



TOWN OF WILTON  
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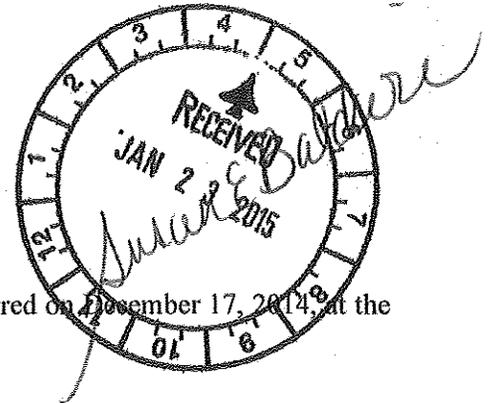
MICHAEL G. DOBIS  
Planning Board Chairman

LUCY B. HARLOW  
Executive Secretary

PLANNING BOARD MEETING  
TOWN OF WILTON

Wednesday, December 17, 2014

A meeting of the Wilton Planning Board (the "Board") occurred on December 17, 2014, at the Wilton Town Hall, 22 Traver Road, Wilton, New York.



**PLEDGE OF ALLEGIANCE**

**Chairman Dobis calls the regular meeting to order at 6:33 PM.**

**I. REGULAR MEETING:**

**PRESENT:** Chairman Michael Dobis, William Rice, Ron Slone, Sue Peterson, David Gabay and Harold Van Earden. Also present are Ryan Riper, P.E., Director of Planning and Engineering and Mark Schachner, Esq. Planning Board Attorney; Joanne Klepetar, Michael Tucker, Joe Dannible, Peter Belmonte, David Smith, P.E., Captain Bullard, Donald Zee, Esq., and Brett Steenburgh, P.E.

**ABSENT:** Erinn Kolligian, Brett Hebner, Alternate.

**APPROVE PENDING MINUTES:** Chairman Dobis wants to address the meeting minutes of November 19, 2014 and he asks for a motion and a second to approve the minutes. On a motion introduced by Ron Slone, the board adopted the following resolution:

**NOW, THEREFORE, BE IT RESOLVED,** that the minutes from the Planning Board meeting of November 19, 2014 are accepted. The resolution was seconded by David Gabay and duly put to vote, all in favor, on this day December 17, 2014.

**CORRESPONDENCE:** Memorandum from Susan Baldwin, Town Clerk, to Lucy Harlow re: Wilton Senior Community dated 12/15/14; letter from NYSDEC, Susan Clickner to Michael Dobis re: SEQR Lead Agency Response (Louden Road Conservation Subdivision) dated 12/5/14; Loudon Road Conservation Subdivision Revised Density Calculation dated 11/1/14; *Capital District Data*, CDRPC, November/December 2014, Vol. 37, No.6; map transmittal memo from Saratoga County Clerk's office to Chairman of Planning Board re: town map filings, dated 12/3/14; letter from First Niagara to Town of Wilton re: Tra-Tom Development dated 12/17/14; *Towns & Topics*, Vol. 28, Issue No.6 received 12/2/14; *Rural Futures* NYS Commission of Rural Resources, Winter 2014-15 Issue; transmittal from EDP to Ryan Riper, P.E. re: Mill at Smith Bridge Amended Subdivision Plan, dated 12-2-14; NYPF Awards Nomination Form (due by 1/30/15).

## II. APPLICATIONS

**A. EVERGLADES MIXED USE:** This is an application for a revised conceptual site plan consisting of 4 mixed use buildings consisting of 50 residential units and 8620 of commercial/professional office space. The property is located at 666 Route 9, zoned H-1. Donald Zee, Esq., and Brett Steenburgh, P.E., are present to represent Thomas J. Farone Homebuilders, Inc. Mr. Zee has been before this Board on numerous occasions regarding this project. At the last meeting this was discussed, there were positive comments about the look of the proposed buildings due to the dramatic changes to the façade. His recollection was that the hold-up for the setting of the public hearing was that a variance was needed for the garage buildings. The variance has been granted by the ZBA with the restriction that they did not want any outside storage around the garage buildings. Chairman Dobis indicates his approval of the overall project.

The applicant would like to set a public hearing but Mr. Riper explains that doesn't happen until after the preliminary drawings are submitted and the project obtains preliminary status. This would require more detailed drawings. Mr. Riper confirms that applicant received his 12/11/14 conceptual review letter. Mr. Steenburgh remarks most of the items are administrative in nature. Mr. Riper mentions Item # 2 which pertains to the requirements of landscaping, street trees, lighting and a town easement line being shown on the plans by means of a blow-up detail. Other items to be added are the town standard notes, a project location map, and notes indicating all setbacks and variances with variance number and date. The architectural renderings that have been submitted refer to siding materials either to be wood or vinyl. It should be clearly indicated on the plans what materials will be used. Applicant should be aware that vinyl is discouraged in the hamlet area. Since there are four buildings it would be a good idea to show that the project will be in different stages and show the duration of construction. Water and sewer connections should also be shown. The traffic study that was done by Creighton Manning for the Everglades project incorporated data from the project across the street developed by Gordon Residential Development. Mr. Rice inquires about signage and Mr. Zee responds that the initial thought is to have a sign over each commercial space. He anticipates only one tenant for the commercial space in each building.

Chairman Dobis asks for a motion for conceptual approval. On a motion introduced by William Rice, the Board adopted the following resolution:

**NOW, THEREFORE, BE IT RESOLVED**, that the revised site plan for Everglades Mixed Use Development which consists of 4 mixed use buildings with 50 residential units and 8620 SF of commercial/professional office space, located at 666 Route 9 zoned H-1 is given conceptual approval.

The resolution was seconded by Harold VanEarden and duly put to vote, all in favor, on this day, December 17, 2014.

**B. MILL AT SMITH BRIDGE CONSERVATION SUBDIVISION:** This is a conceptual application for an amended subdivision: the original approved subdivision of 63 lots with 5 additional lots. The property is located on Smith Bridge Road and Davidson Drive, zoned R-1. Joe Dannible of EDP presents for applicant Smith Bridge Road LLC. The applicant has formalized an offer to the Town to dedicate a portion of the open space on the property in exchange for a 10% density bonus. Applicant is proposing 5 additional lots. Mr. Dannible indicates on the map where the 5 lots are to be located. Based on previous discussions and the current zoning code, applicant's proposal complies with the Code and he is requesting conceptual amended subdivision approval for the additional 5 lots. Mr. Rice asks if there has been any feedback regarding the offer by any Town Board member. There has been no feedback from the Supervisor at this time. Chairman Dobis states that there was a discussion about the zoning code section that allows a density bonus at the December's Town Board meeting. A public hearing for a potential code revision has been set for January's Town Board meeting. The Planning Board is not going to take any action on this application tonight pending the outcome of the public hearing and what the Town Board decides.

It is noted that Mr. Dannible states for the record that the application submitted by applicant is compliant with the current zoning code and a formal offer of land has been made to the Town of Wilton in exchange for the density bonus that has been granted in other cases.

Mr. Schachner recommends that the Board, rather than not take any action, consider scheduling a public hearing for next month on the proposed amendment for modification of the subdivision. That way if the Town Board takes action at its January meeting, which it may or may not, that may have an impact on this proposal, but it may not have an impact on this proposal. If the Town Board takes action that does not have an impact on this proposal, this application before the Planning Board can keep moving through the process.

Mr. Rice asks what action by the Town Board could affect the Planning Board's process. Mr. Schachner says that the action that could be taken is that there is a proposed amendment of the subdivision regulations which is what the public hearing is about in the Town Board's January meeting. Mr. Slone asks if the Town Board is taking up the offer of land in general or just this particular offer. The hearing is not specific to this project. The proposed amendment would essentially change the ability of applicants to get potential density bonuses; it would make it more discretionary. If the Town Board acts at all at the January meeting, (meaning if it approves the amendment) one of the things it will likely do is to decide when in the process the new provision kicks in. Does it kick in only on applications that have yet to be filed, in which case it would not impact this application; or does it kick in on applications that have been filed and that are pending in which case it would have a very significant impact on this application. It would likely moot out the possibility of the applicant doing what it wants to do short of going to the ZBA for a variance. That's the range of options. In fairness to the applicant, the Board should advance the process by scheduling a public hearing. So, says Chairman Dobis, the applicant would send out its notifications and if the public hearing goes forward, it's been advertised or in the worst case scenario the hearing is canceled. The hearing would be cancelled if the Town Board adopts the proposed amendment to the subdivision regulations and the Town Board says that the amendment applies to any application for which approval of density bonus has not already been achieved. That would have a direct impact on this application. A somewhat common misconception in the State that some people bear the burden or that think that once there is an application, there is a grandfathering of "you get to keep playing by those rules" – that's actually not true under New York law. A legislative body like the Wilton Town Board has the right, not the obligation, but the right to change the law and they can do so and even impact an application that's pending, not something that's been approved.

Mr. Slone recalls some discussion about if an applicant offers land – does the Town have to accept. Will that be addressed as part of hearing? The proposed amendment does not require Town acceptance. Currently if an applicant just offers, that's how the subdivision regulations read. The proposed amendment would make that not an automatic [acceptance of an offer of land.]

Mr. Belmonte, as the applicant, has gone to the point in which the Town Supervisor has possession of the documents; he provided the offer cession, the deeds, and the other documents that Town law requires. Mr. Belmonte states that Mr. Johnson has acknowledged that the documents are there and that Mr. Belmonte is willing to follow through with the dedication to the Town. Mr. Dannible wants to clarify the procedure to get to the point of a public hearing at the next meeting. Does the applicant need conceptual approval at tonight's meeting to move forward into a preliminary plan with the public hearing? Mr. Schachner replies the answer is no, it can be discussed if the applicant wants, but this is not a brand new subdivision. This is a request for modification of a previous subdivision. He doesn't think it is necessary to go through the conceptual discussion process, but the applicant can if he wants.

Chairman Dobis wants to make sure that the applicant had the opportunity to give a presentation and to make sure that the Board members have the opportunity to ask questions, and get more information. It isn't known what the Town Board is going to do, if anything. His conversation with several of the Town Board members has been in light of what's going on and what's coming up in the January meeting, and what the impact is of the

public hearing is going to be. The Planning Board does not have to take action on this application tonight. But if the applicant wants, the Board can schedule the public hearing for January, and this Board's meeting will be after the Town Board's meeting. Mr. Belmonte indicates he's in favor of the public hearing and appreciates the opportunity. The public hearing is scheduled for 6:30 on January 21, 2015. The applicant will have to notify the adjacent landowners. The Town Board hearing is scheduled for January 5<sup>th</sup>.

Mr. Dannible describes the offer of ten acres of land to dedicate to the Town, in exchange for that the applicant is looking for an 8% density bonus on the property. He indicates on the map where the new lots would be. Chairman Dobis asks Mr. Riper whether the land being offered impacts the green space calculation. Mr. Dannible states that the green space is still a significant percentage of about 50+/- per cent.

With regard to public access, there is access to Smith Bridge Road. What would the Town's interest be in the ten acres? What's the benefit asks Mr. Gabay. Mr. Belmonte responds that it is a natural resource that's being protected and buffered. It's a scenic view that would be protected. Applicant is not only providing water but an escarpment of dry land along the water. The edge of the water is the full length of the eastern property line of the subdivision. Mr. Dannible estimates that at its deepest it may be 13-14 feet deep where the existing stream channel was. Mr. Riper states it is fairly shallow at the southern end and southwest side – perhaps a foot or two deep. It does drop off at the inlet structure. Mr. Rice asks about the wording on the deed about the property line on the east side that is "along the water's edge" – and would the description would change, due to it being along the water. Mr. Dannible states the deed reads, ownership would be to the west edge of all the water. There is a discussion of who would own the property if the Town does not take it. It would be privately owned. Mr. Gabay asks theoretically if the Town did accept applicant's offer, since it is a body of water, would there be any liability that the Town would be assuming. Mr. Schachner says yes. As to whether the Planning Board should be concerned, it is a Town Board issue.

### III. REFERRALS

A. **LANT'S AUTO SALES:** this is a request for recommendation to the ZBA regarding the application for front and sideyard setback variances. Property is located at 590 Maple Avenue, zoned CR-1. Mr. Lant is represented by David Smith, P.E. Mr. Lant wants to replace his current shop with a new shop that would consist of a 3200 SF prefab steel building. He wants to swing the building around to face Smith Bridge Road. The existing building would be removed. The paved area would be rehabilitated. There is no change in use. Mr. Smith describes the history of the property. Mr. Riper has discussed with Mr. Smith that he make sure that the offset variances that are shown on the plans match the description in the Notice of Determination prepared by Mark Mykins. The revised plans show the eaves that were not on the original plans. Mr. Smith describes what relief is being requested. There are two variances being requested, one sideyard setback variance requests approximately 14+/- feet of relief. The front yard setback relief requested is 13.83 feet. Mr. Rice asks if there has been any discussion with the adjacent landowner, Upstate Auto. Mr. Smith indicates that Mr. Lant did speak with them but doesn't know what the outcome of the conversation was. Mr. Smith says that notifications have been sent out to the adjoining landowners. Architectural renderings of the buildings and the foundation plan will be provided when the project comes before the Board for site plan review. This is strictly for an advisory recommendation to the ZBA. Chairman Dobis asks about how exact the dimensions need to be. Mr. Riper indicates that whatever dimensions are shown on the drawing that's what is going into the determination. On a motion introduced by Mr. Gabay, the Board adopted the following resolution:

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Board gives a positive recommendation to the ZBA for granting the requested side yard setback and front yard setback variances being requested by David Smith for John J. Lant, the owner of the property located at 590 Maple Avenue, zoned CR-1.

The resolution was seconded by Harold VanEarden and duly put to vote, all in favor, on this day, December 17, 2014.

Mr. Riper states that there is a third variance requesting relief for square footage because of the two uses on the property. Mr. Rice asks whether or not this is a pre-existing non-conforming use that would allow a one hundred percent expansion. Mr. Schachner states that no one is suggesting that the use can't go forward, but the Zoning Officer's determination letter dated 12/15/14, says the combined area required for two uses on the property is 160,000 SF. The applicant has 31,425 SF so the amount of relief requested is 128,575 SF. So each use requires a certain lot size. There are two uses; the dwelling and the auto sales/repair garage. That should be included in the recommendation. Mr. Gabay moves that the prior motion be amended by the following:

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Board amends the last motion for a positive recommendation to the ZBA to include 128,575 SF of combined area requirement relief for the two uses on the property located at 590 Maple Avenue.

The amended resolution was seconded by Harold VanEarden and duly put to vote, all in favor, on this day, December 17, 2014.

**B. WILTON SENIOR COMMUNITY:** This is a request for a recommendation to the Town Board on the application for special permit. The special permit is being requested for a senior housing development comprised of 110 units of independent living senior apartment and a 92 unit assisted living facility on Perry Road, zoned C-1.

Mike Tucker of VHB is here on a referral from the Town Board. Mr. Tucker came before the Board last month for a pre-application presentation. The proposal has also been presented to the Town Board which was well received. Mr. Tucker is looking for a recommendation back to the Town Board. It was also requested that the Planning Board consider seeking Lead Agency Status for coordinated review under SEQRA. A public hearing has been scheduled for January 5<sup>th</sup>, 2015 by the Town Board.

Mr. Riper mentions that there will be a waiver required by the Town Board for the road access. It is in the Town Code that any senior housing project be fronted and have access on a state, county or federal highway. This project fronts on Perry Road, a town road. It is the Planning Boards decision whether to discuss the waiver in conjunction with the recommendation on the application for special permit.

Mr. Rice asks about the parcel adjacent to the proposed project that fronts on Route 50. There are actually two parcels with separate owners and the width varies from 150' to 250'. There is also a swale down from the old railroad tracks. Both parcels are too narrow for development. There is also a stream that runs through. Mr. Tucker is aware of his client approaching the owners of the two parcels for the purpose of putting an access road to Route 50.

Mr. Slone asks why anyone would want to deal with traffic on Route 50. Mr. Tucker states that since it is a development for seniors, the preferred access would be from Perry Road. Mr. VanEarden doesn't have a problem with the access from Perry Road. There is an alternative to Route 50, via Old Gick Road from Perry Road. Mr. Riper has had discussions with DOT about the intersection of Route 50 and Perry Road with the idea of having a left turn lane put at the intersection to no avail.

Chairman Dobis is looking for a recommendation for a special permit for the senior housing and if the Board wants, it can recommend the waiver for the frontage. On a motion introduced by Mr. Slone, the Board adopted the following resolution:

**NOW THEREFORE BE IT RESOLVED**, that the Planning Board recommends the approval of the special permit for senior housing comprised of 110 units of independent living senior apartments and a 92 unit assisted living facility on Perry Road. Additionally the Planning Board recommends a waiver to the requirement that a senior facility have ingress and egress to a county or state highway.

The resolution was seconded by Harold VanEarden and duly put to vote, all in favor, on this day, December 17, 2014.

Chairman Dobis asks whether the Board desires to seek to serve as a SEQRA lead agency. Mr. Schachner states that it would be appropriate for the Board to declare the intent to serve as SEQRA lead agency. On a motion introduced by Harold VanEarden, the Board adopted the following resolution:

**NOW, THEREFORE, BE IT RESOLVED** that the Wilton Planning Board has decided to seek SEQRA lead agency status for the purpose of a coordinated review of the Wilton Senior Community on Perry Road. The motion is seconded by William Rice and duly put to vote, all in favor, on this day December 17, 2014.

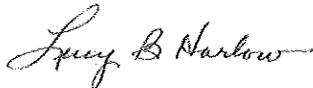
Mr. Tucker asks for clarification. He understands that after the review of the application for special permit by the Town Board, does he come back to the Planning Board for conceptual? He is informed that the next step is to apply for the variances that are needed from the ZBA. The ZBA will refer the application to the Planning Board for a recommendation. Once the ZBA approves the variances, then the applicant can come back to the Planning Board for conceptual review.

Regarding the February, 2015 meeting, Mr. Gabay will not be attending. The February meeting that was originally scheduled for 18<sup>th</sup>, it has been changed to the 25<sup>th</sup>. Chairman Dobis will not be able to attend the meeting on February 25<sup>th</sup>. Mr. VanEarden will chair the meeting.

**V. ADJOURNMENT**

On a motion introduced by Harold VanEarden that the meeting be adjourned; it is seconded by David Gabay. All board members are in favor. The meeting is adjourned at 7:37 PM.

Approved: January 21, 2015



Executive Secretary