

**MINUTES
SENECA COUNTY PLANNING BOARD
AUGUST 13, 2015**

**HEROES 9-11-01 CONFERENCE ROOM
COUNTY OFFICE BUILDING
WATERLOO, NEW YORK**

MEMBERS PRESENT: Betty Berger, Gordon Burgess, William Dalrymple, Donald Denman, Edward Franzoni, Mary Kelleher (Alternate), Sally Kenyon, Pam Kirk, Tom Scoles, Michael Smith and John Swanson

MEMBERS CALLED: Keith Beck, Jack Freer and Michael Scaglione

MEMBERS ABSENT: Mark Lott

STAFF: Harriet Haynes, Planner and Mary DeStefano, Staff Resources Asst., Department of Planning and Community Development

GUESTS: Michelle Billington, Esq., Bond Schoeneck & King; Roderick Coe, President, Board of Directors of the Pathway Home of the Finger Lakes, Inc.; Shawn Griffin, Esq., Harris Beach PLLC; Lisa Hochadel, Executive Director, Pathway Home of the Finger Lakes, Inc.; Ronald McGreevy, Supervisor, Town of Tyre; Virginia Robbins, Esq., Bond Schoeneck & King; Robert Seem, Tyre Town Planning Board; Michael Simon, P.E., BME Associates; Allison Stokes and Judy Young, Member, Board of Directors of the Pathway Home of the Finger Lakes, Inc.

The meeting was called to order at 7:05 p.m. by Chairman William Dalrymple.

The Minutes of the July 9, 2015 meeting were approved by a motion of Gordon Burgess and seconded by Sally Kenyon. Carried unanimously.

PUBLIC COMMENTS:

Ms. Virginia Robbins, Esq., Bond Schoeneck & King, stated that she represents the Town of Tyre with connection to the proposed Lago development. Ms. Robbins stated that she would be happy to explain the legal posture of this development when it arises.

Ms. Allison Stokes stated that she was present to represent the hundreds and hundreds of people from Seneca County that are against the Lago Resort and Casino and those who are opposed but are silent because the Amish population does not take a political position. Ms. Stokes stated that it is not a tiny group that is opposed to the project as stated by the Wilmot group – that statement is fiction.

Ms. Lisa Hochadel, introduced herself as Executive Director of the Pathway Home of the Finger Lakes, Inc. Also introduced were Rick Coe, President, of the Board of Directors of the Pathway Home of the Finger Lakes, Inc. and Judy Young, Member of the Board of Directors. The proposed project is before the County Planning Board for review this evening.

Chairman William Dalrymple appointed Mary Kelleher, Alternate Member, to sit in for absent Member, Michael Scaglione.

GML Reviews:

Ms. Haynes stated that the first two items which relate to the Lago Resort and Casino listed under tonight's Agenda have been combined into one report and resolution.

Chairman Dalrymple called upon Ms. Robbins, Esq., of Bond Schoeneck & King, to give a summary as to the reason the Lago project is again before the County Planning Board.

Ms. Robbins stated that on July 10, 2015, the State's Appellate Division reversed a State Supreme Court ruling that essentially has annulled the Site Plan approval and SEQRA as initially submitted. Ms. Robbins stated that the Site Plan Review has been before the County Planning Board several times with some modifications. Also, before the County Planning Board this evening is Local Law #5 of 2015 and the Zoning Map Amendment.

1) Town of Tyre, Zoning Map Amendment and Development Plan Review, Lago Resort & Casino

Gordon Burgess moved and Pam Kirk seconded adoption of Resolution 30-15. Ms. Haynes stated that the Town of Tyre received an application to have Tax Parcel 12-1-36 rezoned as a Planned Unit Development Zone, and a Development Plan, for development of the property as a Resort and Casino. Ms. Haynes stated that this is substantially a resubmission of the application originally received in March of 2014. Both the Development Plan and proposed Local Law #5 of 2015 are before the County Planning Board. Ms. Haynes stated that at the County Planning Board meeting on April 10, 2014, the Seneca County Planning Board found that "this application, while having the potential for significant impacts on the community character, has been proposed so as to minimize the impacts on the natural environment and, thereby, offset any negative impacts with the benefits of economic growth". Local Law #5 of 2015 for the Town of Tyre will amend Article II Section 2.202 of the Town Zoning Law by adding to this section the term "Planned Unit Development" to the list of Type of District and by adding the designation "PUD" for such District. It will also amend Article XI Section 11.1102 of the Town Zoning Law by adding the definition of a Planned Unit Development District. The Local Law will also amend the Zoning Map. Ms. Haynes stated that the proposed Zoning Amendment to a "PUD" for the purposes of the development of the resort and casino is consistent with the Town of Tyre Comprehensive Plan which identifies the desire of maintaining the rural character of the Town and the need to balance that with the necessity of expanding the tax base and have growth along the major highways. Ms. Haynes stated that a Full EAF has been submitted as was previously submitted and a new Part I has been generated to reflect current conditions. In order to avoid segmentation of the project, the same EAF is being used for the PUD Application, Development Plan and the Town of Tyre Local Law #5-15. Mr. Shawn Griffin, Esq., of Harris Beach, representing Lago Resort & Casino, noted that the Development Plan is substantially the same as submitted in March 2014; however, the description of the project as listed in the County Planning Department's report reflects the project as will be reviewed in the Site Plan Review rather than as submitted in the Development Plan. Mr. Griffin asked if this could be reflected in the report. Inasmuch as it is the Department's Report to the County Planning Board, Ms. Haynes concurred with the change and the County Planning Board supports the modified version of the report. Resolution 30-15 was voted on and carried 11 – 0.

2) Town of Tyre, Site Plan Review, Lago Resort & Casino

Mr. Michael Simon, P.E., of BME Associates, reviewed pertinent information regarding the proposed project. The Site Plan as presented at the July 9, 2015 County Planning Board meeting remains the same with the exception of a couple changes. As proposed in the Plan reviewed last month, it was the idea to have a waste disposal station for buses or RV's which travel with entertainers at the facility. Mr. Simon stated that this plan has been removed. It was also in the previous Site Plan to clear the tree line along the south property line parallel to the Thruway. This proposal has been eliminated. The project will be using LEED solar panels and high efficiency energy star equipment. They will also have an Integrated Pest Management (IPM) Program in place. The IPM Program will consist of spot treating for weeds; therefore, minimizing the use of pesticides. As outlined at last month's County Planning Board meeting, all traffic improvements as discussed will be made.

Sally Kenyon moved and Betty Berger seconded adoption of Resolution 31-15. Ms. Haynes stated that the proposed Site Plan has essentially remained unchanged from last month's review with the exception of the removal of the septic dump station and not removing the trees from the site parallel to the New York State Thruway. The Site Plan as currently presented includes: 1) A six-story hotel with 208 +/- guest rooms, meeting rooms, ballroom, and a pool area, 2) 210,640 +/- Square Foot Casino with support services, restaurant, and theatre, 3) Four-story Parking Garage for 790 +/- vehicles, and surface parking for approximately 2,400 vehicles, 4) A Child Care Facility, 5) Proposed Central Plant, and 6) Storm Water Management Structures. The proposed signage section was included in the July 9, 2015 Site Plan Review. Ms. Haynes stated that the County Department of Planning and Community Development is not an involved lead agency with regard to the SEQRA process. Ms. Haynes stated that a Full Environmental Assessment Form (EAF) was previously submitted and a new Part I reflecting current conditions has also been submitted. It is anticipated that the Tyre Town Board will serve as lead agency. In order to avoid segmentation of the project, this is the same EAF as is being used for the Development Plan. Resolution 31-15 states "RESOLVED, that the Seneca County Planning Board finds that this application, while having the potential for significant impacts on the community character, has been proposed so as to minimize the impacts on the natural environment and, thereby, offset any negative impacts with the benefits of economic growth." The County Planning Board recommends that the Town of Tyre Board approve this application for Site Plan Review. Carried 11 – 0.

3) Town of Tyre, Special Use Permit, Pathway Home of the Finger Lakes, Inc.

John Swanson moved and Mary Kelleher seconded adoption of Resolution 32-15, recommending approval for a Special Use Permit to allow the conversion of a single family residential structure to a Comfort Care Home facility. Ms. Haynes stated that under the Town of Tyre Zoning, there was no definition for a home to be used for comfort care. However, the Tyre Town Zoning Board of Appeals made the determination that a Comfort Care Home was a "Group Home" for the purposes of the Town's Zoning. The two acre parcel is located on Route 414. Ms. Haynes stated that the facility will provide palliative care for persons that are terminally ill who choose to live out their last days in a less institutionalized setting. The Pathway Home can provide services to two persons at one time. Minimal changes will be made to the exterior of the residence. Interior renovations will be done to provide better access to the bedrooms and to divide the large open living area into a smaller area for various functions. Ramps will be installed as necessary for access. Sufficient parking will be available for both staff and visitors. The residents will stay at the Home with no charge incurred. Carried 11 – 0.

4) Town of Varick, Zoning Amendment

Pam Kirk moved and Mike Smith seconded adoption of Resolution 33-15 for the proposed Zoning Amendment for the Town of Varick. Ms. Haynes stated that the Towns of Varick and Romulus worked together in a planning process regarding the area of the former Seneca Army Depot. As a result of this, each community has submitted an amendment to its zoning. The County Planning Board reviewed the Romulus' Town Zoning Amendment earlier this year. The Town of Varick has also submitted an Amendment to its Subdivision Regulations. At this time, modifications are also being made to definitions that over time have been identified as needing clarification. Ms. Haynes stated that a major change included in both the amended Zoning and Subdivision Regulations is the allowance for cluster subdivisions. The Town views cluster subdivisions as beneficial by concentrating development in a given area, thus conserving open space. Site Plan Review is also added to the Zoning for all uses except single family and agricultural. A copy of the proposed Zoning Map and the Summary of the revisions were attached to the Report distributed to Board members. The Depot Zoning Districts and Regulations include revisions of the existing Conservation, Recreation and Green Energy District being replaced by a Conservation District (1,651 acres); Warehouse, Industrial, Transportation, Energy District (982 acres); and an Agricultural Residential District (616 acres). No changes are to be made to the existing Small Business Public Institutional (SBPI) District. Ms. Haynes stated that there is an Environmental Restrictions Overlay area for land being identified as still having hazardous waste concerns. Ms. Haynes stated that both Towns of Romulus and Varick would like West Romulus Road to reopen to allow quicker access from Romulus to the lake, and to provide better access to the Depot to increase the potential for development. Carried 11 – 0.

5) Town of Seneca Falls, Subdivision, Site Plan Review and Area Variances, APD Engineering for Frontier Development

John Swanson moved and Gordon Burgess seconded adoption of Resolution 34-15. APD Engineering, Agent for Frontier Development, has submitted an application that requires three actions. The developer is proposing to build a Verizon store on property located on Route 414, owned by Walmart. The required action includes: 1) Subdivision of a parcel of land from the property currently owned by Walmart which will be .54 acres of the 21.08 acre parcel; 2) Area Variances to allow construction less than 12' from the south property line and regarding signage, and 3) Site Plan Review of development of the proposed retail store. Ms. Haynes stated that the driveway off from Route 414 into Monro Muffler is not property owned by Monro Muffler. When Mr. Bill Cram sold the property to Walmart, he sold the entire acreage to Walmart. The Subdivision will create a separate lot south of Monro Muffler and north of the exit only drive from Walmart. The south boundary of the property would be the drive. There have been no documents filed demonstrating the concurrence of the property owner with this proposal for subdivision. Right-of-way clauses should be in place to allow access to the new parcel if work needs to be done on the drive and for snow removal. The new parcel would have access to Route 414 via the drive that serves Monro Muffler. Documentation should be provided to assure access via the drive by Monro Muffler and also restrict access directly to Route 414 or the adjacent exit from Walmart. Ms. Haynes also stated that the issue regarding if shortening the access drive will impact Monro Muffler's access agreement or if it violates Monro Muffler's agreement needs to be considered. Also, the Town Planning Board needs to consider if this is a two lot or three lot Subdivision (i.e., is the access drive off of Route 414 a separate lot due to its not being directly connected to the remainder of the Walmart parcel, or continues as a portion of the main Walmart property?). The applicant is also requesting multiple Area Variances. The Variances would allow 1) Construction of proposed retail building 8' closer to the property line than the 20' setback requirement. 2) To allow the installation of four wall mounted signs as opposed to the allowed two, and the construction of a double-sided pole sign that will be close to 100 square feet. Ms. Haynes stated that the Town Zoning Board has to decide if this is a reasonable degree of relief for signage. Ms. Haynes stated that the applicants point to a unique condition of the property as reason for the setback Variance. There is an existing water main that services Walmart that requires the building be built further south. Submitted plans do not provide adequate information to determine if the water line right-of-way fully

requires the setback from the north property line of 28' as listed. The applicant has not demonstrated that other options for development that would not require a Variance have been explored – perhaps the building could be constructed 8' shorter. Ms. Haynes stated that this would impact the parking layout; however, the plans show 80% more parking than required by the Zoning Code. A lengthy discussion followed regarding signage, access to the site, and the impact on traffic flow. The County Planning Board recommends the request for Subdivision Review be approved conditional upon the documentation from Walmart Real Estate that they concur with the application and the Town Planning Board being assured that the following issues have been adequately addressed: 1) that the new parcel would have access to the Route 414 via the drive by Monro Muffler, and no access either directly to Route 414 or to the Walmart exit drive, 2) that there is adequate documentation regarding the maintenance and upkeep of the joint drive, and 3) that it has been demonstrated that access rights of the Monro Muffler parcel are not adversely impacted by this proposal. It is further recommended that the Zoning Board of Appeals approve the Setback Variance only once they are certain that other options which would not require a Variance or a less substantial Variance have been considered. It is also recommended that the Zoning Board of Appeals approve the Signage Variance only to the extent that is feasible based on the signage conditions in the area. Lastly, it is recommended that the Site Plan Review be conditional upon the granting of the Subdivision and Area Variances for setback and the "Limit of Disturbance" being corrected to reflect the actual needs and the amount of time for any impacts on access for adjacent properties. Carried 9-1, with Mike Smith voting nay. Board member, Mary Kelleher, abstained.

6) **Town of Seneca Falls, Area Variance, Folts, Thomas**

Sally Kenyon moved and Pam Kirk seconded adoption of Resolution 35-15, recommending that the request for an Area Variance be left solely to local determination. The applicant is requesting allowance to construct an addition to the existing garage 5' within the property line. The property is located at 2727 Bauer Road. Ms. Haynes stated that if the Town of Seneca Falls had signed a Memorandum of Understanding (MOU) regarding such requests, this application would not have had to be forwarded to the County Planning Board for review. The surrounding neighborhood is a mixture of Recreational (Golf Course), Agricultural and Residential uses. Carried 11 – 0.

7) **Town of Fayette, Site Plan Review and Special Use Permit, Sigrist, William**

Sally Kenyon moved and Betty Berger seconded adoption of Resolution 36-15. The applicant is proposing to place a 1,224 Square Foot addition onto the existing barn to use as retail space for antiques and Christmas items. Mr. Sigrist's property is at 3589 Yost Road and is situated on 4.48 acres. Ms. Haynes stated that the location is diagonally across from Cassim's Farms. This proposal should not have any impact on Agricultural District #8. Ms. Haynes stated that the construction will either require fire wall separation or bringing the entire structure up to Fire Code Standards for retail establishments. Ms. Haynes stated that no information was provided in the application regarding signage. The applicant is also requesting that access to his property be allowed via the driveway to County Road 121 (Yellow Tavern Road). It is recommended that the request for Site Plan Review and a Special Use Permit be approved conditional upon determination by the County Highway Superintendent if the drive onto County Road 121 can be used for access to the commercial use of the property. Carried 11 – 0.

OLD BUSINESS:

Election of Officers:

The Nominating Committee, Betty Berger and Pam Kirk, recommended to nominate William Dalrymple as Chairman and Tom Scoles as Vice Chairman. Chairman Dalrymple opened the floor for additional nominations and none were forthcoming. Mary Kelleher made the motion that the Secretary be directed to cast a single ballot for slate of officers and John Swanson seconded. Carried 11 – 0.

NEW BUSINESS:

Upcoming Training Opportunity:

Ms. Haynes stated that the NYS Department of State Training which is annually sponsored by the Wayne County and Seneca County Planning Departments will be hosted in Wayne County this year. The date is Wednesday, September 16, beginning at 5:00 p.m., at the Wayne County Public Safety Building in Lyons. Registration for the event will be done predominately through the Wayne County's web site. If anyone is interested in attending but does not have internet access, please notify Seneca County Planning Staff and registration will be done through the Planning office. Attendance at all training sessions being offered that evening will meet the four-hour requirement for 2015. Ms. Haynes stated that on-line registration through Wayne County will not be available until the middle of next week.

Communities Adopting Comprehensive Plans:

Board member, Gordon Burgess, stated that he read the most recently published Edition of "Planning News" that has an article regarding Comprehensive Plans and Zoning for Communities. From reading the article, Gordon stated that it makes no sense for any community to have a Comprehensive Plan, and that a Comprehensive Plan is suggested but not required – the question being why would a community adopt a Comprehensive Plan when it many times dictates the zoning of the community. Gordon interpreted it as meaning that if a proposed project for a community is not addressed in the Comprehensive Plan, then the project is not allowed. Ms. Haynes responded that the zoning enabling statutes (sections of city, town and village law) require that land use regulations "shall be made in accordance with a comprehensive plan." While historically communities were allowed to point to the accumulation of legislative or planning board minutes and studies, over the last few years, there has been a greater turn toward the requirement of a single plan.

The meeting adjourned at 8:58 p.m. by motion of John Swanson.

Respectfully submitted,

Mary DeStefano, Secretary
Staff Resources Asst.