

**PLANNING BOARD
TOWN OF BETHLEHEM**

November 4, 2004

The Planning Board, Town of Bethlehem, Albany County, New York held a **Regular Meeting** on Thursday November 4, 2004, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY. Chairman Parker D. Mathusa presided and called the meeting to order at 8:15 pm.

Agenda: First Columbia, LLC
CVS Pharmacy
Bethlehem Town Center II

Present: Parker Mathusa, Planning Board Chairman
Keith Silliman, Planning Board Counsel
Brian Collier, Planning Board Member
Katherine McCarthy, Planning Board Member
Howard Engel, Planning Board Member
Thomas Cotrofeld, Planning Board Member
Christine Motta, Planning Board Member
Daniel Odell, Planning Board Member

Jeffrey Lipnicky, Town Planner
Janine Saatman, Deputy Town Planner
Randall Passmann, Senior Town Engineer

Chris Bette, First Columbia
Devin Dal Pos, Laker Development, CVS
David Carroll, Esq., Ianniello, Anderson & Reilly, CVS
Robert Lacourse, VHB Engineering, CVS
Greg Bajee, Insight Realty, CVS
Peter Giovenco, Bergmann Associates, Bethlehem Town Center II
John Allen, Esq., Shanley, Sweeney, Reilly & Allen, Bethlehem Town Center II
Steve Powers, Nigro Companies, Bethlehem Town Center II
Tom Curley, Nigro Companies, Bethlehem Town Center II

First Columbia

It was determined that after listening to the comments at the public hearing, the Board could proceed with a vote on the draft Resolution to the Town Board recommending a SEQR Negative Declaration. The Board had received comments from the Albany County Planning Board and the intent of those comments had been incorporated into the documents. The

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955.

Board also had before it a Recommendation to the Town Board to approve Amendment No. 4 to Building Project Approval No. 34.

A motion to accept the draft Resolution to the Town Board recommending a SEQR Negative Declaration was offered by Mr. Odell, seconded by Mr. Collier and approved by all Board members present.

Chairman Mathusa turned the Board's attention to the draft Building Project Approval Recommendation, Amendment No. 4 to Building Project Approval No. 34, Planned Commercial District No. 6. He stated that there were conditions within the draft that needed to be completed by the applicant prior to the final approval of the plats.

Ms. Saatman stated that the vote from the Planning Board would be added to item #5. Mr. Lipnicky stated that condition 10A spoke to the fact that the applicant needed to obtain the necessary water and sanitary sewer approvals. The applicant had wanted to begin foundation work. The applicant has submitted to the Town a waiver to DEC concerning the extension of the Water District. The indication that was given to the Town was that the waiver would be granted by DEC. The 10A condition had been revised to give some flexibility to the Town Board and the Building Inspector to be able to issue the foundation permit. How far they would be able to proceed without the water district extension would be discussed and included into further approval documents granted by the Town Board.

It was noted that the existing building was also outside of the Water District but was currently being billed as an out of district user. Mr. Odell wanted to know if the waiver was for an extension of the Water District or a request for the proposed building to also be an out of district user. Mr. Bette stated that they were requesting an extension of the district as a hardship to include both parcels.

Mr. Collier stated that to answer some of the comments that the Board had heard at the Public Hearing, 10D of the conditions clearly states that the submitted Stormwater Pollution Prevention Plan be signed and sealed by a Professional Engineer and would include a revised Operations and Maintenance Manual.

A motion to accept as amended the Building Project Approval Recommendation, Amendment No. 4 to BPA No. 34, was offered by Mr. Collier, seconded by Mr. Cotrofeld and approved by all Board members present.

Chairman Mathusa stated that the documents would be forwarded to the Town Board for their consideration.

CVS

Chairman Mathusa turned the Board's attention to the next item on the agenda, the proposed CVS on the corner of Delaware Avenue and Elsmere Avenue. The last time the applicant had been before the Board, the Board requested that he supply a photo simulation of the proposed

project in final form. The perspective was to be done from approximately the corner of Herrick Avenue looking across the intersection.

Mr. Dal Pos, with Laker Development Group, was representing CVS. He apologized that the photo rendering was inaccurate. Vegetation had been left off that should have been included. By the time they had received the photo it was too late to revise it for this meeting. Based on previous discussions and the Board's wish to hide or minimize the appearance of the cars in the parking lot, Mr. Dal Pos proposed evergreen shrubbery next to the parking area along both road frontages that would grow to about three (3) to four (4) feet high. He produced photos of each of the buildings along Delaware Avenue from the proposed site all the way down to the Four Corners and the vegetation in front. He stated that none of the structures had what they were proposing to do. He stated that they would like to offer to the Board lighting that mimicked the lights at the Four Corners. He suggested adding them to the pocket park area. Mr. Dal Pos showed the Board the four elevations of the building but also told them that two (2) of the sides would be changed because of the cost of the other two (2) sides.

Chairman Mathusa asked the applicant to explain the missing vegetation. Mr. Lacourse, from VHB Engineering, stated that the landscape plan that had been submitted included a band of trees along the front. There were a couple of existing trees that would be remaining that also were not being shown. They were proposing 2.5 to 3 inch caliper additional trees in the order of 12 feet of planting. Mr. Lacourse stated that they would work with the Town to decide what type of hedge would be planted along the parking area. There were existing trees along Elsmere that would remain and they would be planting two (2) more. The plants that were shown on the submitted plan at the corner were rhododendrons. He stated that the island plantings would be a mix of crab apple, yews and other ground cover.

Mr. Collier thought that adding a berm along Delaware Avenue might help shield the view of the cars, such as the one in front of the Town Hall parking lot. He suggested using this instead of plantings. Mr. Dal Pos said they could look at that but would want to undulate it. Ms. McCarthy stated that the view coming from Elsmere was a natural berm due to the grade. Chairman Mathusa thought there was enough of a berm on Elsmere and he preferred plantings along Delaware Avenue.

Mr. Engel stated that the one big tree on Delaware that they had planned on keeping was not in the best of health. There was a lot of dead growth in those branches.

Chairman Mathusa asked if the signs would be limited to the one that was shown on the elevation drawing. He asked if they were planning on a sign in the pocket park. Mr. Dal Pos stated that he could not make a definitive statement as to the signage at this point. Mr. Silliman pointed out that some signage at the entranceways would probably be necessary. Mr. Dal Pos said that some of the signage could be for one-hour photo and the drive thru. He said that part of CVS's reasoning was that they had tried to accommodate the other comments as best as possible and they wanted signage.

Chairman Mathusa stated that everyone would know where the CVS was located. He felt that the directional signs at the driveways and the one that was currently shown on the elevations, was sufficient. He didn't want the signage to be a stumbling block in the review process.

Mr. Dal Pos said that at a previous meeting someone had asked him about the drive thru windows. He stated that both of the drive thru lanes could be used for picking up as well as dropping off.

Mr. Cotrofeld asked about the position, type and number of lights that would be used on the remainder of the site. Mr. Dal Pos stated that they proposed to use standard shoebox lighting they're all shielded and they don't bleed out onto the surrounding parcels. The ones that would be placed on the corner would be different, they would radiate out.

Chairman Mathusa asked the Board if they were satisfied with the site in general as to the location of the building, the proposed elevation and the proposed landscaping. Mr. Odell stated that he would be more comfortable if the design before them was more complete. There were items that were included that they were told shouldn't be and items that should have been included that were not.

Mr. Dal Pos stated that the elevations that were being shown were accurate. Mr. Odell wanted to make sure that the details of the building would remain and not be changed at a later time. Mr. Dal Pos stated that they were open to a color scheme that the Board would approve. He did say that two of the sides of the building would be different from the others. Chairman Mathusa wanted to know the reasoning behind that decision. Mr. Dal Pos stated that it was cost decision. Mr. Lipnicky stated that the west side of the building would be highly visible and he thought that it should remain as shown. Chairman Mathusa agreed. Mr. Dal Pos thought that landscaping could cover it. Chairman Mathusa stated that in the spirit of compromise, the elevation on the west side of the building should remain the same of the other three. Mr. Collier felt that the eyebrow gable vents should be changed out for dormers with windows. He thought that it would be very attractive. Mr. Dal Pos said they would look at it but he said it was very unlikely that they would incorporate the dormer feature. He stated that the company had not wanted the relocation of the building from the original proposal and he doubted that they would be accepting of other changes. Mr. Silliman stated that other commercial buildings that had been before the Board had accommodated their wishes for dormers.

Mr. Collier stated that he thought they should carry the lantern style lights down Elsmere Avenue and Delaware and then into the parking lot. Ms. McCarthy was concerned with light pollution for the people to rear of the site. Mr. Lacourse said that security within the lot was a concern. The lantern lights would leave dark areas within the parking lot because their illumination was not directed down. It was suggested that possibly the lanterns could be a supplement light.

Mr. Silliman stated that the applicant had originally come to the Board requesting a preliminary approval, which was something the Board could not do. The applicant then asked for input from the Board on design points that would work and help the project progress. The

Board was bringing up valid concerns that the applicant should be listening to, because those concerns could go to the approval or disapproval of the project.

Mr. Dal Pos stated that the economics of this site was one of the determining factors as what could or could not be done. The economics of any commercial endeavor was always closely considered. He stated that this put certain constraints on the amount of leeway he had on the project. He didn't want to promise something that he couldn't deliver.

Mr. Silliman stated that the cost of doing a visual analysis of the impact of looking at the west side of the building could be as expensive as putting in the windows that were presently being shown on the elevations.

Mr. Dal Pos said he would look at keeping the windows but again stated that it was a matter of economics.

Mr. Odell stated that "time is money" and the longer the project took, the more expensive it would become. If the Board was not comfortable with what was being proposed or didn't feel that the applicant was supplying sufficient information, then this process could go on month after month. He said that some projects that had come before the Board took a very long time to get to approval for just those reasons. The quicker the small issues could be resolved, the quicker they would be able to arrive at a decision.

Mr. Dal Pos wanted to know all the issues that the Board wanted him to take into consideration. Chairman Mathusa stated that the Board would like the dormers on the building, they would like the west side elevation to be consistent with the other two, which would include the windows, they wanted the additional trees and they wanted him to look at the possibility of more use of the lantern lights. Chairman Mathusa was interested in getting the location of the building finalized in order for the project to continue to move forward. He offered to meet with the higher management of CVS so they would understand the resolve of the Board in making this site attractive for the Town. He understood the financial aspects that Mr. Dal Pos mentioned but felt that their business would only increase with the drive thru. He was very interested in the safety of people on the site and felt the proposed location of the building addressed this issue. Chairman Mathusa felt the proposed landscaping would make the site more palatable.

Mr. Lipnicky wanted to know if the Board was satisfied with the rendering that had been submitted. The perspective in which the rendering had been done was not what had been discussed at the previous meeting. He did not think that it was unusual to ask for and shouldn't be difficult to produce.

Chairman Mathusa asked the opinion of the Board concerning the location of the building. Mr. Engel stated that the site layout was acceptable to him but he wanted to make sure the site was a showpiece for the Town. He suggested planting mature trees to enhance the site immediately and agreed that the west side of the building needed to be consistent with the other two. He also mentioned that the signage needed to be subtle.

Mr. Odell stated that he could accept the site layout in general. Ms. Motta felt that the drive thru would be a welcomed addition to many members of the community and the proposed site layout was acceptable and took into consideration the safety of pedestrians. Mr. Collier felt that the site layout would be good for traffic flow, building access and the success of the business. Mr. Cotrofeld stated that because of the submitted rendering it was difficult to visualize what the site would look like. He said that he was not 100% in favor of the proposed location of the building but could accept it if there was sufficient greenery. Ms. McCarthy still felt that the building should be at the corner but the landscaping made the proposed location easier to live with. There was a general consensus from the Board that the applicant could move forward with more detailed plans for the proposed site layout.

Chairman Mathusa urged the applicant to take into consideration all the comments that the Board had given him. Ms. McCarthy suggested using Bradford Pear trees in their landscaping design to keep a consistency with the efforts of the Bethlehem Garden Club to plant that species around the Town.

Chairman Mathusa stated that the next issue to be addressed was the draft SEQR Resolution, Preliminary Classification of Action and Lead Agency Coordination. This would classify this project as an unlisted action and would require the applicant to submit a long form EAF. Once the EAF was submitted and coordinated review could be initiated with the Planning Board as Lead Agency.

A motion to adopt the Resolution as written was offered by Mr. Collier, seconded by Mr. Engel and approved by all present.

Mr. Passmann stated that there were issues with the Storm Water Management that needed to be addressed. He stated that the proposed detention pond would not meet the Phase II Storm Water Requirements. He reminded the applicant that DEC required Storm Water Quality Treatment for roof water. Mr. Dal Pos stated that the original Storm Water Report that had been submitted would be revised.

Mr. Lipnicky stated that a preliminary review of the traffic study had been done. The report had been premised on 2001 counts at the intersection, rather than current counts. Historical data from DOT had shown a decrease in traffic between 1999 and 2002. This was probably due to a landslide on Delaware during 2000. Delaware Avenue had been closed for about six months and when it reopened it was one lane for about another six months. He requested that the applicant use more updated counts. Mr. Lipnicky also questioned how they had arrived at the trip generation. He didn't feel the ITE manual was the best source for trip generation in this case, because we have existing uses to take actual counts from.

Mr. Dal Pos stated that he wanted to make sure that the standards for esthetics that was being required of this applicant would remain consistent when other projects came before the Board.

Mr. Lipnicky asked the applicant for full-scaled elevations that could be scaled. He thought that the height limit in the district was forty- (40) feet measured midway between the eaves and the peak.

A motion to table was offered by Mr. Odell, seconded by Mr. Collier and approved by all present.

Bethlehem Town Center II

Chairman Mathusa turned the Board's attention to the next item on the agenda, the Bethlehem Town Center II project.

Mr. Giovenco, with Bergmann Associates, presented for the applicant. He wanted to reintroduce the project to the Board. They had been fine-tuning the project to address comments that had been received since their last time before the Board. They had previously submitted a long EAF that had been reviewed by staff and then revised to reflect their comments. They had recently submitted a revised full set of design plans. They had some repositioning of their tenants and the end cap store would now be Panera Bread. Staples was moved down as the second user and there was additional retail space that has not yet been assigned. They had reconfigured the site to accommodate better traffic flow, parking and esthetics. They would have two full access points to the site by extending the driveway that currently has a left turn to Lowes. A wider curve area was added to the rear for truck traffic and the loading dock would not be facing Rt. 9W, which had been a concern of the Board. The parking fields were compartmentalized to break up the asphalt. The islands would be landscaped. The proposed landscaping in the front had changed from the previous submission. Mr. Giovenco stated that they would submit site line views from Rt. 9W. They felt they had increased the height of the berm without creating something that could not be mowed. The height varied from six (6) to eight (8) feet. They would also be landscaping on the top of the berm. The utilities would be somewhat self sufficient, using the water service that was established for the adjacent shopping center. They had developed an on-site Storm Water detention pond to the rear of the property at the base of the incline. It was made up of two (2) pools, a micro pool and a forbay. The pond would attenuate the larger storms being designed for both water quality and quantity. The narrow designated wetlands that came up between the proposed site and the adjacent shopping center would be filled in. They would be creating a mitigation area adjacent to the stream but separate from the water quality pond. The Army Corp of Engineers had recently completed their delineation of the wetlands. They were in the process of applying for an individual permit.

Mr. Giovenco stated that Creighton Manning, the consulting engineers for the traffic study, had met with DOT and had concluded some assumptions. The report would be submitted within the next few days. The main issue was signalization. Documentation had been submitted to DOT substantiating that a traffic light at driveway to Rt. 9W was necessary. Chairman Mathusa stated that he went by that area many times and was witness to near accidents from people making left hand turns out of that intersection. He was in support of a traffic light. Mr. Giovenco stated that there was enough main line traffic and trip generation to warrant a traffic signal.

Chairman Mathusa asked about potential development across the street from the proposed site. Mr. Powers stated that Creighton Manning had made an assumption to DOT that there would be future development of about 175,000 sq. ft. That would certainly warrant a traffic light. He thought that Creighton Manning had enough information to convince DOT that a traffic light was needed now.

Mr. Collier said that the proposed berming was to screen the parking lot. He wanted to know the elevation of the parking lot relative to Rt. 9W. Mr. Giovenco stated that relative to the parking lot the berms were six (6) feet high or higher, Rt. 9W was higher than the parking lot. The berm in relation to Rt. 9W in one area was three (3) feet high. Mr. Collier felt that sufficient screening was necessary. Mr. Lipnicky stated that the landscaping on the top of the berm would assist in giving a visual break. Mr. Giovenco stated that there was an existing berm that had been put in place during the construction of Lowe's that gave some screening. The parking ratio was 4 per thousand, which was on the low side of what the Code required. The percentage of required green space within the parking area had also been met. Mr. Collier wanted to know if more visual barriers could be added. Mr. Giovenco stated that there would be trees planted in that area and those could be staggered to fill the gaps. The grade of the parking lot grades away from the road so he didn't think that there would be much of a view of the cars.

Mr. Collier stated that someone in a vehicle other than a passenger car, could see over the berm, thru the landscaping and then see the parking lot. Chairman Mathusa said that view it would be for a short distance. Mr. Giovenco stated that they could move back further if the land allowed it but the rear was all slope. He said that they were investing significantly in the façade on the structure, so if the buildings were in view they would be attractive.

Mr. Giovenco presented the building elevations. Panera Bread would be the end cap store and oriented to Rt. 9W. There was a brick façade that also wrapped around the back of the structure on the north side to the loading dock. There was an increase in the amount of windows that were along the front Staples and the other retailers.

Chairman Mathusa asked about the bottom of the slope and how far along in the process they were with the Army Corp. of Engineers. Mr. Giovenco stated they were only impacting 2.2 acres of wetlands. They hoped to have the permit in hand by spring of next year. If they were to get approval from the Board prior to that, they could begin construction without impacting those wetlands. Then when they receive their permit, they would finish the project. Chairman Mathusa wanted to know if the stream that continues north to the railroad bridge culvert had been discussed with the Army Corp. Mr. Giovenco stated that they were not impacting any downstream conditions. The Army Corp of Engineers would be looking at this cumulatively not independently from Bethlehem Town Center. He said that they were disturbing on site and mitigating on site.

Chairman Mathusa stated that there was some concern about getting too far along in the Town approval process before outside agencies had finished their approvals. They didn't want an approval document that had a large number of conditions. Mr. Giovenco stated that

it was common for Boards to give conditional site plan approvals that were conditioned on receiving wetland permit from the Corp. It would be the applicant that would be at risk by starting construction prior to getting the permit.

It was Mr. Passmann's understanding that they were designing a Phase II compliant Storm Water System, that included storm water quality and quantity control. The Engineering Division wanted the applicant to look at the overall drainage area and see how their site would contribute to the watershed. They wanted to see where the water was exiting compared to the peak of the watershed. The Bethlehem Town Center project evaluated that condition and they had assumed that they were beating the peak of the water coming down through the water shed. During the redesign phase to become compliant with the Phase II regulations, a storm water pond had been constructed and that changed the dynamics of the drainage system. A downstream property owner had brought to the Town's attention the condition of a stone arch culvert under the railroad and that was why the Engineering Division would be looking closely at the effect of the project on the stream system. Mr. Passmann asked that applicant to submit a geotechnical report.

Mr. Lipnicky stated that they needed to identify the issues that needed to be reviewed for SEQ. He suggested that the applicant supply any reports that they might have such as a Geotechnical Report and a Traffic Study. Mr. Giovenco wanted to be back on the agenda for the Board to declare themselves Lead Agency. The Planning Staff stated that in the letter that went out, the wording was such that the Planning Board became Lead Agency by default if none of the involved agencies objected.

Mr. Collier stated that he didn't feel that there was enough screening of the parking lot from Rt. 9W. He suggested reducing the amount of parking and then reducing the available retail space and then the building could be pushed back. Mr. Lipnicky stated that building couldn't be pushed back easily. He stated that motorists had a small window of opportunity to see into this opening as they were driving by. He didn't think it was the same issue as the Bethlehem Town Center parking lot. Ms. McCarthy stated it should be taken into consideration that the building was attractive.

Mr. Giovenco stated he would submit three line site views for the Board's review.

A motion to table was offered by Mr. Cotrofeld, seconded by Mr. Odell and approved by all present.

A motion to approve the minutes of October 19, 2004 as amended was offered by Mr. Cotrofeld, seconded by Ms. McCarthy and approved by all present.

A motion to adjourn was offered by Ms. McCarthy, seconded by Mr. Cotrofeld and approved by all.

The meeting adjourned at 10:05pm.