

map prepared by Paul E. Hite, LLS, 230 Delaware Avenue, Delmar, NY 12054.

Mr. Hite, LLS presented for the applicant. The applicant wants to develop the last section of the Planned Development District known as Dowerskill Village. This section was originally approved for sixty-four (64) apartments and a roadway system. Currently the applicant is proposing ten (10) single family homes along the existing Rotterdam Drive. The applicant decided to mirror the current development on the opposite side of Rotterdam Drive, which are single-family homes. There are wetlands throughout the last undeveloped section and the constraints on the parcel have made it impossible to develop the number of approved apartments. The applicant has decided that the proposed ten (10) lots would be a nice finish to the project. Mr. Hite said a large portion of the site will be deeded to the Dowerskill Home Owners Association. It will be deed restricted so that no further development could take place on the parcel. He said it could be used for passive recreation. He said all the proposed lots meet all the requirements of the new Zoning Law and Subdivision Regulations.

Chairman Mathusa opened the public hearing to the audience for comments.

Deanne Macnamara Trevet, 18 Rotterdam Drive. She was told when she purchased her home that the apartments, when built, would not be visible. As a selling point she was told she would see only trees. She wanted to know how the new plan would impact that selling point. She asked what the land would be used for when it was deeded over to the Home Owner's Association.

Kent Jenkins said the proposed single-family homes would have street trees, same as the other lots in the development. He said he never represented that the apartments would not be able to be seen. He said the area to be deeded to the HOA would be deed restricted, passive use. The intention was that the deeded area would not be developed.

Chairman Mathusa asked if there would be trails or picnic tables. Mr. Jenkins said there were wetlands on the parcels that couldn't be disturbed. He assumed that there were areas a trail could be placed. It would be up to the HOA.

Tom Fiesinger, 155B Hague Blvd., Glenmont. He stated he was the president of the HOA, Village Square Homeowners. The HOA has taken the necessary steps to get signatures of 2/3rds majority of the HOA for approval of the acquisition of the six (6) acre parcel. They don't have any plans to develop the parcel for trails or picnic tables. That was not how it was presented to the HOA members. For now, they would keep the land as is. He said some people walk their dogs back there but a lot of the parcel is very wet.

There was no further comment from the Board or the audience.

A motion to close the public hearing was offered by Mr. Engel, seconded by Mr. Smolinsky and approved by all Board members present.

Mr. Engel asked Mr. Jenkins if the homes across from the proposed homes were part of the HOA. He said they were not. The proposed homes would not be in the HOA either. Mr. Jenkins said the HOA's other property was at the end of Rotterdam Dr., across the street from the parcel they would acquire. Mr. Engel asked if it was an option for people that were not included in the HOA to join. Mr. Jenkins said he would not have a say in that decision. Mr. Fiesinger said it would need a vote by the HOA. He said it was done for a portion of Section 2 of Dowers Kill.

Ms. Trevet said her and her neighbors were excluded from the HOA. She said she thought it would be forever green in front of her home. She said she would not benefit from the land going to the HOA.

REGULAR AGENDA ITEMS

Mystic Woods Subdivision

Chairman stated the last time the nine (9) lot subdivision was before the Board was March 18, 2008 for a public hearing.

Mr. Shafer, PE presented for the project. He said there weren't any major changes in the lot layout, the ponds, the road system or the lot sizes since the public hearing. They have been working with the Town's engineering staff on issues such as culverts and the two (2) ponds have been slightly changed per their request. They have been working on the legal descriptions of the properties to be conveyed to the Town. He said the applicants have agreed to convey an additional strip of right-of-way along Orchard Street to the Town. He said they were still working with staff on the design of the intersection. The Town has strict guidelines pertaining to new intersections. The difficulty with this intersection is Orchard Street comes down at a slight angle and the proposed Capricorn Lane goes up. It makes it difficult to meet all the criteria set forth by the Town. The intersection will be done to their satisfaction. Mr. Shafer said there were a few more engineering details that need to be addressed. He said they original design showed three (3) of the homes cellar drains draining directly into the ravines. The design has been changed, each of those drains will have dry wells.

Mr. Smolinsky asked if the additional ten (10) foot conveyance was sufficient to accommodate road improvements as well as a pathway. Mr. Ritz said the typical Town right-of-way in a small subdivision is fifty (50) feet wide. With that right-of-way the Town would then ask for a ten (10) foot easement to install a sidewalk or bike path. The additional right-of-way the Town will receive from Mystic Woods will widen the right-of-way to approximately eighty (80) feet. That will be sufficient to widen the existing pavement to standard if necessary and also build a path along Orchard Street.

Mr. Smolinsky noticed the approval document says the Board "may" require certain items. He is sensitive to deed restrictions for slopes or wetlands but now understands that more definitive language will be used in the Conditional Final approval document.

Mr. Lipnicky said that within the documents when it states that something "will" be done it indicates that item as being necessary to be completed before any final plat approval is granted. The language of "may" usually relates to conditions that could change or evolve as the project moves on. A project before Conditional Final Approval is still evolving and conditions can change over time. The preliminary plat does not make conditions mandatory. It is used to put an applicant on notice that they will be required unless something changes.

Mr. Shafer said the deed restrictions for the lots that require them would be placed on the plat.

The Board reviewed the Reservation of Public Parkland/Fee Requirement Resolution prepared by staff.

Mr. Behuniak asked if the Board had any discretion in the amount of the fee per lot. Mr. Lipnicky said the only discretion the Board had was whether to require the fee or require a reservation of parkland. Mr. Behuniak asked if the pathway when built would be receded from the road or contiguous to the road. Mr. Lipnicky said there wasn't a plan to do any pathway at this time. But with an eighty (80) foot right-of-way, a pathway such as along Fisher Blvd. could be built.

A motion to approve the Public Parkland/Fee Requirement Resolution as drafted was offered by Mr. Smolinsky, seconded by Ms. Powers and approved by all Board members present.

The Board reviewed the Preliminary Plat Approval 236-P as prepared by staff.

A motion to approve Preliminary Plat Approval 236-P as amended was offered by Mr. Engel, seconded by Mr. Smolinsky and approved by all Board members present.

Cottonwood Estates

Chairman Mathusa turned the Board's attention to the next item on the agenda. Cottonwood Estates was last before the Board on October 2, 2007 for the Public Hearing. At that time the Board had received comments from the neighbors pertaining to drainage in the area.

Mr. David Ingalls, P.E. of Ingalls and Associates presented for the applicant. He acknowledged the fact the neighbors had voiced their concern about drainage at the public hearing. Since that meeting Ingalls and Associates have had two (2) technical presentations to engineering. They have scrutinized the drainage analysis and the conclusion is that there is no increase of off site drainage with the exception of a slight increase to the closed drainage system not the neighboring properties. He said the road drains towards Cottonwood Lane into Elm Avenue. They would grade the proposed home sites to the roadway. The majority of the runoff will be collected in the road system. The drainage report shows a substantial decrease in the magnitude of the peak runoff rates going to the lot owned by the Sprages after the development is constructed. He said they had submitted that drainage report to engineering. The seven (7) lot project would be extending the road a couple hundred feet and extending the water and the sewer. He said they had submitted a PCN, a joint application to the ACOE and NYSDEC, last year at this time. They had received a response back in June from the ACOE for the requirements for Lot #10. The ACOE are requiring a minimum fifty (50) foot rear yard area for the lot. They had increased their impacts, per Mr. Dangler of the ACOE, to achieve the fifty (50) foot rear yard. He said the thinking of the ACOE is if a neighbor has fifty (50) foot yard, the homeowners around that neighbor will want a fifty (50) foot yard. They would rather have impacts to the wetlands under a permit than after a home site is sold. A split rail fence will be placed on Lot 21 along the side yard near the wetlands. In October of 2007 they had received a letter back from the ACOE stating the forty-five (45) day time limit for further review had expired. ACOE had no further interest in the project and the applicant would be authorized under the Nationwide permit. The applicant had also received the NYSDEC permit dated September 24, 2007. It mirrors everything that was done with the ACOE with an additional condition of a deed restriction placed on all the remaining wetlands. The ACOE put a condition on the permit requiring deed restriction on 1.15 acres of remaining wetlands to be undisturbed.

Chairman Mathusa asked where the water went once it came down the road to Elm Avenue. Mr. Ingall's said there were existing basins on Cottonwood Lane. There is a drainage manhole on the north corner of Cottonwood and Elm Ave. that empties into the Elm Avenue East system. Chairman Mathusa asked if the house on Lot 10 would be a smaller home. Mr. Ingalls said they were not sure who the builder would be or what the market conditions would bear out but the home on Lot 10 was suggested as thirty-two (32) feet wide and the others are shown as forty (40) feet wide. He said they could put a note on the plans. The home needs to be behind the front yard setback and the rear yard needs to be fifty (50) feet per the ACOE permit. They would put a notation as to the size of the rear yard on the plat. They have a wetland impact plan that would be given to the developer that show exactly what was submitted to NYSDEC and ACOE.

Chairman Mathusa said there was additional material the Board wanted copies of prior to consideration of the Preliminary Plat Approval. He said the project would be brought back to the Board for their next meeting to consider that approval.

Mr. Ingalls asked if there was specific information that the Board wanted that he could supply. Mr. Morelli said the sheets from the most recent plan set, pertinent to the Board members, would be sent out.

Mr. Smolinsky wanted an explanation why the developer would impact more wetlands to achieve the fifty(50) foot rear yard instead of something else. Mr. Ingalls said the conversation they had with Mr. Dangler of the ACOE revolved around Lot #10. Mr. Dangler said because the applicant only had a minor 1/10th of an acre of wetland impacts, he would rather they impact more wetlands to give a fifty (50) foot usable rear yard under the permit, than leave the yard at thirty (30) feet and in the future the home owner would probably impact the wetlands themselves to achieve the same yard as their neighbors. The additional impacts would only amount to a few hundredths of an acre more. Mr. Smolinsky wanted to see something in writing. Mr. Ingalls said the intent of the letter the Board had received was the permit from the ACOE by default. Mr. Engel said he had the letter in his information from Mr.

Dangler asking the applicant to revise the plans so Lot #10 would have a fifty (50) foot backyard. Mr. Behuniak

said at a Wetland Seminar the Town had arranged, Mr. Dangler had told them in order to prevent a future possibly larger wetland impact by a homeowner, the ACOE suggests a larger impact initially.

Mr. Smolinsky said at the public hearing the people in the area were complaining about drainage. Even though this project would not make that issue any worse, he thought it should be part of the solution. He asked Mr. Ritz if the drainage problem could be fixed and should the project be modified to accommodate fixing the problem. Mr. Ritz said there is neighborhood problem. A lot of the problem was caused by the existing homes not following the approved grading plan for Wildwood Subdivision when built. Another issue is the existing homeowners have filled in the wetlands for sheds, basketball hoops and more play area for their own homes. The wetlands were there before the homes were built and they are supposed to be wet but people have a tendency to fill them. A lot of the houses along Elm Avenue are at the lowest points and they keep encroaching into the wetlands. The Town will not drain wetlands to help dry up that area. As far as enforcement, the ACOE doesn't have the staff and it's not the responsibility of the Town.

Mr. Silliman said once the lots are sold, if the homeowner increase their space into the wetlands, it's not the original developers responsibility, it's the individual homeowner's. That's one of the reasons the ACOE is looking for more realistic backyards. Mr. Ingalls said they had looked at the existing conditions when they were delineating the wetlands and noticed sheds built where they shouldn't be, fill in the wetlands, swimming pools and encroachment onto the drainage features themselves. This project will pick up drainage from the front of the lots and put it into the street drainage area. He said it would help but not solve everyones problem. But they will not be increasing or adding to the problem.

Mr. Ritz said Mr. Ingalls has put in a lot of time and effort to address the Town's issues about the drainage. The majority of the volume of water is now directed to the close system within the Town's right-of-way. He said the only increase in drainage was into that closed system. The exact numbers were in the drainage report that has been submitted to the Engineering Division. Mr. Ritz said copies of the technical reports are not given to the Board members. Ms. Powers thought it might be helpful to see. Mr. Ritz said unless a person has the technical knowledge to decipher the numbers, it really wouldn't help. There are a few summary sheets that could be forwarded to the Board.

Chairman Mathusa asked about the water levels in the area of the proposed homes. He was concerned about energy conservation. He wondered about the depth of the basements to minimize the sump pumps running twenty-four (24) hours a day. Mr. Ingalls said all the homes had sump pump laterals to the closed drainage at the street. He said the proposed lots run along the high ridge of the property and the houses are higher than the road. The intent of the grading is to keep the homes higher than the road.

Mr. Smolinsky thanked the Chairman and staff for elaborating on the drainage issue in the area. He said the existing residents could read the minutes and see what causes the problems in the area and possibly take some action themselves.

Mr. Morelli said the ACOE's letter of June 4th could have been worded better but he felt the intent of the letter was to allow additional impacts in Lot #10's rear yard. He said staff has a call into Mr. Dangler. The Town regularly faces the problem of individual landowners filling in wetlands. He said now the ACOE is taking a more realistic approach to these types of situations. Mr. Ingalls had requested the letter from Mr. Dangler because typically an applicant doesn't receive anything but he knew the Board would want to see some correspondence.

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

The Board reviewed the minutes of March 18, 2008 prepared by staff.

A motion to approve the minutes of March 18, 2008 as drafted was offered by Mr. Engel, seconded by Mr. Smolinsky and approved by all Board members present.

The Board reviewed the minutes of April 15, 2008 prepared by staff.

A motion to approve the minutes of April 15, 2008 as amended was offered by Ms. Powers, seconded by Mr. Smolinsky and approved by all Board members present.

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

The meeting adjourned at 8:20 PM.