

**PLANNING BOARD
TOWN OF BETHLEHEM**

February 3, 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
Keith Silliman, Planning Board Counsel
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
Jeffrey Lipnicky, Town Planner
Robert Leslie, Senior Planner
Terry Ritz, Assistant Town Engineer

Tom Address	Dave Ingalls
Peter Zeh	Gregg Swift
Peter McKee	Rich Piedmont
Lynn Rhodes	Wayne Coton

Agenda: Meadowview II Subdivision
Callanan Industries – 30 Speeder Rd.
Legends at Bethlehem – Jolley Road

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

Callanan Industries

This project was last before the Board on January 20,2009 for a SEQR determination. Mr. Zeh, from Callanan Industries was present.

Chairman Leveille asked if the Board had any questions for Mr. Zeh. Mr. Behuniak asked Mr. Zeh to explain the fire suppression system for the project. Mr. Zeh said the fire suppression was simply a fire extinguisher located near the tank. This tank is strictly diesel fuel and it's a sealed tank within a convault of concrete. The fire protection code requires a fire extinguisher to be located near the tank. There is also labeling at a certain distance so the fire department knows what is in the tank in case there is a fire.

Mr. Coffey said the petroleum bulk storage application submitted to NYSDEC listed more than one (1) tank. He asked if one (1) of the tanks would be moved from their South Albany location. Mr. Zeh said that was the tank they wanted to move to this site. The other tanks were lubricating oil tanks already located on the site.

The Board reviewed the draft Site Plan Approval, S.P.A. 152, prepared by staff.

A motion to approve Site Plan Approval, S.P.A. 152 as drafted was offered by Ms. McCarthy, seconded by Mr. Smolinsky and approved by all Board meetings present.

Meadowview II

The seven (7) lot subdivision is located on Jasmine Drive. Mr. Ingalls from Ingalls and Associates presented for the applicant, Swift Builders. The project is on the westerly side of Sommerset Dr. The Meadowview Subdivision is to the east. Jasmine Drive is an existing stub street that terminates at the property line of the project. The proposal is to extend Jasmine Drive with a T intersection and a north/south road. That road would be part of the proposed north/south collector route. That route has been moved to this location after several meetings with the DPC. All seven (7) of the lots would be in compliance with the RA zoning requirements. The density is slightly below the maximum allowed. Sanitary sewer would be extended into the site. Some lots would have forced mains and grinder pumps, others would be gravity fed. They proposed catch basins into a closed drainage system that would eventually drain into the Dowerskill.

Mr. Silliman asked staff if the infrastructure was being designed as if the north/south collector route were in place and sized appropriately. Mr. Ritz said the water main was but the sewer main was kept smaller because it's a forced main. If you oversize the forced main, it requires more maintenance. The adjoining parcels have access to a trunk main.

Mr. Lipnicky said the applicant shows some wetland areas on the northern portion of the parcel. Mr. Ingalls said the wetlands were delineated in-house. They are Federal wetlands. Mr. Dangler from the ACOE did a site review in late summer and the wetlands were deemed isolated. The applicant was waiting for a confirmation letter from the ACOE, that would make the wetlands non-jurisdictional. There is approximately one quarter (1/4) acres of wetlands contained on the property.

Mr. Lipnicky said the site is partially in an archeological sensitive area identified by SHPO. An area is determined to be archeologically sensitive by SHPO drawing circles about one half (1/2) mile in radius from a known archeological site and anything within that distance is considered sensitive. The SEQR regulations points to cultural resources as an area that an agency needs to consider in order to make a negative declaration or positive declaration. He said the bottom two (2) lots of the project were out of the sensitive area and the top four (4) lots were in the sensitive area. An archeological study was not done in 1998 during the Meadowview Subdivision. That area was not considered archeologically sensitive.

The project's property had been a part of the original Haswell Farm. Haswell Farms Subdivision did have a study done but that was on the other side of the Dowers Kill. There weren't any significant artifacts found. In the past, when looking at smaller subdivisions, the Board weighed whether the cost of doing an archeological study was worth the probability of finding anything. Mr. Lipnicky said a study was required for the Mystic Woods Subdivision on Orchard St. and something was found and mitigation was required. He said the Board needed to decide whether they wanted a study done for this subdivision.

Chairman Leveille asked Mr. Lipnicky where the other studies were done in relation to this project. Mr. Ingalls said the Haswell Farms project was west of the Dowers Kill and west of this project. This project was west of the original Meadowview Subdivision. Mr. Ingalls said the site fell between two (2) of the sensitive areas. There was something found about a half a mile to the south and a half mile to the north of the site. He said there weren't any historic properties mapped in the vicinity on the state list. Mr. Ingalls said his client would rather not incur the expense of an archeological study. The parcel is only a little over three (3) acres. He said a few shovel pits were done on the site during the delineation of the wetlands and though he was not an expert in the field, nothing was found in those pits.

Mr. Silliman said the circle map was just a starting point for investigation. He said it meant that at some point something was found. He said it looked like this project was at the edge of two (2) of those circles.

Mr. Smolinsky asked if the date when the circles were placed were known. He thought if there were some recent finds, he would like to see a study done. Ms. McCarthy asked if SHPO did any investigation of their own within the half mile circle. Mr. Lipnicky said the circle was drawn to put agencies on notice that there might be other artifacts in the area. SHPO doesn't investigate. Mr. Ingalls said a study would be more warranted if the known site was closer. This project is on the edge. Mr. Lipnicky said he could investigate if the find was connected to a project that was recently done in Town. Mr. Smolinsky asked if SHPO would give a recommendation on how to proceed. Chairman Leveille asked if there were any natural barriers that would separate this site from Meadowview I. Mr. Ingalls said no, it immediately connects with Meadowview I. The majority of the proposed subdivision is treed. Chairman Leveille asked if there have been any significant findings in recent years. Mr. Lipnicky said there have been findings that SHPO would consider to be significant. Mr. Silliman said most of the

significant findings have been historical structures as opposed to Native American artifacts. Ms. Powers wanted to know how much an archeological study would cost the applicant. Mr. Ingalls said to do a Phase 1A/1B, which was a record search and some shovel pits, and through a Phase 2, could be as much as ten thousand dollars (\$10,000). Phase 1A/1B would probably cost around five thousand dollars (\$5,000). Mr. Smolinsky asked if Mr. Ingalls had any report from their shovel pit testing that could be shared with SHPO and the Board. Mr. Ingalls said he would share it with the Board but not SHPO because he was not an expert in the field. They did sift through the soil of the pits they investigated for the wetlands, so anything in the soil would have been noticed. Chairman Leveille asked the degree of development on the adjoining properties. Mr. Ingalls said the whole easterly line was developed. The northern property line abuts plowed and cultivated farm fields. The Town right-of-way is to the westerly property line. The proposed site is basically undisturbed.

Chairman Leveille said the Board needs to decide if the scale of the project warrants additional cost and time to the applicant for the archeological study. He wanted the Board to consider the size of the project and the fact that the cost would probably be passed along to the home buyer against the probability of finding something of significance. He didn't think an investigation was warranted. He wanted the Board to take some time before a decision is made and he wanted staff to make a recommendation on how to proceed.

Mr. Smolinsky said since he has been on the Board, it has been repeated that the primary way of dealing with wetlands was to avoid them. He said there were a few pieces of wetlands in the middle of this project and asked why they were not being avoided. Mr. Ingalls said it was because they were not connected to any other wetlands, are not jurisdictional or regulated wetlands and they lose their status of being protected. They have asked for a jurisdictional letter; if they don't receive that they will ask for a permit. The wetlands will not change the layout of the project. Mr. Dangler from the ACOE has been on the site. Mr. Lipnicky said the question before the Board was did they want to wait to see if the wetlands were jurisdictional before proceeding with a SEQR Negative Declaration. Mr. Silliman felt the Board could proceed with the review of the project. Legally the Board doesn't have to wait for the ACOE to act on SEQR. Given the nature of the impacts and the course of action that has been outline by the applicant, either they will get the jurisdictional letter or a permit. That resolves the wetland issue for the Board.

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

Legends at Bethlehem

This proposed Planned Development District is located at the end of Jolley Road. This is an update presentation.

Mr. Coton from LDM Management Group presented. They were last before the Board in July of 2008. The first proposal was prior to the moratorium and consisted of one hundred (100) single family homes. The market changed and with the issuance of the Comprehensive Plan, they reworked the project for a more affordable housing product. In July 2008 the project was a mix of one hundred ninety-six (196) single family and town homes. That project had a mix of both public and private roads and utilities, which would have required a home owners association. Following that presentation and listening to the comments from the Board and staff, they decided they wanted to keep the affordability issue at the fore front but wanted to address the comments received. Mr. Coton said the new proposal centered on affordability. The new design eliminated the private roads and utilities as was the Town's preference. They had used the core residential regulations when configuring this project. The new proposal now consisted of one hundred thirty-seven (137) of smaller single family homes on smaller lots. He said around the nation there is currently a return to smaller homes on smaller lots. The public roads and utilities eliminated the need for a homeowners association. Not having that additional monthly fee would make the homes more affordable. The new design is more clustered and leaves pockets of green space that could possibly become pocket parks. The issue of affordability comes hand in hand with the issue of density. Their new proposal is a thirty percent (30%) reduction from the previous proposal. Mr. Coton said it was too soon in the process to commit to specific housing designs but they would like to have six (6) to eight (8) different house plans, all with front porches. The houses would range in the eleven hundred (1,100) to nineteen hundred (1,900) square foot range. The smaller home being priced right around the two hundred thousand (\$200,000) dollar mark. The larger homes with the larger lots would be in the high two hundred thousand (\$200,000) range to low three's. The local housing market shows a void in the two hundred thousand (\$200,000) range.

Mr. Coton said one of the issues previously brought up by the Board was a secondary access. In September of 2008 he had contacted the Albany Diocese which runs Lady Help of Christians Cemetery. They had several meetings with the director

and then they had an on-site walk through of the cemetery. Mr. Coton said from the beginning of the meeting the director had a reluctance to a permanent easement. The reason was because if the use of that easement occurred during an official cemetery function, he was against that happening. Mr. Coton had copies of correspondence with the cemetery officials and a timeline. He has since requested a letter from the director that if they were reluctant to grant the easement, they would let him know. Mr. Coton has not heard back from the cemetery officials.

Mr. Address from ABD Engineers continued the presentation. The Board had asked the applicant to look at the possibility of another access to the north. It's just under a mile to the next point where the project could get access. He said the topography for the whole area is the same as it is for the proposed project. It has some flat areas and some steep ravines. Maybe if there was future development on the adjoining lands, the connection could be made. At this point it would not be a reasonable cost to cross all those ravines and that length. They looked at the topography of the property from the south onto Glenmont Road. From the end of that property line to Glenmont Road is another ravine that is about thirty-five (35) feet deep and four hundred (400) feet across. Those slopes are thirty-eight percent (38%) and thirty-six percent (36%). That access would be tens of millions of dollars for a bridge. Their plans did show an eighty (80) foot right-of-way from where Jolley Road now ends to the first intersection with their proposed roads. They would like to get the go ahead with this design.

Chairman Leveille turned the Board's attention to the letter from Mr. Leslie. It addresses the public roads issue and recommends that the proposed twenty-five (25) foot setback be permitted because it meets the intent of the Planned Development District. Mr. Smolinsky wanted to know if sidewalks were accounted for. He said sidewalks were one of the attributes of core residential. Mr. Address said their proposal was to construct a sidewalk from Glenmont Road all the way along Jolley Rd. into the development and through the area of the main Town Road. Sidewalks have not been discussed for the side streets within the subdivision. A sidewalk with a twenty-five (25) foot setback brings the sidewalk closer to the front porch. All the houses would have a garage and they wanted to make sure the car had enough room to sit behind the sidewalk. Mr. Ritz said there was enough room even with a fifty (50) foot right-of-way for a sidewalk. Mr. Address said they were proposing the rear setback to be five (5) feet less. There were many lots where that adjustment to the rear setback was not necessary. Those lots will incorporate wetlands and will have deed restrictions on them.

Mr. Smolinsky said with a twenty-five (25) foot setback, the driveways for the homes would be short and maybe fit one car. He thought parking might be an issue. Mr. Coton said they intended one (1) car garages for the more affordable homes and two (2) car garages for the majority of the homes. He said adding sidewalks through-out the whole subdivision would add an increase cost that would be passed along to the home owner. It might adjust the range of prices of homes they would be able to offer.

Mr. Behuniak asked about the roads being public versus private. Mr. Coton said when a homeowners association is created correctly; they are able to maintain the property and the roads. Mr. Leslie said the Town's preference was Town designed standards for the roads and Town owned roads and utilities. Mr. Ritz said the Town does not want to own water and sewer mains on private property. Ms. Motta said with only one access point, she would prefer the Town be responsible for maintenance of the roads.

Chairman Leveille said the next issue for the Board to consider was the secondary access. Staff feels the applicant has exhausted every reasonable means for the second access. He thought with the extra width on the main road in and the potential for right a way to Old Route 9 in the future was sufficient. Mr. Ritz said there was another potential connection with Halter Road if and when those other properties develop.

Mr. Smolinsky said the Board, in July, wanted written confirmation from emergency services that a single entrance would be adequate. He still wanted that confirmation. Chairman Leveille said there was an email from the highway superintendent addressing the single access. Mr. Smolinsky said the highway superintendent was not the emergency services. Chairman Leveille said the highway superintendent was responsible for all the roads in Town, more than the fire department. Mr. Ritz said the Chief of the Selkirk Fire Department could give a comment letter. Ms. Motta and Mr. Behuniak agreed that a letter from the fire Chief was appropriate.

Chairman Leveille said the third question was a boulevard entrance to the project. This was also addressed in the letter from the highway superintendent. Though it had some aesthetic qualities, staff states it is not a solution to the access issue. Mr. Leslie said the applicant wanted to go forward with the details of the layout as proposed. Ms. McCarthy asked who they anticipated purchasing the homes; empty nesters or young families. Mr. Coton thought the design would appeal to both

groups. Ms. McCarthy was in favor of sidewalks for the subdivision. She had a concern that the homes on smaller lots around Town were being built onto and the homes seemed to be overtaking the lots.

Mr. Coton said the units had been reduced from one hundred ninety-six (196) to under one hundred forty (140) homes. The lots varied in size but not much in usable space. The potential expansion of the homes would be limited.

Mr. Leslie said the applicant has the extension of Jolly Road terminating at the NIMO easement. Typically when a subdivision goes in, the road is extended to the property line. He wanted the Board to look at that issue. Mr. Andress said they had crossing rights from national grid. They wanted to bring the road to that point and put in a parking lot for possible access to a potential park area. They didn't want to extend the road to nowhere.

Mr. Behuniak asked if there was density concern. Mr. Leslie said the density is about four (4) units per unconstrained acre. They were trying to follow the Core Residential bulk and use chart. He did not feel there was a concern with the density. In order to make the project work, they needed the slightly denser project.

Chairman Leveille asked if there was a sidewalk on Glenmont Road. Mr. Leslie said the sidewalk did not extend down Glenmont Road to the commercial area. He said the Town was looking into establishing a Pathways committee. They would be looking at gaps in the sidewalk system among other things.

Mr. Smolinsky asked if the action items laid out in an earlier memo from Mr. Leslie would still be done. Mr. Leslie said staff didn't feel the air quality analysis was necessary. There are other homes in the area with no reported health issues. Mr. Andress said there wasn't any published data that would set what the acceptable standards were for the area. He said they have reduced the amount of houses along the Thruway. They will be building berms along the backs of the homes that border the Thruway. He thought it was passed the realm of a project of this size to do study on air pollution. Mr. Leslie said Albany County is in attainment for air quality (carbon monoxide and particulate matter) as far as the National Ambient Air Quality Standards is concerned.

Ms. Powers asked if the Board had ever required an air quality study. Chairman Leveille asked staff to look back at any other projects close the Thruway to see if studies had been required. Ms. Powers said she had not voted on any of those projects and she thought it was a very important issue. There were raising rates of asthma and respiratory illnesses in the country and this project will be right on top of the Thruway. She thought it warranted further investigation. Ms. McCarthy disagreed because no one is forcing people to live in these homes. When someone purchases a home along a Thruway they understand that it could be loud and the air could be bad. Ms. Powers disagreed. Chairman Leveille said the Board didn't have any indication that this type of housing caused health problems. Ms. Powers said there wasn't an indication it didn't cause health problems. Chairman Leveille said in many urban centers, the house on the street is subject to far more air quality problems than this development. He said without a body of study that tells the Board the risk exists, it didn't seem necessary to find solutions to problems that weren't documented. Mr. Smolinsky said the criteria for establishing a Planned Development District included being reasonably free of air pollution, among other items. He thought the Board needed information in order to make a recommendation to the Town Board. He was not willing to accept the fact that because the County was in compliance with air quality standards, this site was an acceptable place to build houses. Chairman Leveille said the Board shouldn't impose personal preferences on choices people make on where they want to live. There was a level of reasonableness that should apply.

Mr. Ritz asked Mr. Andress what they had done for other projects when noise mitigation was necessary. Mr. Andress said in most cases mitigation was not needed. When needed they put up berms and planted trees. Part of this proposal is to install berms and trees. There are numbers that are associated with the decibel reduction going through those trees. Mr. Ritz asked the cost of a noise study for this project. Mr. Andress estimated less than five thousand dollars (\$5,000).

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

The Board reviewed the draft minutes of January 20, 2009 prepared by staff.

A motion to approve the minutes of January 20, 2009 as drafted was offered by Mr. Coffey, seconded by Mr. Smolinsky and approved by all Board members present.

Going forward, as the agenda allowed, staff would be giving update reports to the Board on the various studies and committees that the Town was engaged in such as the Rt. 9W Corridor Study, LWRP, Delaware Avenue Linkage Study, etc.

Mr. Ritz invited the Board to a seminar the Town was giving on Storm Water Regulations at the library on Friday.

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

The meeting adjourned at 8:50PM.