conditions notes we will attract more traffic split between the two access points 70% on Lake Avenue and 30% on Gilbert. Limiting egress from the site to Gilbert Road will then create a question as to what and how this will impact Gilbert Road.

Discussion ensued among the Board regarding the traffic in the corridor and perhaps additional iterations of the access and egress to the site.

Ms. Coreno stated she agrees with the Board concerning safety in this area. This can further be discussed at site plan. Procedurally, if the ZBA does not grant the variances than we need to come all the way back again. She questioned Mark Schachner, Counsel to the Land Use Board, if the Planning Board does review SEQRA and the ZBA does not grant the variances would the Planning Board need to re-open SEQRA and what is the best course of action so that the applicant returns to the Planning Board with something solid to be reviewed.

Mr. Schachner stated procedurally the scenario Ms. Coreno has presented is a possibility and does happen. If this were to return to the Planning Board following ZBA review, that it would not be dramatically different but modified or tweaked somewhat and would be appropriate for the Board to assure whatever modifications were made did not materially alter the potential SEQRA determination and would be highly unlikely and highly unusual.

Sara Boivin questioned if SEQRA review should be postponed until all traffic information is submitted and reviewed.

Mr. Schachner, stated based on the questioned being asked of the traffic consultant yes, the Board should wait until all the traffic information is submitted and reviewed, or the Board will have a difficult time completing that portion of the SEQRA review.

Mark Torpey, Chairman stated we have three interested parties in this area. The City, Stewart's and the DOT. There could be an opportunity to come up with something that improves the safety of the intersection. There could be an alternative City funded analysis that helps us understand the bigger picture than just traffic counts.

Jamin Totino, Vice Chairman agrees with the Chair and involves the Police and Public Safety regarding what their concerns are. Perhaps more specificity from these two departments would also be helpful.

Mark Torpey, Chairman stated he does not feel comfortable moving forward with SEQRA without additional information. Also, we would need an updated SHPO and DEC analysis. Procedurally we require this from all applicants.

Susan Barden, Principal Planner stated there is an additional parcel to be added to this site approximately 16,000 square feet. It is not a totally built out site and there is a request to merge a parcel that is vacant along Gilbert Road to add to the acreage. In reviewing the Complete Streets Plan this area is identified on the plan specifically Route 29 for shoulders and assigned route. There is a bike lane and sidewalk proposed down Weibel Avenue and again a shoulder and assigned route on 29. In your study if you consider those improvements that would be helpful.

Mark Torpey, Chairman questioned Susan Barden regarding the independent analysis of this area.

Susan Barden, Principal Planner stated the City does have designated engineers reviewing all the plans. If that is something the Board would like to have them review the traffic study that can be accommodated.

Mark Torpey, Chairman stated the Board has requested additional information from the applicant. Once the information has been provided the applicant will return before the Board.

APPROVAL OF MEETING MINUTES:

Ruth Horton made a motion to approve the following minutes of the May 28th, June 11th, June 25th, and July 16th Planning Board as amended. Kerry Mayo seconded the motion.

VOTE:

Mark Torpey, Chairman, in favor; Jamin Totino, Vice Chairman, abstained; Ruth Horton, in favor; Todd Fabozzi, in favor; Sara Boivin, in favor; Kerry Mayo, in favor

MOTION PASSES: 5-0-1

UPCOMING MEETINGS:

Planning Board Workshop, Thursday, August 6, 2020 at 5:00 P.M.
Planning Board Meeting, Thursday, August 13, 2020 at 6:00 PM.

MOTION TO ADJOURN:

There being no further business to discuss Mark Torpey, Chairman adjourned the meeting at 9:05 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 9-10-20

