

PUBLIC HEARING:

High Rock PUD (Amendment)

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 Town of Wilton, New York, County of Saratoga, will hold a public hearing to adopt Local Law No. 4 of 2009, amending Local Law No. 1 of 2003, known as High Rock Planned Unit Development District (a/k/a 617 Maple Avenue LLC).

SAID PROPOSED LOCAL LAW would consider an amendment to include minor site improvements, construction of a one-story, 15,000 +/- square ft. building for a retail/wholesale establishment, and expand the uses in the Planned Unit Development District. The original Property consists of 17.3 acres and is located on NYS Route 9, Tax Map Parcel No. 140.-3-26.

SAID PUBLIC HEARING will be held on August 6, 2009, at 7:00 p.m., at Wilton Town Hall located on 22 Traver Road, Wilton, New York at that time all persons will be given opportunity to be heard.

BY RESOLUTION OF THE TOWN BOARD OF THE TOWN OF WILTON

At 7:05 p.m., Supervisor Johnson called the public hearing to order and asked the Town Clerk to read the public hearing notice aloud, she did so. Supervisor Johnson asked if anyone would like to speak on this PUD. **Nia Cholakis**, Attorney for 617 Maple Ave. LLC., gave an overview of the amendment stating that they are requesting to expand the uses to permit all of the uses that are otherwise permitted under the CR-1 District other than some residential uses and the special permitted uses which are not otherwise already on the site. We are also asking for the PUD to permit the construction of a 15,000 square foot single story building on the rear of the premises. We have had a lot of discussion with the Town and addressed all of the Town's questions with regard to intergradations and circulation within this facility as well as signage within this facility, from the last map you received. We have adjusted the orientation and the location of the 15,000 square foot building. We have also allowed for interior circulation throughout the facility. Ms. Cholakis also stated that in the existing uses which were outlined in the original PUD legislation in addition to those we are also asking for the CR-1 District uses with the exclusion of the residential uses, boarding houses, tourist's homes, bed and Breakfast and any special permitted uses not otherwise provided by the original legislation. We are also looking for a car wash as an accessory to automotive related uses on the site, a training and instruction across from the facilities, wholesale trade establishments and warehousing and distribution. We have had some additional discussion with the Town about the use that is currently defined in the code as business office. I believe there might be an overlap between business office and office use. Originally I was requesting the office use also be added and the discussion with the Town is that they believe that office use is included in the term of business office, so obviously we would like to have that confirmed. **Supervisor Johnson** asked if anyone in the audience would like to speak on this project. There were no comments. Supervisor Johnson then closed the public hearing at 7:08 p.m..

REGULAR TOWN BOARD MEETING

Immediately following the public hearing, Supervisor Johnson called the Regular Town Board meeting to order at 7:08 p.m..

Pledge of Allegiance

Supervisor Johnson led the board and the audience in reciting the Pledge of Allegiance to the Flag.

Roll Call

Roll Call by the Town Clerk showed all board members present except Councilman Gordon, who was on vacation.

Arthur Johnson-Supervisor
Raymond O’Conor-Deputy Supervisor
Shirley Needham-Councilwoman
Charles Gerber-Councilman

Also present: Town Attorney, Richard DeVall, Town Planner, Kate Maynard, Town Engineer, Keith Manz and Town Comptroller, Jeffrey Reale.

Approve Pending Minutes

Supervisor Johnson asked for a motion and a second to approve the pending minutes from the last meeting.

On a motion introduced by Deputy Supervisor O’Conor, the board adopted the following resolution:

RESOLUTION # 150

NOW, THEREFORE, BE IT RESOLVED, to approve the minutes from the July 2, 2009 meeting as typed, without amendment.

The adoption of the resolution was seconded by Councilman Gerber, duly put to a vote, all in favor.

WWPP (Presentation) (Quarterly Report)
Sarah Clarkin

Supervisor Johnson recognized Wilton Wildlife Preserve & Park Director Sarah Clarkin. **Ms. Clarkin**, discussed her quarterly report with the board, highlighting some of the outreach and education programs they provide and some of the training and volunteer programs along with recreation. Conservation and Planning Efforts with DEC and also a transition moving toward a more independent organization, the WWPP is assuming responsibility for its fiscal management beginning July 1. The board thanked her for coming.

High Rock PUD (Amendment) LL No. 4 of 2009

Amend LL No. 1 of 2003

Last discussed 7/2/09

Public Hearing held earlier

Supervisor Johnson explained that this PUD was referred to the Saratoga County and Town Planning Boards and both came back with positive recommendations. Supervisor Johnson asked if any board members had any questions. **Councilman Gerber**, asked Ms. Cholakis if she still had the tenant to go into the Mosher's Hockey Shop space. **Ms. Cholakis** responded with a yes. **Supervisor Johnson** explained that Keith and Kate had a couple of suggestions regarding the PUD legislation. He asked if they had been incorporated in this final draft. Ms. Maynard stated that there are a couple of items she wanted the board to be aware of; She then went over the uses that were removed and the uses that would be permitted in the new legislation that was submitted. There were two additional items in the legislation warehouse distribution, that is a use that there was a lot of conversation about. That is not included in the CR-1 zone; it is included in other zones. That is one thing I wanted the board to be aware of, one way we could look at it after talking to the applicant is that their desire is to make it an accessory to primary uses on the site. So distributing, storing automotive parts related to the dealership. We could state that it is to be an accessory use with further review by the Planning Board. The other item on the list was the applicant did show correspondence from DEC that the storage tanks have been removed.

On a motion introduced by Deputy Supervisor O'Connor, the board adopted the following resolution:

RESOLUTION # 151

NOW, THEREFORE, BE IT RESOLVED, to approve a Negative Declaration under SEQR, (unlisted action).

The adoption of the resolution was seconded by Councilwoman Needham, duly put to a vote, all in favor.

On a motion introduced by Deputy Supervisor O'Connor, the board adopted the following resolution:

RESOLUTION # 152

NOW, THEREFORE, BE IT RESOLVED, to approve the changes to the Planned Unit Development with the exception that the warehousing needs to be an accessory to the uses on the premises.

The adoption of the resolution was seconded by Councilman Gerber, duly put to a vote, all in favor.

Wilton Fire District (Rte 50)
Fire House Substation
Attorney, John Carusone, Jr.

Supervisor Johnson recognized Attorney Carusone, and asked him to address the board. **Attorney Carusone**, introduced himself and explained the proposal to purchase land on the east side of Rte 50 to construct a fire substation. What we are seeking tonight is the approval of the Town Board for the construction. Attorney Carusone explained the need for this substation; response time could save an average of 10 minutes for calls generated in the southern part of Town and the substation in the southern part of the district would attract new members. Mr. Carusone explained that the contract called for a closing a couple of months ago, we have extended it to August 30th. We made it subject to approval. If this board approves the request, our intention is to go back to the planning board and do it in normal site plan review. The insurance rating for home owners in the southern district will experience a decrease in their insurance rates. At the moment the station will not be manned. The property is in two zones R-2 and a C-2 zone. The use the property for a municipal building does not fit neatly into the zoning ordinance. This is why we came to the Town Board for its blessing. Attorney Carusone then asked Steve Rowland, to show what the building would look like and go over how it would function. **Mr. Rowland** stated that the point is to investigate this piece of property to see if the program they are asking for would fit on that site. The program is very basic, it is a satellite station. He then explained the function of the rooms within the station. **Councilwoman Needham** asked where the exact location of the substation would be. **Mr. Rowland** stated that it was right across the street from the Living Waters Church. **Councilwoman Needham** asked what the mileage was from the existing firehouse and the proposed substation. **Mr. Rowland** stated approximately 3 ½ to 4 miles. **Supervisor Johnson** asked Attorney DeVall what is the balancing test what are you looking to do here. **Attorney DeVall** explained that the courts have come up with an approach that states that the public purposes of the land use regulations of a particular municipality say the Town Board cannot be applied in the same manner as you would with any other entity. But on the other hand the other municipal entity, say the Fire Department is not exempt from those rules. The plans need to be submitted to the Town for site plan review and the Building Department. Although there is no permitted use for a Fire Department on the parcel where they plan to go and they are not subject to standard use variances application. I think there should be some demonstration as to a need for them to go in this particular place. **Supervisor Johnson** asked for a list of calls that came in for the southern end of town and how many were actually structure fires going back a couple of years. Supervisor Johnson also asked Mr. Rowland what the estimated cost of the building would be. **Mr. Rowland** stated the building is approximately 9,000 square feet and the average cost for a firehouse is \$250 a square foot. **Supervisor Johnson** asked how the district would pay for the firehouse which would cost approximately 2 ½ million dollars, is there a reserve account set aside for the firehouse. The response from the members was this will not happen right away and yes there is a reserve account. After some discussion, Supervisor Johnson stated he had two concerns; one is whether you really demonstrated a need and second the impact to the tax payers in the district. I do not feel that a need has been fully demonstrated here tonight. The board members agreed, they would like to see some harder numbers and be assured it was not going to impact residents. **Mr. Carusone** asked to postpone this until next month. The board agreed.

708 Rte. 9 (PUD)

Public Hearing held 7/2/09

No action taken

Supervisor Johnson explained that last month there was a public hearing and at that hearing the board was presented with a petition signed by several residents in the adjacent vicinity of the proposed PUD. He then asked Attorney DeVall to bring the board up to date on that. **Attorney DeVall** stated not only was the petition submitted that night but we also received another signature from someone in the area. When I reviewed this a policy decision was made that there was not going to be any scrutiny given to the petitions accepted. What was put before the board was a technical issue under the Town law which says that "under certain circumstances amendments to the code are subject to three-fourths vote of the Town Board". He read the law to the board stating it was very awkward. The applicant has resubmitted a new plan whereby there were no changes made to the PUD submitted other than the actual eccentric boundary of the PUD so that he has shrunk the PUD down without changing else within the PUD. By doing so, the PUD remained more than ten acres, so it qualifies and the number of owners whose area within the one hundred foot boundary immediately adjacent to the described property (did you get all that Carol) Town Clerk's reply: (no, it's on tape, I wouldn't try to get all that) (lots of laughter). Attorney DeVall stated that it is his opinion that section 265 of the Town Law does not apply to the revised plan. Supervisor Johnson: "So that's a simple majority". Attorney DeVall: "Yes, a simple majority". **Councilman Gerber** asked Attorney DeVall, because of the revision to the PUD is there anything in Town Law or State Law governing such action that we would need a new public hearing. Is there a possibility that the residents who are concerned about this who signed that or the people who have circulated those petitions could they have been circulated in another manner with the knowledge that there is a new map that could have changed the results? Attorney DeVall explained that there was no substantial change to the plan. It is a change with less impact, so he did not see why that would require a public hearing. As to the second question; he did not see where that would possibly make a difference since the project has shrunk in on itself so, the people who had objected and the ones who either supported it or did not object to it in the past would have less of a reason to object. **Town Planner Kate Maynard**, stated she had only ten minutes to review the new legislation before the meeting but she had some thoughts: The open space was one, the amount and there again that has shrunk as well, that needs to be accurately counted. Any potential use identified, that was a question that the board wanted to see anything other than forever wild. The walking path we talked about. The other one was the legislation to note the pedestrian vehicular connection to the south be included. Ms. Maynard also mentioned the screening for Mr. Johnson's house and deed restrictions. There are some items we looked at description questions that need to be corrected and parking, a recommendation is to leave that general. **Dr. Gabay** wanted to be on record as stating that he felt this project was not the best fit for the Town of Wilton. He was concerned about the project generating a burden on tax payers and the school district. **Councilman Gerber** stated that there is always a lot of discussion regarding the master plan. The master plan is a very important document and is subject to interpretation and a very subjective document. This is a transitional use area. The transition is from residential and commercial uses. One could argue that an apartment complex has both components, it's a commercial venture for a developer or an owner, yet it does provide residential housing units, which is called for in the master plan. I take exception when somebody says we are side stepping the master plan. **Mr. Johnson** an adjacent property owner to the project stated that he wanted the board to mitigate the transition from what he has now and what is, to what will be. He would like to have something in place at the outset. He would like to have a shield now. **Supervisor Johnson** asked Ms. Maynard that when this goes to the Planning Board for site plan approval they could make sure buffering and landscaping could be done.

On a motion introduced by Councilman Gerber, the board adopted the following resolution:

RESOLUTION # 153

NOW, THEREFORE, BE IT RESOLVED, to approve the PUD legislation with the amendments and changes mentioned by Kate and Rich and with the understanding that at the Planning Board level the buffering will be taken care of, minimizing the impact on the neighbors.

The adoption of the resolution was seconded by Councilwomen Needham, duly put to a vote, all in favor.

Deputy Supervisor O’Conor, abstained from voting.

Petitions in Support of Bike Path

Pat Tuz

Supervisor Johnson recognized Ms. Tuz and asked her to address the board. **Ms. Tuz** presented the petition with 300 signatures that the Saratoga Healthy Transportation Network collected in support of the multiuse off-road path. **Supervisor Johnson** explained that the Town is still waiting to receive some easements which we need before we take the next step. He thanked her for coming.

Councilman Gerber explained that he had something to submit that a resident had given him last weekend. He stated that he was in favor of bike paths but he was not in favor of this design and this particular bike path due to the cost, the limited service area and the safety concerns he had brought up previously. He had received a phone call from a resident in the Greens who was upset over the proposed easement that would go across their development. The resident collected 45 signatures on a petition and a couple of pictures that she asked him to submit to the Town Board to show what they felt would impact their development. Their main concern is safety.

WWSA (Water Sale & Distribution Agreement)

Resolution

Supervisor Johnson asked Attorney Dave Harper to address the board. **Attorney Harper** explained that a developer has proposed a subdivision on the south side of Loudon Road between Ingersoll and Edie Roads, approximately 50 lots as part of his application he wants to be able to provide municipal water. So, we approached the Wilton Water & Sewer Authority and Commissioner Scirocco, from the City of

Saratoga Springs to see if we could propose an agreement in which the City would sell water to the Wilton Authority and the Authority would sell it to the residents of the subdivision. Supervisor Johnson asked for a motion and a second to approve the agreement.

On a motion introduced by Councilman Gerber, the board adopted the following resolution:

RESOLUTION # 154

NOW, THEREFORE, BE IT RESOLVED, that the Town of Wilton approve the proposed Water Sale & Distribution Agreement which the Wilton Water & Sewer Authority has approved, by which the City of Saratoga Springs would sell water to the Authority to be distributed within the Town of Wilton, and;

FURTHER BE IT RESOLVED, that the Town of Wilton join in the Authority's request that the City sell water to the Authority as described in the proposed agreement.

The adoption of the resolution was seconded by Councilwoman Needham, duly put to a vote, all in favor, except Deputy Supervisor O'Conor, who voted no.

Historic Preservation Assessment Freeze Provision

Ray O'Conor

No action taken, tabled

The Wilton Global Job Development Corp.

Blueprint for Economic & Job Growth

Ray O'Conor

Supervisor Johnson asked Deputy Supervisor O'Conor to address the board. **Deputy Supervisor O'Conor** explained that it has taken several months longer than anticipated but everyone has a draft copy of the blueprint for economic job growth and over the next couple of weeks take some time to look through it, any comments, questions, concerns you can talk to him or Kate. A couple of things to think about that Kate brought up were making an addition to the Town of Wilton website, having a link with information so we can spread the word. After we have a final draft we have a formal unveiling of the plan and get some other interested parties of economic development involved. **Supervisor Johnson** thanked everyone involved.

Committee Reports (If Any)

Supervisor Johnson asked if there were any committee reports.

Councilman Gerber stated he had two things; The Eastern New York Youth Soccer Association has announced that they are going to use three sites in our area to host The US Youth Soccer Region One President's Cup during the 2010 Memorial Day Weekend. So May 28th through the 31st, they are going to be using Gavin Park, Clifton Commons and Maywok Park. They are projecting that the economic impact for our area will be between one and three million dollars. There are Twenty two hundred players, one hundred twenty teams. Gavin Park does contribute to t he economic vitality of the region.

Councilman Gerber also stated that in the June Park and Recreation Commission meeting there was a proposal for a sports recruiting seminar to be held at Gavin Park. The fees were recommended to be waived in the Park minutes for the Town Board to waive these fees.

On a motion introduced by Councilman Gerber, the board adopted the following resolution:

RESOLUTION # 155

NOW, THEREFORE, BE IT RESOLVED, to waive the fees for the sports recruiting seminar to be held at Gavin Park, this is a no fee program for parents.

The adoption of the resolution was seconded by Deputy Supervisor O'Connor, duly put to a vote, all in favor.

Comptroller's Report
(Including Bills & Transfers)

On a motion introduced by Deputy Supervisor O'Connor, the board adopted the following resolution:

RESOLUTION # 156

NOW, THEREFORE, BE IT RESOLVED, to approve the 2009 budget transfers and amendments requested for and listed in the Comptroller's 8/6/09 report to the Town Board.

The adoption of the resolution was seconded by Councilman Gerber, duly put to a vote, all in favor.

County Sales Tax Distribution

On a motion introduced by Deputy Supervisor O'Connor, the board adopted the following resolution:

RESOLUTION # 157

NOW, THEREFORE, BE IT RESOLVED, to approve the Town's share of sales tax revenue to be paid in cash.

The adoption of the resolution was seconded by Councilman Gerber, duly put to a vote, all in favor.

FEMA/SEMA

Comptroller Reale explained that the Town received a check in the amount of \$169,015 for reimbursement of sand and salt used during the December 2008 Ice Storm.

Personnel

a.) **Carrie Fisher(Second Job)**

On a motion introduced by deputy Supervisor O'Conor, the board adopted the following resolution:

RESOLUTION # 158

NOW, THEREFORE, BE IT RESOLVED, to approve the request submitted by Carrie Fisher to work a second job; the hours do not conflict with her regularly scheduled hours.

The adoption of the resolution was seconded by Councilwoman Needham, duly put to a vote, all in favor.

b.) **Ron Stunzi (Retirement Letter)**

Councilman Gerber stated that he has had the privilege of living next to Ron for twenty years, Ron is a guy who took his job seriously, he was a dedicated employee for all those years and the Town will miss people like him.

On a motion introduced by Deputy Supervisor O'Conor, the board adopted the following resolution:

RESOLUTION # 159

NOW, THEREFORE, BE IT RESOLVED, to accept and approve Ron Stunzi's letter of retirement with regret, effective date will be 09/29/09.

The adoption of the resolution was seconded by Councilman Gerber, duly put to a vote, all in favor.

NOT ON AGENDA (Cynthia Vincek)

Supervisor Johnson explained that there were some people who wanted to address the board and waited till the end of the meeting to do so. He then asked the Miss Vincek to come and address the board. **Cynthia Vincek** explained that she did not know where to begin. Her family has a farm on Smithbridge Road, the Vincek Farm. She stated she was a Vincek and she had come in to Town Hall in February looking for a copy of the survey of her property and a couple of weeks later Mr. Mykins gave her a letter stating she was no longer able to keep horses on her property. The horses have always been there. The whole farm is grandfathered starting in 1974 it was R-1. In 1989 she got her first pony, her father and grandfather built her a barn in the pasture that had been there. The property was subdivided in 1993 her grandfather gave her father 2 acres to build a home. During the subdivision there was a horse and a pony there. Her father was given a building permit with the horse and pony still there. Then her father passed away. She has spent a very long time fighting even against her own family to keep the property and the house. She was finally ready this spring to start finishing the house. She cannot get a building permit because she is not in compliance with the code as far as having horses. She got a determination letter from Mr. Mykins in March stating it was an R-1 zone, horses are not allowed. She needed 200,000 square feet to have horses but really it's 40,000 and I have 72,000, so I should have enough. She then filed for an interpretation which she was advised to do and she was told the Zoning Board would interpret the one piece of code Mr. Mykins was basing his decision on. When she got here she did not speak up for her-self as well as she should have, because the part of the code that Mr. Mykins read was completely different than the one Mr. Mykins photo copied for her. The determination letter Mr. Mykins gave, was dated a month and a half after the one Mr. Mykins gave to her. The Zoning Board ruled against her and now she has 30 days to remove these horses. She has no place to bring them and has no money to board them. All her relatives have horses also, but there barn sits on the working farm, where hers sits on her little parcel. **Deputy Supervisor O'Connor** does your uncle express any objection to you having horses there. **Miss Vincek:** Absolutely not. She had asked the Zoning Board in tears if she could apply for a use variance and she was told that was her prerogative. That did not give her much hope. That is why she came to the Town Board. **Supervisor Johnson:** So you went for a variance. **Miss Vincek:** stated that she went for an interpretation. **Attorney DeVall** explained that there is a technical provision in the code that says "When you subdivide and change the use of a previously grandfathered property you cannot, years later go back to the grandfathered property". There were some legal arguments that can be made about that, they were not made. Attorney DeVall also explained some options to her which were: One, she had thirty days to file a Notice of Appeal and go to Supreme Court in Ballston Spa. Option two: File for a use variance. There is more support on the Zoning Board for a use variance than you think. The third thing that is near and dear to my heart, is that the chief law enforcement person for the Town of Wilton is the Town Attorney and sometimes the building inspector forgets. Attorney DeVall also stated that the discretion as to whether to enforce and prosecute the zoning code is ultimately mine, as well as the relief the town seeks. **Miss Vincek** stated that what her argument should have been was chapter 129-107 of the Town Code stating "Once changed to conforming use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may be altered to a conforming use". Miss Vincek stated that never has been. **Attorney DeVall** stated that it did, the problem is after it was subdivided your father got a building

permit and partially built that house that is a change in use. **Deputy Supervisor O’Conor** stated that the law was designed so that someone in Lake Elizabeth would not get horses in a tight neighborhood, in your particular case you have the open area, you have the farm and you have had the horses around forever. **Attorney DeVall** explained that she would need a variance. **Supervisor Johnson** asked Attorney DeVall to see if there was something he could come up with. **Deputy Supervisor O’Conor** stated that maybe the zoning could be changed and a public hearing set for next month. After some discussion, **Attorney DeVall** explained she had two problems enforcement of the prohibition of horses being there and your request to do building work there. The building inspector is in charge of issuing building permits, I get no vote in that, so you get to keep your babies there but your house continues **Miss Vincek** interrupting, stating that was all she wants. **Attorney DeVall** stated that as long as you can assure me that you will continue to work with myself and Town Engineer, Keith Manz, to make an effort, to actually put together some sort of a zoning change to the board or something like that. Then I think my position is that we are not interested in prosecuting you. **Miss Vincek** stated she would do anything Attorney DeVall needed her to do.

Councilman Gerber provided a letter from resident Sheila Duggal, regarding safety concerns on Northern Pines and Carr Road, which he wants on the agenda for the September meeting.

Supervisor Johnson asked for a motion and a second to adjourn the meeting.

On a motion introduced by Councilman Gerber, and seconded by Councilwoman Needham, the meeting was adjourned at 9:17 p.m..

Respectfully Submitted,

Carol Maynard, Town Clerk

Supervisor, Arthur Johnson

Councilman, Raymond O’Conor

Councilman, Charles Gerber

Councilwoman, Shirley Needham