

**Stillwater Planning Board  
February 9, 2009 7:00 PM  
Stillwater Town Hall**

**Present: Chairwoman Jo Ann Winchell, Peter Buck, Beverly Frank, Carol Marotta, John Murray, Paul Tompkins**

**Absent: Robert Barshied**

**Also Present: Ray Abbey-Bldg Inspector/Code Enforcement, Daryl Cutler-Attorney for the Town, Joel Bianchi-Engineer for the Town, Sue Cunningham, Secretary to the Planning Board.**

Chairwoman Winchell called the meeting to order and led everyone in the Pledge to the Flag.

**Approval of Minutes: Motion** by J. Murray and seconded by C. Marotta to approve the minutes of the Dec 2008 Planning Board meeting. **Motion carried.**

**Motion** by J. Murray and seconded by P. Tompkins to approve the minutes of the January 12, 2009 Planning Board meeting. **Motion carried.**

**Agenda Items**

**ABC Recycling  
Special Use Permit  
PB2008-49  
SBL #253.-1-55.122**

**Resolution # 5      ABC Recycling—SEQRA**

**Motion** by J. Murray and seconded by P. Tompkins to adopt Resolution # 5 as follows:

WHEREAS, ABC Recycled Auto Parts and Scrap Metal has submitted an application to the Planning Board seeking a Special Use Permit to operate a junkyard on property located at 250 Walnut Road, more fully identified as Tax Map Number 253.-1-55.122; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (SEQRA), the proposed action is an unlisted action requiring SEQRA review; and

WHEREAS, pursuant to 6 NYCRR §617.6, the Stillwater Planning Board is the lead agency for SEQRA review; and

WHEREAS, the applicant has submitted a fully completed Environmental Assessment Form (EAF); and

WHEREAS, the Planning Board has duly reviewed the EAF and has considered the criteria contained in 6 NYCRR §617.7(c), to determine if the proposed action will have a significant impact on the environment;

Now, therefore, be it

RESOLVED, that the Planning Board hereby determines that the proposed action by the applicant, ABC Recycled Auto Parts and Scrap Metal, for a Special Use Permit to operate a junkyard on property located at 250 Walnut Road, more fully identified as Tax Map Number 253.-1-55.122, will not have significant impact on the environment.

**Motion carried unanimously.**

**Resolution #6            ABC Recycling---Special Use Permit**

**Motion** by J. Murray and seconded by C. Marotta to adopt Resolution #6 as follows:

WHEREAS, ABC Recycled Auto Parts and Scrap Metal has submitted an application for a Special Use Permit to operate a junkyard on property located at 250 Walnut Road, more fully identified as Tax Map Number 253.-1-55.122; and

WHEREAS, a public hearing was conducted on January 12, 2009 to consider the application and comments were received from the public as well as the applicant; and WHEREAS, the Planning Board completed a SEQRA review and has issued a negative declaration pursuant to Resolution No. 5 of 2009; and

WHEREAS, the Planning Board has reviewed the application and has duly considered the criteria for a Special Use Permit;

Now, therefore, be it

RESOLVED, that the application of ABC Recycled Auto Parts and Scrap Metal for a Special Use Permit regarding property located at 250 Walnut Road, more fully identified as Tax Map Number 253.-1-55.122, is hereby GRANTED provided applicant complies with the following conditions:

Town Local Law requires that junkyards be enclosed by a six foot tall opaque fence of wood or other material adequate to prohibit the entrance of children and others into the areas of activity. State law also requires fencing around junkyards. However, where topography, natural growth of timber, or other considerations accomplish the purpose of the fence requirement, in whole or in part, the Planning Board may reduce or eliminate the fencing requirements.

The fencing requirement serves two purposes – security and aesthetics. The aesthetic concerns are not a factor in this application due to the fact that this is a pre-existing business, located in the area of a former dump, and it is hidden from view by the natural contour of the land.

During the Public Hearing, residents expressed concerns about traffic, security conditions, children’s access to the property, the lack of fencing, and the inadequacy of the gate at the front entrance.

The topography of tree growth provides significant protection against abstracting trespassers since the site is not visible from the main road. This business has been in operation for many years and the applicant testified that there has not been a problem with trespassing in the past. However, the current gate at the front entrance only blocks vehicles, not pedestrians.

1. In light of the fact that the business has operated in the area for many years, without incident, and that the topography and trees provide a natural barrier that limits access to the property, the fencing requirement is modified to require that the facility

shall have a security fence and gate. The fence shall be constructed and designed in approval with the Stillwater Code Enforcement officer. The gate shall meet the requirements found in New York State Fire Code §503.6.

2. The current gate must be replaced with a gate and fence design that blocks not only vehicles, but pedestrians as well.
3. The entrance gate shall be locked and secured except during times when the business is operated by the applicant or the neighboring landscaping business. The applicant shall provide the Town with a signed writing by the neighboring landscaping business acknowledging that they will comply with this requirement.
4. Vehicles:
  - a. No more than 900 vehicles may be stored on site.
  - b. Vehicles may not be stored more than three vehicles high.
  - c. Columns of vehicles must be a minimum of ten feet from each other to avoid congestion and dangerous conditions.
  - d. All vehicles must be stored at least 50 feet from the retention pond.
5. Applicant must apply for site plan approval prior to being issued a building permit for the construction of the building used for operation of the business.
  - a. The building will be constructed in accordance with New York State Building Code Chapter 4, Section 406, Subsection 406.6. The structure will contain the required sprinkler system.

The special permit is being granted based upon the representations made by the applicant. These representations include the method of handling incoming vehicles, the anticipated number of employees, the number of vehicles possessed, and traffic to and from the site, including deliveries and pick-ups during the given week.

In the event it is determined that such representations are not accurate, or conditions or circumstances change causing such representations to no longer be correct, the Planning Board reserves the right to deny renewal of the special permit in the following years. Even if the conditions are as represented by the applicant, and such conditions to not change, renewal of a special permit is not guaranteed. New terms and conditions may be imposed, or if appropriate, the renewal of the permit may be denied.

Discussion was held on the road & conditions, entrance gate, limited number of vehicles allowed, distance between columns of vehicles, sprinkler system and hours of operation.

**Motion carried.** Resolution #6 was adopted unanimously with the specified conditions.

**Resolution #7            ABC Recycling---Site Plan Review**

Attorney Cutler stated that the applicant needs to receive a copy of the Engineers report which sets forth some specific requirements of additional information needed before acting on the Site Plan Review.

**Motion** by C. Marotta and seconded by J. Murray to table the Site Plan Review as follows:

WHEREAS, ABC Recycled Auto Parts and Scrap Metal has submitted an application to the Planning Board seeking Site Plan Approval to operate a junkyard on property located at 250 Walnut Road, more fully identified as Tax Map Number 253.-1-55.122; and WHEREAS, the Town Engineer has requested additional documentation from the applicant regarding the request for site plan approval; and WHEREAS, the Planning Board is unable to consider the application request without such additional documentation;

Now, therefore, be it

RESOLVED, that the application of ABC Recycled Auto Parts and Scrap Metal for Site Plan Approval regarding property located at 250 Walnut Road, more fully identified as Tax Map Number 253.-1-55.122, is hereby tabled pending such additional documentation being provided by the applicant.

**Motion carried.** Resolution #7 was tabled unanimously.

**Saratoga Cluster        (Jib Drive)**

**PDD**

**PB2008-40**

**SBL #206.-1-24**

C. Marotta inquired about the original cluster design and if it was available for inspections.

Chairperson Winchell informed her that she could stop in the Building Dept to review the original documents.

**Resolution #8            Saratoga Cluster PDD---Planning Board Recommendations**

**Motion** by J. Murray and seconded by C. Marotta to adopt the following recommendations to the Town Board.

WHEREAS, VLG Real Estate Developers, LLC has submitted an application for the Saratoga Cluster Planned Development District on Jib Drive, more fully identified as Tax Map Number 206.00-1-24; and

WHEREAS, the Town Board referred the Planned Development District application to the Planning Board for its review and comments; and

WHEREAS, the Planning Board has duly considered the application;

Now, therefore, be it

RESOLVED, that the Planning Board provides the following report with its recommendations and comments as follows:

Saratoga Cluster is a project that initially was proposed as a twenty-nine (29) lot cluster Zoning development. Thereafter, the applicant, VLG Real Estate Developers, LLC (hereinafter “VLG”), applied to the Town Board to have the project deemed a Planned Development District (hereinafter “PDD”). The Town Board referred the matter to the Planning Board for its review of the request and to have recommendations and comments issued to the Town Board. VLG appeared before the Planning Board to present the proposed project, answer questions, and submit additionally requested documentation. On January 12, 2009, a public hearing was held regarding the project. Residents submitted correspondence, written statements, and oral comments to the Planning Board. Based upon its review, the Planning Board reaches the conclusions and recommendation set forth below.

It should be noted that the Town went to great time, trouble, and expense to complete a Comprehensive Plan. This comprehensive plan is a guide and tool to be considered by the Planning Board. One of the major underlying themes of the Comprehensive Plan is that residents are very concerned about development and population density. The Board is cognizant of the fact that any decision or recommendation it makes should be, to the extent practical, in harmony with the Comprehensive Plan.

Likewise, it should be noted that the Zoning Code is designed to balance property owner’s rights with that of the neighboring properties, other residents, and the Town as a whole. If a property owner feels the Zoning Code is too restrictive or unfairly limits the development or use of his property, the owner can apply for a variance through the Zoning Board of Appeals. Alternately, the owner can seek to have his property deemed a Planned Development District (PDD). The purpose of a PDD is to provide flexible land use and rezone land to allow neighborhoods to develop in the Town. This allows for the ability to have diverse uses brought together in a compatible and unified plan. It encourages innovation in residential development to meet the demand for housing at all economic levels by allowing greater variety in type, design and siting of dwellings.

When considering whether to recommend a proposed PDD, the Planning Board must consider the stated objectives of the PDD legislation. The stated objectives of the PDD legislation are as follows:

A. Whether the project provides a choice in the types of environment, occupancy, tenure (e.g., individual ownership, condominium leasing), types of housing and sizes and community facilities available to existing and potential residents at all economic levels.

B. Whether the project provides more usable open space and recreation areas, including the linkage of open space areas.

C. Whether the project provides more convenience in location of industrial, commercial and service areas, if applicable.

D. Whether the project provides for the preservation of trees, outstanding natural topographic and geological features and prevention of soil erosion.

E. Whether the project provides for a creative use of land and related physical development which allows an orderly transition of land.

F. Whether the project provides for an efficient use of land resulting in smaller networks of utilities and services, thereby lowering housing costs.

G. Whether the project provides a development pattern in harmony with the objectives of the Comprehensive Plan.

H. Whether the project provides a more desirable environment than would be possible through the strict application of other articles of this local law.

While PDD regulations allow rezoning, to change the zoning requirements of the parcel of land within the PDD, the local law specifically provides that in no event shall the PDD regulations be interpreted to circumvent the benefits of the local law to the residence of adjoining properties. During the public hearing, resident Mike Doogle stated that he believed the PDD would have the benefit of resulting in road improvements to Jib Drive and allow a number of residents to have access to municipal water. Mr. Doogle correctly pointed out that the project does provide a benefit to a number of residents within the Town by giving them access to municipal water. Nevertheless, the Planning Board must consider the objections and concerns expressed by other residents regarding the project.

One repeated objection was the proposed density of the project. The Town PDD legislation contains general requirements governing when a PDD may be issued. One of those general requirements is that residential density in a PDD shall not exceed 120% of the base residential density of the district in which the PDD is located. Town of Stillwater, Zoning Local Law §4.3(C). This project is requesting residential density in the PDD of 135% of the base residential density. Residents Joan Verdile, Carol Dooley, Penny Cronin, Sharon Urban, and Julia Annotto all objected to the project due to the proposed density.

The significance of the proposed density cannot be understated. In order to qualify as a PDD, it must meet the general requirements. In this case, it does not. The general requirements specifically state that the density shall not exceed 120%. One of the stated objectives of the PDD regulations is to provide a development pattern in harmony with the objectives of the Comprehensive Plan. Residential density that exceeds zoning, and exceeds PDD regulations, flies in the face of the Comprehensive Plan. Furthermore, the PDD regulations themselves state that they should not be interpreted to circumvent the benefit of a local law to the residents of adjoining properties. One of the key benefits of the local law to residents of adjoining property is to limit residential density. To approve a project that has proposed residential density that exceeds even that allowed by the PDD legislation would certainly circumvent the local law's intent of protecting adjoining property owners from excessive residential density.

Another stated objective of the PDD regulation is to provide a choice and types of housing to people of all economic levels. Residents William and Betty Blume expressed concern that all of the buildings are going to be of the same size and character. This project does not benefit the Town by offering a greater choice of types of housing to people of all economic levels. This project does not involve multiple housing options of various sizes and price ranges. In fact, it is the opinion of the Planning Board that the statements and documentation of the applicant and its agents support the conclusion that the project does not constitute affordable housing, but rather luxury housing affordable to a limited number of prospective residents.

Regarding other factors to consider, the project does meet the objectives of the PDD regulations in offering the preservation of trees, useable open space, and protects the existing nature trail on the land. This having been said, Cluster development under

the zoning ordinances would likely provide similar benefits such as useable open space, the protection of the existing trail, and the preservation of trees. Since the project does not involve a mixed use, it does not provide more convenience and location of industrial, commercial, and service areas. A benefit to the Town could have been achieved if the project had proposed a mixed use. Increased residential density necessitates additional services such as convenient stores and gas stations. The layout of this parcel of land would likely not support the placement of such mixed use. The proposal of placing a high density residential development in this area without the benefit of being able to address that concern must be considered by the Planning Board.

Finally, the applicant acknowledged that this project does not conform to the Town's Subdivision Design Standards. It does not provide sidewalks on all but a small section of the proposed local streets or collector roads. The applicant argues that the cost of the sidewalks is the reason the applicant is seeking relief from that requirement. The applicant did not provide any unique feature of this project's design or environmental condition which creates greater expense to install sidewalks than any other subdivision. Since every subdivision is subject to the Subdivision Design Standards, any applicant who is subject to the requirement of installing sidewalks would argue they are too expensive to install if that were a basis to avoid this requirement.

### **Recommendations**

Based upon the above, the Planning Board issues an unfavorable recommendation. Before the Planning Board could issue a favorable recommendation, the applicant would have to amend the proposed project to include the installation of sidewalks, pursuant to the Subdivision Design Standards, and reduce the density to a maximum of 34 lots.

Should the applicant agree to amend the project to include sidewalks and a reduced density, the Board has the following comments for the Town Board to consider:

1. A number of residents objected to increasing the density from 29 to 34 lots. The Town Board should strongly consider whether allowing 34 lots would circumvent the protections afforded by the Zoning Law to adjacent property owners.
2. Since the landowner intends to or has filed an application with the ZBA seeking a variance from a PDD legislation limiting density to 120%, if the Town Board does grant a PDD, the Town Board should draft such legislation in a manner which would preclude the applicant pursuing a variance to increase density further.
3. The applicant has proposed at least 2 options for dealing with open space. One option is to grant such open space to the Town. The alternative is to make the open space part of the various lots with deed restrictions, making such sections of the lots forever wild. The Town will need to determine which of those options it finds most beneficial to the Town and its residents.
4. The applicant has proposed placing a gate on Keel Lane, a private road, and deeding the road to the Town. The Town will need to determine if it desires to have such property deeded to it and whether it is appropriate to place a gate on the road.
5. The applicant has proposed granting Connally Road to the Town. The Town Engineer and Town Highway Superintendent must review the design and construction to insure the road meets any and all Town standards for road construction. The Town Board must determine whether the Town would benefit by ownership of that road or, if it is more appropriate, to require that it is deeded to the landowners along such private way.

**Motion Carried.** Resolution #8 adopted an unfavorable recommendation unanimously.

**Donnelly Construction  
Site Plan Review  
PB2008-44  
SBL #252.-2-39.11**

Scott Lansing of Lansing Engineering spoke on behalf of the applicant regarding an application submitted for a Site Plan Review. He briefly went over a modified plan of the original that was submitted in the fall of 2008.

Discussion was held on the building upgrade, buffer zone, driveway and jobs created.

**Resolution #9                      Site Plan Review/Refer to County with Favorable  
Recommendation**

**Motion** by P. Buck and seconded by C. Marotta to adopt the following Resolution:  
WHEREAS, Paul Speshock has submitted an application for Site Plan Review regarding property located at 155 Route 67, more fully identified as Tax Map Number 252.-2-39.11; and

WHEREAS, the Applicant needs County approval for this Site Plan Review due to the property having access to a State road;

Now, therefore, be it

RESOLVED, that the Planning Board refers the Applicant to Saratoga County with a favorable recommendation; and be it further

RESOLVED, that the Secretary is authorized and directed to transmit a copy of this Resolution to the Applicant, the Town Clerk and the Building Inspector / Code Enforcement Officer.

**Motion carried.** Resolution #9 adopted a favorable recommendation unanimously.

**Old Business**

**Robinson Knoll  
PB2007-01-242.-1-61.1**

David Bogardus, PLS spoke on behalf of the applicant, Joseph Urbanski of Saratoga Custom Homes, LLC relating to a proposed project that was submitted. The applicant has decided to scale back his original proposal of a five lot major subdivision with a new Town road to a three lot minor subdivision with private driveways.

Engineer Bianchi gave several requirements that would need to be met do to the change in proposal submitted.

Chairperson Winchell asked Engineer Bianchi to submit his recommendations to the Planning Board prior to the next meeting.

A lengthy discussion was held on the applicant's decision to scale back the proposal, separate driveways vs. common driveway and storm water management.

Mr. Urbanski was not in favor of a common driveway and felt it could crush the project. Chairperson Winchell stated that they would take everything into consideration, rely on the Engineers review and place it on the March 2, 2009 Planning Board agenda.

### **Saratoga Water Services**

Chairperson Winchell reported that correspondence was received From Alex Mackey of Saratoga Water Services requesting an extension on his Site Plan Review regarding a 9,000' water line along Cold Springs Road and Elmore Robinson Road.

### **Resolution #10**

### **Saratoga Water Services—Extension Request**

**Motion** by P. Buck and seconded by C. Marotta to adopt the following Resolution.

WHEREAS, Saratoga Water Services has submitted an application for an extension of the site plan approval regarding a 9,000' water line along Cold Springs Road and Elmore Robinson Road; and

WHEREAS, the applicant received site plan approval and has actively pursued completion of the project; and

WHEREAS, the applicant is waiting for Department of Health approval, which will not be granted until completion of the final changes to the path and location of Cold Springs Road has occurred; and

WHEREAS, the delay in acquiring all necessary approvals has been beyond the control of the applicant;

Now, therefore, be it

RESOLVED, that the Planning Board hereby determines the site plan approval for Saratoga Water Services to install 9000' of water line along Cold Springs Road and Elmore Robinson Road shall be extended for a period of six months; and be it further RESOLVED, that the Secretary is authorized and directed to transmit a copy of this Resolution to the applicant, the Town Clerk and the Building Inspector and Code Enforcement Officer.

**Motion carried.** Resolution #10 was adopted unanimously.

### **Other Business Discussed:**

**Public Hearings:** C. Marotta inquired if they should have to hold public hearings when changing from a major subdivision to a minor subdivision.

P. Buck stated that he is not in favor of holding a second public hearing when it is unnecessary.

Chairperson Winchell polled the Planning Board the majority of the Board was opposed to holding a second public hearing when it was not called for.

**AMD:** Chairperson Winchell informed all members that there was a Site Plan Application & map in the Clerk's office to be picked up before leaving this evening.

P. Buck commented that with all the sizable material they have been receiving the Town Board should consider hiring someone or increase hours of the Engineers to review all the documentation coming in.

A discussion was held on the amount of the material, size of the project coming before them and escrow account.

J. Murray suggested that a letter be sent to the Town Board regarding the scope of the project and the Planning Board Concerns.

**Adjournment: Motion** by P. Buck and seconded by J. Murray to adjourn the Planning Board meeting at 9:25 PM. **Motion carried.**

Respectfully submitted by

Sue Cunningham  
Secretary to the Planning Board