

**VILLAGE OF NEW PALTZ PLANNING BOARD
WORKSHOP MEETING DECEMBER 12, 2006**

Call to order: The meeting was called to order at 7:03 p.m.

Members Present: George Danskin, Chair; Ray Curran, Marion DuBois and Ruth Elwell.

Also present: Dino Toscani, Paul Caltagirone, Jay Samuleson, Jayne Daly, Robert Downs, Christopher Colman, Frank Mandy, Cynthia Rosenberg, Troy Wojciekofsky, Kevin Bernstein, Dorothy Jessup, David Porter, Bob Hughes, Erin Quinn, reporter (left partway through the meeting), Michael Zierler; Village Trustee and Planning Board Liaison, Trey Daniels, Building Inspector, and other members of the public.

Approval of Minutes:

- A motion was made by Mr. Curran to adopt the minutes of the November 14, 2006 workshop. The motion was seconded by Ms. DuBois and passed unanimously by the Board.
- A motion was made by Ms. DuBois to adopt the minutes of the November 21, 2006 regular meeting. The motion was seconded by Ms. Elwell and passed unanimously by the Board. (Mr. Curran was not present at the meeting and did not vote.)

Announcements:

The Chair noted the Victorian Square project would be reviewed prior to Woodland Pond this evening.

Pre-Application Review:

PB06-41: Dino Toscani. 123 Main Street [SBL: 86.34-6-16.3 & 17 (B-2)]

Site Plan for 13,200s/f of retail space, 24 apartments and parking.

Applicant Present: Dino Toscani, Jay Samuelson, P.E., Jayne Daly, Atty.

The applicant had reviewed the comments and critiques from the Planning Board and their consultant and made several significant changes to the original proposal for a mixed use development with retail use on the first floor and two stories of residential apartments above that. To reduce the over densification and the need for an area variance, the building was reduced to a commercial two-story building, requiring a 25' (rather than a 50') frontage at the building line. There would be retail on the first floor and a hotel on the second floor. The site plan was revised to provide a 35' buffer to the north (near the residential buildings) to be landscaped and terraced with a retaining wall necessitated by the on-site grading. Because of the grading and the amount of fill required, they proposed underground detention for the storm water management system in compliance with NYSDEC Phase II regulations. In response to the Board's concern, an emergency access road would be created across the front of the property leading to the driveway of 127 Main Street. The applicant will resubmit the full application and the revised site plan for consideration at the January meeting.

Ms. Elwell requested to see the parking for 127 Main Street designated in this lot. Ms. Daly noted that the one-year cross easement agreement between the two locations will be expiring prior to any construction related to this project.

Pending Applications:

PB06-33: Dino Toscani. 127 Main Street [SBL: 86.34-6-11 (B-2)]

Site Plan and Special Use Permit: To build an outdoor dining area extension of the restaurant downstairs, and create a catering hall upstairs.

Applicant Present: Dino Toscani, Paul Caltagirone, Attorney, Sall, Caltagirone & Coleman Esq.

The Chair read the letter from Prospect Street residents voicing their concerns and questions about Mr. Toscani's recent projects (including but not limited to grading, traffic, approval status). Since the letter was just received yesterday, the Board will not comment on it this evening.

The chair summarized that last week the applicant wanted to wait until the building was constructed before conducting the sound study and had objected to the proposed condition that prohibited the public admittance by cover charge or admission fee collected by or on behalf of the proprietor.

Screening: The applicant submitted a revised plan showing a 40" h perimeter knee wall along the west side of the proposed outdoor deck (for dining) and an 8' decorative block wall along the north and east side of the deck matching the existing buildings.

Parking: There was a long discussion about parking and the amount of spaces approved for the 127 Main Street restaurant at the 123 Main Street lot. The applicant said he had other private agreements providing off-site parking for his establishments. The Chair outlined the parking requirements at 127 Main as 114 spaces: 40 spaces for the restaurant (120 patrons); 54 spaces for the catering hall (162 patrons) and 20 spaces for the outside deck (60 patrons). Mr. Caltagirone noted that the restaurant capacity was 110, since it included bar and table seating, and the Chair revised the total number of required parking spaces to 107. Assuming the total number of available spaces at 123 Main Street was 64, the applicant would have to identify an additional 43 available spaces.

A new moratorium affecting restaurant was just adopted by the Village Board. Mr. Zierler confirmed that all previously filed applications were exempt. The Board explained the applicant must now

identify all the off-site parking spaces required for 127 Main Street – whether located at 123 Main Street and/or other private off-site locations (via agreements) and/or public street parking within the 400' radius from the restaurant. The Chair explained that due to the increasing parking shortage there has been an attempt to implement a stricter compliance with the “ambiguous” nature of the existing code and over the past year, three applicants, in similar situations, have been required to analyze the existing spaces, calculate the number of available spaces and subtract the number of spaces allocated to established restaurants. Having attended previous Board meetings, Mr. Caltagirone said he understood and was familiar with this process.

Ms. Elwell reiterated that she had abstained on the previous applications because of the ambiguous and unworkable legislation regarding the 400' radius and would abstain on this application for the same reason.

Sound Study: The applicant said he would conduct the sound study as soon as internal construction at 127 Main was completed. He suggested and agreed that the granting the Certificate of Occupancy for the catering hall would be contingent upon completing a professional sound study (simulating amplified music at a party and recording decibel levels at various points around the building concentrating on the north side) and complying with noise level requirements established by the Board (no increase in ambient noise in the immediate neighborhood).

Noise/Light: Noting the neighbors' complaints about the current level of noise and light from the parking area, Ms. Elwell again voiced concern about whether the berme system would be functionally adequate in addressing the impact from the restaurant (which is still not operational) let alone from the addition of the catering hall and the outdoor deck. She reminded the applicant that this problem was created when he cleared the land and removed the natural buffering behind the parking area.

Hours of Operation/Residential Impact: The Chair expressed misgivings about the noise and light impact of the outdoor deck on the adjacent residential neighbors and said he would be more comfortable if the deck closed at 9pm (instead of 11pm).

Open Admission and Other Conditions: The Chair reiterated the intent of the ban on admission fee/cover charge was to prevent the facility from becoming a variety of venues with people coming & going all hours of the night (a night club, frat parties, entertainment with an open bar). The applicant said his intention was for food related affairs (e.g. fixed price lunch etc). Mr. Caltagirone said he would draft language limiting the applicant's use of a cover charge to meet the concerns of the Board. Mr. Caltagirone reviewed the other special conditions in Murphy's determination and identified those that did not apply to this application.

Alternative Access: The applicant said he would have an elevator and an additional self-closing door at the rear of the building for the second and third floors.

PB05-49: Robert Downs/Interzone Inc. 58 Main Street. [SBL:86.143-1-12 (B-2)]

Special Use Permit: Convert existing retail space to a restaurant (no exterior changes)

Applicant Present: Robert Downs, Christopher Coleman, Attorney, Sall, Caltagirone & Coleman

As requested, the applicant re-submitted his parking data indicating 19 available parking spaces for the proposed restaurant's requirement of 15 spaces. As there were no objections to the methodology used, the Chair proceeded to discuss the language of the special use permit conditions.

The applicant noted since the premises may be rented as a coffee shop (with prepared goods) instead of a restaurant, he wanted to insure that the conditions would still be appropriate if there was no on-site food preparation. After several language modifications, the following conditions were agreed upon:

1. Full food service must remain open and be available to patrons during all hours of operation.
2. Electronically amplified music, live entertainment or sound transmission, other than incidental to customary restaurant use, is not permitted.
3. No external banners or signs promoting alcoholic beverages shall be hung in the windows or from or affixed to the building or any structural element on the property.

Ms. DuBois made a motion to approve the special use permit with the above conditions and Mr. Curran seconded the motion. The motion was then amended to include a negative declaration (no significant environment impact). There was no additional discussion by the members. The motion passed by a vote of three ayes and one abstention (Ms. Elwell).

PB04-16: Seakill Custom Builders. Victorian Square LLC. South Manheim Boulevard (NYS Route 32). [SBL: 86.42-7- 1-13, & 17 (R-2)]

Findings

Applicant Present: George Sifre, Rick Sifre, Barry Medenbach, Medenbach & Eggers

Planning Board Consultant: Ted Fink, GreenPlan

The applicant brought in a revised FEIS Table of Contents for the Board members, thereby completing their copies of the documents. Later in the week the FEIS Notice of Completion will be published in the Environmental Notice Bulletin and New Paltz Times and the document will be sent to agencies and individuals on the distribution list.

The Board, applicant and Mr. Fink reviewed the entire draft Findings page by page. A few substantive modifications were noted and several editorial changes were requested for text clarification. Mr. Fink will include documentation dates and prepare the necessary amendments/revisions in time for a final discussion and possible vote at the January 9, 2007 meeting. The Chair recommended the applicant review the requirements for the special use permit for senior housing (including an onsite manager) in detail

PB03-24: Kingston Regional Health Care System/New Life Management & Development Inc.

Woodland Pond at New Paltz, a proposed Continuing Care Retirement Community, North Putt Corners Road. [SBL: 86.2-1-7; 86.2-1-2-112; 86.2-1-12.100 (PB and R-1)]

Site Plan

Applicants Present: Frank Mandy, NLMD; Cynthia Rosenberg, KRHCS, Troy Wojciekofsky; The Chazen Companies, Kevin Bernstein, Attorney, Bond, Schoeneck & King, PLLC.

Although tonight's discussion between the applicant and the Board was not open to public comment Mr. Hughes and Mr. Porter requested to make statements regarding the project. Mr. Hughes spoke as an individual citizen and Mr. Porter spoke on behalf of AFFIRM (and submitted a written letter). In general, Mr. Hughes said he was personally disappointed with the FEIS and Findings statement and believed the applicant did not fulfill the agreed upon ecological constraints to protect the wetlands/wetland buffers (as identified in the facilitated meetings 1-1/2 years ago) while there was an increased awareness of the financial/economical constraints related to site plan issues.

Mr. Porter proposed that the Planning Board temporary rescind its approval of the FEIS and Finding Statement and renew the negotiations that occurred prior to the SEQR process in order to reach a new agreement and then re-issue a revised FEIS and Findings Statement. He said both AFFIRM and Save the Woods & Wetlands felt the Planning Board ignored serious critique given at the time of the public hearing (especially regarding the 100' buffer) and referenced a very tight timeline (based on the Findings issuance date) that would require immediate action before a lawsuit would need to be filed.

Mr. Zierler distributed a letter (to the Board) he was asked to prepare by Mr. Porter regarding four potential intrusions into the 100' wetland buffers by the development (roads, sidewalks, parking and buildings) and the desire of the stakeholders to resolve the disputes in open dialogue. Mr. Zierler was one of the facilitators responsible for helping to resolving the land use dispute issues in 2003-2004.

Mr. Mandy said they take the content of the letters and the threat of litigation very seriously and will quickly respond in writing to all concerned parties regarding the issues presented. Earlier this afternoon the applicants reviewed their options related to pulling away from the wetlands in question. He said they had negotiated in good faith and haven't changed, in any material way, what has been shown. The handling of the storm water and location of the bio-retention area was moved based on Mr. Clouser's recommendation. Regarding the referenced areas, the applicant had said all along that it would be very difficult to further cluster the project to be outside of 100' and retain the circulation road. If the Planning Board wanted to reopen the discussion and have them move away from the two wetland buffers, Mr. Mandy said they would be happy to talk about putting cottages back around the pond below as they originally proposed. He noted they held public hearings and complied with the SEQR process and felt there were not any options for totally redesigning the project at this time without reverting to the original plan.

The Chair recommended that Mr. Porter and Mr. Hughes consult with their attorney regarding the time requirements to file a lawsuit under SEQR.

The Board returned to its original purpose of discussing site plan issues, with a focus on the western slope.

Alternative Road Connections: Regarding the issue of whether the "emergency" road should be paved for use as a (potential) full service secondary access road in the future, the applicant brought in the requested plan detailing the road connection to Ermin Lane, a future connection to the Lent property and the Ermin and Lent property lines.

To save time, the Chair asked the applicant to send a copy of the plan to both Mr. Ermin and Mr. Chamberlin for review, indicating that their comments, concerns and procedural questions should be directed to the Planning Board Chair.

Western Slope: The Chair noted the applicant met this afternoon with Mr. Clouser and Mr. Wegener to discuss the westerly slope. Mr. Clouser was unable to attend tonight but did submit his notes just prior to this meeting. The main issue regarding the slope concerned the visual impact from the proposed preserve.

There was a long discussion about the possibility of a retaining wall instead of using fill on the western slope, as recommended by the applicants' engineers. Topics included but not limited to the following: rock formation on the site, the amount of available appropriate rock and/or the need to haul in rock, the length, height, location and construction of the wall (stepped to match the topography) and the cost of excavation and construction (a 16'H wall cost would be over 2.5 million). The applicant noted that by reducing the amount of soil and making the slope steeper, they would be changing the grade in the developed area. Mr. Mandy brought in photographs taken from various locations along an existing trail in the area of proposed preserve showing there would be

little significant visual impact from the development due to the dense trees at the bottom, taller trees on top and thick undergrowth even at this time of year. Chazen had recently walked the western slope with a biologist and noted it was the same transitional forest (previous apple orchids) as the development site (a report will be forwarded to the Board) and significant trees were identified. A previous alternative had 3 acres of disturbance; this plan shows a much smaller area of disturbance (1.5 acres) and avoided many significant trees.

The applicant noted that to avoid carting off tremendous amounts of fill, the plan had been re-engineered and re-graded to provide a balanced site and the cottages are now going to be on structural fill. The applicant plans to put @60,000 cubic yards of excess fill on the western slope (equivalent to 2,500-3,000 dump trucks leaving the site). Part of their landscape plan included doing substantial plantings first so they would be growing during construction of the remainder of the project .

Mr. Wegener said he didn't have a chance to evaluate the applicant's tree inventory and felt that a low retaining wall could save even more trees and hoped the applicant would explore this opportunity. A long discussion about landscaping and tree inventories ensued.

The Chair reminded everyone that the primary goal and purpose of this discussion was to evaluate the visual impact of the fill from certain receptor points in the proposed Greenway. He referred back to the photographs and felt that only certain areas of the embankment might be visible from the preserve. The applicant verified that almost none of the areas were viewable from the receptor points shown due to the dense woods. Since there was no significant visual impact, Mr. Mandy was frustrated about putting retaining walls in the woods, noting that the installation of each wall would require rock to be hauled onto the site and dirt off of the site. He also noted that the Board had instructed other applicants to use trees instead of retaining walls whenever possible.

Mr. Bernstein said the goal was two fold (1) to evaluate the visual impact from behind the pond to the slope and (2) to develop a plan to transition the edge from the top of the slope to the back area (which is what the applicant's landscaping plan proposes to do). Ms. Rosenberg noted other goals included providing a balanced site and minimizing the impact between the edge of the development (filled area) and the undisturbed (natural) area.

The Chair noted that a 300 unit development will not be invisible. There was a short discussion between board members about the usability, attractiveness and enjoyability of trails. Mr. Curran pointed out there was an agreement in the Findings to reconsider/re-study the issue of the westerly slope. He commended the applicant in doing so and felt they were moving in the right direction but heard Mr. Wegener to say that the Board did not have all the necessary information (tree inventory) to make an evaluation. He also wanted more clarification about what exactly will be seen, and not seen, from the embankment. Mr. Bernstein asked why additional studies are needed if the trees that stay and the landscaping are effective in screening the building to a great extent (and almost to a complete extent). He suggested that the studies already presented by a variety of professionals (biologists, arborists, engineers, etc.) were sufficient for the goal; the studies were complete and just needed to be evaluated.

Mr. Wegener just received a lot of the information today and had no time to evaluate it. He wanted to evaluate that information and see additional information before providing the Board with his opinion. The applicant didn't want this to become an endless process of consultant reports. The Chair requested that Mr. Wegener meet with Chazen and return to the Board indicating what has been agreed upon (e.g. the number and types of trees over a specific area) and with an evaluation of the effectiveness of the design. The Planning Board will then exercise its discretion. Mr. Wegener will submit his report in time for the January meeting.

Other Business:

- Revised Proposed Wetlands Law: The Board endorsed the draft prepared by the Chair recommending the Planning Board retain jurisdiction over wetland permitting when and if there is any other statutory/discretionary approvals such as site plan, subdivision, or special use permit and in cases that do concern such approvals, the authority for issuing permits should be vested in the building inspector with the advise of the wetlands inspector.

Adjournment:

A motion to adjourn was made by Ms. DuBois, seconded by Ms. Elwell and passed unanimously by the Board at 10:10 pm.

Respectfully submitted,

Alison Shestakofsky
Secretary to Village Planning Board
Copies to Trustee Michael Zierler
David Clouser, Engineer
Bob Chamberlin, Traffic Engineer

Drayton Grant, Attorney
Ted Fink, Planner