

**PLANNING BOARD
TOWN OF BETHLEHEM
October 6, 2009**

The Planning Board, Town of Bethlehem, Albany County, New York held a Regular Meeting on the above mentioned date, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY.

Present: George Leveille, Planning Board Chairman
Keith Silliman, Planning Board Counsel
Nicholas Behuniak, Planning Board Member
Daniel Coffey, Planning Board Member
Kathy McCarthy, Planning Board Member
Chris Motta, Planning Board Member
Kate Powers, Planning Board Member
John Smolinsky, Planning Board Member

Michael Morelli, Director DEDP
Jeffrey Lipnicky, Town Planner
Rob Leslie, Senior Planner
Terry Ritz, Assistant Town Engineer

Ed Esposito	Bill Joynt
Bill Parry	Charles Wiff
Francis Bossolini, PE	Dave Kissinger
Dick Tice, PE	Clayton & Janet Rose
Peter Lynch, Esq.	Thomas Brewer
Cynthia Radliff	Anne Cheeseman
Tim Nimmer	Mary Elizabeth Jones

Agenda: Devonshire Hills – Section 2
Kendall Square
Phillipin Kill manor

Chairman Leveille called the meeting to order and noted the presence of a quorum.

PUBLIC COMMENT PERIOD

Bill Joynt, Walden Fields commented on Kendall Square. He represents a group of residents from Walden Fields. They support the Town being lead agency and they want to be able to input into that process. They want the first Hamlet in the Town to be successful. They want to be able to speak with staff and members of the Board about the project as it progresses.

Cindy Radliff wanted to speak about the minutes from a previous meeting. Chairman Leveille said this comment period was for agenda items only but he would be happy to speak with her.

Tim Nimmer, 38 E. Bayberry Rd. He said the Hamlet was a nice idea and many people in Colonial Acres were looking forward to it. He thought the Kendall Square plan was too much in too little space. He said

it would add a substantial amount of traffic to that corner. He liked the idea of being able to walk to small commercial but thought the project should be smaller in scale.

PUBLIC HEARING

Devonshire Hills – Section 2

Chairman Leveille introduced the first item on the agenda, a public hearing to amend the prior approval of Devonshire Hills, Section 2.

A motion to indent the public hearing notice into the record was offered by Mr. Smolinsky, seconded by Ms. McCarthy and approved by all Board members present.

Notice is hereby given that the Planning Board of the Town of Bethlehem, Albany County, New York, will hold a public hearing on Tuesday, October 6, 2009 at 6:00 p.m., at the Town Offices, 445 Delaware Ave., Delmar, New York, on the application of Ted Cillis for a Subdivision Amendment to Devonshire Hills Section 2 Subdivision. The following lots to be merged 44&48, 51&57, 52&58 Crystal Lane, Delmar, NY, Albany County, N.Y., as shown on map entitled: Subdivision Plat, Amendment To, Devonshire Hills, Section 2, Crystal Lane, Town of Bethlehem, Albany County, State of New York, dated February 17, 2009, last revised September 1, 2009, map prepared by Monarch Design, 1399 Vischers Ferry Road, Halfmoon, NY.

Mr. Esposito, landscape architect presented. The previous subdivision approval, June 2000, was for six (6) lots. They have been working with the ACOE on the mitigation of wetlands. They've reduced the number of lots to three (3). They are all about one and a half (1 ½) acres each. ACOE could not write the permit but had contacted staff indicating the permit would be written.

Mr. Lipnicky confirmed his conversation with the ACOE. A permit would not be issued but a letter authorizing the project would be written. A condition could be added to an approval stating that disturbance on the site would not begin until that letter had been submitted or the Board could delay approval until the letter had been received.

The public hearing was opened to the audience for comment. There were no comments.

Mr. Esposito said there were restrictions filed with the Albany County Clerk's Office regarding planting, grading and the protection for the area. Those were the terms of the permit and part of the prior review and the acceptance of this application. The proposed homes have been placed to avoid the wetlands which is a substantial reduction in disturbed areas. Mr. Esposito was asking for conditional final approval.

Mr. Lipnicky said the map shows remediation for past wetland disturbance without authorization. He said in his conversation with the ACOE, they indicated that remediation as shown would satisfy what the ACOE will require of the project. There has not been a firm indication of when the approval letter would be coming.

John McMillan, 147 Orchard St., Delmar asked if he could speak. His property abuts project property. He said it's a cliff down to the property. He asked what they were going to do, it's a wetland at the bottom and a pond. He said there is water running on the property all the time. He wouldn't want to have a home there.

There were no further comments.

A motion to close the public hearing at 6:15pm was offered by Ms. Motta, seconded by Ms. McCarthy and approved by all Board members present.

REGULAR AGENDA ITEMS

Kendall Square

Chairman Leveille introduced the next item on the agenda, possible action on SEQR lead agency coordination for Kendall Square site plan.

The project encompasses about 16.7 acres of land on the corner of Feura Bush Rd. and Elsmere Ave. It is a Hamlet zone and qualifies as a Type I action under SEQR because it is in existing agricultural district. Staff's recommendation to the Board is to act as lead agency for the project.

Mr. Bossilini presented for the applicant. Work that has transpired since the project was last before the Board included: a completed Phase I cultural resource assessment and SHPO signed off with a no effect. A nationwide permit from ACOE was requested for the proposed wetland impacts and they anticipate a letter of authorization within 30 days. The site and adjacent intersection is having a traffic study done and should be completed within a week or two and then be submitted to NYSDOT. New drawings were submitted to the Town for review and comment. They had met with a group of the neighboring residents and a few Board members to listen to their comments about the project.

Ms. McCarthy, who attended the meeting, said some main concerns were with the design, traffic and density.

These issues will be looked at as the project progresses and it gets closer to the final design.

The Board reviewed the draft SEQR Resolution, Preliminary Classification of Action and Lead Agency Coordination.

A motion to approve the SEQR Resolution as drafted was offered by Mr. Behuniak, seconded by Mr. Smolinsky and approved by all Board members present.

Lead agency coordination takes at least thirty (30) days to hear back from involved agencies. Staff did not anticipate any opposition to the Planning Board being lead agency. More details on the project should also be available within the next month. The project could be back before the Board in November.

Phillipin Kill Manor

This is a proposed PDD and the applicant was here to update the Board on revised plans that have been submitted.

Mr. Lynch, Esq. presented for the applicant, Mr. Cade. Mr. Tice, PE and Mr. Brewer, PE were also present. Major revisions have been done to the plan since it was last presented in 2007. The project area totals about one hundred twenty-nine (129) acres. The project units have been reduced to eighty-three (83) units; fifty-three (53) single family homes and thirty (30) townhomes. The last submission proposed a wetland disturbance of about four (4) acres. There was a prior disturbance on the site of a little over an acre. Staff had concerns that the prior plan as submitted would not be approvable by ACOE standards. The applicant had two (2) separate meetings with the ACOE since meeting with Town staff. The first

meeting with Mr. Dangler was about the prior proposal. He had a concern with the amount of wetlands they were proposing to disturb. He suggested they revisit the wetland impact because it was too intense and not in an approvable form for the ACOE. The revised plans reduced the disturbance of wetlands to point four eight nine (.489) acres of land. At the second meeting with Mr. Dangler with the revised plans, he indicated that it could go through an ACOE review and it has a reasonable chance of being approved. The applicant then presented the revised plans to staff. Two of the roadways have been changed to not impact wetlands. The project will also be creating wetland mitigation areas, about four and one half (4 ½) acres. The changes were made for the ACOE review and SHPO review. There are a number of SHPO identified sites throughout the project that would have been impacted with the old plans. The revised plans have eliminated the homes on the lots with those sites. A storm water detention area will be near one those sites. Over the years the project has changed because of environmental reasons, both wetlands and archeological, and zone changes from a 112 unit conventional subdivision to this revised PDD plan with mixed housing types and eighty-three (83) units. Mr. Lynch said the density was .739 unit per acre. It was based on the developable land.

The Phillipin Kill is on the south end of the site and the applicant's proposal is to deed about forty (40) acres of land adjacent to that corridor to the neighboring Five Rivers. Other open space on the project will be deed restricted. It was asked if there would be a connection to the open space for the residents of the project. Staff said they didn't want the pedestrian access to attract vehicles by parking at the end of a cul-de-sac. That would be the most logical entrance to the Phillipin Kill. It was not shown on the plat because of staff opposition.

There are three (3) access points onto Fisher Blvd. proposed. Lots onto Orchard St. will be individual driveways. It was noted that the applicant is asking for relief from the fifty (50) foot PDD setback requirement to twenty-five (25) feet in some of the areas. Some of the lots along the perimeter abut housing that has a twenty-five (25) foot setback. It would be same as the neighboring homes. Mr. Tice said the prior plan had the same issue with the fifty (50) foot setback. Mr. Lynch said if they didn't get the relief it would kill the project as presented. They would lose ten (10) to twelve (12) lots which would be a million dollar loss. Mr. Tice said to layout the lots in any other configuration would be impossible because of the wetlands. Not all of the project needs the setback relief.

The project has had a few SEQR extensions since the project was first presented. The question was asked on how to make sure the timeline of the project and SEQR were in sync. Mr. Leslie said staff has asked for an updated EAF to show changes on the project. The traffic report, which was updated in 2002, would still apply because there is a reduction of lots. Mr. Lynch said the SEQR time frames were a guideline but not statutory. The applicant would be consenting to any reasonable requests for extensions as they have done in the past. They realize they have made a significant change to the plans.

The boundaries of the wetlands needed to be updated per ACOE, especially where there are proposed crossings. The plans could change if the boundaries have changed. Mr. Tice said most of the wetlands they are crossing are deep ravines. He said those wetlands are soils but no water.

Some homes and lot sizes have changed over the years due to zoning changes and the desire of the Town for diversity in housing. The lots on Orchard St. now require two (2) acre lots and some of the single family homes have been replaced with townhomes. This last plan reduced both the number and the size of the townhomes because of the wetlands.

Five Rivers have not yet been contacted about the transfer of property. If they do not want the property, it could be transferred to an HOA and deed restricted.

Staff recommended the Board allow the limited relief sought by the applicant on the fifty (50) foot setback on the southern part of the project but keep it on the northern section of the project which would affect one (1) lot as shown on the plans in front of them.

The Board reserved their decision on the recommendation on limited relief from the fifty (50) foot setback until the current boundaries of the impacted wetlands were verified.

A motion to table the application was offered by Mr. Behuniak, seconded by Ms. McCarthy and approved by all Board members present.

Minutes

The Board discussed the format of the minutes.

The Board reviewed the draft minutes of September 15, 2009 prepared by staff.

A motion to approve the minutes as amended was offered by Ms. Powers, seconded by Mr. Behuniak and approved by all Board members present.

The Board discussed the format of minutes.

A motion to adjourn was offered by Ms. McCarthy, seconded by Ms. Motta and approved by all Board members present.

The meeting adjourned at 7:30pm.

Respectfully submitted,

Nanci Moquin