

**PLANNING BOARD  
TOWN OF BETHLEHEM**

**November 4, 2004**

The Planning Board, Town of Bethlehem, Albany County, New York held a **Public Hearing** on Thursday November 4, 2004, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY on the application of **First Columbia, LLC**, 26 Century Hill Drive, Latham NY 12110 to subdivide 17.30 acres in PCD No. 6 into two (2) parcels. Chairman Parker D. Mathusa presided and called the meeting to order at 7:30 pm.

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

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

Chris Bette, First Columbia  
Deborah Priest, 22 Normanside Dr., Albany, First Columbia  
Frank & Mary Szydowski, 37 Normanside Dr., Albany, First Columbia  
Liz Gellinelli, Normanside Dr., Albany, First Columbia

CHAIRMAN MATHUSA: Good evening on this Thursday, November 4, 2004. I note the presence of a quorum. First item we have on our agenda tonight is a public hearing regarding a project being developed by First Columbia Corporation. First Columbia made a presentation to us last week. It is a proposed medical building that would be located at 1200 New Scotland Road in Slingerlands. The applicant made a presentation to the Board, we felt comfortable that the project was moving along reasonably well and we approved a public hearing as a next step in the review process. I would like to have a motion to indent the public notice of the hearing in our record so we can have that, may I have a motion to do that please.

MR. ODELL: So moved

MS. McCARTHY: Second

CHAIRMAN MATHUSA: All in favor?

ALL BOARD MEMBERS: Aye

CHAIRMAN MATHUSA: Opposed... Alright we'll put that in the public record

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

## ***NOTICE OF PUBLIC HEARING***

Notice is hereby given that the Planning Board of the Town of Bethlehem, Albany County, New York, will hold a public hearing on Thursday November 4, 2004 at 7:30 p.m., at the Town Offices, 445 Delaware Ave., Delmar, New York, on the application of First Columbia, LLC, 26 Century Hill Drive, Latham NY 12110, for approval to subdivide 17.30 acres into two (2) parcels, Phase I, parcel A, 12.38 acres; Phase II, parcel B, 4.92 acres, in Planned Commercial District No. 6, by Amending Building Project Approval No. 34 as shown on map entitled, "PROPOSED AMENDMENT TO PLANNED COMMERCIAL DISTRICT NO. 6, NEW SCOTLAND ROAD COMMERCIAL BUSINESS PARK, SUBDIVISION PLAN, Town of Bethlehem, Albany County, New York, Sheet S1, dated 7/8/04, revised September 7, 2004, and made by Chazen Engineering & Land Surveying Co., P.C.

Parker D. Mathusa  
Chairman, Planning Board

CHAIRMAN MATHUSA: And now I ask Chris, the applicant, to make a short summary of the project, so both the Board and the public have a firm grasp of what is being considered here.

MR. BETTE: My name is Chris Bette; I'm with First Columbia, developers of the parcel at 1200 New Scotland Road in the northwest corner of the Town of Bethlehem. Let me go through a few things Mr. Chairman just because we do have a few people from Normanside Drive here tonight. Just to reacquaint everybody with the project. Frank and Mary you saw this a couple years ago when we had this approved the first time. In 2001 we proposed about forty-five thousand (45,000) square feet of development. A thirty-five thousand (35,000) square foot building and a twelve thousand five hundred (12,500) square foot building. The 17-acre parcel is made up of the original 16-acre parcel and we added a  $\frac{3}{4}$  of an acre parcel to that that was previously a single family home. This project went through the planning approval back in 2001, we were granted final approval on this plan March of 2002. We've had some delays in leasing and other issues that we retooled our plan and went back in front of the Board for a similar proposal, which is a 45,000 sq ft building, single building in roughly the same location as the previous larger building. Parking all in front of that building, which would be on the Normans Kill side, access from New Scotland Road through a new curb cut to New Scotland Road. Parking is interconnected so there would be free circulation through the 2 parking lots. I guess that's a pretty quick update of where we are and where we've been.

CHAIRMAN MATHUSA: Does the Board have any comments at this point? I'll now open the meeting to receiving comments from the public and their thoughts on the project, both pro and con. Of course that will be for our record, I request that you approach the microphone, clearly state your name and address and make your point. Does anyone wish to speak?

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MS. PRIEST: I'm Debra Priest, from 22 Normanside Drive in Albany. I have gone through the first stage of their project with the client and appreciate having the clinic near by. In working during that time with First Columbia found it a pleasure because they're very responsive. I came tonight primarily to see your map to see what you were planning to do and I have a couple of questions. I guess I have a couple of concerns. As I look at your map here tonight Chris, it looks as if your building at least is going to be above your hundred-year flood plain. Do you anticipate taking any measures for the protection of your building, other than relying on the hundred years?

CHRIS BETTE: Our design contemplates a foundation design that would limit the ability of the water to get to just through the front door area. We thought we've raised the foundation up a little higher and we're covering them with brick. I'll show you the elevation. But we've made the foundations a little higher to eliminate the potential entry of water. The only area of concern for us would be our front door, which we thought we could handle.

MS. PRIEST: You have flood insurance, right?

CHRIS BETTE: We do have flood insurance.

MS. PRIEST: So you don't anticipate making any changes in the land rise along the Normans Kill?

MR. BETTE: No

MS. PRIEST: My second concern is... I don't know how this plays out, the design of the building across the creek, because you don't have it here. But do you have an idea where across the creek that is?

MR. BETTE: In relationship to your home or the homes on that side? I don't actually. I do have a small aerial.

MS. PRIEST: The duck pond would do it.

MR. BETTE: Let's look at this map. This building is directly in front of the medical building, so that building is going to occur right in through here. That little wetland that was created by the Terramere development is over in this area.

MS. PRIEST: So it looks to me like it would pretty much facing out this way.

MR. BETTE: Our building is going to face towards that duck pond.

MS. PRIEST: Then my second concern would be, and I give you credit in your first building, you've been very careful and polite about light pollution. We've noticed that lights go off at a certain time and they're not on any longer than the cleaning people need. And we hope this would continue, especially since the second building would have more of an impact.

MR. BETTE: The second building is closer and yes it will be on the same schedule. Our working hours are standard business hours. I think the medical building has one or two nights that it's open late but the lights will be going off at that same time.

MS. PRIEST: Three stories is a little more intimidating than the two.

MR. BETTE: Yeh, the building is only 160 feet closer than the existing medical building. We still have that 200 feet of buffer with much of that along the river being still well vegetated.

MS. PRIEST: Do you anticipate in your shrubbery design, doing anything to create a year round light screen?

MR. BETTE: We don't have the landscape plan up. Our plan doesn't add a lot of vegetation to the Normans Kill Creek area. We don't do a lot in through this area. We focus more on the view shed from New Scotland Road. The plan is contemplating a considerable amount of plantings. These are white pines, we were trying to give some screening, screening of the parking lot and predominately from the New Scotland Road view.

MS. PRIEST: I see you're doing it nicely around the building itself and might there be some more toward the parking lot lights?

MR. BETTE: In the islands we're going to also plant some trees in there as well. We've kept the lighting to the same style lights, down style; they're not going to spill off the parking lot too much. It will be very similar to what you see on this site.

MS. PRIEST: I notice that initially you had a little problem with teenagers in the parking lot. That's seems to have died down.

MR. BETTE: We called the police department quite frequently just to have them increase the patrols through there and I think that is what's happening.

MARY SZYDLOWSKI: Hi my name's Mary Szydlowski, I live at 37 Normanside. I only have three questions. Is this above the hundred-year flood mark, not the building, the parking lot?

MR. BETTE: Yes it is. The hundred-year line is...

MS. SZYDLOWSKI: 114, is this above or are you going to get flooding?

MR. BETTE: The edge of the parking is actually 115.

MS. SZYDLOWSKI: OK, so you're 1 foot off. We live on the Normans Kill and it floods all the time and we know that the hundred-year flood mark means nothing. Most of the time it's going to be above the water. Is the integrity of the tree screen staying?

MR. BETTE: Yes.

MS. SZYDLOWSKI: Last question, we told you that we've had problems with water coming off of your parking lot and channeling right across from us. This detention pond, is there a system of piping that's going to take it to the existing storm drain system?

MR. BETTE: Correct, that is connected to the existing riprap out fall that we are using today.

MS. SZYDLOWSKI: How much more volume of water is that going to put towards us?

MR. BETTE: It's going to be the same amount of water really; the detention pond is actually going to slow it down.

MS. SZYDLOWSKI: It's going to pick up more volume because of the parking lot.

MR. BETTE: You're going to pick it up quicker, not more volume. The run off will get to the detention pond faster, but the detention pond will retain the water. The new storm water regulations that are in place require us to not only deal with your concern but the quality.

MS. SZYDLOWSKI: You're pouring right now. When we get a rainstorm, we live actually on the Normans Kill Creek we're the second house in on Normanside Drive. The water from Terramere and the water from First Columbia, the volume of it, what is it, this is four years later, five years after they started it. On a rainy day you are polluting the creek like you wouldn't believe. The silt is just... we've complained about it before, we've got pictures. Something is eroding on the other side and it's putting... you can take a picture of it and you can see it. The water is a different color and it's pouring out of the Bethlehem side on their storm drain system. We're concerned about the fact that the volume and the velocity of the water coming out of this project is going to make it worse.

MR. BETTE: We're actually helping that with the detention pond.

MS. SZYDLOWSKI: OK, you're slowing the velocity.

MR. BETTE: We don't have...

MS. SZYDLOWSKI: But the volume of the water is going to increase where your blacktop is, that water when it came down the hill above here from Terramere, this would all soak into the ground. Now you put a hard surface and now you've got, we had from the original building, if fact we went with the Bethlehem Building Inspector, because we were getting channels on our side away from the storm drain system that were coming in around the trees on the creek and eroding channels and we traced it to, they had catch basins at the end of their existing parking lot and the catch basins weren't sufficient to take the water. Some of the water was going towards the storm drain system but the rest of it was flowing down the hill causing erosion channels right across from our property. But this is going to be; hopefully we won't have that problem again?

MR. BETTE: No, the dirty water concerns me because we haven't done anything for four years.

MS. SZYDLOWSKI: Somebody is doing something because there is..water doesn't turn chocolate brown for no reason. Something is eroding. And your whole system, I don't know if it's yours or Terramere, your rocks, your riprap has sunk. And we now have dirt.

CHAIRMAN MATHUSA: Any other thoughts at this point? Comments or questions?

DEBRA PRIEST: Could you tell me, ...currently had left over debris from construction, it looked like an embankment.

MR. BETTE: That was excess from the construction of the medical building that was left there for future use.

MS. PRIEST: And I notice that it's starting to be used?

MR. BETTE: Yes by that road project, so we made it available for that.

MS. PRIEST: (inaudible)

MR. PASSMANN: I would like to interject on the detention pond. The storm water pollution prevention plan that was submitted by the applicant for the project includes a modeling and their analysis of the storm water that's coming off the site. The pond is designed according to this document to treat the water quality of the storm water that's coming off the site which is a requirement of the new DEC Phase II permits but it isn't however attenuating the flow from the storm water events. In the case of the ten-year storm event for example, the design point number one which is at the outlet area of the pond where the riprap is now, for the ten year event the discharge would be 16.9 cfs. The proposed flow would be just about 25 cfs, so it's somewhat of an increase. In the report they explain that because this location along the Normans Kill is considered a fourth order stream by DEC, which means that a number of streams combine to create a fourth order stream which is a bigger scale stream and DEC doesn't require attenuation of the storm water event. So it doesn't require them to retain that flow in the detention basin before releasing. So that's my understanding of the design that's been submitted.

MS. SZYDLOWSKI: I believe that when Terramere was built, there appears to be a retention basin already there which doesn't work. I'm hoping this one works but that one is above the outflow, below the hill there's one big pipe that's coming in from Terramere but then there's an area that looks like they've rip rapped it, it's not the stream but it's a big area, that isn't working. And your ten-year event, you guys have been underwater that whole riprap area is underwater at least three times a year.

MR. PASSMANN: Well, I'm not sure of design specifics of that area that was part of the previous project but I've seen drawings that show a riprap lined area up in there.

MS. SZYDLOWSKI: They took one huge when they first did it, but this is clay, the area around there is clay and what's happened is as it gets saturated as the water pouring down from Terramere and from the existing First Columbia and as the Normans Kill floods, which the people on the creek know, a couple to three times a year, what's happening is the stones have sunk in, so it really isn't preventing a heck of a lot now. The stones have sunk into the mud.

MR. PASSMANN: Do you think the stones have sunk in or the sediment's come down.

MS. SZYDLOWSKI: It's a combination of both. We were here two years ago or whenever they were talking about the three buildings and we were complaining because we have a canoe on the stream and if you go down in front of that storm drain system, the sand is out right, you can look down and there's dirt. Now the creek is fifteen foot deep behind us so you know there's a lot of sediment going off your storm drain system so that is a concern. We don't want any more water, more velocity, more sediment going in than is already going in. We bought it so we could enjoy the creek.

MR. SZYDLOWSKI: Over time where the outflow is currently and the outflow is going to be increasing with a new project going up, what Mary was describing is a sandbar coming in from the Bethlehem side to the Albany side. It's having the effect of diverting the very significant flow of the Normans side onto the Albany side, so that eventually it's going to create a bend and not too far from now in the creek and it's just downstream from our property but we can already see it happening.

MS. SZYDLOWSKI: On a bad day, when there's a lot of rain, your water shoots from the Bethlehem side and you can see it because it's a different color because it has sediment in it. It's hitting the Albany side and that creek is some sixty feet wide. We're just concerned, he's been a very good neighbor, we can't complain, he really has been a good neighbor. We've had trees fall in from his side, we call, and they come pull them out. We're just concerned about more water.

MR. SZYDLOWSKI: If the pond has the effect of decreasing the flow or at least not increasing it to the point as you indicated it might be, there shouldn't be any additional problem but eventually that is going to, that is having an effect right now of changing the course of the stream.

MS. SZYDLOWSKI: From the detention pond is the pipe that is coming towards the... it has to be going parallel to the creek. It's not going out straight to the creek right?

MR. BETTE: We're actually going right back into what was Terramere's, so this pond is in this area here is going to discharge into...

MR. SZYDLOWSKI: May I just show you something. Is this the discharge area? Our house is about here and just to give you an example, the water that comes out of here comes out with such velocity right now during a heavy rain storm that it comes out literally like a waterfall, hits this bank and it is eroding this bank to the extent that some of the larger trees have already fallen in. If you're building this here and you have all this extra water coming in here, we're just saying that if this catch basin deal doesn't do it's job, this process is going to increase and Albany is going to be losing more of it's side. This is Albany City property.

MR. COLLIER: Randy, are you familiar with the new storm water regulations and what they require relative to post construction monitoring and any remedial requirements a developer may have to do if a design fails or doesn't do what it's supposed to do.

MR. PASSMANN: Yes, I'm somewhat familiar with those requirements. And for this project, we've worked with the developer to see that in their Operations and Maintenance Manual for the pond, I can explain that a little bit. DEC requires that for the new storm water management ponds, the designer provide an Operation and Maintenance Manual for the owner. So that prescribes inspections that need to be done of the pond to make sure it's working properly, maintenance and in this case we worked with Mr. Bette to make sure there was a provision in there, so that if the facility is damaged by the bigger storm events, the owner will be responsible for going in and repairing it as necessary.

MS. SZYDLOWSKI: This is a shared project by Terramere and First Columbia, that does that mean that Terramere has to come down and do something about what's already there? Were these regulations in effect when Terramere was built?

MR. PASSMANN: The current Phase II Storm Water Regulations went into effect in March of 2003, so I don't believe they were. And I think for the most part Mr. Bette's current project is independent of that in that he's discharging to the same riprap area but their storm water management was under different regulations at that time.

CHAIRMAN MATHUSA: Well, let me just ask, the terms of the provisions of manuals in a sense gives us some protection should this erode more severely than where we are at this point and it would be a requirement of both Columbia and Terramere to look into it or just Columbia on its own?

MR. PASSMANN: For the current system, the applicant has an Operations and Maintenance Manual that requires them to perform operations and maintenance on it and also a legally binding maintenance agreement with the Town of Bethlehem that binds them to maintain it for the lifetime of the facility or successive owners of the property if it were to change hands. So it's been built into the approval process.

CHAIRMAN MATHUSA: I just wanted to get that onto the record. Does the Board have any other thoughts or comments?

LIZ GELLINELLI: Liz Gellinelli, 20 Normanside Drive. I hope I didn't miss this in the beginning, but I was most interested in the actual land you were building on, cause I walk there and it's often quite marshy. And I was wondered how you would characterize the land. Was it characterized as a wetland; it's muddy, frequently.

MR. BETTE: We've had the parcel delineated for wetlands; it is not categorized as a federal wetland. Actually, as you can see on our plan, we do have some federal wetlands that, actually just these two, that we're not going to disturb. There's a previously delineated federal wetland here that has been reclassified as isolated so that we can disturb that one. That's a little pocket in the middle of the parking lot. But we are not classified as wetlands, we have gone through the Army Corp process, received a jurisdictional determination on our site.

MS. SZYDLOWSKI: Just one more question. The detention pond, we know that we're lucky where we are because all the water runs into the creek, but we have noticed an uptake in our mosquitoes since you put in the little duck pond. Is the retention pond,

which will be closer, is that going to have water all the time? And if so, are you going to put doughnuts in it or something to keep the mosquito population down?

MR. PASSMANN: That's another thing we went through in the review process and with the Phase II Storm Water Management Systems, now these ponds, one of the criteria for the design of them is that they have to have a permanent pool of water. So right away that's a concern we have, making sure that their not creating a potential for West Nile Virus. What Mr. Bette put into his O&M Manual was a plan for having an annual pesticide application program by a certified pesticide applicator, to using a larvicide approach to take care of that issue.

MS. SZYDLOWSKI: Are they going to put fish in which would also help, we don't have a lot of mosquitoes because the fish in the creek, and you know there's no standing water, is that a possibility. I don't think they ever put them in the duck pond.

MR. PASSMANN: That's not built into the design.

MR. BETTE: Mr. Chairman, I just want to comment to the duck pond. Some of us know the duck pond; we purchased this property 16-acre parcel from Terramere. Terramere actually owns a larger parcel up the hill. As part of Terramere's wetland mitigation plan they were required to build a quarter acre wetland mitigation. That so-called duck pond is Terramere's mitigation area. So that the Board knows that pond is actually Terramere's wetland mitigation, required by the Army Corps of Engineers.

MS. SZYDLOWSKI: Is this going to look like that? I know it's going to be lined in riprap, but is it going to look like that...(inaudible).

MR. BETTE: It is going to look very similar to that we're going to maintain the banks of our detention facility. It will be down in this area.

CHAIRMAN MATHUSA: OK, anything else, thank you. I would be pleased to have a motion to close the public hearing.

MR. ENGEL: So moved

MS. MOTTA: Second.

ALL THE BOARD: Aye.

The public hearing closed 8:15.