

**PLANNING BOARD
TOWN OF BETHLEHEM
August 5, 2003**

A **regular meeting** of the Planning Board, Town of Bethlehem, Albany County, New York, was held on Tuesday, August 5, 2003, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY. Chairman Douglas C. Hasbrouck presided and called the meeting to order at 7:30 p.m.

Agenda Items: Price Chopper Plaza Ext. – Windsor Properties, New Scotland Rd.\
Glenmont Woods – Journey Lane, Glenmont; James Villasenor, owner.

Present: Douglas C. Hasbrouck, Planning Board Chairman
Brian Collier, Planning Board Member
Howard Engel, Jr., Planning Board Member
Parker Mathusa, Planning Board Member
Katherine McCarthy, Planning Board Member
Keith Silliman, Planning Board Counsel

Jeffrey Lipnicky, Town Planner
Randall Passmann, PE, Department of Public Works

Terresa Bakner, Esq; Whiteman, Osterman & Hanna, One Commerce Plaza, Albany, NY; Glenmont Woods
Thomas Andress, ABD Engineering, 411 Union St., Schenectady, NY 12305; Price Chopper Plaza
Robert Miller, Windsor Development, 15 Park Ave., Clifton Park, NY 12065; Price Chopper Plaza
D. Fish; 140 Tygert Rd., Altamont, NY; Getz Bldg.

Mr. Hasbrouck called the meeting to order at 7:30pm.

PRICE CHOPPER PLAZA EXTENSION – Site Plan – New Scotland Road

First on the agenda was request from Windsor Properties to amend the local law that established the Planned District for the Price Chopper Plaza in Slingerlands.

Mr. Hasbrouck commented that this is a Planned District, so the Town Board is the lead agency. The Town Board referred it to the Planning Board for a recommendation on the zoning question and SEQR.

Tom Andress, ABD Engineers & Surveyors, made the presentation. Robert Miller of Windsor Development, the owners of the project, was also present. The Price Chopper

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on New Scotland Road has been very successful in the 5 or 6 years since opening and at this time they are looking to add a 10,000 sq. ft. addition. The addition proposed is to be built on the north end of the plaza. The reason for the addition is to better serve the community. When the original store was built, it was considered by Price Chopper to be a standard store. The stores that Price Chopper are currently building are bigger and they want to bring this store up to those standards. The addition will be located in an area that is currently paved and the paved area will be shifted over. There is a disturbed area that holds the original detention basin and they will be doing some modification of that basin. The project is very simplistic; it will require some relocation of some water lines to around the building so the lines won't need to run underneath the addition. There are some minor storm drainage issues and issues with the original project concerning federal wetlands. They had delineated federal wetlands on the previous project. Mr. Address stated that they could disturb an acre and at the time they disturbed about .85 acres of wetlands. Since that time the laws have changed down to .1 acre of disturbance allowed. Because of that they are working with the Army Corps of Engineers to find out the type of mitigation that will have to be done for the project. At this time, it looks like there won't be any mitigation on site except within the existing drainage area. In this way there won't be any need to take down any further vegetation. This is an overview of what is being proposed, they realize that the Town Board referred it and what they are looking for from the Planning Board is to refer back on the zoning change. They are here tonight because of that zoning change. The total square footage that was approved in the original Building Project Approval is the footage that was built at that time. The 10,000 sq. ft. addition will bring them over that limit. They are looking to expand that square footage, then the final site plan will need to be changed and also the Building Project Approval.

Mr. Mathusa clarified that the building will be going north about 30 ft. Mr. Address stated that it's not much but it will give the building the additional 10,000 sq. ft. Mr. Mathusa asked if the trucks would continue to go to the same side of the building. Mr. Address replied that the dock space would be increased in the rear. The same radiuses are used that they originally had, so they will be able to make the turns coming in at a slightly different angle. There will be a slight radius change to the entrance into the medical building. They will be able to do the same curbing area out front with some green space.

Mr. Hasbrouck stated that the plans show the addition at 48 ft. by 210 ft. He also mentioned that the detention area, if they are doing offsite mitigation, as far as wetlands are concerned is an Army Corps issue and whatever they work out with ACOE will be fine with the Board. He asked for more information concerning the detention area and also asked if the Phase 2 storm water management requirements would be applicable. Mr. Address replied that the disturbance that they're dealing with is less than a total acre of disturbance so they shouldn't fall with those requirements. The basins, as they were originally designed, did meet Phase One requirements. They might look into doing a little more for the output control but that would be all. The basin will basically stay the same with a slight reshaping. Mr. Address states that as they progress along they will report back to the Planning and Engineering Departments to show that everything is still within the requirements of the Town.

Mr. Hasbrouck asked how close they would be to the one acre and if the stability of the slopes had been addressed or had the slopes remained steep to keep within the one acre. Mr. Address stated that they just want to maintain the same slopes that are on the property now. The slope will move in parallel with the driveway when that is shifted over. There really isn't an issue of stability. Mr. Address said the drawings were prepared before the Notice of Intent for Phase II came into effect. All of the storm water, when it was designed initially, met the requirements. The only difference would be to one of the basins and micro pools, which actually could be dug into this basin if it was needed. Mr. Address stated that the basin he was speaking of is not the principle retention basin. That is in the rear, the one on the side is a secondary basin that handles some of the catch basins on this side so they don't need to be piped so far. They're not dealing with a large amount of water.

Mr. Passmann asked if the wetland mitigation would be done offsite or onsite. Mr. Address stated that the intent and the discussion with the Army Corp. are to do it offsite. It is subject to final negotiation. Windsor Development has a specialist that has been working with the Army Corp on this issue.

Mr. Hasbrouck wanted to know if they had received positive response from the Army Corp as to the concept. This was confirmed by Mr. Address. He stated that they actually had an initial agreement in place but then a few items need to be changed, so they were working through those items.

Mr. Mathusa wanted clarification as to the exact square footage. There seemed to be some conflicting numbers. The footage, per Mr. Address, is 10,143 sq. ft. Mr. Lipnicky said he scaled the addition at 48 ft. by 210 ft.

Mr. Lipnicky asked if Mr. Miller would explain about the nature of the interior, specifically; are there any new departments or services that will be added. Mr. Miller replied that what prompted the expansion was the success of that particular Price Chopper. There is also competition coming to town and Price Chopper wanted to put their best foot forward. It is one of the more successful stores in their chain. Neil Golub, on a visit to the store was alarmed that the community that was supporting his store was not getting the best store that Price Chopper had to offer. He informed everyone at Price Chopper that he wanted to work to get the store expanded. Price Chopper is problem solving with the expansion. The store is cramped and that results in lack of shelf and back room space as well as small crowded isles. If they don't have adequate storage they have frequent out of stocks in the very busy periods. Proposed increased storage would cut down on the amount of deliveries needed and would help with the efficient running of the store. In the newer stores they have a greater space allocated to perishables. Mr. Miller stated that they want to revamp their food court area to mimic the food courts in a shopping center with a larger choice of prepared foods to either eat there or take out. They want larger perishable sections; namely fish, meats and delicatessen.

Mr. Mathusa wanted to know if the addition is for warehousing. Mr. Miller stated that the warehousing is usually in the back, but along with storage comes food prep and that occurs out of sight. They want to increase the retail shelving space. Basically the end result will be a larger store with a larger sales area. Mr. Mathusa wanted to know if the addition would be retail space or warehousing. Mr. Miller stated that the warehousing, which is along the back of the store, already exists. The new space would be for new and better offerings. Price Chopper wants to bring the community the best store they have to offer.

Mr. Lipnicky asked about the exterior of the building. Mr. Miller stated that it would be a continuation of the existing structure with the same building materials. When it is done it should be hard to determine that it was ever anything else.

Mr. Hasbrouck wanted to know if the potential for increased traffic had been explored. He wanted to know if there is anything for the Board to go on as far as an increase in traffic. Mr. Miller stated that Price Chopper is not interested in increasing traffic, given the environment that they are working. It was really Neil Golub's wish to do a better store. They don't expect any increase in visits; they expect that people who come there will buy more. They'll see an increase in sales but not by customer count.

Mr. Hasbrouck stated that traffic was a large issue when the original Price Chopper was going through the approval process. The concern was the traffic flow along Route 85. Mr. Hasbrouck believed that the flow of traffic along that intersection is actually better than when the store wasn't there. Mr. Hasbrouck is interested in getting some traffic expectations, other than the square footage documentation. Mr. Miller stated that Price Chopper didn't base any of their decisions on the increase of traffic. Mr. Hasbrouck wanted to know if they were going to add any new departments. Mr. Miller stated that it would be more product but the same types of product. Price Chopper doesn't expect any increase in traffic, if anything they feel there will be less traffic when the other stores coming to town get developed. Mr. Hasbrouck asked if they knew of the impact that the other Price Chopper in Glenmont had on the number of customers at the Slingerlands store. Mr. Miller stated that it took from the store some but they had that figured into their model when they built the store in Glenmont. The Slingerlands store is just about back to where it was before the Glenmont store opened. There has also been significant growth within the Town, which helps the store in their numbers.

Mr. Mathusa stated that a key issue concerning the traffic is that Price Chopper is figuring that people will purchase more on their visits and not make more visits. There shouldn't be an increase in trucks. Mr. Miller confirmed that not only will there not be an increase in trucks but also the number should drop. That's an advantage on both sides; for the Town there will be fewer trucks and for Price Chopper it will be an increase in efficiency.

Mr. Lipnicky asked if Mr. Miller knew the number of trucks per day on the site. The reason he asked was because of the change in the service road closer to the driveway of the medical center and closer to entrance of the store. His concern is what happens if the

bypass extension happens, and how does that access to the Plaza become impacted. Mr. Miller didn't have a figure for him but would call him back with the figure.

Mr. Andress stated that he felt that access would be improved. It should be a little easier for the trucks to make the turn and the length of the access into the medical building would not change. It would be a little further away from the entrance, which should help with the congestion.

Mr. Mathusa asked Mr. Lipnicky how the trucks would enter the plaza once the bypass is extended. Mr. Lipnicky stated that what the DOT proposes and what is in the DEIS, is that the entrance, that currently exists at the red light, will be eliminated. The only entrance and exit from the plaza the DOT is showing is from the driveway that is now along New Scotland Road, which is now a right in, right out only. That is all that is being proposed. CDTC, the Town and others do not believe that the current proposed configuration for internal traffic movements will work. The belief is that greater than the problem from the New Scotland Road perspective, which could be eliminated with a traffic light, is the problem that is seen within the plaza. All traffic will have to come together at the one T intersection.

Mr. Mathusa asked Mr. Lipnicky if the expansion of the building is going to add to the problem or not. Mr. Lipnicky didn't feel that it would have that much of an impact. His main concern was that the current design of the access would not be able to handle the traffic. This concern is independent from this addition.

Mr. Miller was asking for a recommendation back to the Town Board on Zoning. That being done, they would return to the Planning Board with more details. Mr. Hasbrouck stated that the Town Board had asked for a recommendation from the Planning Board on zoning and on SEQR. Whenever there is a two-step process such as zoning and building approval, SEQR review is always conducted as part of the first step – in this case rezoning – because that constitutes an “action” requiring SEQR review. If the SEQR issues are not manageable then there isn't a reason to rezone in the first place. The Board wanted to take a closer look at what has been given to them, especially things that are relevant to SEQR questions. This will allow them to know if there will be other documentation that will be needed. Mr. Hasbrouck did notice that although there wasn't anything that was submitted to the Town Board pertaining to traffic, that quite a lot of the questions were covered by the documentation that was submitted to the Town Board. The SEQR questions will determine when they will be ready to prepare documents for the recommendation back to the Town Board. Most of the Board were not members during the initial approval of the Plaza, but there was extensive input from the community. Whether or not the feelings of the community have changed now that they have had a chance to use the store and see how the plaza has turned out is yet to be seen. Mr. Hasbrouck stated that hopefully the perception had changed for the better. Once the recommendation goes back to the Town Board, they will hold a Public Hearing. At that point the community will have a chance to voice their opinion. The Board had placed a very specific square footage restriction on the building in their prior approval and the basic question is whether that can be increased. This was a key issue and will continue to

be so. Mr. Hasbrouck didn't feel that if they recommended approval that it would cause a precedent. He stated that the Board would continue to look at projects on a case-by-case basis. He is not sure if the public will see it that way. It doesn't seem that there are insurmountable SEQR issues.

Mr. Hasbrouck stated that the Board would look at those issues and get it back on the agenda as soon as they can to bring those issues back for discussion. He feels that the draft documents are probably a few meetings away.

Mr. Miller stated that if there were anything that is needed for the review, it would be submitted upon request. Mr. Hasbrouck replied that traffic documentation would be helpful. He doesn't feel that only looking at increased square footage is going to give a valid answer. Mr. Miller is sure that the amount of truck deliveries will be decreased. Mr. Hasbrouck stated that it is an important point.

Mr. Mathusa asked Mr. Lipnicky if the increase in square footage would require additional parking spaces. Mr. Lipnicky replied that there are zoning requirements pertaining to that question. He believed that they already have enough spaces but have not specifically looked at the numbers. As he recollected, there were more than enough spaces during the original project. Mr. Mathusa asked if that would go to the statement that they are not after more customers. Mr. Lipnicky stated that parking requirements are an arbitrary number. Mr. Miller stated that originally there were 404 spaces when 354 were required, with the expansion, per code, they would need 395.

Mr. Hasbrouck asked Mr. Lipnicky if he had any other comments. Mr. Lipnicky stated that as far as the traffic issue goes, they are not adding a different retailer or a new service internally, so he felt that it would not increase the number of trips. In the ITE manuals what would be generated by a 10,000 sq. ft. for a shopping center, wouldn't be much. He felt that they should be supplied with the ITE trip generation number anyway.

There being no further comment, a motion to table was made by Mr. Mathusa, seconded by Mr. Engel and passed by all present.

GLENMONT WOODS – Subdivision – Journey Lane

The specific question before the Board was the disposition of lots 10,11 & 12 attached to this subdivision. They are not useable lots. There are a few options for this disposition. One of the options is to attach these lots to other individual building lots. Mr. Hasbrouck seemed to feel that there might be opposition from DEC on this. Another option is to give the land to a conservancy and the third option is to leave the lots as remainder lands and create a homeowner's association. There are a small number of homes and a homeowner's association might not be a feasible option. Mr. Hasbrouck asked Ms. Bakner what their preference is as to the lots use. Ms. Bakner stated that their idea on this matter is to deed restrict this area, rendering these lots unbuildable. The option of the creation of a homeowners association, with only nine lots, would make the project too expensive to continue. Because of the relative locations, they could make 10 and 12 go together and they would have no problem calling these remaining lands. Lot 11 is almost

completely wetlands and its location makes it separate from the other lots. Ms. Bakner's experience with the Army Corp is that they actually prefer attaching these wetlands to a particular landowner. They are comfortable with eliminating the lot line between 11 and 12 and calling all three areas remaining lands. They are hoping to do that in final review and not have it cause them to go back to preliminary review. Mr. Mathusa asked if the ownership of those two or three parcels still would be in Glenmont Woods LLC name. This was confirmed by Ms. Bakner. DEC has had them submit a management plan for the wetlands and as Mr. Lipnicky's notes show, they are required to provide an access easement, which has been drafted and submitted to DEC. They will make sure that Mr. Lipnicky has a copy. The remaining lands option is the most attractive to them, because it results in the least changes to the plan. Ms. Bakner stated that they did approach the Albany County Land Conservancy and they found that they didn't meet the criteria. That would have been their choice. The proposed deed restriction does run with the property, it prohibits disturbance of the lands and cutting trees in the wetlands. There typically are easements cut out for Town utilities, such as sewer. This is done because it is not known what the future holds and as a matter of law, the Town's jurisdiction supercedes any deed restrictions. Ms. Bakner stated that they didn't propose a conservation easement because an agency is needed that is willing to take that over and they don't have one. Mr. Passmann asked how the Shanahan Fun Park would be able to clear for their sanitary sewer that goes between the two or three lots in Glenmont Woods. Ms. Bakner states that the sanitary sewer easements will be carved out in order for that work to be done and putting in a sewer was a requirement of the Town. There will be other carved out exceptions from the deed restrictions including the ability to take care of trees in danger of falling. Mr. Lipnicky asked who would have the ability to enforce the deed restrictions. Ms. Bakner replied that the restrictions are in favor of the Army Corp., the DEC, and the Dept. of Justice. They have the right to enforce it and if the Town wants that right also, they could be included. Mr. Silliman stated that he spoke with Mr. Lipnicky about the four options and they believe it makes the most sense to treat the lots as remaining lands. Mr. Mathusa asked if any potential owners have volunteered to take control of this property and manage it. Ms. Bakner stated that Jim Villasenor wants to build a house on lot 9 for himself, so he would be the likely candidate for this because he would be personally invested in the site. The lot in question had not been part of lot 9 because part of the land is commercial; their thinking was that the Board would not want it stuck to a house. In prior dealings with the Board, Ms. Bakner seemed to remember that they didn't want that to occur. Mr. Collier asked what the financial obligation of Glenmont Woods LLC to maintain the lots in question. Ms. Bakner stated that there shouldn't be any cost other than taxes and they would probably file for relief considering the lands can't be used at all. Under the Fresh Water Wetlands Act there is a specific provision for Town assessors to recognize the lower value of DEC designated wetlands. The tax should be commensurate with the value of the land. Mr. Hasbrouck asked if the submitted plan to DEC had been accepted. Ms. Bakner stated that Mr. Higgins was on the verge of issuing the Notice of Completion, which is the last step in their process before issuing a permit. He stated that the land management plan was basically acceptable with a few suggestions. They were told to follow the Christian Brothers Academy land management plan and they did. There will be a 30-day public comment period on that and then the permit will be issued depending on the comments that they

get. Mr. Collier asked if there would be any restrictions on Glenmont Woods LLC from selling the lots or donating them in the future. He also wanted to know if the restrictions would carry over to new owners. Ms. Bakner stated yes they would carry over. The only court that can change that is a bankruptcy court, but she has never seen that done. The Federal Courts can do whatever they want. Mr. Hasbrouck stated that everyone seems to be in agreement that naming the lots remainder lands is the best option. The Board will look at the details of lot numbers and whether they will they remain the same. Mr. Lipnicky stated that this doesn't get the Town past the issue that has come before which is dealing with property that gets put up for tax auction. In this particular case, he doesn't see that better options are available. Mr. Hasbrouck asked about the future of the Shanahan Fun Park. Mr. Villasenor stated that there is work planned, fill is being brought onto the property, grading work is being done and seeding of the range is planned for the end of August or September. The entire site should be finished near grade by the end of September and they look to move forward from there. The facility should be operational by spring.

There being no further comment a motion to table was made by Mr. Mathusa, seconded by Mr. Engel and passed by all present.

Mr. Hasbrouck started a discussion on the date of the next meeting. There is a quorum for Monday August 18, so the meeting will be then. The starting time is still not set. The agenda had not been set as of the morning meeting; there could possibly be three projects, one being the Banahan project to set a Public Hearing.

September meetings and attendance were discussed. The meeting date of September 2 might be moved or cancelled depending on the Board's availability. Another possibility is shifting one or both of the meetings to a week later because there is an extra week in the month. He informed the Board that until the new administration takes over in January, that the vacant seat on the Board would remain vacant. The current administration will not be filling it.

Mr. Hasbrouck gave the Board a heads up that there are a few new projects that should be coming in. There was a brief discussion of the Price Chopper Plaza project discussed earlier to update one Board member having arrived late. One of the main concerns on the Price Chopper Addition is the limitation that was put on the original project as to size. This came about because of public comment. Those feelings might have changed now that the community has had a chance to use the store. Ms. McCarthy felt that there would still be significant comment and reaction because more people in town are paying attention to open space. She is in the store all the time and she disagrees with just about all the points that were made to support the addition. Mr. Silliman stated that he commuted through there before and after it was built and he feels that the flow of traffic is better than before. He has never seen a truck when he there, so he does believe that deliveries are being done off peak. In this case the Board is looking at SEQR from a limited aspect of the addition. Taking a legalistic approach the past perception of the project is more of a political concern and how it will affect the Town Board. The Board's role in this is a much more limited role. When looking at the prior decision of this Board;

this is an incremental change. Mr. Silliman stated that the Board has to look at the nature of what is being done now. What Price Chopper wanted to do seemed to be minor. Mr. Collier stated that 10,000 sq ft addition doesn't seem like any big deal but imagine a 10,000 sq ft separate building on the site. Mr. Silliman stated that it would be handled differently if that were the case but it's not. Mr. Hasbrouck stated that public perception couldn't be the only reason that a project is either accepted or denied. Nor could the financial impact on other businesses be a deciding factor. The Town Board doesn't need a reason to say no, it can just say no. There will be two public hearings on this matter and the public will have a chance to voice their opinion. Mr. Silliman stated that it seems that Price Chopper is afraid of the competition coming into the Town, specifically Wal-Mart. Mr. Engel felt that it's very important to look at the public perception; he has already had a few people approach him and state that they were told that Price Chopper would not be any bigger. He thought that the incoming Wal-mart had a lot to do with their desire for an addition. Mr. Lipnicky stated that there was significant opposition to the original project on one hand and a lot of support on the other. It was divided with Slingerlands against and the rest of the town in favor. Mr. Mathusa asked Mr. Lipnicky what would happen if the project were deferred until January. There seemed to be a few of the Town Board members that are very sensitive to the 99,000 sq ft zoning verses the addition. The Board will continue the process, but then someone could say we promised not to increase the size. Mr. Silliman stated that the Board had an obligation to move the project along in a timely manner. If the Town Board decided not to put it on their agenda, then that's their decision. Mr. Lipnicky assumed that the Planning Board would not ask for an environmental impact statement because the impacts are relatively minor. Regardless of the Planning Board's recommendation, the Town Board could still say no. This is a legislative decision by the Town Board.

There being no further comment, a motion to adjourn was made by Mr. Collier, seconded by Mr. Engel and passed by all present. Chairman Hasbrouck declared the meeting closed at 8:45pm.

Respectfully Submitted by,

Nanci Moquin
Planning Board Secretary