

**PLANNING BOARD
TOWN OF BETHLEHEM**

May 4, 2004

The Planning Board, Town of Bethlehem, Albany County, New York held a **Regular Meeting**, on Tuesday May 4, 2004, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY. Chairman Parker D. Mathusa presided and called the meeting to order at 7:30 pm.

Agenda: Onesquethaw-Coeymans Watershed Council Presentation – Nancy Heinzen
Hedgefield Subdivision – Weisheit Road – Murat Kasparian and
Arjanti Kasparoglu
Country Quarters – Marty & Donna Sousie – Rt. 9W – Site Plan
Town Squire Phase II – Site Plan Amendment 2 – Chili’s Restaurant –
Brinker Restaurant Corporation
Beacon Harbor – Rt. 144 – OG Real Estate Developers, LLC

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

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

Nancy Heinzen - Presenter
Linda Jazinski
Stan Jazinski
Donna Groff, Ravena News Herald
Ken Daves, 24 Stratton Place – Beacon Harbor
Bruce Ginsburg, Schuyler Companies, Chili’s Restaurant
William Goebel, Bohler Engineering, Chili’s Restaurant
Regina Wagner, Paul Hite’s office
Paul Hite, LLS, Country Quarters
Murat Kasparian, Hedgefield Subdivision
Marty Sousie, Country Quarters
Nick Ranieri, Ranieri & Bossolini Associates, LLP, Beacon Harbor
Victor Gush, OG Real Estate Developers, Beacon Harbor
Alan Oppenheim, OG Real Estate Developers, Beacon Harbor
Mike Groff, Charles Sells Inc., Beacon Harbor

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

ONESQUETHA-COEYMANS WATERSHED COUNCIL PRESENTATION

Chairman Mathusa called the meeting to order and welcomed Nancy Heinzen, a representative of the Onesquethaw-Coeymans Watershed Council. She was presenting information on the watershed for the Planning Board and other interested parties.

Ms. Heinzen stated that this presentation had been given for all of the municipalities within the watershed. The Council would also bring the presentation to private organizations or groups. Their goal was to bring the information to as many people as possible. The presentation was made possible through a grant provided by the DEC Hudson River Estuary Program.

Ms. Heinzen gave the background information on the founding organizations of the Council and its mission statement. She gave a general overview of watersheds and then located the Onesquethaw-Coeymans watershed from its source to where it ends at the Hudson River. The watershed encompasses farmland, industrial areas, quarries and historical areas and is completely contained in Albany County. She explained the geology of the area and how that affects the creek. She spoke of the ways that water quality was determined and the many ways that stream water and ground water can become polluted. Ms. Heinzen then spoke of the stewardship of the watershed and the part that individuals, industries and municipalities play. She also gave an overview of the laws governing clean water. Ms. Heinzen included a few ways individuals can become involved with the protection of watersheds. In closing she invited everyone to attend upcoming functions and stated that she was open to give this presentation to any interested parties and organizations. Chairman Mathusa thanked Ms. Heinzen for her informative and interesting presentation.

HEDGEFIELD SUBDIVISION

Chairman Mathusa turned the Board's attention to the next item on the agenda, the Hedgefield Subdivision. Preliminary Plat approval had been given to this project on January 20, 2004. The Conditional Final Approval Document was in front of the Board for their consideration. Mr. Hite said he had received a letter from the Albany County Health Department that afternoon and had just given a copy of the letter to staff for review. He felt there were items addressed within the letter that should have been left to the Engineering Division. It was the first time that the issues had been raised even though he had met with the Health Department a number of times. Mr. Lipnicky said it was the first time that he had seen a copy of the letter himself. He suggested amending the conditional final document under Item # 8 to include a condition B stating the plat be revised to show compliance with comments contained in the May 4, 2004 letter to Paul Hite, LS from the Albany County Health Department. Mr. Passmann agreed and said a condition of the preliminary plat was to supply staff with a letter from the Albany County Health Department regarding the suitability of the sites for septic and well. Mr. Hite said that they would comply with the modifications that the Health Department required.

Mr. Collier mentioned that in the past, a generic statement stating the approval was contingent on the Health Department's approval of the water and septic system had been included. He wondered if what was being required here was a new procedure. Mr. Lipnicky said the statement he was referring to had been included in this approval document as well but in this case the County Health Department wanted to see changes on the plat. Mr. Lipnicky said he didn't recall a letter of this nature being sent for any previous projects. Mr. Hite said that the Health Department had designed the septic; he merely fit the design to the grading plan, to the satisfaction of the Engineering Division.

Mr. Collier wanted to know if the applicant would be required to come back to the Board. Mr. Lipnicky said the applicant would not have to appear before the Board again. Once the applicant had satisfied the conditions in the approval document, which included the requirements of the Health Department, the plans could be stamped and signed.

A motion to grant Conditional Final Plat Approval was offered by Mr. Odell, seconded by Mr. Collier, and approved by all present.

Mr. Hite asked the Board permission to bring in the sand fill as long as the Health Department didn't have a problem with it. It needed to settle for a number of weeks. Ms. Saatman responded that requests usually were submitted before a Board meeting to allow staff the time to review the request. Mr. Passmann said that Mr. Hite had filed a Notice of Intent with the DEC to obtain a SPDES coverage permit. The applicant needed to have a Storm Water Pollution Prevention Plan prepared at that time. In this case the final plat drawing was being represented as the erosion and sediment control plan. He felt that for this reason, it should be stamped by the Town prior to the beginning of any work. He thought that for similar projects, this issue would come up again. Staff felt that the final plans needed to be stamped and signed prior to the initiation of any site disturbance work. Chairman Mathusa asked if Albany County Health Department would need to send an additional letter of approval. Mr. Lipnicky said that as long as the conditions in the approval document were satisfied, the plans could be stamped and signed. Mr. Odell stated that staff should be given the opportunity to review the request. He wanted the benefit of their advice. Mr. Lipnicky suggested one option the Board had was to grant the request contingent on the Engineering Division reviewing the request and giving their approval. Mr. Hite decided to withdraw his request. Mr. Lipnicky stated that staff didn't have an issue with granting requests as long as sufficient time was given for review and input from the various departments.

Chairman Mathusa stated that once the Planning Department and the Engineering Division signed off on the plats, they would be stamped and signed.

Mr. Collier asked Mr. Passmann if final signed plans were needed to comply with the Storm Water Regulations. Mr. Passmann responded that when the applicant submits a Notice of Intent to DEC they are attesting that their site was designed according to DEC technical requirements. At that time the applicant should have their Storm Water Pollution Prevention Plan completed. He felt that applicants were submitting their Notice of Intent prior to the finalization of that plan. This has become a problem. He felt that one

solution would be requiring the applicants to wait to file the Notice of Intent until the applicant has a stamped and signed set of final plans from the Planning Board. Mr. Collier stated that the “premature” filing of that document seemed to be acceptable to the state agency. Mr. Passmann stated that the state sent out a generic letter saying they had received the complete application and they put the onus on the owner to comply. Mr. Lipnicky stated that the SWPPP could change significantly during the process. Mr. Collier suggested that in the future it would be reasonable for the applicant’s filing of the Notice of Intent to be based on the Planning Board’s approval of the Conditional Final Plat. Mr. Hite stated that if there was a significant change, the applicant had to re-file.

COUNTRY QUARTERS

Chairman Mathusa turned the Board’s attention to the next item on the agenda, the site plan known as Country Quarters. It had last been on the agenda April 20, 2004. At that time there had been comments by staff and the Board, they had since been addressed.

Ms. Saatman stated that this project fell within the Type II Action under SEQR; the Board had been sent a memo stating such.

A motion to classify the project as a Type II Action under SEQR was offered by Mr. Odell, seconded by Mr. Engel and approved by all present.

Ms. Saatman turned the Board’s attention to Item 7A in the approval document. A modification required was to increase the width of the driveway in the area of the parking spaces to eighteen (18) feet. Item 9A refers to the Albany County Planning Board’s response to the project. Staff had been in contact with them and their only comment had dealt with an approval from DOT concerning the driveway. This had already been done. The condition mentioned in Item 9E that limited the display area to the identified area currently on the plat, had not been discussed by the Board. If the Board did not agree, staff would remove that condition from the approval document.

A motion to approve the Site Plan Approval Document as written was offered by Mr. Collier, seconded by Mr. Cotrofeld and approved by all present.

TOWN SQUIRE PHASE II – AMENDMENT 2 – CHILI’S RESTAURANT

Chairman Mathusa turned the Board’s attention to the next item on the agenda, the Town Squire Phase II Site Plan Amendment 2 which had been filed by Brinker Restaurant Corporation.

Mr. Goebel, with Bohler Engineering, presented for the applicant. He located Chili’s Restaurant on the plat shown. The amendment dealt with a change in the previously submitted footprint. There was a five (5) foot by twenty-four (24) foot addition put onto the rear of the structure and the footprint was now a mirror image. Chili’s had found that additional dry storage space was needed for the restaurant. The applicant had received the

comments from staff and they believed they had been addressed. All other aspects of the plans had remained the same.

Mr. Lipnicky stated that staff had received a copy of scaled elevations for Chili's, there was a slight discrepancy between the length of building wall shown on the architectural drawings and what was shown on the site plan.

Mr. Goebel stated that the stone pilasters at the corners caused the discrepancy. One includes the column treatments and one does not.

Mr. Lipnicky said that staff had also received scaled sign drawings, one was missing. It appears that sign areas exceeds zoning code requirements, Mr. Lipnicky indicated the applicant will need to work that out with the building department. Staff had reviewed the site plan and had sent comments to the applicant. Those comments were addressed, therefore, a draft approval document and a SEQR Negative Declaration had been prepared for the Board's review.

Mr. Passmann stated that the amendment contained changes to the storm water piping system to include drains along the outside of the footprint of the building. The Engineering Division had requested and received letters from the applicant stating that these changes would not affect the approved Storm Water Pollution Prevention Plan and engineering report.

Mr. Lipnicky said that the SEQR resolution was standard language pertaining to a Negative Declaration. It stated that the changes to the plans were minor. Therefore the initial SEQR determination was still in effect.

A motion to approve the SEQR Negative Declaration Resolution was offered by Mr. Cotrofeld, seconded by Mr. Odell and approved by all present.

Mr. Lipnicky stated that the Site Plan being amended originally covered Town Squire Phase II. The area being amended was limited to the Chili's Restaurant area. All other areas would continue to be governed by the original Site Plan Approval document.

A motion to approve the Town Squire Phase II Site Plan Amendment 2 was offered by Mr. Collier, seconded by Mr. Odell and approved by all present.

BEACON POINTE HARBOR

Chairman Mathusa turned the Board's attention to the next item on the agenda. The developers of Beacon Pointe Harbor had been asked to make an update presentation to the Board concerning this project. He stated that the Board was also interested in the recent EPA releases concerning this site. The Board had received the past comments staff had given the applicant.

Mr. Gush introduced the various individuals that were involved in the project. Nick Ranieri, the architect, Mike Groff, the engineer with Charles Sells, and Alan Oppenheim, one of the principles of OG Real Estate. Mr. Gush felt they had all of their testing done, including their wetland delineation. They had been in contact with Albany County and had been told that the County would take on the sewage. They had changed the site to address some of the comments that the Town Board and the Planning Department had given them. The parking had been rearranged to include underground areas. A marine engineer was on staff for the design of the harbor. Mr. Gush then addressed the issue of the EPA. He stated that he wanted the harbor built versus the EPA choosing the site for dewatering. They were working hard to go as quickly as they could to make this project a reality. They hoped to get the project as far along as possible before the EPA made their final choice. If they can get the project approved, the site would be worth more money and Schaghticoke would look that much better to the EPA. A director of the EPA, who had since passed away, had promised that if the project was close to approval, they would back away from the site. Mr. Gush stated that they were the last ones to know that the EPA had chosen them for a site. Even though Beacon Heights was caught in the moratorium, they would be move ahead with engineering analysis and certain aspects of SEQR to avoid segmentation.

Mr. Ranieri continued with the presentation. He pointed out the complete area they were proposing for development, which included both Beacon Pointe Harbor and Beacon Heights. He stated that the engineering development for the Heights was done. Tonight's focus was on Beacon Pointe Harbor. The main change from the last submission was the parking. They had moved some of the parking from a surface area to underground, which they felt was more pedestrian friendly. They had created "blocks" of development off of the main boulevard, which they thought could one day connect with the Port of Albany. Office buildings had been placed up against the hill that slopes to the waterfront. Multilevel parking garages had been added behind the office building structures. The area that surrounded the harbor would be their cultural center. They envisioned specialty shops and restaurants in this area. Above those shops and restaurants would be high-end condos and possibly office space that would overlook the harbor. The end "blocks" would be a combination of office space, hotels and more condos, depending the market. In order to accommodate all of the parking needs, this was the area that underground parking would be utilized. The upper levels would be landscaped and those areas would also include on-street parking, as you would find in an urban center. They felt that they had sufficient parking for the multiple uses of the site. Each "block" could be developed independent of the next once the infrastructure was in place. They could be built over a period of time. They also envisioned waterbuses being used to move people from one area of the river to the next.

Mr. Gush stated that the project had been in front of Mr. Loomis of the School Board. Mr. Gush felt that the residential side of the project would not place a large number of students into the school system. The project was not conducive to children. He felt that all the major hurdles of the project were behind them. He thought this could be a showpiece of the area.

Mr. Groff stated that they had partnered with Jacquemart, Buckhurst & Fish, who were experts in the SEQR process and the EIS application preparation. They had prepared the initial long EAF for both projects, as well as the amendment to the zoning petition and had submitted them to the Planning Department for distribution. They were currently beginning the process of looking at traffic and sewer and they had been in contact with the ACOE concerning wetlands. He expected a sign off letter from the ACOE shortly. They had also applied to the Albany Empire Zone for assistance with the project.

Mr. Odell asked about the ash fill that was on site and what tests had been conducted to determine what was in the bed of the old Normanskill. Mr. Groff stated that borings had been taken by Niagara Mohawk and they were in possession of that log and history. Mr. Gush stated that the ash on the site from the coal-fired plant was a substance they had dealt with before on other projects. He stated that it was not harmful other than a higher than normal lead content but not dangerous. When mixed with dirt and other things, it responded similar to concrete. They had no intention of removing any of the ash from the site. As they dug out the harbor they would use that substance to elevate the remaining area out of the floodplain. The parking garages could be located in the flood plain. Mr. Gush stated that the depth of the ash was about twenty (20) feet.

Mr. Passmann stated that ninety-five (95) % of the site was within the hundred-year flood plain and a portion was within the ten (10) year flood plain. Mr. Ranieri stated that they would not be able to get a bank loan unless they raised the area. They would elevate it as high as necessary to accomplish that end.

Mr. Odell asked about the depth of water table in the area. Mr. Groff said they could supply that information. Mr. Odell wanted to know if it would have an impact on the construction techniques that would be used. Mr. Groff didn't think it would have an impact, possibly the parking garages depending on their depth. They might have to include pumps to keep water out.

Chairman Mathusa asked about the ingresses and egresses of the site, particularly the south side of the site. Mr. Ranieri stated that the one exit was about three hundred (300) feet north of the power plant exit on Rt. 144. It was also about the same distance to the entrance to the proposed Beacon Heights. Chairman Mathusa wanted to know if they intended to widen the road because of the sharp turns. Mr. Ranieri stated that the traffic study would shed light on what would be necessary. They were expecting some improvements to be necessary. Chairman Mathusa stated that the turning radiuses had to accommodate the fire trucks. Mr. Gush said they would coordinate with the fire department. Chairman Mathusa was familiar with that section of road and said that over the years, there had been a substantial number of automobile accidents.

Chairman Mathusa was concerned about the exit under the railroad tracks. Mr. Ranieri stated that it might need to be widened and it's depth increased.

Mr. Odell asked what types of facilities would be included around the dock area. Mr. Gush stated that there would be overnight facilities for boats as well as refueling stations.

They would also have a resident docking area and a transient dock but they wouldn't have a facility for wintering boats.

Mr. Passmann stated that there were variations of the proposed site plan. Mr. Ranieri stated that the plan that showed a build out on the southern most section of the site was the most recent proposal. Mr. Ranieri stated that the bridge that currently crosses the Normanskill could be used for pedestrians but not vehicles, it wasn't in good enough condition.

Ms. Saatman thought the Beacon Heights layout was different than previously submitted. Mr. Ranieri stated that the condos would be five and one half (5 1/2) stories with an additional cluster of town houses that were two (2) stories. The total number of units would be somewhere around four hundred fifty (450) to five hundred (500) units. The area would remain mostly wooded with a number of amenities on site for the residents.

Mr. Lipnicky stated that significant comments had been made on the first submission. For this discussion, he wanted to concentrate on the SEQR issue. The Town Board had taken lead agency status with the project. Subsequent to that, the moratorium was adopted. The Beacon Heights portion of the project fell within the criteria of the moratorium and the review ceased. Even though the Beacon Harbor now included residential units it still fit within the parameters of the moratorium therefore review could continue. Mr. Lipnicky said the SEQR review would focus on the Beacon Harbor project but also needed to consider some of the cumulative impacts of both projects, such as traffic. The next step in the process was for the Planning Board to give a recommendation to the Town Board as to the SEQR Determination of Significance. If they decided there would be a significant impact and recommend such to the Town Board, they would need to state the issues they felt should be addressed in the DEIS. The Town Board would be the agency that would take all the actions and the Planning Board would work in an advisory capacity doing the detail work and making recommendations back to the Town Board. The Planning Department would review the most recent submission and make comments to the applicant. Some of the prior comments covered issues such as parking, fire access and delivery access. Chairman Mathusa wanted to make sure that the current engineer had copies of the prior comments made by staff.

Mr. Lipnicky stated that the approach of the EIS would be to take into consideration other possible projects in the area as well the proposed project when analyzing SEQR issues. From his perspective, the developer would not be expected to mitigate the cumulative effect of everything at once. For example all the highway improvements would not be expected up front, they would be expected over a period of time as the site progressed to it's maximum build out.

Mr. Collier wanted it clarified if the Beacon Heights project would be a part of the SEQR review. Mr. Lipnicky stated that the review would only be on Beacon Harbor but it would include important cumulative impacts with Beacon Heights.

Mr. Engel had a major concern with the road infrastructure of the area. Rt. 144 where the south exit of this project was located was dangerous now. There was a tremendous amount of traffic during peak hours. He felt that DOT should be involved before the build out. He believed that major changes in the road were needed.

Mr. Lipnicky said that staff would review the documents that had been submitted and then prepare a recommendation to the Board. Mr. Collier stated that in the past the Board had a great deal more information in which to base their recommendation. He wanted to know if the applicant's intention was to supply the Board with that information. Mr. Groff stated that the packets submitted included the latest site plan and legal descriptions. Mr. Lipnicky believed that the types of information Mr. Collier eluded to would be information on historical structures, archeological studies, geology of the site, flood plain information, and endangered species information such as the possibility of nesting eagles on the site. Mr. Collier agreed but was looking for even more. Such as the information on the bridge that had been mentioned earlier that crosses the Normanskill. He felt that the traffic pattern flow should be decided prior to structure placement. Then they would know if that bridge would be an essential part of that flow based on the needs of the site not on the cost of improvement.

Mr. Gush stated that the bridge was not safe for traffic. At the present time it was blocked off even to people. They would need to get help from a grant program in order to improve the bridge. If grants were not available, they would not be able to use bridge.

Mr. Gush said that they had spoken to DOT about the project. DOT wanted a window for budgeting in their improvements that they would be making on the highway. When they did their traffic study, they would be working directly with DOT.

Chairman Mathusa asked if they had been in contact with the ACOE considering the close proximity of the Hudson River. Mr. Gush said they were ready to sign off on the issue of wetlands. When they do the marina, they would be working with the ACOE for the various permits that would be required. The harbor would not be built with water in it. A cofferdam would be utilized. The ACOE wouldn't have jurisdiction during the building of the harbor. Underground piping from the river into the harbor would be used to flush the harbor and keep it clean.

Mr. Lipnicky asked if the applicant knew exactly the permits that would be required from the ACOE. Mr. Gush stated that they needed a marine permit but beyond that he wasn't sure. There wasn't any dredging of the channel in that area necessary. There was about a twenty (20) foot clearance at low tide.

Mr. Gush believed that there would be sufficient parking with the parking garages and the underground parking. He also said that there was access for deliveries around the back of the structures that would be more evident with more detailed plans.

Mr. Gush was hoping for a SEQR Positive Declaration recommendation to the Town Board from the Planning Board so they could begin all the studies that would be necessary. They were aware of the impacts.

Mr. Lipnicky stated that during a site visit, he noticed a number of monitoring wells on the site. He wondered if the applicant knew who had installed them and for what purpose.

Mr. Groff thought that they had been set there by Nimo during an environmental study. He believed them to be quite old. The EPA had asked permission to cut the locks on the wells so they could use them. He stated that he had the well logs for all the wells. Mr. Lipnicky wanted to know if there was any documentation of results of past testing that have been done from those wells. Mr. Groff said that he would supply staff with that information.

Mr. Lipnicky wanted to know if the applicant controlled the DeMartini land where the oil company was located. Mr. Gush stated that they had control of another site south of this site, where they were considering another industrial commercial park. They planned on relocating Mr. DeMartini there with a new building and then tearing down the existing structure. Mr. Lipnicky asked who owned the area where the Normanskill makes it's bend and an underpass is located. He felt it might be large enough for one-way traffic and he wondered if it would be used as an access to the site.

Mr. Gush stated that they didn't own the property. That was why they had obtained the De Martini land. They did have an easement that goes across to Rt. 144. A purchase had not been discussed.

Ms. McCarthy stated that she would prefer this project to a dewatering site. But thought the Board should proceed with care. Mr. Engle agreed that the Board should definitely take their time.

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

A motion to approve the minutes of April 20, 2004 as amended was offered by Ms. McCarthy, seconded by Mr. Odell and approved by all present.

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

The meeting ended at 10:40pm.

Respectfully submitted by,

Nanci Moquin