

Planning Board

TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD JULY 5, 2018

PRESENT were RUSSELL OSTER, CHAIRMAN, TIMOTHY CASEY, KEVIN MAINELLO, DONALD HENDERSON, and DAVID TARBOX.

ABSENT were MICHAEL CZORNYJ and LINDA STANCLIFFE.

ALSO PRESENT were KAREN GUASTELLA, Brunswick Building Department, and WAYNE BONESTEEL, P.E., Review Engineer to the Planning Board.

Chairman Oster reviewed the agenda as posted on the Town website.

The Planning Board reviewed the draft minutes of the June 21, 2018 meeting. Upon motion of Member Henderson, seconded by Member Mainello, the minutes of the June 21, 2018 meeting were unanimously approved without amendment.

The Planning Board then reviewed the draft minutes of the June 18, 2018 special meeting. Upon motion of Member Tarbox, seconded by Member Casey, the minutes of the June 18, 2018 meeting were unanimously approved without amendment.

The first item of business on the agenda was the site plan application submitted by Nigro Companies in connection with an amendment to the Brunswick Plaza Planned Development District located at 716 Hoosick Road. Gregg Ursprung from Bergmann Associates was present on behalf of the applicant. Mr. Ursprung indicated that they had added additional landscaping on the southwest corner of the Taco Bell site and that Sunmark Federal Credit Union building elevations had been provided. Chairman Oster noted that the fire company had requested installation of a

speed bump but that the Board had discussed it and deliberated on it and decided not to require it. Chairman Oster further noted that the Board had decided that no public hearing would be required in light of the fact that the Town Board had previously held a public hearing on this project. Attorney Tingley indicated that the County referral had been made and had been received with local consideration to prevail. Mr. Ursprung indicated that the fire department had requested that three hydrants be upgraded and the applicant was willing to do so. Mr. Ursprung further indicated that Taco Bell had reviewed the most recent plans and had some requested changes. Among the changes Taco Bell requested included the removal of three trees in the front of the parcel for visibility purposes. Mr. Ursprung indicated that lower shrubs that were shown on the plan would remain but that the applicant was not proposing additional shrubs to replace the three trees that the applicant proposed to remove. Taco Bell had also requested additional landscaping between the parking area and the drive-thru area and an increase in the size of the sidewalk in front of the building from 5 feet to 7 feet. The Board then discussed whether the increase in the size of the sidewalk would reduce the amount of greenspace below what was permissible for the PDD. Attorney Tingley indicated that the PDD approval by the Town Board was based on a reduction in the greenspace from 20.19% to 19.46%. The applicant indicated that the approximate reduction in greenspace associated with increasing the sidewalk width in front of the building amounted to approximately 50 square feet on the 16-acre parcel. Mr. Kestner indicated that such a reduction in greenspace is negligible. Attorney Tingley advised the Planning Board that whether the project complies with the minimum greenspace requirement would be an issue that would be determined during buildout by the Building Department and that the Planning Board could move forward with action on the proposal based upon the evidence presented by the applicant and Mr. Kestner with respect to the change in greenspace being negligible. Mr. Ursprung indicated that Taco Bell had

also requested that a portion of the drive-thru be constructed with concrete, that additional bollards be placed at the end of parking spaces in front of the building, and that a clearance bar be added to the drive-thru area. Mr. Ursprung further indicated that Taco Bell had requested an access easement on the portion of the site that would be subdivided for the Sunmark Federal Credit Union building. Mr. Bonesteel asked whether the applicant had provided details on the proposed concrete pavement. The applicant indicated that it expected the thickness to be between 4 and 6 inches. Mr. Bonesteel stated that the concrete should be reinforced and should have a 6-inch thickness. Chairman Oster asked Mr. Tingley whether or not the Planning Board had to take any action on the site plan approval with respect to the State Environmental Quality Review Act. Attorney Tingley explained that the Town Board had conducted a coordinated SEQRA review and had already adopted a negative declaration, which satisfied SEQRA for all involved agencies, including the Planning Board. Attorney Tingley further noted that he and Mr. Gilchrist had a telephone conversation with Mr. Kestner and had prepared a list of conditions that the Board might consider in acting on the site plan. Attorney Tingley suggested that the Board, if it was in a position to approve the stipulation this evening, consider a motion approving with the following conditions:

1. The applicant shall coordinate with the Brunswick No. 1 Fire Department.
2. The applicant shall install barriers, such as bollards, at points of entry of the gas line for each of the proposed buildings.
3. The applicant shall install a knox box at each building.
4. The site plan approval does not constitute approval of signage on the site, which must comply with the Town's sign code.

5. During buildout, the applicant must provide information to the Building Department concerning the soils and the structural stability where the buildings are to be located.
6. The approval of the site plan is subject to any final review comments of the Town Water Department.
7. Prior to conveyance of the Sunmark Federal Credit Union building parcel, copies of cross-easements providing for access, parking, stormwater management, utilities, and snow storage must be filed with the Building Department.

Member Henderson suggested that an additional condition be added that requires the applicant to upgrade the three fire hydrants mentioned previously in the meeting. The Planning Board agreed that the additional condition should be added. Member Henderson then made a motion to approve the site plan based upon the revised plans received June 29, 2019 with the conditions stated by Attorney Tingley and the additional condition concerning upgrading the fire hydrants, which motion was seconded by Member Casey and was unanimously approved. The Planning Board then considered the waiver of subdivision application submitted by the applicant. Attorney Tingley explained that the subdivision portion of the project was added at the very end of the Town Board review process for the PDD, and although the Town Board adopted a negative declaration, it was his recommendation that the Planning Board consider adopting a determination of significance under SEQRA for the waiver of subdivision application. Attorney Tingley further explained that the physical aspects of the project were no different based on the waiver of subdivision, but that instead a property line would be drawn to separate the Sunmark Federal Credit Union building from the remainder of the parcel and to separate a strip of land at the front of the site for dedication to the State of New York. Member Mainello then made a motion to adopt a

negative declaration with respect to the waiver of subdivision application, which was seconded by Member Tarbox, and which was unanimously approved. Attorney Tingley indicated that the Board was in a position to act on the waiver of subdivision application if it was inclined to do so, and that Attorney Tingley had two suggested conditions that the Board should consider. First, Attorney Tingley indicated that the Board should consider a condition requiring that prior to conveyance of the Sunmark Federal Credit Union building parcel, copies of cross-easements for access, parking, stormwater management, utilities, and snow storage be filed with the Building Department. Attorney Tingley stated that a second proposed condition would be that the entire site, including both the Sunmark Federal Credit Union building lot and the remainder of the parcel remain subject to the terms and conditions of the Brunswick Plaza PDD as adopted and as amended. Member Henderson then made a motion to approve the waiver of subdivision with the conditions stated by Attorney Tingley, which motion was seconded by Member Mainello, and was unanimously approved.

The next item of business on the agenda was the application submitted by High Peaks Solar for special use permit/site plan/subdivision for the installation of a utility-scale commercial solar facility on property located at 566 Brunswick Road. Kevin Bailey on behalf of High Peaks Solar appeared on behalf of the applicant. Mr. Bailey reported that the Zoning Board of Appeals had granted the area variances requested with conditions, permitting a setback reduction from 100 feet to 40 feet, and permitting certain utility poles to be installed above ground. Chairman Oster noted that the Planning Board had adopted a negative declaration at its special meeting held on June 18, 2018. Attorney Tingley discussed with the Board that in prior solar farm applications, the Board had acted by written resolution with conditions appropriate to solar farm projects. Attorney Tingley stated that he could review conditions with the Board this evening and if the Board found

the conditions acceptable, could prepare a written resolution with conditions for consideration at the next meeting. Chairman Oster noted that the application had been delayed for a period of time for a number of reasons, and Attorney Tingley explained that the Board could alternatively adopt a motion to act on the application with the conditions determined at this evening's meeting with a direction to Attorney Tingley's office to prepare a written resolution and authorizing Chairman Oster to execute the written resolution. Chairman Oster asked Attorney Tingley to review the conditions that he had outlined. Attorney Tingley asked the Board to consider the following conditions in the event the Board was in a position to act on the application this evening:

1. The access driveway as shown on the site plan must comply with the Town Code and the Fire Code.
2. Subject to posting and maintenance of financial security for decommissioning of the commercial solar facility equipment in a form and amount acceptable to the Town of Brunswick.
3. Subject to final comments of the Planning Board engineer and the Town of Brunswick Water Department on final stormwater pollution prevention plan for this facility and filing of Notice of Intent to comply with the New York State DEC General Stormwater Permit for construction activities.
4. The applicant must coordinate with local emergency services, provide safety notices, and provide safety training to such local emergency services.
5. All panels used for the commercial solar facility must have anti-glare coating or consist of materials that will not produce offensive glare.
6. No further subdivisions of the subject property while the commercial solar facility is in operation and/or the solar facility equipment is present on the property.

7. All electrical conduit infrastructure owned and operated by the applicant shall be underground with the exception of that permitted by the variances granted by the Zoning Board of Appeals, with all other electric infrastructure owned and operated by the applicant to be installed at ground level, with the exception of that electric infrastructure allowed to be installed above-ground by the Zoning Board of Appeals variances.
8. Any tree cutting on the site will comply with the conditions imposed by the Zoning Board of Appeals in connection with the issuance of area variances.
9. No further removal of any vegetation on the property without further review and approval of the Brunswick Planning Board.
10. All approvals of the Public Service Commission for this commercial solar facility must be filed with the Town of Brunswick.
11. Access to the commercial solar equipment is limited to the access road as depicted on the site plan, and no other access shall be allowed without further review and approval of the Brunswick Planning Board.
12. All waste materials generated during site construction, including all packaging materials, must be removed from the site within a reasonable time.
13. The security fence around the perimeter of the commercial solar facility shall be eight feet high, with a knock box installed for emergency access.
14. Each commercial solar facility must be constructed and operated in compliance with all requirements of the National Electric Code.
15. The use of pesticides and/or herbicides is prohibited in relation to operation and maintenance of the commercial solar facility.

Attorney Tingley then indicated that the minutes for the Zoning Board of Appeals meeting at which the variances were granted were in the process of being prepared. He explained that the Zoning Board of Appeals had imposed conditions on the variances as follows:

1. Vegetation nearest the pole located proximate to Garfield Road must be maintained.
2. Trees in the area of the 40-foot setback may only be trimmed to a height that equals their distance from the closest solar panel.
3. Removal of trees and vegetation may only be done on the church property.
4. The applicant shall plant vegetative screening along the northern edge of the solar array.

Member Tarbox asked Attorney Tingley to explain the condition relating to the use of herbicide. Attorney Tingley indicated that the vegetation on the site would need to be maintained and that the condition would require that the applicant use some method other than herbicide to do so. The applicant indicated that it expected to trim the vegetation in the area of the solar array two times on average per year. The Planning Board then determined that it was in a position to act on the application with a direction to Attorney Tingley to prepare a written resolution reflecting the approval with conditions and authorizing the Chairman of the Planning Board to execute the written resolution once completed. Attorney Tingley asked if the Planning Board wanted the same conditions set forth by the Zoning Board itemized within the resolution or if a mere reference to the Zoning Board conditions would suffice. The Board indicated that referral to the Zoning Board's conditions would be sufficient. Member Tarbox then made a motion to approve the special use permit with the conditions stated by Attorney Tingley, which motion was seconded by Member Henderson and was unanimously approved. Member Mainello then made a motion to approve the site plan with the conditions as stated by Attorney Tingley, which motion was

seconded by Member Tarbox, and was unanimously approved. Member Henderson then made a motion to approve the subdivision with the stated conditions, which motion was seconded by Member Tarbox and was unanimously approved. The Board directed Attorney Tingley to prepare written resolutions reflecting the approvals with the conditions, and authorized Chairman Oster to execute the resolutions once prepared.

The next item of business on the agenda was the waiver of subdivision application submitted by Lacey and Eric Davidson seeking to divide off a 1.1-acre lot from the existing 4.13-acre parcel located at 100 Cole Lane. Lacey Davidson appeared on behalf of the applicant. Chairman Oster asked Ms. Davidson how the shed was going to be addressed. Ms. Davidson indicated that the proposed waiver of subdivision would follow the original lot line presented to the Board and that she proposed that the shed be removed within a year or upon sale of the property, whichever first occurred. Chairman Oster then noted that the current matter before the Board on this application was the recommendation to the Town Board on the waiver of the maximum number of lots allowed on a cul-de-sac/dead-end road system. Attorney Tingley indicated that his office had prepared a written recommendation for the Planning Board's consideration. The Board asked Attorney Tingley to review the drafted recommendation. Attorney Tingley read the entirety of the recommendation. Member Casey then made a motion to adopt the recommendation and to forward the recommendation to the Town Board, which was seconded by Member Henderson, and was unanimously approved. The Board indicated that the next Town Board meeting was scheduled for July 12, 2018, and that the recommendation would be forwarded to the Town Board, but that the Planning Board was not in a position to guarantee that the Town Board would be in a position to act on the request at its July 12 meeting. In the event the Town Board was able to act on the

application at its July 12 meeting, the Planning Board determined to place this matter on the agenda for the July 19 meeting.

There were several items of additional old business and new business to address.

The first additional item of old business to address was the site plan application filed by Andy James for the Simply Better Auto Center located on Hoosick Road. The applicant was not present. The Board determined to place the application on the agenda for the July 19, 2018 meeting.

The next application the Board addressed was the waiver of subdivision application filed by Robert Talham for property located at 2 Genessee Street. The Board determined to place the application on the agenda for the July 19, 2018 meeting.

The next item of business that the Board addressed was the special use permit application filed by William and Deborah Lyons for property located at 149 Moonlawn Road. The Board determined to place the application on the agenda for the July 19, 2018 meeting.

The next item of business addressed was the special use permit application filed by James and Carolanne Winckler for property located at 50 Colehamer Avenue. The Board determined to place the matter on the agenda for the July 19, 2018 meeting.

The next item of business addressed by the Board was the waiver of subdivision, special use permit, and site plan applications filed by Borrego Solar for property located at 138 Brick Church Road. Dean Smith appeared on behalf of the applicant. Mr. Smith stated that the purpose of the applications was to combine the two previously approved systems into a single system. He indicated that the total system size is the same and the proposed changes would allow the applicant to reduce the number of proposed power poles and pad-mounted equipment for the interconnection adjacent to the Brick Church Road entrance. He indicated that the changes would result in larger

setbacks and that by and large, the proposal was similar to the previously approved application. The applicant indicated that the overall number of panels on the site would decrease slightly as a result of the amendment, and that there would be minor adjustments in the type and number of equipment on the site. Member Tarbox asked the applicant whether it had secured a permit to cross the wetlands. The applicant responded that it was currently pursuing the permit but had not yet received it. The Board asked Attorney Tingley whether or not a public hearing would be required on the application. Attorney Tingley indicated that the Board is required to hold public hearings on all special use permit applications, but that this application in particular is an amendment of a previously approved special use permit. Attorney Tingley, after consulting the Zoning Code, indicated that the Zoning Code did not clearly state whether or not a public hearing would be required on an application to amend a prior special use permit approval. Attorney Tingley indicated that it was his opinion that if the Board found the modifications to be minor, and not substantial, then the Board could act without need for going to public hearing. Attorney Tingley suggested that the Board allow itself an opportunity to review the application materials, which would allow the Board to determine whether the changes proposed are substantial enough to require treating the application in the same manner as a special use permit application. The Board determined to place the matter on the agenda for its July 19, 2018 meeting.

The next item of business discussed was the special use permit application submitted by David Leon for property located at 1 Valley Avenue seeking approval to construct six 2–3-story apartment buildings. David Leon, Dean Devito, and Jamie Easton, P.E. appeared on behalf of the applicant. Mr. Devito of Prime Companies explained the proposed apartment community and its amenities. He indicated that the applicant had looked at the master plan, the Zoning, the site topography, the school district, the relevant market, and existing competition. He indicated that

the community would consist of 1–2 bedroom units with a target market of young professionals and snowbirds. He referred to a similar project that was in the process of being completed in the City of Cohoes known as the Hudson Square Apartments. He invited the Planning Board to contact him to view that project. Mr. Devito indicated that the project would consist of approximately 200 units with associated parking, roadways, clubhouse, and pool. He indicated that the project site was located within the Troy school district. He explained that the property was sloping so that the front of the buildings would appear to be two stories and the rear of the buildings would appear to be three stories. The project proposes to include parking in underground garages and would provide approximately two parking spaces per unit. The apartments would be rented at market rates and would be compliant with all zoning requirements with the exception of building height, which would require an area variance from the Zoning Board of Appeals. He outlined various security measures that were proposed for the project site. Jamie Easton, P.E., of MJ Engineering, indicated that the Town’s recently-adopted Comprehensive Plan designated the site for multi-family use. Mr. Easton reviewed the site layout with the Board and identified that it would create interconnectivity between the neighborhoods and a main traffic light that was proposed to be installed on Hoosick Road. Mr. Easton indicated that the proposal called for a looped access road near the clubhouse and identified areas on the concept plan where access to the underground parking would be located. Given the topography, Mr. Easton indicated that the proposal was to construct tiered buildings and he outlined the limits of the proposed grading plan. Mr. Easton further noted that the applicant was proposing to maintain vegetation in various areas and that the maximum slope on any proposed roadway would be 6% with most areas being less than 6%. Most roadway widths would have two 13-foot travel lanes and two 2-foot wings, with the exception of Valley Avenue Extension, which would be a one-way street and would have a one 13-foot travel

way with two 2-foot wings. Mr. Easton reviewed with the Planning Board a proposed right of way between the paper streets known as Valley Avenue and Ferdinand Avenue which would give the Town the ability to connect adjoining neighborhoods to the proposed traffic light. Mr. Easton reviewed the general concept for stormwater management and indicated that it would be privately maintained. Mr. Easton indicated that the sewer proposal would use a gravity line from the site to a pump station to be constructed by the applicant which would feed sanitary sewer to another gravity sewer line for transportation to the Rensselaer County Sewer District lines. Mr. Easton indicated that the water line was proposed to be looped with the water line located on Ferdinand Avenue, which would create redundancy in the system. Mr. Easton identified locations of proposed retaining walls along the roadway and indicated that such retaining walls would be located outside the Town right of way so that the Town would not have maintenance responsibility. Mr. Easton stated that the National Grid corridor running along the western edge of the property would be approximately 15 feet higher than the grade of the site to be developed, which would reduce any visual impacts of the project on the nearby residential areas. Mr. Easton indicated that a revised long Environmental Assessment Form had been submitted. Chairman Oster asked Mr. Easton to review the status of the paper streets that were part of the initial presentation. Mr. Easton indicated that the paper streets were Valley Avenue and Ferdinand Avenue, which were shown on a 1911 subdivision map and title to which was accepted by the Town sometime between 1952 and 1956. Mr. Easton stated that ownership of the paper streets by the Town allowed the Town to construct and improve the roadways but did not require it. Mr. Easton indicated that the applicant was proposing to build a road on the paper streets that would be compliant with the Town's highway standards. Chairman Oster asked whether any private property owners had constructed any encroachments onto either of the paper streets at issue. Mr. Easton indicated that no

encroachments were located on the paper streets known as Valley Avenue and Ferdinand Avenue. Member Henderson asked Mr. Easton to review the proposed traffic flow for the site. Mr. Easton indicated that Valley Avenue would be a one way road running from Hillcrest to the rear of the Planet Fitness building. That connection would allow the residents located along Hillcrest to access the proposed traffic light. Member Mainello asked the applicant to review the slope of the proposed roadways in comparison to the slope on Hillcrest Avenue. Mr. Easton indicated that the slope on Hillcrest Avenue exceeded 6% and that the proposed slope on Valley Avenue would be on average 2.5%. Member Henderson asked the applicant how people would exit the site. Mr. Easton responded that most of the traffic would go to the traffic light which would provide for easier access to Hoosick Road, but that there may be some traffic that may use Ferdinand Avenue to exit through the adjoining neighborhood. Member Casey asked whether the applicant could provide an update on the status of DOT's approval of a traffic light. Mr. Leon reviewed the history of the efforts to secure DOT's approval for a traffic light and indicated that the proposed project provides elements that were lacking that had until now prevented DOT from approving the proposed traffic light. Mr. Leon stated that the proposal would develop a mixed use community, with the residents of the proposed apartment project having access to the Planet Fitness and being within walking distance to the proposed Aldi grocery store. The applicant indicated that the target lease rate would be between \$1,300 per month and \$1,500 per month. Member Henderson asked the applicant to describe the power service to the site. Mr. Easton reviewed the power service with the Board and indicated that all of the power lines would be located underground. Member Mainello asked how the Town plow trucks would maintain Valley Avenue and Ferdinand Avenue if the Town did not accept the interconnection as shown on the concept plan. Mr. Easton indicated that the Town trucks would likely simply lift their plows in areas where they would not be plowing

Town owned roadways. The applicant stated that it was seeking a special use permit only and was not yet seeking site plan approval. The applicant determined to pursue special use permit prior to site plan review to avoid unnecessary engineering costs associated with preparing detailed site plans in the event the special use permit was not approved. Mr. Easton indicated that it had reviewed Mr. Bonesteel's memorandum concerning the Zoning Law's requirements for submission of special use permit applications and stated that all requested information had been provided. The Board asked Mr. Easton to address how the project would affect drainage and the wetlands. Mr. Easton indicated that the project would discharge additional water to the wetlands which would benefit the wetlands but that it would do so at a controlled rate. The Board also asked what would be the water quality and water quantity impacts to Coopers Pond. Mr. Easton indicated that discharges would be treated in compliance with New York State DEC standards and that runoff rates would not exceed existing conditions. Mr. Easton identified that the original proposal sought 160± units, but the proposal was increased to approximately 200 units because the project changes would result in additional costs to the developer that needed to be taken into account. Mr. Easton indicated that the traffic study done for the Planet Fitness and Aldi grocery store parcels was in the process of being updated to reflect the current proposal. Mr. Easton further indicated that the impact to the school district would be assessed. Mr. Henderson asked how many cars an apartment community would generate on average per unit. Mr. Easton indicated on average that an apartment generates 1.5 cars. Mr. Easton further indicated that this standard would require approximately 300 parking spaces, but they were proposing 404 parking spaces. Member Henderson indicated that he had concern relating to the additional traffic being added to Hoosick Street. Mr. Easton indicated that DOT's 2001 comprehensive traffic plan for this area called for a traffic light at this area but that it was not being approved by DOT in the absence of additional

connectivity of the neighborhoods and additional traffic flow. Member Casey asked whether there was enough Town-owned property on Valley Avenue to accommodate a two-way street. Mr. Easton replied that there was, but that the public, namely residents on Hillcrest Drive, had expressed concerns relating to additional traffic in their neighborhood. A one-way road on Valley Avenue would address those concerns. The Board then discussed procedure. Attorney Tingley indicated that the Board could move forward with circulating a lead agency coordination notice and if it deemed the application sufficiently complete, could schedule a public hearing on the special use permit application. Mr. Bonesteel indicated that he believed the application was complete enough for purposes of scheduling a public hearing. Member Casey made a motion to circulate a lead agency coordination notice, which was seconded by Member Mainello and was approved unanimously. The Board determined to schedule the application for public hearing to be held on August 2, 2018. The Board determined to place the matter on the agenda for the July 19, 2018 meeting for purposes of answering any further questions.

The index for the July 5, 2018 meeting is as follows:

1. Nigro Companies - Brunswick Plaza PDD site plan - Approved with conditions;
2. High Peaks Solar - Special use permit/site plan/subdivision - Approved with conditions;
3. Davidson - Waiver of subdivision - July 19, 2018;
4. Simply Better Auto Center - Amendment to site plan - July 19, 2018;
5. Talham - Waiver of Subdivision - July 19, 2018;
6. Lyons - Special use permit - July 19, 2018;
7. Winckler - Special use permit - July 19, 2018;
8. Borrego Solar - Waiver of subdivision/special use permit/site plan - July 19, 2018;

9. Leon - Special use permit - July 19, 2018.

The proposed agenda for the July 19, 2018 meeting currently is as follows:

1. Davidson - Waiver of subdivision;
2. Borrego Solar - Waiver of subdivision/special use permit/site plan;
3. Leon - Special use permit;
4. Lyons - Special use permit;
5. Winckler - Special use permit;
6. Talham - Waiver of subdivision;
7. Simply Better Auto Center - Amendment to site plan.