

The Deerpark Planning Board met for their bi-monthly meeting on Wednesday, January 27, 2010 at Deerpark Town Hall, Route 209, Huguenot, N.Y. The following were present:

BOARD MEMBERS

Willard I. (Skip) Wilson- Chairman
Theresa Santiago
David Dean

Derek Wilson
Dan Loeb

Mike Breitenfeld
Noel Malsberg

OTHERS

Mr. Glen A. Plotsky, Town Attorney
Mr. Timothy Gottlieb, Gottlieb Engineering

Mr. Alfred A. Fusco, Jr., Town Engineer
Mr. Chad Martel, Applicant

THE PLEDGE OF ALLEGIANCE

MARTEL HOLDINGS LLC - PUBLIC HEARING

Represented by Tim Gottlieb, Gottlieb Engineering

Owner/ Applicant Martel Holdings LLC wishes a 16 lot subdivision on property located off of Wilson Rd., and Hawk Mountain Dr., Sparrowbush, N.Y.

It is in the RRC Zone.

Section – Block – Lots = 21 – 1 – 62.32

Application submitted October 11, 2007

SEE ATTACHED PUBLIC HEARING RECORD

Al Fusco referred to his technical memo, dated January 25, 2010. He said that his office has reviewed the new submittal, which included a stormwater submittal. He said that included in that is a letter from the Town Highway Superintendent, where he signed off on the steeper side slopes.

Derek Wilson asked, is this on the lower court, or on both?

Al Fusco answered, both. He then said that the Town Highway Superintendent also found the grade of the roads as acceptable, and also the sight distance. He said that he has reviewed the Stormwater Pollution Prevention Plan, and said that is not acceptable as submitted, because there were statements in relationship to what the DEC wants, and he said that he is satisfied, for the time being. He said, however, he did have to sign off on it, in the future the applicant needs to design treatment and storage in conjunction with pre and post calculations. He said that he needs to see more detailed grading of the cul-de-sacs, at 2% or less. He said that conservation easement verbiage regarding regulations and enforcement are to be provided under separate cover.

Tim Gottlieb answered that he does not have a copy of it, and will have his clients' attorney get a copy.

Al Fusco said that in relationship to the Health Department, he didn't get into a detailed sanitary review, because the applicant is going to the Health Department anyway.

Al Fusco then said that Board comments may still be forthcoming.

Dave Dean asked if it's normal to put a central catch basin in the middle of cul-de-sacs and have the water drain toward that, or is it better to run off from center?

Al Fusco answered, usually it's better to run off from center. He said that this cul-de-sac has some landscaping in the middle of it, which some highway superintendents accept, and others do not. He said that the Deerpark Highway Superintendent did not mention this issue in his letter, and it may be something that he needs to look at one more time.

Dave Dean asked, is it just grass?

Al Fusco answered, the plan says "landscaping."

Tim Gottlieb concurred with Al Fusco.

Glen Plotsky said for the record, that he has reviewed all of the certified mailings and return receipts, comparing them with the adjoiners list, and all of the mailings went out, but not all of the return receipts came back, but the requirement is that the mailings go out.

Derek Wilson said that concerning emergency water supply, that the Sparrowbush Fire Chief had signed off with a letter, dated June 21, 2008. He read from that letter, "The developer will look into establishing dry pipe pond system, Martel Drive, to augment water extinguishment capability." He said that he is concerned that the Fire Chief assumes that there will be a dry pipe into a pond, and then the department will not be able to make that connection.

Chad Martel showed on the map, where he is going to try to put a pond in. He said that he had spoken with the Fire Chief just this past Saturday, and told him that he couldn't guarantee it, until him and his crew actually went in there for construction, to see what kind of water source is there. He said that the Fire Chief then told him, "okay, just look into it."

Derek Wilson said that during the summer, when there is a chance of drought, he asked, if there is an option of putting some type of concrete reservoir in there, maybe precast?

Chad Martel answered that the Fire Chief indicated to him, that he does have all of the necessary apparatus to take care of it. He said that he then answered Captain Flynn, that he may hit a water source that can do something with, then the Captain said, "fine, great, then come and talk to me at the time, and we'll see what we can work out." He said that at that meeting also, the Captain did not want a bulge, because he didn't find it necessary.

Derek Wilson asked about more input on the handling of the stormwater?

Tim Gottlieb answered that there will not be much of a change in the plans, if anything, it'll maybe be a larger retention pond at the bottom, i.e., lot 21; and possibly a ditch along the back that catches water coming off of the upper parcel: and addressing the new regs, where he can look into stormwater credits. He said that there are many things that can come into play.

Derek Wilson said that the problem with a ponding area, is the retention, which should only be retained for a short amount of time, otherwise mosquitos will be a problem.

Al Fusco said that one issue with underground tanks is who will maintain it? If the Town does not maintain it, then a fire district has to be set up for maintenance of the tank, etc. He said that there are a lot of issues with this.

Glen Plotsky asked, based upon the date of the 2008 letter, if anything, in terms of the map and proposal has changed. He then said that Mr. Gottlieb had indicated that nothing has. He said that this Board can still go back to the Fire Chief and asking if he's still okay with this.

Dan Loeb said that he's happy with this letter, and does not feel a need for Mr. Martel to go back to the Chief again.

Theresa Santiago asked how deep would the pond be?

Chad Martel answered that it depends on the type of water source, and the springs that are indicative to that area. He said that he has to decide if the liability issue of having an open area of water, is worth the trade off of having a source to fight a fire.

The Board reviewed Part II of the Short Environmental Assessment Form, and answered "no" to all questions, except, "Can action... be potential for erosion, drainage and flooding problems?" This question, the Board answered "yes, and being mitigated."

MOTION

Dave Dean made a motion for negative declaration.. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; D. Wilson, aye; Breitenfeld, aye; Dean, aye; . Wilson, aye. Motion carried.

Derek Wilson asked the applicant what his plans are for the bonding and the buliding?

Chad Martel answered that he will probably bond it at one point, he's not really sure when yet.

Glen Plotsky said that his office is actually in the process of revising "Developer Agreements" for the various municipalities that they represent. He said that it will have to be approved through the Town Board, because of it being a money issue. He said that once that document is revised, it will be sent out to all of the towns, and he has indicated that the Attorney and Engineer for the developments, they request copies of it. He said that the "Bonding versus Building" resolution, once that form is adopted by the Town Board, he will forward a copy of it to Mr. Gottlieb, so that he can review it with Mr. Martel, and start analyzing how they are going to do that.

Derek Wilson asked, because of the poor economy, and the sale of the lots, what about the phasing issue?

Al Fusco and Tim Gottlieb answered in agreement, that phasing would have to be done now.

Al Fusco said that it can be addressed in the Developers Agreement, but the Board needs to know if it's going to be phased.

Chad Martel said that he intends to build a portion and bond it, one portion at a time.

Tim Gottlieb said that Pine Tree Court is just some paving, and some minimal grading. He said that it also needs power.

Al Fusco said that the applicant and his engineer should establish a bond amount, how much money it will take, if the Town has to take over the project. He said that at that point, then there's a requirement for putting up escrow for inspections. He said that at that time, the applicant has the opportunity to do some of the work, and some of that can be signed off, and the applicant can bond the balance. He said, however, another choice, would be for the applicant to bond the entire amount, and then get building permits, not a C/O yet, however.

Al Fusco said that it will actually be a "letter of credit" or a "cash bond" not a paper bond.

Al Fusco said that there is time limits on "preliminary approval" and "conditional final approval", and advised the applicant to keep tabs on his progress.

Glen Plotsky said that there is now a time frame within, that the applicant has to get his "conditional final approval." He said that if the Health Department does hold up the applicant, it is his obligation to come back before this Board and say, "The approval you gave me is going to expire in 30 days, and the Health Department is requiring me to submit more information, can I get an extension?" He said that the Law does allow for several extensions.

Derek Wilson asked about the maximum length on a bond? Is it three years, or the bond is called?

Al Fusco answered that if an applicant has bonds on a project, and is putting in new drainage, etc., and is progressing. He said that, for example, the bond expires in three years, and at that time the applicant is still actively working on the project. He said that two months before the bond is ready to expire, the Town will notify him that it's almost time for the bond to expire and he needs to renew. He said that if the applicant does address this issue a month before it expires, then the Town will call the bank and say, "We're calling the bond," which will get the applicants' attention. He said that another scenerio would be that the Town, with the Town Attorney, would close with the bank on it, and the Town would accept the deeds, and with the cash on hand,

then the Highway Superintendent would build the road.

Derek Wilson asked, is the maximum for a bond three years, or can you extend the bond?

Al Fusco answered that there is a three year period, when an applicant gets approval for a subdivision, and then does nothing.

MOTION

Derek Wilson made a motion for conditional preliminary approval of the Martel Holdings LLC subdivision, based on the applicant addressing the open Town Engineers comments. Theresa Santiago second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; D. Wilson, aye; Breitenfeld, aye; Dean, aye; . Wilson, aye. Motion carried.

GARY BUTLER SUBDIVISION – DISCUSSION Represented by Tim Gottlieb, Gottlieb Engineering

Mr. Gottlieb told the Board said that there is still an open public hearing on this application, and he's been trying to finalize soils tests on lot #2, but has been unsuccessful because of the weather. He stated that he would like to come back before the Board and finish the public hearing and get all of the Town Engineers' comments addressed.

Dave Dean asked if he still has to dig some holes, essentially?

Mr. Gottlieb answered yes, with the Building Inspector, the first lot was done with deep tests and perc tests and the second lot had water at 18" however, and has been trying since then to get different locations for percs. He said either a curtain drain will have to be installed, to lower the ground water level, or test in a different area.

Derek Wilson asked, why was the public hearing left open?

Al Fusco answered that there were public comments that needed to be addressed.

Glen Plotsky told Mr. Gottlieb that he has to re-notify the adjoining through certified mailings.

The secretary was instructed to put this applicant, as a continuation of the public hearing, on the February 24, 2010 agenda.

JOSEPH & ROSETTA EVERETT – PRE-APPLICATION CONFERENCE The applicants did telephone, saying that they would not be able to appear tonight.

ADAM CHRISTOPHERSEN – PRE-APPLICATION CONFERENCE

The applicant did not telephone to cancel, and did not appear tonight.

The secretary was instructed to tell this applicant that he cannot come back before this Board, unless he submits an application.

DEERPARK VILLAGE – DISCUSSION

Al Fusco said that he would like to get the Boards' comments on the FEIS this evening.

Al Fusco said that since the Board had last met, Mr. Parish, the projects' engineer, had indicated that he wanted a budget, which he said that he and the Town Attorney had worked together on, and submitted it to Mr. Parish. He said that subsequently, Mr. Parish had set up an appointment with his staff engineer to meet with Mr. Fusco. He said that in relationship to the budget, they were satisfied with it, however, they wanted to do it, not in accordance with the agreement. He said that the agreement said, hourly, and they wanted flat fees at certain

phases. He said that he's okay with that, however, he said that he wanted the escrow account set before and not after. He said that the Town Attorney is working on that with the applicants' attorney.

Mr. Plotsky said he received a voice mail today from Mr. Sachs, the attorney for Deerpark Village, that indicated that Mr. Parish and Mr. Fusco were talking about the engineering fees and how to appropriately provide for them. He said that Mr. Sachs' message was that Mr. Plotsky should speak with Mr. Fusco, and then get back to Mr. Sachs to hammer it out. He said that Mr. Fusco is okay with the flat fee, as opposed to the hourly fee, and he has no issue with that.

Derek Wilson asked, what if this project comes back before this Board, and has to be reviewed extensively, that is, after they submit changes, they are going to re-submit, and the settlement says that this Board re-reviews it and sends them comments again?

Al Fusco said yes, there is some back and forth with this application. He said that he is satisfied, because he wants to see the end of this. He said that the monetary issue is resolved in his mind. He said that the applicant is starting off with the things that he himself, had already agreed to. He said that they are changing the pages, red-lining items in the document.

Dan Loeb asked if the Board could get copies of this document?

Al Fusco answered, of course you can. He continued to say that at this point, he has not reviewed it yet, but will definitely give it to the Board, after he has done so. He said that what it also amounted to, is they are going to create a new introduction to change the "flavor" of it, making it softer, and easier to understand. He said that he discussed with them, and they did not have an objection, to one of the Boards' original requests, which was to make the format a little bit more user friendly. He gave an example, of the traffic chart in the DEIS, number X2X502, then a copy will be put into the DEIS, to make it easier for the Board to locate. He said that something that refers to an archeological review, then it's not a chart, it's ten pages, then the Board members will have to go and read those ten pages. He said however, that the DEIS will identify the chart or graph.

Al Fusco said that as Mr. Parish gave him his changes, he said that he will do more documentation about bears, and hand out brochures. He said that there will eventually be a new book, but right now pages are being changed, as they work their way through it. He said that Mr. Parish and himself will work through all of the changes, and eventually there will be a new book.

Al Fusco said that another aspect of this whole review, is that where they are going to change the introduction, it's going to include the "alternate" and a graph will be included, to show the difference in impacts. He gave an example, of a 1,500 unit has so many cubic feet of flow, and a 900 has so many. He gave another example, of water usage, so many gallons per day, etc.

Al Fusco said that one thing that he did impress upon Mr. Parish, was a consideration, of something that was brought up in other venues, was to look at the possibilities of sub-surface disposal of the treated effluent, to increase the recharge.

Al Fusco said that even when that is put in, and loosely considered, it's a victory, because when they get to the final design, that is something that the Board wants.

Al Fusco said that the Board has the freedom, when they get to the findings statement, to dictate things. He said that the applicant may not like it and take the Board to court, but nevertheless, if the Board decides that something is really important, it can be included.

Derek Wilson asked about a time line?

Al Fusco answered that both Mr. Parish and himself agreed to not be burdened by a date.

Mr. Plotsky said that an idea of a stipulation is so that everybody know that there is a hammer hanging over both sides, in regards to timing. He said that nobody is saying that on the 31st day, somebody is going to be

running into the judges office complaining.

Al Fusco said that he had told Mr. Parish that to start, he has 48 comments that he needs to address. He said that Stantec's comments will also be addressed, because some of them are still pertinent, and Mr. Parish will have to make responses to them.

Derek Wilson said that when Stantec made specific comments, Mr. Parish did not address them, but comes up with graphs and tables instead. He gave for example, of a second site entrance on Cochecton Turnpike being permanent, which is important, and the Mr. Parish basically said, "no, that's not needed."

Al Fusco said that Planners treat the FEIS too much as a cookbook, rather than an environmental document. He said that they are just trying to get through it, and get a little sloppy.

Dan Loeb said that this agreement has been described as a "hammer" over both parties. He said that only the hammer will be used when the applicant feels that it is appropriate for them to use it. He gave an example, of these time constraints. He said that he believes that it would be prudent, for any informal arrangements that Mr. Fusco makes with the applicants' engineer, that any reasonable request should be strictly documented, so it doesn't come back to the Board disfavor.

Al Fusco agreed, and said that everything will be documented and kept track of. He said that he had told Mr. Parish that the Board has already started the time clock, and now you are already a week late, and where's the funds added to the escrow account? He said that he's still waiting on Mr. Parish.

Dave Dean asked Al Fusco, that at this juncture, should the Board say, "if you don't hear anything from the applicant in two weeks, or the escrow isn't replenished in two weeks," then should he consider that this applicant is not serious? He said that this Board has an agreement with this applicant, and they should not breach that agreement.

Al Fusco agreed with Dave Dean.

Glen Plotsky said yes, that that agreement holds both parties to the time frame. He said that in the context that, the applicant has to submit documentation to this Board, and then the Board has a time frame to review.

Skip Wilson said that the clock doesn't start, until the escrow account is replenished.

Mr. Plotsky agreed, that is the Boards' position.

Al Fusco asked the Board members if they had any questions tonight?

Dan Loeb asked about the traffic? He said that he needs to see the process, because he doesn't know where the applicant is, referring to this issue, right now.

Al Fusco answered that he will email the Board members, his original comments, and have the Board members give their comments.

ADJOURNMENT

Dave Dean made a motion to adjourn. Derek Wilson second. Roll call vote: Santiago, aye; Malsberg, aye; Loeb, aye; D. Wilson, aye; Breitenfeld, aye; Dean, aye; W. Wilson, aye. Motion carried.

Meeting adjourned at 8:10 p.m.

Respectfully submitted,

Barbara Brollier, Secretary