

**PLANNING BOARD
TOWN OF BETHLEHEM**

March 17, 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
Nick 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 of DEDP
Terry Ritz, Assistant Town Engineer
Rob Leslie, Senior Planner

Hugh Templeton	Dan Hershberg
Sandy Evans	Mike Tucker
Gregg Ursprung	Daniel Buldoc
Jill Knapp	M. Waldenmaier
Jarrett Carroll	

Agenda: IMUS Distribution Terminal
Verstandigs Condominium
Pines @ Normanside
Elm Avenue East Subdivision

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

IMUS Distribution Terminal

Chairman Leveille introduced the first item on the agenda, IMUS Distribution Terminal. Ms. McCarthy took the lead position for the discussion. Ms. McCarthy said the project is the Innovative Municipal Products Inc. redevelopment of a property on River Road. It currently holds oil storage tanks and some NIMO equipment. The new use will be storage of liquid chlorides for the de-icing of roads in winter. The zoning is Heavy Industrial and this redevelopment is exactly what the Town wants to encourage. The applicant is ultimately looking for a Special use Permit and Site Plan Approval. They are before the Board this evening for possible action on a SEQR determination and setting a public hearing date. The project has been sent to Albany County Planning Board for their March 19, 2009 meeting. Materials the Board asked for have been submitted by the applicant.

Mr. Hershberg, PE presented for the applicant. Mr. Templeton was also present. The project includes using a number of tanks on the yard for the storage of magnesium and calcium chloride and some additives that are used with the chlorides to make it more usable and less corrosive. The trucks will come onto the site, go thru the filling station racks and exit onto Rt. 144. The building will be rehabbed into office space. IMUS doesn't need all of the office space but does not have a proposed tenant for the remainder of the space. Seven (7) tanks have been identified as usable for the chloride storage. They won't be using them all right away. Additional tests will be done once the final lease is signed with national grid. The tanks had been coated to prevent corrosion and that material needs to be removed prior to filling them with the chlorides. After the tank is cleaned, it will be

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hydrostatically tested to check for leaks. The pipe joints will also be tested. The tanks had a vapor test done and ultrasound testing for thickness of the metal. Those tests showed that the plates have not lost their thickness. They were basically the same thickness as when they were first put in. He said a quarter inch thick steel plate was substantial. The dock has been inspected and minor repairs need to be done. The land under the water is clearly owned by national grid and the letter from NYSDEC states that a permit is not required for the work to be done on the dock. The material is not considered hazardous material and a permit is not required for bulk storage. The Town has verified that through contacts at NYSDEC. Mr. Hershberg said the company has won an award from NYS Association of Highway Superintendents, Inc. for having an innovative material. Sears actually owns the patent that this product goes into but these materials are used to make the product that Sears distributes. The EPA believes the product is good for the environment because chloride materials are better than using the road salt based materials or large amounts of sand that need to be added to road salt. Mt. Hershberg said Massachusetts has accepted this product as an alternative road de-icer material. That will be a contract with the company for significant amounts of the product.

The applicant, in order to do their due diligence on the pipe rack, wants to be able to clear some vegetation on the property. Mr. Hershberg showed a picture of the area in question. The vegetation is growing in the dike area of the tanks. Right next to the tanks are fairly good sized shrubs and small saplings. They would need to be removed for operational purposes. They don't intend to remove the roots at this time. There is also an area that has elevated pipes that aren't visible because of the overgrowth. The area at the dock where the ship would tie into, cannot be accessed because of the overgrowth. The removal of the foliage will allow them to verify the condition of the pipes and other areas on the site. Most of the foliage removal will not be visible from the road. Even though there isn't a permit required for this type of removal, they wanted to bring it to the Board's attention because they have an active site plan/special use permit in front of the Board. They wanted to start this clearing prior to the public hearing unless the Board strongly objects. They would like to start before the bushes and trees start to bud.

Ms. McCarthy asked for further information on the ultrasound tests performed on the tanks. Mr. Hershberg said the tanks have been unoccupied for thirty (30) years, they were first constructed in the 1950's ,in a tank's life time, that isn't long. Some of the tanks in the Port of Albany and in Rensselaer are vintage 1918, 1920, 1925 & 1930. Those tanks are still being used today. He said Texaco did what they considered to be a temporary closure; they put anti-corrosive material in all the tanks and drained all the pipes. The applicant found out that the NYSDEC permanent closure had not been issued. CT Male has been on the site and met with DEC and they are ready to issue the permanent closure. Once they have been permanently closed, they can no longer be used to store fuel oil. They can be used to store other non-listed substances, such as the chlorides.

Mr. Morelli said the site is over grown and maintenance has been minimal over a number of years. The applicant had asked the Town if they could begin clearing the site, no grading. The Town had asked them to wait until they presented the idea to the Board. Staff believes the applicant has done their due diligence and the project is ready for the Board to consider the SEQR determination and the setting of the public hearing.

Mr. Behuniak asked and Mr. Templeton confirmed that the tanks they planned on using were deemed acceptable by the tests. Mr. Behuniak asked the size of the tankers that would be delivering the product. Mr. Templeton said the tank set to come in has fifteen thousand (15,000) metric tons on it for delivery. Mr. Hershberg said that delivery will be going to the current facility at the Port of Albany. He showed where the boats will be coming in on the proposed site. The product is off loaded by a pipeline into the storage tanks. At the delivery time, the product is slightly diluted before going into the tanks. The individual clients pre-order other dilutions or mixtures. This is coded onto a card that the truck driver carries. They come into the filling station and it knows the grade and level of dilution to put into the trucks from the card swipe. Most of these trucks are currently on the road because of the current facility in the Port of Albany. They didn't think the traffic pattern of the trucks would change much because the current and new facility are so close to one another. The truck traffic are primarily during off peak hours. The trucks come to the facility very early in the day to fill up.

Mr. Behuniak asked and Mr. Hershberg said the depth of the water at the dock area was sufficient for the ships to dock. Mr. Hershberg said the goal for delivery from the ships was three (3) or four (4) times per year. He said all the figures were based on the current operation. If they continue to be successful in expanding their market, there will be more deliveries. The goal is to grow the business which is why the additional tank storage capabilities were important to IMUS.

Mr. Behuniak asked what the applicant will be doing with the outside of the tanks. Mr. Hershberg said the first tank to be painted will be the one with the Texaco logo on it. They will undertake a scheduled program to repaint all the tanks.

Ms. Motta asked if all the tanks were tested or just the ones they will be using right away. Mr. Hershberg said the bottoms of four (4) of the tanks were tested. They actually had someone go into the tanks to observe their condition and had done the testing on the bottom of the four (4) because there had been a concern with the quality of the bottoms of those tanks. The ultrasound testing showed the tanks were very stable. Texaco had done a good job closing the tanks down. He said the four tanks have more storage capacity than they currently need.

Mr. Powers said based on the ultrasound of the tanks, she feels comfortable with proceeding with the project.

Mr. Coffey asked and Mr. Hershberg confirmed that the carded gate would have twenty-four (24) seven (7) access. He said the facility would only have one staff person on a regular basis. They might end up closing access down between 11pm to 3am just so it doesn't need to be staffed twenty-four (24) hours a day. When asked about the lighting for the facility, Mr. Hershberg said there were currently a number of lights on the site. They intend to rehabilitate the existing lights; they seem to be fine for operational purposes. Mr. Coffey asked if NYSDEC had done any permanent closures on the tanks. Mr. Hershberg said the closures were temporary. National Grid should have applied for a permanent closure. Mr. Hershberg said when a tank is closed for petroleum use, DEC approves stenciling the date it was closed. That has been approved. All petroleum has been removed from the tanks and the pipes. Mr. Coffey said he didn't have any objection to the documents before them or the request by the applicant to remove foliage. He thought it was a great use of an existing facility instead of a greenfield development.

The Board reviewed the draft SEQR Resolution, Negative Declaration, prepared by staff.

A motion to approve the SEQR Resolution as drafted was offered by Mr. Smolinsky, seconded by Ms. Motta and with a vote of six (6) for, zero (0) against and Chairman Leveille recusing himself, the motion was approved.

A motion to set the public hearing for April 7, 2009 at 7:00PM was offered by Ms. Powers, seconded by Mr. Coffey and with a vote of six (6) for, zero (0) against and Chairman Leveille recusing himself, the motion was approved.

Mr. Morelli said the clearing on the property didn't need an approval, they were informing the Board as a courtesy.

Verstandigs Condominium

Chairman Leveille introduced the next item on the agenda, Verstandig's Condominium located at 454 Delaware Avenue. The applicant was before the Board for possible consideration on the Site Plan approval.

Chairman Leveille said since the last meeting the applicant had added additional landscaping to assist in minimizing potential for headlight glare. Mr. Deyoe sent a memo pertaining to drainage related issues. He said he had received a letter from a resident raising first the issue of assurance that a project is built as approved.

Mr. Morelli said once the project is approved by the Planning Board, a copy of that approved plan is sent to the Building Department to make sure that the plans submitted with building permits are complying with the approved plan. All work must be done in accordance with NYS Building Code and regular inspections are done. Chairman Leveille said there would be field inspections of proposed buffer areas and landscaping. Mr. Morelli said sometimes Planning and/or Engineering staff go to the site but the primary enforcement role is by the Building Department. Chairman Leveille asked if there was recourse if a developer deviated from the approved plan. Mr. Morelli said they would be notified through a stop work order or a filed correction notice or in the case of a well respected contractor such as Keystone, staff would bring it to their attention for correction.

Chairman Leveille said the second issue in the letter has to do with the construction period and the impacts. It was a quite extensive comment stating in part that a large project, eleven hours a day for two (2) to three (3) years was a large inconvenience. Mr. Buldoc the construction wouldn't take that long. With the current market they're not sure how long it will take for the units to sell. He said the majority of the noise will be during the site work and the demolition. The demolition shouldn't take long, maybe a week or two (2). They will be using heavy equipment for the site work. The infrastructure work, if started in the fall, should be done by spring. He said there are only nine (9) buildings of moderate size. They will be built one house at a time. He said he can't minimize the noise any less than they will do their best. They've been in the construction business for over thirty (30) years and they work right on top of neighbors all the time. He understands that it's a big project but he would do his best to minimize the impact on neighbors. He said the project was scheduled for four (4) Phases so once the infrastructure was done, the noise would be off and on. Depending on sales, it could be done in two (2) or three (3) phases. He said they were aware of concerns about noise and they would do their best to control it to the best of his ability. He planned on being on the site each day. Any construction site will have noise associated with it.

Mr. Smolinsky said there were a number of items he wanted to hear about. He said at the last two (2) meetings it was mentioned that the SWPPP was still being developed. Mr. Deyoe had sent a memo stating that the SWPPP was complete. He wanted to hear a description of the site drainage solution it. He thought it would be helpful for the neighbors to hear that solution in the context of the neighborhood drainage issues.

Mr. Ritz said Verstandig's is one of sixteen projects before the Board that require a Storm Water Pollution Prevention Plan. In Bethlehem, in order to review a SWPPP, the person must attend a dozen or so erosion and sediment control seminars, must be familiar with NYSDEC guidelines for erosion and sediment control, must be familiar with the NYS Stormwater Design Manual, must be familiar with the Town of Bethlehem Code and the 1998 the new stormwater law as a minimum. He showed the Board the SWPPP for the project. It contains 21 pages of existing data, 69 pages of proposed data and the remaining pages that are required and all of it is reviewed by Town staff. The primary person responsible for that review is Josh Carvajal, he is the Town's Stormwater Management program coordinator. He was employed by NYSDEC. Mr. Carvajal is a nationally certified professional in erosion and sediment control and certified professional in stormwater quality. Mr. Deyoe, the Town Engineer and the Town's Stormwater Management Officer has indicated that Verstandig's SWPPP with some minor revisions, received already, satisfies the requirements of NYSDEC standards. Mr. Carvajal and Mr. Deyoe review all SWPPPs presented to the Planning Board. The runoff rates for Verstandig's for a one (1) year storm are reduced nearly 80%, the runoff rates for a ten (10) year storm are reduced 17%, during a one hundred (100) year storm, the rates will remain equal. Mr. Ritz said two hundred five (205) acres make up the water shed that drains through the Verstandig's site. Single family homes make up one hundred nineteen (119) acres, or 58% of the total water shed area. Verstandig's site is five point two (5.2) acres. The proposed development will not discharge more stormwater flow from the site than the current situation. The site grading will improve the stormwater conveyance system and mitigate discharges to the adjoining properties.

Mr. Smolinsky asked what type of stormwater retention system would be used. Mr. Ritz said it was all underground storage and released at a slow rate. The maintenance will be the responsibility of either the property owner or the home owners association. Chairman Leveille asked if the Town inspects those units. Mr. Ritz said the Town does inspect. He said there is a maintenance agreement signed by the applicant and filed with the Town.

Mr. Smolinsky brought up the issue of work hours. He thought there could be mitigation of noise by changing the work hours. He thought a 7:00am work start was early. He said his experience with construction was someone shows up at 6:00am to start the equipment. He suggested changing work hours to 8:00am to 6:00pm and half day of work on Saturday. He meant noise producing work. Once work is inside, he didn't think a time limit would be necessary. Chairman Leveille asked how Mr. Smolinsky thought the Town would monitor those heavy equipment limitations. Mr. Smolinsky thought it would be the developer's responsibility. Chairman Leveille thought there would be numerous calls to Town staff to enforce the situation and he didn't think it was practical. He thought the work hours should be the same no matter what type of work was being done because in his opinion, Mr. Smolinsky was asking the Town to enforce something that was unenforceable. Mr. Smolinsky said then no work should start until 8:00am. Ms. Powers thought Mr. Buldoc would make every effort to accommodate the neighbors but thought a later start time on Saturdays might be appropriate if Mr. Buldoc was agreeable. She wasn't sure what that would do to his schedule but maybe a 9:00am start time on Saturdays would be agreeable.

Chairman Leveille tracked the suggestions so far. Mr. Smolinsky wanted 8:00am to 6:00 pm Monday thru Friday and 8:00am to 1:00pm on Saturday. Ms. Powers said she was open to times that worked for the developer and the neighbors. She had heard from neighbors and giving a little on Saturdays might help if the developer could accommodate. Ms. McCarthy thought the hours proposed in the approval document were fine. She sympathizes with the neighbors, she lives near the CVS that went up, but she thought shortening the work hours would just protract the project. She said given the economy and the nature of the project she just wanted to let the developer get it done. Ms. Motta agreed with Ms. McCarthy. Reducing the work hours would just prolong the project. Mr. Coffey didn't think it was the responsibility of the Board to set work hours. He said the developer would be expected to be as courteous as possible but for him to be able to get on site earlier in the months of July and August when it gets hot out would make it difficult for the Board to articulate set hours.

Chairman Leveille said staff has proposed, as part of the conditions of approval, start work hours of 7:00am to 6:00pm Monday thru Saturday and no outside construction on Sunday.

Mr. Buldoc asked Mr. Morelli if there was a Town noise restriction as far as construction times. Mr. Morelli said there wasn't. Mr. Buldoc said based on that he thought it was unfair to put limitations on him. Mr. Morelli said the Planning Board has set work time limitations before. CVS had limitations during the demolition phase and those hours were 7:00am to 7:00pm Monday thru Friday and 8:00am to 1:00pm on Saturdays. Mr. Smolinsky in his experience, not on the Board, said there were other projects where work hours were constrained.

Mr. Buldoc said as builders, they deal with a lot of elements, such as rain, snow, darkness and others. To restrict them more than they already are, especially in this economy, he didn't think it was fair. They went into the project with no restrictions expected and to have them brought up after all their budgets and scheduling has been done, changes everything. He didn't think it was the right thing to do to him, as a precedent. His company has been in the Town for thirty (30) years and they have a reputation for being a good contractor. He will continue to be good contractor. He said the project has been in the works for a long time, he cares about the area and he needs the flexibility to get the job done and make it financially feasible for him. That flexibility will help get the job done quicker. Chairman Leveille asked Mr. Buldoc if he had ever been restricted in work hours before. Mr. Buldoc said no. His company starts work at 7:00am. He said he could work with the hours that staff has proposed.

Mr. Smolinsky said the Board makes findings as to the compatibility with the neighborhood. He thought the project meets those findings, but with regard to the noise issue, the project is not an ordinary construction project. It's fairly large and surrounded by a core residential neighborhood. CVS was surrounded by other commercial activities. He thought that was a reason to consider a precedent.

Mr. Buldoc asked if there were restriction on work hours when Mr. Klersy put up the facility across the street from this project. That was surrounded by residential. He thought it was comparable in scope to his project. He thought restricting hours would put undue stress on a project that is stressed right now. He wants to do a good job and wants to make it successful.

Mr. Smolinsky said, as a member of the Board, there needed to be a balance between Mr. Buldoc's needs and the neighborhood. Ms. McCarthy said she felt the huge impact would be for a very short time period and she was comfortable that Mr. Buldoc would do his best to make those impacts as brief as possible. She thought it will be a great project and a positive addition to the Town. She didn't think that the construction will block off roads and she said when CVS was being built, it was an intrusion on the neighborhood but everyone lived with it. She thought Mr. Buldoc's project would be on a smaller scale than that. The project does face Delaware Avenue, a big traffic road; the library and Town Hall are across the street and they have traffic coming and going all day. So the neighbors, even though its core residential, live in a different area in that way. She didn't think limiting the hours would do much.

Mr. Morelli said during the Comp Plan process, this site was identified for multifamily development. Chairman Leveille said the Comp Plan induced the development to occur in this form. He views this project as being on Delaware Turnpike, a state highway. Mr. Morelli said at the beginning of the project they had considered a through street to Adams and Marlboro. But it was decided to limit that to a pedestrian connection. A goal of the Comprehensive Plan is to connect neighborhoods so when staff approached Mr. Buldoc with the idea of a sidewalk connection from Marlboro to Delaware, he agreed to build it at his expense. Mr. Morelli said all construction activity will enter and exit the site from Delaware Avenue. Chairman Leveille said another benefit to residents nearby is the existence of a homeowners association. They tend to regulate and restrict. He said the conversation of restricting work hours was precedent setting. He said Mr. Buldoc is a business man from the community that relies on good relations with neighbors and the community to be successful. He thought with the restrictions recommended by staff and agreeable to the developer, the Board would be taking into consideration the potential impacts for the construction period of the project. He thought the project will improve the property while creating a pedestrian access. As the community ages, these types of properties will become more popular with the residents. Given all those considerations, he thought the hours proposed by staff are reasonable.

Mr. Behuniak asked Ms. Powers if she had another compromise in mind other than staff suggestions or Mr. Smolinsky's suggestions. Ms. Powers said she had questioned whether the more limiting hours would be a hardship and Mr. Buldoc indicated it would be a hardship. Based on that, the items articulated by Chairman Leveille and Mr. Buldoc's standing in the community, she would support the hours suggested by staff. Mr. Behuniak said he was not worried about considering these types of restrictions on applicants but based on the items articulated by Mr. Morelli and Chairman Leveille, he would support the hours suggested by staff.

Mr. Smolinsky asked if the buffer plantings could be planted early in the project so they would be of a size to be effective when the project was complete. He had a second suggestion of an assessment of the effectiveness of the buffers after the project is complete. He said it would be a way of determining whether more plantings were necessary. Chairman Leveille asked Mr. Smolinsky who he thought would do that assessment. Mr. Smolinsky said Town staff. Mr. Deyoe asked what measure would staff use to determine acceptability. Chairman Leveille said that staff was already looking at the plantings against the plans. He asked Mr. Smolinsky to elaborate as to what else he thought could be done. Mr. Smolinsky said it would be somewhat subjective. Mr. Ritz asked if 50% of the headlights got through the arbor vitae, would that be acceptable or does it have to be 60% and who will measure. Mr. Smolinsky read the section of the Zoning Law speaking to headlight glare on adjoining residences and said that should be the criteria. Chairman Leveille said sufficient design of the plantings should be determined at the point of the site plan. He said part of what is done in an inspection is making sure the landscaping plan is planted as approved. What Mr. Smolinsky was asking for was already being done. Problems with landscaping would come in the form of a complaint and then an inspection takes place. Mr. Morelli said the applicant had a landscape architect design the planting plan. It is an extensive plan with good size materials to be installed. More evergreens have been added at areas near the parking areas.

Mr. Behuniak asked the applicant to show where that extra buffering was placed. Mr. Ursprung said arbor vitae were added at the end of the driveways in two separate areas and will be installed four to five feet high. The

planting will be staggered. Mr. Behuniak asked who would maintain the plantings. Mr. Morelli said after approval they are required to adhere to the landscaping plan. If plants die, they are to be replaced.

Mr. Smolinsky asked if construction access would only be Delaware Avenue. Mr. Morelli said the plans show the construction driveway only from Delaware Ave. At the back of the site there is a tree that will be protected during construction. It shows on the erosion and control sheet of the plan set.

Chairman Leveille asked if there was a potential to recapture some of the runoff water for irrigation. Mr. Deyoe it is technically feasible to do that but would need a different system than being proposed as well as a pump station.

The Board reviewed the draft Resolution, Reservation of Public Parkland prepared by staff.

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

The Board reviewed the draft Site Plan Approval SPA 153 prepared by staff.

Mr. Smolinsky said he would vote for the project but was disappointed that there wasn't more sensitivity shown to the neighbors.

A motion to approve Site Plan Approval SPA 153 as amended was offered by Ms. McCarthy, seconded by Mr. Coffey and approved by all Board members present.

Mr. Smolinsky asked Mr. Buldoc to go over his schedule of the project. Mr. Buldoc said they were almost ready to submit paper work to be submitted to the Attorney General for the condominiums. The property needs to be purchased, finish up with financing, build Mr. Verstandig's new facility on Creble Rd., market the property and once two (2) buildings are sold, they will move ahead with the project. They hoped to start in the fall.

Pines @ Normanside

Chairman Leveille introduced the next item on the agenda, a presentation of the revised plans for the Pines @ Normanside. Michael Tucker from Infinigy Engineering presented for the project. He gave a short history of the project. He said the project in one form or another has been before the Town for four (4) to five (5) years. It started out as a conventional subdivision but after some feedback from the Town staff and initial Planning Board meetings, they withdrew that application and reapplied under a Planned Development District that allowed for a denser more clustered residential development on the plateau. They were to be single family homes and the mixed use building on Delaware Ave. As they were working through the process those proposed homes were relatively close to the top of slope. The property drops off quite sharply on two (2) sides and there are drainage ditches on both sides of the toe of slope. The ACOE has determined they are regulated streams. In order to build the houses as proposed in the PDD, they would have needed to stabilize the streams. There are significant erosion problems downstream. They met with the ACOE and their solution was to do an extensive stream restoration. In order to do that, they needed construction easements from all the abutting property owners because the stream meanders back and forth over the applicant's property and others. Mr. Morelli, Mr. Tucker and the ACOE met on the site and then scheduled a meeting with all of the neighbors. They met with resistance from the neighbors and the stream restoration could not be completed. They are now back with a conventional subdivision.

Chairman Leveille asked if they needed access to remediate those drainage courses or streams. Mr. Tucker said the work would have taken place on both the applicant's property and the adjacent land owners property. Chairman Leveille said there is an existing erosion problem that will continue to get worse and the people who will be affected by that erosion would not participate in the solution even though it would have been at the applicant's expense.

Mr. Tucker said the current proposal will include ten (10) single family homes; two (2) directly off Salisbury Road and eight (8) off Leonard Place that will be extended and improved. The proposal includes a mixed use building fronting on Delaware Avenue with access off of Leonard Place. It will have about four thousand (4,000) square feet of office space downstairs and three (3) apartments upstairs. The single family homes are all in the core residential district and all the lots exceed the minimum lot size. Going through the review process with the Town and meeting with the neighbors they heard concerns about the erosion, slope stability and stormwater management. They have taken those concerns into account with the new design. All of the homes have been pulled back from the top of the slope. Five and half (5.5) acres are developable on the top of the plateau and they are only proposing eight (8) homes which makes them well below the allowable density.

Chairman Leveille asked if the average density subdivision rules needed to be applied to this subdivision. Mr. Morelli said each of the proposed lots were meeting all the requirements and there weren't any vistas to be protected with its application. The main issue with this parcel are the slopes. The applicant has had a geotechnical report done and a safe setback line established. Mr. Deyoe said the geotechnical report supersedes the zoning code's safe setback calculation.

Mr. Tucker said the stormwater management system will be designed in accordance with NYSDEC standards. All the peak runoff rates will be reduced. They will be reducing the flow to the streams and help control the streams. Nothing from the impervious surfaces will flow into the streams. The mixed use building doesn't meet the minimum lot width standards and they have an application submitted to the Board of Appeals for a variance. The public hearing is scheduled for April 1, 2009. Chairman Leveille asked if there was a building next to the proposed mixed use building. Mr. Tucker said there was a building on each of the adjoining lots of the vacant lot. He said the building's design will be compatible with other buildings nearby. Mr. Morelli said staff had asked the applicant to configure the access so a curb cut onto Delaware Avenue would not be necessary. Mr. Tucker showed the Board the proposed elevation for building.

Mr. Leslie said the applicant was before the Board for a subdivision application. The site plan will come once the subdivision is approved.

Mr. Behuniak asked if Mr. Leslie had spoken with anyone from the Mohawk Hudson Rail Trail about connections to that trail or the Elementary School nature area. Mr. Leslie said he had spoken with a representative of F.O.R.T., Dan Rain. He said there is an existing nature trail along the school property that shares a portion of the lot's border. Mr. Rain's interest was to try to expand the adjacent trail. Mr. Tucker thought his client would be willing to give up anything to do with that stream. Chairman Leveille said often when land is given to a conservancy it also comes with a monetary gift to help maintain the property. Mr. Tucker said the stream area is regulated by the ACOE. Chairman Leveille said the email would be forwarded to Mr. Tucker. Mr. Leslie said the rail trail was further down Delaware Avenue, there isn't a direct connection.

Mr. Smolinsky said he had looked for an explanation of a safe setback line but couldn't find one. He said the building footprints on lots 4 & 8 were near the safe setback line and wondered if that was a wise thing to do. Mr. Tucker said the safe setback line set by the geotechnical engineer comes with an inherent factor of safety built into it. He wasn't overly concerned. He said in order to meet the requirements in the geotechnical report, they will be lowering the top of the slope by about eight feet. All the units will be built with walk-out basements. Mr. Smolinsky asked if there would be any usable backyards. Mr. Tucker said by dropping the top of slope, there will be backyards. Mr. Leslie said the building was being shown all the way in the back of the building envelope and could be moved closer to the road.

Chairman Leveille asked Mr. Ritz if there were other projects with slope issues. Mr. Ritz said Trinity Manor Phase V has a safe setback line, many of the single family homes in the Mansions had a safe setback line, Quail Hollow and Carriage Hill to mention a few. Safe setback lines are becoming more typical. Mr. Behuniak asked if there was any recourse for the homeowner if erosion occurred even with the safe setback line. Mr. Ritz said the applicant hired a geotechnical expert and that safe setback line and proposed grading was determined by that

report. If it doesn't work, it goes back to the geotechnical professional, that's why it's required by the Town. The geotechnical professional for this project is Vern Hoffman.

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

Elm Avenue East Subdivision

The Board received a request from Amedore Homes for an extension of one hundred eighty (180) days to the Conditional Final Approval.

A motion to approve the request was offered by Mr. Coffey, seconded by Ms. McCarthy and approved by all Board members present.

The new expiration date for the Conditional Final Approval will be October 2, 2009.

Other

The draft public comment recommendations were offered for the Board's review.

A motion to accept the public comment guidelines as amended was offered by Mr. Behuniak, second by Mr. Smolinsky and approved by all Board members present.

Chairman Leveille asked the Board to consider the reduction of the paper generated for the projects. He wanted the Board to think about taking the plans in 11 x 17 form or digitally or having them in Town Hall for the Board's inspection during work hours. He said the generation of paper and the cost could be reduced. He asked for comments on the topic at the next meeting.

Chairman Leveille felt the Board had made a good decision with the approval of the Verstandig's site. It was a very carefully thought out decision.

The Board reviewed the revised minutes of February 17, 2009 prepared by staff.

A motion to approve the revised minutes of February 17, 2009 as drafted was offered by Mr. Smolinsky, seconded by Mr. Behuniak and approved by all Board members present.

The Board reviewed the draft minutes of March 3, 2009 prepared by staff.

A motion to table the minutes was offered by Mr. Coffey, seconded by Mr. Smolinsky and approved by all Board members present.

A motion to adjourn was offered by Mr. Coffey, seconded by Mr. Smolinsky and approved by all Board members present.

The meeting adjourned at 9:00 PM.

Respectfully Submitted,

Nanci Moquin