

The continuation of the public hearing, that was held by the Town Board of the Town of Ballston on Tuesday evening, November 25, 2014, was reconvened on Tuesday evening, December 9, 2014 at the Town Hall on Charlton Road, Ballston Spa.

PRESENT: Patrick Ziegler ----- Supervisor
Timothy Szczepaniak ----- Councilman
William Goslin ----- Councilman
Kelly Stewart ----- Councilwoman
John Antoski ----- Councilman
Carol Shemo ----- Clerk
ABSENT: James Walsh ----- Counsel

Supervisor Ziegler reconvened the public hearing at 7:20 p.m. He stated that this public hearing remained open to receive a comment letter from the Zoning Board of Appeals. In addition, we received a referral letter from the Saratoga County Planning Board that was read into the record. Also, Mr. Brooks has requested time to answer questions and comments that were addressed in the prior hearing. This time will be followed again by public comment.

Supervisor Ziegler read the letter from the Saratoga County Planning Board:

Saratoga County Planning Board Referral Review #13-203-PUDD (revised) and Ag Data Statement for Abele Woods Subdivision/Heritage Development Holdings, LLC
Formerly Timber Creek Phase IV
Residential development of 96 acres comprised of 129 SF lots, 11 twin home lots, and 60 condo/apt units (total= 211 du)
East side of Benedict Road and west side of East Line Road (CR #82) across from Raylinski Road.

Received from the Town of Ballston Planning Board on August 26 & September 17, 2014.

Reviewed by the Saratoga County Planning Board on September 18, 2014

Decision: Approve

Comment:

The proposed development was originally submitted and reviewed as a mixed-use planned unit residential development comprised of 276 units (with a PUD designation because it involved more than 100 units) located in the Ballston Lake Residential District with a traditional neighborhood design. The project is serviced by Saratoga County Sewer District #1 and town of Ballston water. We note that the land is comprised of loamy soils, resulting in a poorly drained site with need for six (6) engineered storm water management areas. There are ACOE and DEC wetlands requiring permits for ten (10) roadway crossings with disturbance of 0.46 acres and two (2) areas of wetland mitigation being created (1.21ac.). Regarding the traffic report, we note no reference to sight distance problems. The applicant should meet with Ted Serbalik to review the proposed new intersection with the county road, discuss the process for a curb cut permit and permit for work in the county ROW, and review the extent of the staggered alignment of the new subdivision road with Raylinski Road.

Michael Valentine, Senior Planner
Authorized Agent for Saratoga County

xc. Ted Serbalik, Sar Co DPW

Supervisor Ziegler stated according to §138-96 of the Town Code the Town Board of the Town of Ballston forwarded the Abele Woods PUDD to the Zoning Board of Appeals for their comments. At the December 3, 2014 Zoning Board of Appeals Meeting, Mr. Brooks addressed the issues of the Zoning Board of Appeals and was in agreement with their recommendations and the changes were made to the PUDD language. Supervisor Ziegler read the Zoning Board of Appeals comment letter:

Pursuant to Section 138-96 of the zoning ordinance, the Town of Ballston Town Board requested the Town of Ballston ZBA to review and “report” back on the proposed Abele Woods PUDD. It is proposed that Timber Creek Phase IV be changed from Ballston Lake Residential District to Planned Unit Development District (PUDD) in the Town of Ballston to be known as the Abele Woods Residential Subdivision PUDD (formerly named Timber Creek Phase IV PUDD).

Since Traditional Neighborhood Development (TND) is allowed by the Town of Ballston zoning ordinance, the ZBA has reviewed and recommends approval of the proposed Abele Woods PUDD with the following concerns and comments:

(1) Page 11, 3.A.1, Setbacks

(a) The lot width for Single Family lots should be changed to 65’ instead of the 60’ shown.

(b) The lot width for Townhouse lots should be changed to 110’ instead of the 80’ show.

These changes were noted and approved by Geoff Brooks (Heritage Development Holdings).

(2) Page 11, 3.A.2

The paragraph states “front yard setbacks would not apply to decorative fences, garden walls, porches, stoops, or bay windows”.

The ZBA realizes that a PUDD has its own zoning, but setbacks in zoning ordinance apply to the most extremity of a dwelling. Therefore, ZBA recommends deleting porches, stoops, and bay windows from this paragraph. Fences and garden walls are deemed to be okay as they conform to the zoning ordinance.

(3) Page 18, 9.B, Air emissions: All areas

“No wood-burning stove shall be permitted”.

Per Geoff Brooks, (Heritage Development Holdings) this paragraph only applies to outdoor wood-burning stoves and boilers. Therefore, this paragraph should be changed to “No outdoor wood-burning stove or boilers shall be permitted”.

Therefore, the ZBA recommends the Abele Woods PUDD be approved with these issues addressed.

Michael V. Lesniak, Jr.
Town of Ballston ZBA Chairman

Developer Geoffrey Brooks reviewed the packet that he sent to the Town Board.

- Question on the high water table
He has four maps of Phases I, II, III and IV with the test pit data that concur with their findings. The high water table in Phase I and II are no different than in Phase IV. The Planning Board addressed the high water table during the SEQRA process and gave the project a Negative Declaration.
- Concern about the problems on Leah Court
This issue was brought up during the SEQRA process by the Planning Board. Road implementation with the present upgrade to the new Town standards, life of the road, grading and Stormwater Management issues were met.
- Question about the SWPPP and who is responsible if the system fails
Mr. Brooks stated the HOA is responsible. This was reviewed in the SEQRA process. CT Male reviewed the phases prior to and after implementation and stated the stormwater system had zero problems.
- Question concerning the test pit data
In Phase II they had high water at 6” and had no issues. The Stormwater implementation Plan was covered under the SEQRA process.
- Concerns about traffic related issues
Initial study was completed in 2009 when the density was far greater than we are looking at with this project. The Planning Board, CT Male and BFJ reviewed and upgraded the studies 2010, 2011, 2013 and 2014. The Planning Board granted the project a Negative Declaration.
- Concerns about school districts

Mr. Brooks spoke with Mr. McGrath about the Burnt Hills-Ballston Lake School District and Mr. McGrath saw no issue with the added homes. Mr. Robinson of the Shenendehowa School District said the capacity is there now within the school district and he projects a decline in enrollment so these homes will not be a burden to the school district.

- Concern about the Clifton Park subdivision impacted an adjacent parcel
SWPPP legislation was in its infancy when the Clifton Park subdivision was built. Three developments followed had no problem. They received a Negative Declaration from the SEQRA process.
- Concern about the percentage of wetlands
Mr. Brooks stated that Phase I had 70% wetland preserved, Phase II had 30% wetland preserved, Phase III had greater than 50% wetland preserved and Phase IV had 18% wetland preserved. Army Corps of Engineers gave a jurisdictional determination letter and DEC signed off on the maps presented to the Planning Board. The site approval process by the Army Corps of Engineers allows a ½ acre of disturbance.
- Concerns about the catch basins
Concerns were raised on their location, structure and vegetative buffers. These issues were addressed by the Planning Board.
- Concerns about wildlife
The project was reviewed by the following: North Country Ecological Report on wildlife, US Fish and Wildlife sent a letter, Benchmark Forest and Land Management walked the property and VanGuilder Associates used GPS to locate the trees. All information was given to the Planning Board during the SEQRA review and none of the agencies said to stop the process because you are in a non-development area. He will have to go back to those agencies for final permits for site plan review and development. Planning Board and CT Male reviewed all the information and granted a Negative SEQRA Declaration.

In closing, Mr. Brooks stated the initial application for the PUDD was sent out May 2013. There have been several public hearings and all the comments have been the same. The Town Board sent the PUDD to the Planning Board. A thorough, extensive, exhausting review was completed with multiple comment letters and reports. A Negative SEQRA Declaration was granted by the Planning Board. It is important to note that no other residential PUDD has gone through the lengthy process or in depth study as Abele Woods. He asked the Town Board to heed the advice of the agencies and the Planning Board declaration and move the project forward.

Councilman Szczepaniak asked Mr. Brooks if Raylinsky Road was aligned with the Timber Creek Road.

Mr. Brooks responded that he met with Saratoga County Highway Superintendent Mantz and was told that what he presented with the alignment of the roads was no problem. Mr. Mantz said there may be additional roadwork required in the right-of-way of Raylinsky Road. Mr. Dell, engineer for this project, stated that the county will be reviewing the detailed engineering plans for the grading, stormwater, flags and approach angles in order to get a curb cut permit.

Supervisor Ziegler asked if the Army Corps of Engineers and DEC have signed off on this project. Where are we in the process to move forward?

Mr. Brooks replied that the process is you consult with the county wetland webpage map for reference only. Then a wetland specialist flags the property. ACE and DEC verify the delineation, GPS is used to locate the flags and a field walk is done. The ACE writes up a determination letter and the EPA signs off. DEC signs off on the maps. The developer then can lay out the development. The Planning Board gives site plan approval and this plan is sent to ACE and DEC. The developer still has to get permits. The project before the Board is just a rendering not the final plan.

Councilman Goslin stated that Phase IV on the county map shows the whole area is wet.

Mr. Dell answered that is due to the high elevation aerial photography; it is not on ground level delineation.

Mr. Brooks said Phase I had 110 acres they were only able to develop 30 acres due to preserving wetlands and their buffers.

Councilwoman Stewart stated that there is a difference between wetlands and high water table.

Councilman Antoski asked Mr. Brooks if he would put a basement in a unit that had a water table of 6 inches?

Mr. Brooks said they would develop around the site or raise the site.

Councilman Goslin asked how developing around the wetlands affects the residents in this case on Hearthsides Drive. They had a problem here 10 years ago on Cane Court with flooding after removal of trees and change in elevation.

Mr. Brooks stated that the NYS DEC law requires you to not take any more water that you have pre-developed to allow to leave your site. All these ponds are placed so that we are capturing all the impervious surfaces so that the impact to those people should be nil.

Councilman Antoski asked that with the consideration of the raised area would there be a sense of the number of homes you would develop? If there is an issue with water on a neighbor's property, what happens?

Mr. Brooks answered that the number of homes would be worked through with the Planning Board. With the new stormwater law, it requires zero impact on neighbors. If there is a water problem, the Building Department does an inspection and if the stormwater system is failing the HOA will have to fix it or DEC will levy fines.

Councilman Antoski asked with the setback changes recommended by the ZBA will this change the number of homes.

Mr. Brooks said this will not change the number of homes and with the townhouses there are 2 units on a complete lot.

PRIVILEGE OF THE FLOOR

Mr. Jeffrey Baker, attorney representing Susan and David Gibson, presented a protest petition pursuant to Town Law §265 signed by homeowners representing 20% of the land around the project. He reminded the Town Board that any action taken to amend the zoning would require a super majority vote. He addressed basic issues with the proposed local law since this version does not line up with the project or the Negative Declaration. This project calls for 211 units, Negative Declaration states 213 or 218 units while the local law states 250 units. In Area A there is 136 single family units versus 129 in the Negative Declaration and 26 Townhouses versus 22 in the local law and 88 apartments condos versus 60. This difference has to be changed. The PUD not only calls for a community center but also a neighborhood live-work space with a range of commercial uses not specified in the project. There are also residential uses of an unspecified number. The Planning Board mandated 2.5 parking stalls and the PUD shows 1 parking space. Mr. Baker said the Board should be careful what you are adopting. This project should be sent back to the Planning Board for a Positive Declaration. The fourth phase of this project has the highest water table and there have never been test pits on this site. He questioned the stormwater plan for this project. Although there are a variety of wetlands Federal and NYS, this does not identify all the biological wetlands. The developer does not have a right to cram every building in this project. The obligation for the stormwater is with the HOA, innocent land owners who have to pay to fix this problem not the developer. This is the Town Board's responsibility to decide and they do not have a legal right to this rezoning. The Board should go with the traditional neighborhood design. This project is oversized for the sensitive soils and the wildlife that needs to be protected. We urge you to reject this proposal.

Mr. Gibson read an informal petition signed by residents of Ballston, Clifton Park and Malta who object to this project of Abele Woods. The undersigned residents in the Towns of Ballston, Clifton Park and/or Malta, hereby formally object to the rezoning of the parcels located in said proposed rezoning that is required to construct the 211-unit subdivision known as Abele Woods Residential Subdivision, or Timber Creek Phase IV. The undersigned object to the proposed rezoning on the principal basis that the land is unsuitable and unsustainable for residential development, 80% of which is poorly drained wetlands, and because the development as proposed will:

A. pose a severe traffic and public safety hazard at the intersections of East Line and Raylinsky Roads, and Hatlee-Benedict and Round Lake Roads;

B. pollute, degrade or destroy a large system of wetlands and streams which drain into Round Lake, and which currently serve to mitigate against flooding of adjacent or adjoining homeowners;

C. will raise the water table for adjacent or adjoining homeowners in Ballston, Clifton Park and Malta;

D. will require expensive stormwater management systems that will be problematic and likely fail in the future, and become the responsibility of the Town and individual future homeowners;

E. will destroy valuable wildlife habitats and trees 100 years or older, habitats which are currently extremely rare, and vulnerable near Northway Exit 11.

Mr. Gravereaux is a resident of Clifton Park and he owns property in the Town of Ballston that abuts Abele Woods. He is not against development but you need to plan smart. His attorney had grave concerns about his purchase of the property that abuts Abele Woods since it was swampy and he would not be able to build there. He is concerned about the economic harm to his section of Clifton Park since they have problems with the high water table in his development. He gave the Board information showing the wetlands on Abele Woods. His maps show the area is 100% wetlands, void of trees and constantly underwater. The standing ponds hold water that is already there. What about the homeowners who will have to pay for continual damage. He is concerned with the water that gets displaced so that the development is fine but the neighboring properties are affected. The Town Board cannot be 100% certain that this development will not affect Clifton Park properties and surrounding communities. More studies need to be done. The Town Board should vote no.

Mr. Abele lives in Clifton Park and is a developer working in Clifton Park and Halfmoon. New York State is not an easy state to develop properties; they set a very high bar. SEQRA is a very thorough process and the regulations are extremely difficult. Mr. Brooks has a development Phases I, II and III and they have done well. When beginning to develop a property, zoning is the first approval with detailed engineering to follow. With wetlands, you can have a 1/2 acre of allowable disturbance and it is closely monitored. The Stormwater regulations process is very well scrutinized and comes later in the process should the project go forward. Some people are opposed to this project but it is not the overall sentiment of the Town.

Mr. Brooks answered the comments of previous speakers that the water flows topographically from South to North not upstream and the tributaries flow cannot be disturbed. In site plan review of Phase I, II and III those standing water ponds are required under DEC law. There were 18 test pits done in Abele Woods during the SEQRA process.

No one else wished to speak. The public hearing was closed at 8:20 p.m.

Respectfully submitted,

Carol R. Shemo
Town Clerk