

**PLANNING BOARD
TOWN OF BETHLEHEM**

March 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
Christine Motta, Planning Board Member
Kate Powers, Planning Board Member
John Smolinsky, Planning Board Member

Michael Morelli, Director of DEDP
Terry Ritz, Assistant Town Engineer

Agenda: Glenmont Plaza
IMUS Distribution Terminal

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

Glenmont Plaza

Chairman Leveille said the first item on the agenda was an amendment to the Glenmont Plaza site plan. He asked Mr. Morelli to give some background on the project.

Mr. Morelli said with this proposed Amendment # 13; the applicant wants to renovate the east end of the site, currently vacant store fronts. They have a specific user for the end cap closest to 9W. As part of this amendment they also want to renovate the facades of the west end of the existing plaza. The location of the driveway onto Rt. 9W will remain the same with the addition of a sidewalk from Rt. 9W into the plaza. The green space remains essentially the same other than a slight reduction with the proposed parking out in front of the end cap unit. The applicant will also be adding new landscaping and new landscaped islands.

Chairman Leveille said at the last meeting the Board had a lot of discussion about lights and ambiguity in language. He asked if the Board was satisfied with the conversations with regard to the building department's interpretation.

Mr. Morelli said staff had sent out an email to the Board that the building department, who is charged with the enforcing the Code, has consistently applied the fact that in shopping centers, signs are treated a little bit differently. Internally illuminated signs are not prohibited but allowed. He said that the Board has approved several internally illuminated signs at this plaza including Bed, Bath and Beyond, Famous Footwear and Marshalls. He admitted that the language could be better written and that section of the Zoning Law will be considered for an amendment under the next round of revisions. Staff has received some recommendations from some of the Board. Revised language will be prepared and the Planning Board will have an opportunity to review that language before it is presented to the Town Board.

Chairman Leveille suggested the Board and staff maintain a running log of things they feel should be considered for future amendments.

Mr. Morelli said staff has been keeping a list. Ideally the amendments will get fewer and fewer as we move forward with the Code but staff has already identified some areas that need revisions; this being one of them.

Mr. Smolinsky said he was satisfied with the explanation and knowing that it will be looked at closer in the future. He said his problem wasn't with the project, but the broad definition of shopping centers and malls and the interpretation allowing this kind of lighting in residential neighborhoods. He agreed that a future amendment was in order or some qualification on that interpretation.

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

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

The Board reviewed Site Plan Amendment SPA 60-A13 for Glenmont Plaza prepared by staff.

A motion to approve Site Plan Amendment SPA 60-A13 as drafted was offered by Ms. Motta, seconded by Ms. Powers and approved by all Board members present.

IMUS Distribution Terminal

Chairman Leveille said the next item on the agenda was the IMUS Distribution Terminal. For the record Chairman Leveille recuse himself from any voting or discussion on this application due to employment relationship.

Mr. Hershberg presented for the applicant. He said that with him was Gregg Baun , the President, Cecil Loder, their technical advisor, Hugh Templeton, the future facility manager and John McManus, the environmental attorney whose been reviewing the project. Mr. Hershberg said the site was the Texaco plant. The new operation wouldn't physically change the site to any extent. They intend to maintain the existing curb cuts in and out. They will be adding two (2) new fully operable electric gates on both ends to allow trucks arriving at the site to automatically operate the gates for ingress and egress. IMUS sells chlorides which are used as de-icers. The product arrives by ship and is piped into tanks on the site. They have identified seven (7) tanks that are suitable for use with chlorides. How many tanks will be used will be determined by how much material is needed on site. The product is diluted with water, stored in these tanks and then some additives added to make the product more effective with regard to the temperature at which it operates. It also reduces the corrosive nature of the material. The trucks coming in will automatically operate the gate, come in and there is a pipe rack where trucks are physically loaded. Each municipality could have a different requirement of what dilution of the product they want. It ranges from 26% to 32%. The product can be added to sand, another salt product or sprayed directly on the road. Those different requirements will all be known by a coded direction tag that will determine what's to be loaded into this truck. The truck goes in, gets loaded then leaves. This is an important element because they wanted to make sure that there weren't any truck backups onto the roadway. They have demonstrated the site has the capability of storing twenty (20) trucks in the normal queue. The company has said there's never been a point where there have been twenty (20) trucks lined up ready to fill with product. It's always significantly less than that. And because of the nature of storms, it is beneficial for the trucks arriving 4 am to have automatic gates and automatic services. During major storm events, somebody will be in the office. IMUS intends to operate out of this small portion of an existing office. They may find another tenant for the balance of the office in the future. It would be a company with a compatible with this use. The garage in the rear will be used to store some materials that are palletized and in bags. The one physical site change needed which is to add a septic system because the

prior subsurface filter system was destroyed. They need to build a septic system. They will also making the water connection into the building. There are water connections on site but the pipes are old so they will bring in a new water service into the building. They will be removing all the foliage off of the fence line and they intend to plant some trees and re-landscape around the building. They now have the building at the point where it can be rehabbed and make it usable as office space. The operation requires repairs to the dock because it hasn't been used for a number of years. There was evidence of some damage by some boat or ship hitting one of these elements down here. All the repairs are considered minor repairs and rehabilitation. The applicant submitted a letter from NYSDEC stating that based upon the description of what's to be done at the dock, there isn't a permit required from NYSDEC. The applicant also supplied a copy of a letter from John McManus about whether or not the tanks require permitting under the bulk storage requirements of NYSDEC. The applicant verified title to lands under water by finding a grant in 1930 to company named Sun Oil Company which goes all the way out the existing bulkhead line and confirmed with OGS that there isn't a title question about those lands under water. The dock and the dolphins and well within the bulkhead line. The previous wetland delineation had been done more than five (5) years so in November of last year Bagdon Environmental delineated the wetlands. The wetlands will not be disturbed so ACOE will not be involved. They will be painting the tank with the Texaco logo and over time they will be modifying, painting and rehabilitating other tanks. The first visible changes to the site will be the painting of the Texaco tank, the building being cleaned up and the landscaping being rejuvenated. The applicant wrote a letter to DOT asking if a highway work permit was needed to rejuvenate the grass area by the road. There is an area that has been driven over but could be rejuvenated. Mr. Morelli was given a copy of the letter. They don't plan on changing the curb cuts so they don't think they will need a permit. When the trucks come out they can go north towards Albany or south towards the Thruway. The circulation pattern works fine as is. They believe their proposal is the ideal adaptive reuse of an existing industrial/commercial site. They think the Comprehensive Plan of the Town envisioned this sort of proposal for these types of areas. It makes use of existing tanks and none of the materials are hazardous. This company currently sells the same product out of the port of Albany. Their lease at that location expires May 1, 2009. They might have to get a minor extension to it to get this project up and running but believe if they can get approvals from this Board, they'll come pretty close to meeting that date.

Mr. Baun said he is 50% owner of IMUS. The company has been in business since 1986 and they've been doing business in New York State since 1996. Currently the company has about five (5) million gallons of storage in the Albany area. Within the last ten (10) years they've rejuvenated and changed the way winter de-icing is handled in the State of New York and in large portions of the northeast by the introduction of liquids into de-icing programs. NYSOGS gave them an innovation award for introducing this technology and persisting with it for the last ten (10) years. They have an EPA designation from the federal government that promotes this product to be used in the environment. It's better for the environment, reduces the amount of salt that's being used on our roads and it works at much lower temperatures. Ten (10) years ago NYSDOT was using over eight hundred thousand (800,000) tons of sand on the road to keep the roads safe, now that number is well below one hundred thousand (100,000). That's because our products work to lower temperatures. We're excited about the opportunity to be good stewards and good members of the community. Mr. Baun wants to make sure their image is well promoted and the site will look a lot better than it does today. He's been driving by that site for the last ten (10) years and it was the Texaco logo that caught my eye over the years going by there. He thought it was an eyesore. He said the company will be making a sizable investment into this facility to make it the way they want it and he thinks it will serve the community well.

Mr. Hershberg asked if there were any questions from the Board.

Chairman Leveille asked Ms. McCarthy to preside over this project.

Ms. McCarthy asked if staff if they had any further comments.

Mr. Morelli said the Town was in favor of projects like this that are adaptive reuses of an existing facility that has been vacant for well over a decade now. It's what the Town envisioned as opposed to green field development. With respect to the hazardous material, we forwarded this information from Harris Beech to Josh Carvajal who formally worked for NYSDEC and now works for the Town. Josh Carvajal spoke with Christina Faulk, who heads up MSGP section at NYSDEC. She verified that liquid chloride and magnesium and sodium chloride are not hazardous materials and do not require a general permit under DEC regulations. She will be forwarding something to us. Mr. Morelli said this project would require a Special Use Permit and a public hearing. The special use permit and the site plan application would be reviewed at the same time.

Ms. Powers asked if the existing storage tanks they are proposing to use have been used in the last ten (10) years. Mr. Hershberg thought it was longer than that. Ms. Powers asked if the condition of the tanks were checked to make sure there's no seepage. She also asked if maintenance been done on the tanks in the last ten (10) years.

Mr. Hershberg said there was a full investigation done of all the tanks. That was how they decided which tanks to reuse. Mr. Templeton was in charge of getting inspectors out there for those investigations. All those tanks are in operable condition with minor repairs and maintenance. They thought they might have to do major reconstruction of the tanks but it appears that that is not necessary at the time. Ms. Powers asked if the tanks would be checked and maintained every year.

Mr. Templeton, the terminal manager for IMUS, said he's worked in the oil industry for the past twenty-eight (28) years. He was brought on board to investigate this site. They've had people in the tanks doing ultrasounds and cutting test coupons out of the floor. They are generally in very good shape. Texaco coated them with corrosion inhibitors and things before they left. There are newer standards the oil industry uses such as reinforcing plates under the columns that will be put in. They aren't required but they're good industry practice.

Ms. Powers asked if the product would release any vapors into the environment. Mr. Loder, VP of Operations for Innovative, said he's been in the ice control industry for a little over twenty (20) years. He said the products were not volatile types of products. They would be very similar to salt water. Salt off your kitchen table into a glass of water would be a similar type of product; it would have little to no vapors and not be harmful.

Mr. Loder said they strive to maintain a higher standard of service than is required for their product. Mr. Templeton was brought in from the petroleum industry specifically because they wanted to operate at the petroleum standards. There is standard testing for tanks and for pressurizing pipe lines before product is receive from vessels. All the equipment used to handle the product on the facility will be maintained to a standard that is higher than is required for the product.

Mr. Coffey asked if the chlorides had any odor. Mr. Loder said the chlorides were odorless. There is the molasses based additive which just smells like molasses. That would be it.

Mr. Hershberg said he had filled out the EAF stating no odors based on the assumption that the question was asking about the chlorides. There are other products that are normally on hand and the molasses does have an odor but it's used in such small quantities into the mixture that it would be considered a non-odor problem. Mr. Loder said it would also be handled in a closed container so it wouldn't be open to the elements.

Mr. Coffey asked how many trucks would be on the site at any given time. Mr. Loder said over the course of a day in any one (1) hourly period they've never seen more than twenty (20) trucks lined up at a time in the mornings. He said they have certain carriers who are approved and certified and have access to the terminal outside of the normal operating hours to create other opportunities for them to load. There are other standards for certain carriers that limit them to operating hours so they can control the traffic flow. In the course of a day, twenty (20) trucks will load about ninety thousand (90,000) to one hundred thousand (100,000) gallons and they

typically don't do more than that in a day right now. Mr. Coffey thought he saw an estimate of twelve (12) per hour. Mr. Hershberg had asked Mr. Baun the maximum number of trucks that would come in during an hour, that's how they arrived at the twelve (12) per hour. There might be a queue of four (4) or five (5) trucks at any given time. They could theoretically all be up at the rake loading at that time during that hour. Mr. Loder said they could accommodate as many as twelve (12) per hour without backlog.

Mr. Coffey asked who the neighbors around the site were. Mr. Loder said north of the site is the power generation plant and south is APEX terminal formerly Sears. Mr. Hershberg said everything in this area is industrial or commercial. The major neighbor is the power plant just north of the site. Mr. Hershberg said National Grid owns the site and IMUS will be leasing from them. They originally thought they would only use a portion of the site. This site had just recently been used by sub-contractors for national grid. They used it as a major staging place during storms. Those people have been relocated to other locations. Currently there are three (3) trailers on the site which will be gone when the other tenants finish their tenancy on the site. National grid found other places for those tenants.

Mr. Smolinsky asked if DEC determination on the hazardous material was based on the highest concentration of the material. Mr. Hershberg said the material in any concentration doesn't qualify for hazardous material. The concentrations are more directed at ease of handling and reducing the corrosive nature of the materials to a point that they can carefully be handled. It has nothing to do with qualifying it as a hazardous substance. Mr. Smolinsky asked if there were spill prevention plans required in the case of a tank rupture. Mr. Hershberg said that a permit from DEC was not required. Mr. Loder said they adopt a higher standard than required by our product. They would react in the same way as if it was a hazardous spill with proper containment, reclaim and disposal of the product.

Mr. Smolinsky asked if the containment currently around the tanks would provide containment for a spill. To Mr. Loder's knowledge, the containment that exists would be sufficient for the tank storage on the site.

Mr. Smolinsky asked if all the vehicles currently on the site would be gone once they take over the site. Mr. Loder said all the vehicles belong to sub-contractors of Niagara Mohawk. Mr. Hershberg said they only intend on having three (3) employees for this terminal. Even if they get another tenant, it will be with a low volume tenant. They don't anticipate anybody that has a large employee base. Ten (10) parking spots are striped out front but the entire run has room for forty-five (45) or fifty (50) cars. Mr. Baun said their agreement with National Grid starts May 1st. The lease would be effective pending approvals with the Town.

Mr. Hershberg said the building is too large for three (3) employees and for the amount of the material they would have in there. They've assigned another proposed number to the additional space, so that we can have the opportunity of subleasing a portion of this building to another user. They don't have a current tenant in there but once the space is rehabbed and fully usable, it would be probably be incumbent upon them to look for a tenant. The current tenants are actually using the trailers on the site.

Mr. Baun said if they were to look for a tenant it would just be an office setting. He didn't think they would be able to allow for another trucking company or something of that nature onto the site because the traffic volume they're going to require would be disruptive for both parties. Mr. Smolinsky asked staff that considering this required a special use permit, how would they deal with another use subletting part of the property?

Mr. Morelli said staff would have to see what the intended user would be and then they'd make a determination from there. It could be a site plan amendment, a special use permit amendment or could be just a building permit for a tenant fit up.

Mr. Behuniak asked if the substances were hazardous before they were diluted. Mr. Hershberg said even before it was diluted, the product was not hazardous. When it is delivered it gets pumped up from the river, into this pipe gallery and water is added to dilute it when it is in the tank. Another dilution can take place, unless somebody wants it in the concentration that's in the tank, between the tanks and when it goes into the tanker truck. There are various size tanker trucks that come to the facility. The dilution can range from 25% to 35% which is about how it's stored in the tanks. The tanks are stored at a 32% to 35%.

Mr. Behuniak asked the applicant to submit the tank investigation and results for the record. He also asked for a copy of the OGS award and the EPS designation to be submitted for the record. Mr. Hershberg said CT Male went over the tank closure documents from Niagara Mohawk and made certain they were made permanent closures. Texaco's may have been temporary closures; CT male made certain they were permanent closures with regards to the tanks. The investigation of the tanks was done by a company called Petro Tech. The applicant would submit the results of that investigation.

Mr. Behuniak asked about the impact of the truck traffic on the community. The applicant noted that the current location of the business was at the Port of Albany and that the truck impact on the community would not be significant since trucks would be typically heading to the Thruway or toward the City which are routes they currently take.

Mr. Hershberg said there's a multiple number of municipalities and locations which take this product. The proximity to the Thruway was important at both locations because they could go either way coming out of the Port exit, either make a right and go onto 787 and loop around to wherever they were going, north or west. Or they could have come down 144 to the Thruway from that direction. They don't believe the basic traffic pattern will change very much. These locations are so close together they think the people will still probably travel basically in the same direction. As traffic increases they believe the traffic pattern will remain the same.

Mr. Baun said they have customers all the way to Boston and Maine. The Port of Albany was a major service area for all those areas but our current facilities are south of the terminal in Apex as well as in the Port of Albany. Their trucks are currently running up and down Rt. 144 and there wouldn't be any difference. But the geographic service area covers a two hundred (200) mile radius around the Albany area.

Mr. Behuniak asked what the expected storage capabilities were at this location. Mr. Baun said there's a total of forty (40) million gallons of potential storage at this facility. Currently in the identified tanks, there's probably more in the area of ten (10) million, total. There is some opportunity for growth. The acceptance level of our technology is gaining momentum.

Mr. Morelli said the next step was that staff would prepare a Negative Declaration for the Board consideration for the March 17th meeting deeming it a complete application. The Board could then set a public hearing for the April 7th meeting.

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

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

A motion to table the minutes for further amendments was offered by Mr. Coffey, seconded by Ms. Powers and approved by all Board members present.

Chairman Leveille had asked a couple of members to join him on a small sub-committee to consider suggestions about public comment at the Planning Board meeting. Ms. McCarthy reported on the findings and recommendations.

Ms. McCarthy said the sub-committee came up with five (5) points to discuss public comment. It will be separate from a public hearing, it would be at every meeting, at 7:00PM for a period of ten (10) minutes, comments would be limited to the items on the agenda that evening and each speaker would only be allowed to speak for two (2) minutes. It will not be a question and answer type format. It will be a chance for them talk. The Board could make comments in particular if we needed to clarify something but would not have to respond. Any member of the Board could request that the public comment period be extended by ten (10) minutes. These guidelines will be made clear before the comment period starts so the public knows what they can expect. Members of the public can always send a letter to the Town if they have a question.

Staff would prepare a draft of these guidelines for the Board's consideration at the next meeting.

Mr. Morelli informed the Board that per NYSDOT they will be seeing some work by the roundabout in front of the future Vista Technology Campus. There are some drainage problems around that roundabout and NYSDOT instructed Vista to do a grading plan and make some modifications to prevent the flooding. It's not the project going forward. They're working on finalizing the stormwater plan, the details for the construction for the Vista Boulevard and extension of utilities. Staff has been in regular contact with them. Even in this economic climate they're somewhat encouraged and feel it will be a marketing advantage for them once Vista Boulevard is built. They will be able to bring potential tenants right into the site and identify sites for development. The Board might see the project back within the next month or so.

Chairman Leveille said the timing of Vista is critical with respect to the Foundry Company building in Malta and the companies that will be coming to accompany them. They will be looking in the very near future for sites. So hopefully Vista can be a competitive location.

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

The meeting adjourned at 7:55 PM.