



**TOWN OF WILTON
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MICHAEL G. DOBIS
Planning Board Chairman

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Executive Secretary



PLANNING BOARD MEETING

TOWN OF WILTON

Wednesday, April 17, 2013

A meeting of the Wilton Planning Board (the "Board") occurred on Wednesday, April 17, 2013, at the Wilton Town Hall, 22 Traver Road, Wilton, New York. Chairman Michael Dobis called the meeting to order at 6:38 p.m.

PLEDGE OF ALLEGIANCE

PUBLIC HEARING:

The following Notice of Public Hearing was legally advertised in the Daily Gazette, the Post Star, and the Saratogian newspapers:

PLEASE TAKE NOTICE that the Planning Board for the Town of Wilton will hold a **PUBLIC HEARING** to consider an application by Gordon Residential Development, LP for development of a mixed use building with 114 apartments and 16,357 SF of commercial space located on Route 9 on 9.68 acres. Tax Map Numbers 140.-3-13, 14 and 15, zoned H-1.

SAID HEARING will be held on Wednesday, April 17, 2013 at 6:30 p.m. at the Wilton Town Hall, 22 Traver Road, Wilton, New York. At that time all persons will be given a chance to be heard.

BY RESOLUTION of the Planning Board for the Town of Wilton, Saratoga County, State of New York.

At 6:38 pm, Chairman Michael Dobis called the public hearing to order regarding the site plan application for mixed use building containing 114 units and 16,357 SF of retail space. Property location: Route 9 north of intersection with Northern Pines, on 9.68 acres; it is zoned H-1 and it's an unlisted action under SEQR. SEQR determination will be made after the public hearing is closed.

Chairman Dobis instructs that the developer will give his presentation and if there are questions, please raise your hand. Questions will be taken in order from front to back. A reasonable time will be given to both the applicant and the public.

Jon Lapper, the project attorney, introduces himself and project architect, project engineers and traffic engineers from Creighton Manning. The applicant and his representatives have been working with the Planning Board on this project for over a year. Many changes have been made in accordance with Planning Board suggestions. There have been meetings with Ryan Riper, Director of Planning and Engineering for the Town and with the State Department of Transportation. The applicant is very proud of design at this point. The photo rendering is very realistic and was done by the architectural firm who designed this project. The front of the building is designed to be more commercial in keeping with what is intended in the mixed use zone. The entire first floor is commercial space with pedestrian access with the sidewalk and heavy landscaping. Inside is a courtyard with a pool for the residents. He feels that the neighbor's concerns have been mitigated with fencing and substantial landscaping. The access to the two neighbors that is required has been added. Trash receptacles were moved. Applicant has been responsive to everything they've been asked to do. Mr. Riper's letter can be addressed after the public hearing in terms of specific items.

Chairman Dobis asks the public for questions and comments:

Jim Zack, of 4 Woodland Drive, asks if there was any more rigorous visualization done to prove that there is no undue visual impact. He'd like to know if there was any visual simulation done that was taken from the perspective outside the project; a more rigorous visual simulation than a stand-alone image. The current model stands in space alone – it is not in the Town of Wilton – it is somewhere in a computer. He presents a rendering of a project that includes the context of the project, how it looks today looking at "the Lot" and this is with the Gordon building in its context of the size, the scale, the massing, how it fits in, and how it might obstruct the view of the ridgeline.

Mr. Zack expresses his concern about the 335 parking spaces, the number of cars and number of traffic trips generated. More than half of those are going to go in the direction of Saratoga Springs southbound past the Maple Avenue School. He wonders if any cumulative impact studies have been done. Every project may stand on its own; every project may pass muster on its own, but to look at it in the context of other projects nearby, they all start to coalesce. We have to look at whether it will adversely affect the community at large when it's combined with all the other projects that are going on. He is also concerned about the traffic and questions if was there a traffic study done that included Maple Middle School and that center of the Hamlet. He describes the traffic being like the Wild West right now on Route 9. He wonders if we're going to clean up what problems we have now before we add to them. When is the Town going to have the hutzpah to say no or is that just not an option anymore if the project passes on its own and the criteria for zoning and planning and design.

Larry Liska, of 661 Route 9, owns the property adjacent to the Gordon Building project. The issue he found is on their plot plan of March 15 2013 concerning the fence. He submitted three separate letters to the Town requesting the vinyl fence starting at 125 feet back from Route 9N going the complete property line. They have put on there 160 feet in the front, which may present a problem for the traffic going in and out. He needs that fence line going completely to the rear property line because of kids who may wander in especially with 114 apartments next door.

Mr. Rice asks where Mr. Liska wanted the fence. Mr. Liska replies starting 125 feet back from Route 9. The reason he did that is so that it will be the same as Byrne dentistry has. The site plan shows 160 feet. He requested they start the fence line at 125 feet and go the rear property line. He states that the Gordon group has been very cooperative

Harold VanEarden, the Board vice-chairman, asks if they met his request as far as the dumpsters. Mr. Liska confirms the dumpsters have been moved.

Jeffrey McQuigge of 26 Dandelion Drive expresses his concern is about planning for the future and what happens 10, 15, 20 years from now. What this town is going to look like or how we're going to pay for the infrastructure with all these sidewalks to nowhere – who is going to take care of them later on? Does the town check up on somebody who built 10 years ago to see if they did a good job then on their infrastructure? The Board focus is about what happens now rather than what happens 10 years from now, 5 years from now when we need new roads? Who will come back and pay for that? Do we put a little extra money in the till if there is a problem later? That needs to be addressed. He really thinks that the Planning Board needs to look down the line; that is part of planning.

Chairman Dobis responds that the Planning Board tries to plan for the future. That's what good planning is. Sometimes unfortunately you only see residents of the Town when there is a project that is going to affect them directly. The Town has been pro-active trying to plan for the future. Can the board keep everybody happy, absolutely not! He has been involved as a board member and chairman for many years. This is a volunteer board. Many of the other board members have also been born and raised here and raised their families here. He respects the opinions of members of the public and recognizes that they may not agree with the Board. This Board has to follow the ordinances and the Town law. If you are not happy with what is going on you need to talk to your Town Board. You elect them - you can unseat them.

Andy Brick is an attorney with Donald Zee's law firm who represents the Farones. His client clearly is not opposed to apartments; nor are they opposed to apartments on this particular property. What they are opposed to is the size and scope of this monster building as well the speed at which this building and this application is being rushed through the process. His clients have built small scale apartments in the area. They believe that is conducive to the hamlet zoning. They think this new project in the middle of the hamlet will change the character and complexion of the hamlet.

Mr. Brick summarizes the numerous discrepancies, deficiencies, inconsistencies, omissions and outright mistakes in the Gordon application paperwork that should prevent the Board from taking any action on this application until these things are corrected. He hasn't seen this particular site plan before but it looks to be the same except the dumpster on Mr. Liska's property has been moved to somewhere else.

Mr. Brick reads straight from the zoning code, §129-49.6:
"Buildings shall generally relate in design features and scale to the adjacent buildings." He comments there is no way this building relates to any building in the Town of Wilton except the mall and the school. It doesn't relate in scale to the adjacent buildings. *"Buildings should be designed to enhance and contribute to the surrounding area rather than detract from it, utilizing similar building massing scale, colors and architectural features will ensure compatibility with surroundings."* That is a directive, if you are going to build apartments; they need to be in the same scale, scope, color and architectural features, not the "mega" building.

Regarding applicant's paperwork, there are some major problems in what was provided to Mr. Brick subject to a Freedom of Information request for materials in advance of the meeting that got adjourned in March. Some of the problems may have been corrected since then.

One problem is with the Storm Water Pollution Prevention Plan. The title page inside is for the Curtis Lumber project in Schodack at Route 9 and 20, Town of Schodack and is dated April 12, 2012. Mr. Riper asks what the date is on the SWPPP. Mr. Brick states it was received by the planning department on 1-16-2013. Mr. Riper states that has been superseded.

Mr. Brick hands out copies of the site plan Site Plan sheet number C-5, upon which he has referenced specific concerns by the letters A through E.

Letter "A" in the top left hand corner points to the dimension of that travel lane and it is specifically called out at 26.7 feet. The standard dimension for a travel lane in the Town is 27 feet. He states the Board has recently been given the authority to amend that size, but as it stands right now, the standard is 27 feet and this is 26.7. That concern is compounded by the fact if you look to the right of the letter "A" there is a dimension for the garage which is the first of the enclosed garages. Garages shall be a minimum of 23 x 13 feet. In the parking table for residential garages; the minimum size is 22 x 13. The dimension of that garage in that row of garages is 21 feet. That translates to a substandard travel way and garages that are 2 feet shorter than the minimum that is set forth in their own calculations. The question becomes is that because they needed to be shortened in order to provide the 15 foot buffer. That combined with the travel lane maybe a result of the fact that they can't make the 15 foot buffer.

Letter "B" relates to the parking spaces. The parking table says that the commercial retail requires 98 parking spaces dedicated to the commercial retail and they have provided 100. At the beginning of the first large islands, there are specific call outs that say *residential parking only beyond this spot*. When you add up all of the spaces that are in front of those residential only parking spaces you get 83. There is no explanation for that unless he is missing 17 spaces; you can't count the garages as spaces for the commercial areas.

Letter "C" designated where there is one dumpster on each side and apparently one has been moved. There may now be one or two on the north side of the building. That requires a variance from the ZBA. Mr. Brick distributes a copy of the code for the hamlet zone (H-1). Section 5 specifically states: *Storage, loading and docking areas, dumpsters, utility boxes and other uses shall be to the rear of the building*. "Shall be" that is mandatory language. Further on in that paragraph, "the Planning Board may allow side or front yard loading, or side yard storage. . ." There is a mandatory requirement of dumpsters being in the rear of the building. The dumpster is not the rear of the building; it's in the side yard. That investigation about whether or not a variance would be required is reason why he doesn't believe action can be taken on SEQR tonight.

Letter "D" refers to storm water management area. On page C-6 of the site plan he was given shows a 7 foot depth from the outside to the inside of that storm water management area but there is no fence shown on any of the plans he has seen, so there will be somewhat deep standing water with no fences. Something that needs to be done before the Board can take any action whatsoever on this.

"Letter E": on the site plan as well as on the building plan itself which he will hand out, calls out a fire truck access in the area of the site plan. On the site plan it says access to courtyard and commercial space. On the building plans it says fire truck access. On the site plan the dimension is 11.8 feet. On the building plans, it is 12 feet. So there is a discrepancy between the building plans and the site plan for the very area that is supposed to be accessed by a fire truck.

Mr. Brick refers to the fire truck turning radius provided by applicant. It provides for a fire truck that is 10.3 feet wide. He doesn't know if that is mirror to mirror or if that's just the body of the truck. What they are proposing to access is the central courtyard – the fire truck access they label is 11.8 feet for a truck that is 10.3 feet that's trying to get to a scene in an emergency. The building plans indicate that is not an uncovered access way. It is a covered alley; the second floor goes over that area. So it isn't known whether a fire truck could fit underneath it. But it's called out at best 12 feet. The fire code of NYS requires fire apparatus roads in the vicinity of buildings above 30-35 feet, (but this one is 55 feet) to be 26 feet wide. The fire code required the road to be 26 feet wide but now you are somehow morphing a truck into a 12 foot area without the height indicated.

Mr. Brick comments on the fire truck turning radius on the north side of the project and the dumpster truck turning radius on the south side of the project. He believes it is incumbent upon the Board before any type of SEQR determination it to make sure the applicant can prove to the Board that a fire truck can make that turn into the alleyway. He advocates that the applicant prove to the Board that the turning radius for both the dumpster truck and the fire truck comply with the NYS Fire Code. Those are the discrepancies on the site plan.

Ms. Kolligian asks if Mr. Brick has a list of his concerns. He replies that all he has are his notes that he can provide.

Mr. Brick refers Sheet A1.1, the first floor building plan. The Letter "A" where it says "fire truck access" is what he was just referring to and that's where it has the different dimensions. Again, combine that with the parking lot and he thinks the Board definitely needs to be demonstrated that that can work. The Letter "B" in the back, the way that it is situated that is on the first floor and it backs directly into the townhome behind it which means the rooms in the back, it would be a solid wall – there would be no windows. He doesn't know how you can do windows in that particular unit and that happens in few other units where it looks like it's very difficult to provide windows. He believes that there are specific requirements in the NYS Building Code relating to ventilation and the amount of windows and windows located in certain rooms.

The second page Sheet A1.2 is the second floor of the building plans and he would point out in the area over where the fire truck access is, it is clearly covered over – the second floor crosses over that. So that makes that a tunnel and the height of the tunnel is not indicated. Letter "C" in the back, is bedroom unit #211 located near an elevator and near a stairwell and the stairwell is specifically referenced to the third floor. In a fire the elevators stop working. How does the individual in unit 211 get out? The nearest stair that he can locate is in the front of the building. This is a 600 foot long building. Based upon their plans, this individual would have to walk 600 feet in the building while it's on fire. He doesn't know if they just failed to show stairwells and there is one closer, but this is what they submitted. He also points out on that page Letter "D" on Sheet A1.2, where it says the *exit stair down only* points to the middle of an apartment. He doesn't understand where that exit stair is, it's pointing to the living room of that apartment unit right there and it says there are stairs there. These plans need a lot of work before the Board can even consider adopting a SEQR on it.

Mr. Brick reviews the "economics" of this project. There was a representation in the media that rent for a 2 bedroom apartment will be above \$1500. He refers to Sheet A1.3 to unit 303 which is a 2 bedroom with a detached garage 70 yards away, up 3 flights of stairs and 1145 SF. There is no way the economics

work that that apartment will generate more than \$1500 when you can get 1300 SF apartment with an attached garage for \$1500.

Logistically, the people that live in front and above the retail are going to park and take up the spaces of the commercial because they are not going to want to park back here in the last stall and walk their groceries in and then come up 3 flights of stairs. They're going to be taking the nearest spots which are supposedly dedicated to the commercial. Commercial parking is banned in the back, but residential parking isn't banned in the commercial area.

Finally Mr. Brick says the rendering of the Gordon building isn't completely representative of the size and scope of the building. This elevation shows at best 6 or 7 garages going behind the commercial space. The site plan indicates there are 19 garages going back. This only shows a third of the length of the building. The building is too big. Build smaller apartments; build smaller buildings on the site. This building is a monster – it doesn't belong in that particular area.

Debi Zellan of 35 Northern Pines Road speaks of her feelings about this Town and what's happening to it and her experience in her own neighborhood. She is talking about the Gabryshak project on Northern Pines Road which was approved as a mixed use building for commercial and residential. There is no commercial, it's been open a year now. The first building has one piece that is used and the rest are empty. The Gordon building from the pictures is frightening to her. She likens it to Route 9 into Malta and it's like entering a tunnel because those buildings are so tall and so close to the road. This building may not be the same height but it's just as close and it's a frightening precedent. Ms. Zellan says: *"This is Wilton, this is not Malta, this is not Clifton Park and I don't know what the goal is or where you are headed. I don't mean you specifically, I mean everybody. But I defy you to find somebody who read the Comprehensive Plan that is not a developer that ever imagined that this was coming to our Town. I certainly didn't and don't know anybody who did."*

Bob Walsh of 36 Worth Road expresses his concern about the Gordon building being too close to the right-of-way of Route 9 and that the Town's zoning laws have been thwarted and basically gutted. He has been this Board before and the Town Board a number of times. He would agree that the Town's Comprehensive Plan was a masterful job. He remembers it underway and participated in it and thought it was terrific.

Mr. Walsh looking at this picture, he'd think he was looking north at downtown Saratoga. It's the same thing in Malta, these large buildings crunched up against the right-of-way. We have a two lane Route 9. Malta has a 4 lane Route 9; Broadway in Saratoga is four lanes. If we build this building that close to the right-of-way, where are the extra lanes going to come in if the cumulative impact of all of these other projects develop. The Board needs to have that future orientation to avoid traffic from being "strangled down by the inability to move north and south on Route 9." He believes that there will be similar projects all up and down Route 9 because the Town has basically changed the zoning law to allow this project to go forward without having to deal with any variances. He is asking the Board to consider moving the building back so in the future there are options, some form of traffic mitigation to deal with the increased density down the road.

Pat Tuz of 2 Amanda Court, Saratoga Springs: Her concern is also the proximity of the building to the street, the increased number of apartments and the impact on schools. She advocates for the hamlet area

to be accessible to the public by sidewalks; to have amenities such as a gathering place for families. Her fear is that if the Farone building goes directly across the street, it's going to be a nightmare for traffic, and it really won't be an attractive town and people may not want to live here. This building doesn't fit and it should be a lot smaller. She asks the Board to do something for this community because a lot of us really care about it and we feel like we are just be stepped on every time a building is put in.

Joanne Klepetar of 101 Parkhurst Road: Her concern is the size of the building and her question to the Board is whether it has the tools to make sure the developers do adhere to a size and to what is written in the Comprehensive Plan and about how such a building fits in. She states the Board doesn't work for the developers; it works for the people in town. She states, "If you have the ability to look at a building and say this is not to scale and this is not what we want, then why as a board, why don't you do that?"

Jim Zack of 4 Woodland Drive expresses his concern about the Comprehensive Plan which he believes has not been revised since 2001. Is there anything in the Town Charter that says it needs to be revised periodically? Saratoga Springs is now undergoing comprehensive plan review; it hasn't been revised since 2001. When will the Wilton Comprehensive Plan become a living document that is modified?

Ryan Riper states that the last Comprehensive Plan was adopted in December 2004. Chairman Dobis comments that when he went before the Town Board and presented the Comprehensive Plan he said it was a living document; that it needs to be changed and fine-tuned as time goes on. He wouldn't be surprised if somewhere in the near future, they start looking at it again because things have changed.

Dennis Towers of Ernst Road requests a copy of the Comprehensive Plan that was adopted that contains the graphics, specifically a picture that shows what was intended for a hamlet zone; in contrast to with the current application. He concurs with one of the comments from the county planning board that it's too much packed into one site. He agrees with that particular county planning board comment that maybe it's time to revisit the comp plan. That frightens him in view of the people who are in place right now.

Mr. Towers states there is a photograph; it is in the hamlet zoning which represents the vision at that time and that vision was supposed to reflect the will of the people. With regard to the Comprehensive Plan, he recalls that one of the areas that got the largest number of saying 'yes, we want this' was the rural nature of the Town. He doesn't recall the number; it was huge as far as the rest of the numbers went for what were the priorities.

Mr. Towers recalls the project before it needed 4 variances which was February of 2012 and that the Board said the variances were okay. The rules changed in September. The law has changed. That's when they doubled the density. It was 8 and they took it to 15.

Ms. Kolligian states the variances weren't needed and the applications were withdrawn. It was a couple of site plans ago. They adjusted the site plan and didn't need the variances.

Chairman Dobis: The Town Board had the final say about maximum density in apartment houses, which could only be built by forming a Planned Unit Development, and it was 8 units per acre. When the hamlet area came through, there was no density cap at all. He went to the Town Board and said if we don't give them some kind of cap, they're going to come in and it's going to be the Planning Board's job

to try to sort through this on every project. The Town Board wanted to give this Board a lot of flexibility. Their thinking was that one project depending on where it comes in, would work on this parcel, but maybe the parcel right across the street – you couldn't get half that density in for many different reasons. So that was the theory. And that's why the Town Board finally put a cap of 15 now.

Mr. Towers refers to the public hearing before the Town Board that was about revising the H-1 Zoning schedule, specifically to eliminate some additional requirements in §129-176(m), such as maximum density of 8 units per acre. One of his concerns is Pine View/Pine Ridge where the Town violated its own law on density. Since the project started, while construction was in progress, there have been 3 additional variances. Is this going to set the precedent, is this what is going to happen in the future where there isn't any "corralling in" of this at all. He states that one of the councilmen at the board meeting said "oh they'll just sue us till we run out of money." Mr. Towers stated that the public "can't get bullied into this . . . It's our town – it's not theirs." He asks the Board to take extra care and thought into what is best for the people, to see what the will of the people is, because this is irreversible. He suggested that Board look at what other towns around Wilton have done, that have followed this kind of process, and Malta for instance; they are now trying to reverse some of the damage they've done. He asks that the Board take that under consideration.

Connie Towers of Ernst Road remarks that everyone keeps questioning her on the hamlet density issue. "If you read back in your hamlet law; in your zones, all your uses revert back, whether it's a public library, a place of worship, they all read back, look in the hamlet. You had 8 units per acre in your density.

§129-49.6 Additional Requirements: For all permitted uses the special permitted uses §129-176 shall be reviewed for additional requirements. See under (m) of §129-49.6: Apartment House/Multi-family Dwellings. No apartment house/multi-family dwellings shall be constructed on less than 120,000 SF.

Editor's Note: regarding maximum density, which immediately followed this subsection, was repealed 9-6-2012.

Ryan Riper states this is for "specific" uses.

Ms. Towers states it's for all permitted uses and special permitted uses. "Go to the hamlet zone -any single use in here refers back to §129-49.6. So if a multi-use apartment building was to go in, there were already 8 units per acre density.

She continues: "Nobody reads their legislation – the zoning codes. So we shouldn't even be here tonight. The change was made in September. The process is the problem. The board members are not reading the zoning laws and not following procedure. The Board must be held accountable. It made recommendations to the Zoning Board for all these variances that were needed and the Town Board passed them."

She further states that because of her FOIL request, it was discovered that the Saratoga County referral hadn't been made. The letter wasn't there. 9.67 acres is not enough for a PUD. 8 units per acre could have been done. With 72 units we wouldn't even be here. 72 units and some mixed commercial space.

Instead she states, "We had to take the back door – nobody listened to this. Somebody is not reading this."

Jon Lapper states that Ms. Towers was quoting language that existed before the Town Board changed it.

Mr. Towers states that technically the Town Board *just* made the changes, because they didn't do it right the first time. It was 8 units in the hamlet area and it was changed to 15. Mr. Towers then states that the hamlet district is part of the Comp Plan, but there is a big run around the Comp Plan and he's not sure what to do about that.

Chairman Dobis expresses his concern. He recalls the discussion with the Town Board way back then when there was absolutely no density cap at all in the hamlet. He knows they changed the 8 units in the building code and that was a fire code issue way back when.

Ms. Towers says even the public hearing [notice] read that way in August: "eliminate some additional requirements in §129-76 such as maximum density of 8 units per acre; the distance between the buildings and the 8 units per floor."

Mark Schachner, the Planning Board attorney, states he thinks the new amended zoning is clear and he is not aware of any disagreement about the allowed density under the new amended zoning if that helps clarify the issue. There seems to be some disagreement as to what the prior zoning was but he doesn't think there is any disagreement about what the current zoning is.

Ms. Towers makes it clear that it wasn't just the zoning amendments; it was all the variances that were needed by this project and all these positive recommendations given by the Board to the ZBA on March 22nd to make all these changes. She states the ZBA didn't want it. It went back and forth. She asks who wants to be leading SEQR on this. She also states that the town went and repealed all these zoning variances. Her question is how something this big could possibly come without variances? As a result now the project doesn't require any variances. That's because all the changes got put in place in zoning. The Town gave them the variances and then there was no referral letter to the Saratoga County Planning Board – a technical error. She wants to know what the impact was from the action taken by the Board and the Town Board. Because by October [2012], this project needed no variances.

Erinn Kolligian suggests that one of those variances was for trees, where they were going to get planted; one variance had to do with moving a dumpster at the request of a neighbor.

Connie Towers responds there were variances regarding the distance between residential buildings, the distance between residential buildings and accessory buildings, maximum amount of trees, the amount of dwelling units, everything matched – all those variances matched what was needed.

Chairman Dobis in reviewing document from March 22, 2012 meeting of the ZBA states one recommendation was to allow more than 8 individual units in a building. The research concluded that this was set up this way because of fire codes and sprinkler requirements. The fire marshal said that it was a different situation when the Town made that decision many years ago. It was noted that it would be a positive thing to bring some of the requirements that weren't allowed years ago because of new technology. He clarifies the question Ms. Kolligian had about the variances for the trees; that was to reduce the number of trees allowed in the parking isles for safety reasons. It was to take them out of

parking isles and put them on the perimeter where it would be more beneficial to the existing neighbors and to try and give the project more buffering.

Chairman Dobis remarks that he doesn't want anyone to think that this Board for any reason starting changing things just for this particular project. Ms. Towers replies that is exactly what happened!

Chairman Dobis comments that the Town changes ordinances when they become outdated due to new technology. Something that doesn't come up as a need will never get changed unless there is a need to change it. When something is brought in front of this Board for recommendation we do our research – we talk to professionals, not only at this table but all the ones that work in this town. If they don't have the answers, we ask them to go outside to other professionals. So you understand how some of these decisions are made.

Connie Towers counters that this is about impact and going through SEQR review. This is about the impact and the mass and scale of this building. The more units per acre have a direct effect on this town.

Chairman Dobis: "We don't set the density. "

Connie Towers understands that. She asks how much these apartments going to run exactly, the one and two bedroom apartments. *"Where is the benefit of this project to the people who will have to deal with the increase in traffic? The SEQR form indicates maybe 80 jobs or 100 jobs while it is getting built. Are these going to be jobs in Wilton? Are they going to be an Albany crew? The SEQR says maybe 20 jobs now. What kind of mixed used are we getting, is it professional space, what kind of retail space?"* She proposes setting aside 10% for affordable housing.

There could have been 72 units, now there are 114; why not set aside some of those apartments for someone who could afford \$800-900 a month. If you are going to allow something this huge in our hamlet, without reading your hamlet zoning, there needs to be some benefit to rest of us. The people of this Town should always come first."

Ms. Towers further states that this project looks good on paper until you see the scale of something this huge. That's what happened over at Ridgeview, it looked good on paper. Then we proceeded to do 3-4 amendments to that project. It was a mess to start with and instead of just controlling it, you continued to make a big mess. We want change, yes; we need to grow, we're a town but we don't have to be Malta or Saratoga. This is a different town. Think about the cars across the street from Everglades and the senior center down the road, the whole cumulative effect. We have a chance to do it correctly. That's all people ask.

Dennis Towers says it appears that the County Planning Board and the Zoning Board are more interested in looking at this thing. The Town Board and the Planning Board seem to want to get it through as quickly as possible. That is how it comes across on paper. To help alleviate that impression, he asks if the Board would oppose a formal request to videotape and broadcast these meetings so the people can see for themselves.

Chairman Dobis: That would be up to the Town Board. The Planning Board has no problem with it. He asks if there are any more comments.

Debi Zellan would like to add that we're building apartments like bunnies multiply. People are going to move in to them, but they are not homeowners, they are not landowners, they are not permanent. Those of us who have invested our entire lives in this town. We have to protect ourselves. These people are transient and they don't have to make an investment in us.

Chairman Dobis asks Mr. Lapper if he wants to respond to the comments made tonight. The Board is going to hold off on making a SEQR determination tonight in order to do more research.

Jon Lapper responds that this has been a process to keep trying to make this project better. He believes this is a very good representation of exactly to scale what this building is going to look like.

Mr. Lapper says the philosophical discussion tonight is about what people envision for the hamlet zone. Obviously there are people in town that want something done differently in the zone. The applicant's goal is to do what the zoning code requires which is 35 feet high of livable space; the roof can be up to 55 feet high. Somebody can say this is a big building but the opposite is to take the same number of apartments and sprawl them over a much bigger area. This is more of an urban design and to a certain extent the hamlet is denser now. That's what the zoning code calls for. But that's also a philosophical discussion about whether it should be spread out in lower buildings using more land, more storm water impact, or whether it should built higher and utilizes less land. What it comes down to is this applicant is doing what the hamlet zone requires. In terms of the compatibility with the neighborhood and in terms of the adjacent projects, this is more compact. This is what the zoning code allows and it can be argued both ways in terms of storm water impact and best use of land. The goal here is to do 18,000 SF of retail/commercial/office which is a substantial commitment in terms of the cost. The hamlet zone requires a very high-end masonry finish on the front of the building. In terms of compatibility with the neighborhood that came up with Mr. Brick., there is a lot of pre-existing adjacent non-conforming uses; for example, the storage sheds or Mr. Liska's property, so no one is going to say that you should build something compatible with a pre-existing non-conforming use. "We designed this in accordance with what the zoning code requires."

Ryan Ripper: Farone's apartments to the north are in a separate zone. They are in a PUD; they're not in the hamlet zone.

Jon Lapper speaks in terms of looking at the whole neighborhood. The area across the street is a different way of placing apartments on property. The Gordon project uses less land, but it is a very high quality expensive project.

The neighbor, Mr. Liska, raised that issue about the fence that was discussed the last time the applicant was before the Board. The goal here was to load up landscaping along the property which the Code requires. The back of the garage building acts as a buffer. If you think of a vinyl fence, which is essentially what the back of the building is, with clapboard design. A longer fence will create a corridor between the garage and the property line. It is much more attractive to have a lot of plantings. The idea was to put the fence at the front where Mr. Liska's house is and where the garages are not and then to beef that up in terms of the landscape design. It's up to the Board to tell us what to do, we're not trying to save money - the fence would be cheaper than the plantings. It would look better with the plantings and will certainly act as a buffer between the fence that is proposed and the building. We appreciate that Mr. Liska acknowledges that we have been working with him.

Mr. Lapper comments on the notion of "The sidewalks to nowhere". The concept there is that you build the sidewalk for each project and as there is infill, which this project is, they'll get connected. Mr. Riper asked if the applicant would add sidewalks to the north which is about 200 feet to connect to the existing sidewalk to the north. Mr. Lapper said that as long as we didn't have to acquire property from a neighbor that we have no control over, of course the applicant would pay for that construction.

Mr. Lapper's response to Mr. Brick's comments: I think that what he FOILED was the prior site plan so that a lot of the things that he pointed out were earlier iterations of things that had changed. For example, he was looking at a dumpster that Mr. Liska had acknowledged was not near his property that was relocated to the rear. What the Code actually says is the rear of the building, and I think that was one of the changes in the zoning,

Ryan Riper: The Planning Board has always had the discretion to change that. The language instead of *shall* is *should*. It has now changed to *should*.

Mr. Lapper states there is no issue with that in terms of whether we can, but this dumpster here is at the rear of the commercial building because the idea is that the commercial users are going to need to have their own trash receptacle. So it is in the rear of that building. Again it is not mandatory in the Code. That's at the Board's discretion. The residential dumpsters are in the back. But commercial is going to need to have a dumpster. Commercial use creates trash and has to be accounted for. As of yet, they don't have tenants and it's possible that a restaurant or sports bar which may never materialize, but people that had approached them, that would be a kind of hamlet use that would probably be good for people in the complex.

The storm water plan where the engineers had the wrong title page that was corrected and resubmitted. The garage size was a typo. The garage size is correctly 23 feet not 21. The residential commercial spaces; perhaps the notation for where the sign should be as to where the commercial and the residential is, but we're certainly showing the correct number of spaces that parking count for the commercial and residential is correct. No parking variance is needed. Regarding the placement of the parking sign, Ryan Riper interjects that the intent of the sign was just to notify the residents to park towards the rear and not in front, leaving the front parking space available for commercial.

Jon Lapper states with regard to the fire truck issue; the fire department in previous reviews had asked for access and that is when we provided that access on the first floor. It was never intended that a fire truck would drive in there. He didn't see that on the site plan, it may have been something in the architectural plans, but that's for fire access not fire *truck* access.

Ryan Riper: a fire truck would never enter into that area – that is a collapse zone within the building. They would never have a truck within the collapse zone.

Assistant Chief Morgan of the Wilton Fire Department states he was chief at the time these plans were drawn and that Mr. Lapper is correct, that was meant as an access so that firefighters could gain egress into the center courtyard area. We would never bring a truck in there because of the collapse zone. That was put there for egress in case a rescue had to be made out of pool and getting personnel in there without going through people's apartments. Jon Lapper confirms that change was made and it should say just *fire access*.

Regarding the turning radiuses for delivery trucks and for fire trucks if that what Mr. Brick was referring to; they were submitted to Ryan Riper. All the templates were submitted. Ryan Riper checked that so that is not an issue. One of the issues with the changes to the zoning code was to match the Wilton Code with the NYS Fire and Building Code. That created some of the variances.. Pat Conway, the architect, will address the building fire code issues with the stairwell location and window sufficiency.

Mr. Conway of Cotler Architecture responds to the issue concerning apartment unit 101; it was said that there is not enough window space to this apartment. Half the front of that unit is windows. The bedroom can be used to provide ventilation to the rest of the unit by the use of power vents which are allowed by code – that's what we'll do. He also states that it is early in the design of the interior space. We had a label *stair to third floor* in the back of the rear of the property; that stairwell stopped at the second floor. That unit was added later in the design. Originally that was going to be a townhouse but we changed it to a 3 BR unit. So a door will be added and the stairwell will continue from 1st to 3rd floor. The last issue was the exit stair that was pointing to the middle of an apartment where there was no stair; that is just a mislabeled stair. Regarding the 600' exit Mr. Brick referred to: on the third floor, there are four emergency exit stairs, one on each end of the building and in the middle on the sides. So cut that in quarters the max you'll go is 140 feet, once you leave your apartment which complies with code.

Chairman Dobis remarks that the board members are not building inspectors. After this project is approved, if it's approved, if it is changed, whatever happens, then the plans go to the building inspector, his department then reviews the plans for all fire code, ventilation, window requirements. The board doesn't look at those things but there is a professional in the building before they issue a building permit that reviews all those plans. It's not uncommon for a project this size for someone to miss something and that's what our building inspector code enforcer would pick up on.

Jon Lapper refers to remarks about the economics issue. This is where the concern of other apartment renters is misplaced. This is intended to be more high-end, more expensive project than some of the other projects in the vicinity. What they anticipate are one to three bedroom units \$1400 to \$1850 per month. This isn't going to compete directly with an \$850, \$1000 or \$1100 apartment, it is not intended to. It intended that these will be fancier, more expensive units and that the market is there. In terms of the build out, the project is two phases. There will be 54 units and the commercial in the first phase and the remaining units in the second phase, which allows them to build out the whole first building, rent it out and then start the second building and that allows it to address that market issue.

There were a number of comments about the proximity of the building to the road. Mr. Lapper would characterize this as somewhat of a new urbanism which is typical in hamlet zones elsewhere that the building is supposed to be close to the road for pedestrian access and access for sidewalks. This was designed in accordance with what the Town Code requires in the hamlet zone for proximity to the road. Wendy Helzburger from Creighton Manning, the traffic engineer, met with DOT and with Mr. Riper as recently as a week ago to review this. As the Chairman said, it is on a state highway and that permit is up to the State. We don't anticipate any problem with DOT; there are just some final design issues about exactly where the sidewalk will be located as it relates to the right-of-way. Essentially it is their road so whatever they want, that's what will get built.

Mr. Lapper refers to the discussion about hamlet density; this project complies with what the new code requires. Again that is a philosophical issue about what is appropriate, but that is a Town Board issue,

not a Planning Board issue under those zoning amendments. The last comment was about apartment owners being transient and in his experience that has changed a lot. Single family homeownership has been in decline. It seems like it has picked up a little bit. In terms of younger kids getting out of school, empty nesters, there are a lot more people that are actually looking for apartments and it doesn't make people transient. It's a different housing choice. Because of what's here with the SUNY Adirondack campus, the commercial buildings in this zone, CVS and what's there for services and proximity to Saratoga, his client is expecting this to be very popular. There is nothing we've been asked to do that hasn't been willing to do and will continue to work with the Town.

Chairman Dobis: I am not going to close the public hearing tonight. When we incorporate the SEQR review process it will be a part of that. Thank you to everybody for coming out. You can check online, you can call into the Town to get the agenda if you want to continue to follow the process. I would invite you back.

The public hearing is adjourned. At 8:15 pm, Chairman Dobis called the regular meeting to order.

I. REGULAR MEETING:

PRESENT: Chairman Michael Dobis, Vice-Chairman Harold VanEarden, Erinn Kolligian, Sue Peterson, William Rice, Ron Slone, Tony Mangini, Alternate and David Gabay, Alternate. Also present was Ryan Riper, P.E., Director of Planning and Engineering, Mark Schachner, Planning Board Attorney, Andy Brick, Esq., Jon Lapper, Esq., Dave and Cindi Zap, Kathy Anderson, Greg Beswick, James Zack, Debi Zellan, Peter _____, Jim and Ann Sinnock, Dennis Towers, Connie Towers, Assistant Chief William Morgan of the Wilton Fire Department, Joanne Klepetar, Jeff McQuig, Lyn Lawton, Bernie Lawton, Bob Walsh, Mark and Patricia Harrison, Larry Liska, Patricia Tuz and Robert Gatland.

ABSENT: Donald Needham

APPROVE PENDING MINUTES: Chairman Dobis asks for questions or comments regarding the unapproved minutes from the meeting held on March 20, 2013. There were none; and he asks for a motion and a second to approve the minutes. On a motion introduced by Harold VanEarden, the board adopted the following resolution:

NOW, THEREFORE, BE IT RESOLVED, that the minutes from the Planning Board meeting of February 20, 2013 are accepted. The resolution was seconded Erinn Kolligian and duly put to vote, all in favor, on this day, April 17, 2013.

CORRESPONDENCE: E-mail from Dennis Towers re: Mega Building dated 5/3/13; E-mail from Ben Niese re: Mega Building dated 4/24/13; E-Mail from Lenny Fornabia re Large Apts on State Route 9 dated 4/23/13; E-mail from Bernie Lawton re: mega-building dated 4/23/13; Letter from Lenny Fornabia to Town Board re: "the Lot" undated; Letter from Andy Brick, Esq. re: Gordon Residential Development dated 5/8/13; Referral and Determination of Zoning Enforcement Officer re: Glens Falls Hospital dated 5/1/13; Referral and Determination of Zoning Enforcement Officer re: Hoffman Car Wash; Letter from Michael McNamara P.E. of EDP re: Wilton Dairy Haus Ice Cream dated 4/30/13; Letter from Gregory Beswick, P.E. of Creighton Manning re: Gordon Development dated 4/30/13; Capital District Regional Planning Commission, Capital District Data Vol. 36 No. 2; Capital District Transportation Committee, In Motion, Vol. 6, Issue 1, Spring 2013; Association of Towns, Talk of the Towns & Topics, Vol. 27, No. 2, March-April 2013.

II. APPLICATIONS

A. Dairy Haus Ice Cream: Michael McNamara of Environmental Design Partnership is before the board for the conceptual application by applicant Michael Goodspeed for the Dairy Haus Ice Cream project. Mr. McNamara describes the project in detail. Town hamlet improvements include sidewalk and street trees and ornamental lighting. Ethan Hall met with a DOT representative and Ryan Riper regarding DOT's policy on the sidewalk. DOT will allow it to be built inside the ROW, more concentric and closer to the road only if it is extended all the way to the north of the Nove' restaurant which is 300-350 feet to the north. If the Town prefers applicant could set up an equivalent escrow amount until such time as there was another user to the north and it could be built at that time.

With regard to the sidewalk issue; Ryan Riper did meet with DOT at the site. DOT doesn't want sidewalks just dead ending; it's a liability for them. What has been discussed, if it is in the ROW, they want it extended to the parking lot of Nove. To the south there is a pet cemetery so there is nothing to connect to. It would make sense to escrow the money for the sidewalk. In his discussion with DOT about a Route 9 crossing, they want nothing to do with a crossing on Route 9. They will not provide a crossing mid-block, only at signalized intersections.

Ron Slone asks if we escrow the sidewalk now, what about the difference in cost if it gets built 10 years from now. Funds would be put in an interest bearing account for traffic mitigation funds. Two residences and then Nove to the north would have to have a sidewalk. Nove just has a parking lot with no room for a sidewalk. Nove is in the north end of CR-2 zone, the ROW on their property is on their front step.

Mr. Worth who is in the audience refers to the ZBA referral decision. Mr. Worth made a motion to approve based on his recommendation that some trees be planted with 12 foot spacing. If the applicant's property abuts a parcel in the R-2 zone, there is a requirement in the Code for a landscaped 50' wide buffer for that property.

There was a complaint from the resident homeowner to the north whose house 30 feet in elevation above so they can look down at the applicant's site.

The ZBA granted the variance for evergreens planted to border the property, 12 feet apart, 6 feet tall. The variance was granted on the tradeoff. The Code requires a 50 foot wide landscaped buffer on the border of the property. The Landscaping is to deter noise and sound. The area is treed but the Code says landscaped.

Mark Schachner, the Planning Board attorney, states it was a special use permit before the ZBA, not a variance. Chairman Dobis asks if the applicant plants the trees as shown on the site plan, will that satisfy the ZBA's requirement of the special permit. Mr. Riper says the requirement was for trees 6 feet tall at a distance of 12 feet between; no caliper dimension was mentioned. The ZBA said the trees should be planted on the most convenient area for the applicant on the north side of the property. The intent is to give the adjacent homeowner as much privacy as possible.

Mike Worth reiterates his understanding was that the white pine be planted along the on the length of the border of the property to the north.

Mr. Schachner says that the Planning Board cannot renegotiate a ZBA decision.

Mr. Goodspeed agrees to plant the trees to accommodate everybody.

William Rice asks about the curb cut and where does it line up. There is no direct alignment to be made because across Route 9 is the parking lot to SUNY. Ms. Kolligian states you must turn down Mountain Ledge Drive to get to SUNY; there is no entrance to the college parking lot on Route 9. Applicant's plan shows a wider entrance with a left hand turning lane. The sight distance is 700 feet to the north and 500 feet to the south in a 45 mph zone. ASHTO recommends 360 feet so sight distance is exceeded. It is a seasonal ice cream business and there are no plans to open year round. Ryan Ripper states this is for conceptual only; preliminary submission will be made and then public hearing will be set. This is a Type II action because it is under 4000 SF of construction so no SEQR review is required.

On a motion introduced by William Rice, the Board adopts the following resolution:

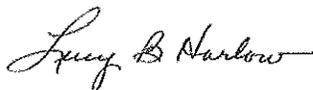
NOW, THEREFORE, BE IT RESOLVED, that the Town of Wilton approves the application for conceptual approval for construction of 2160 square foot building for a seasonal ice cream business, property located at 697 Maple Avenue, zoned CR-2. Harold VanEarden seconds the motion and duly put to vote, all in favor on this day, April 17, 2013.

B. Sass Subdivision: request for extension of 90 days for 9-lot subdivision approval. The applicant will have to come back on July 16, 2013 for subdivision re-approval. On a motion introduced by William Rice, the board adopts the following resolution:

NOW, THEREFORE, BE IT RESOLVED, that the approval of the 9-lot Sass Subdivision be extended for a 90 days which will expire July 15th, 2013. Property location: Edie Road, zoned R-2; tax map number 154.-1-8.2. The resolution was seconded by David Gabay, and duly put to vote, all in favor, on this day April 17, 2013.

ADJOURNMENT: At 9:03 p.m., David Gabay moves to adjourn the meeting. Erinn Kolligian seconds the motion and all board members are in favor on this day, April 17, 2013.

Approved:



Executive Secretary