

MEMBERS PRESENT

Thomas Adams, Alternate
Maureen Cotter, Alternate
Gerard DiCesare
Lex Harvey
Mary Hendricks
Carmine Istvan
Thomas J. Knips, Chairman
Felix Lopez

MEMBERS ABSENT

Sheila Lahey, Vice Chair

OTHERS PRESENT

John V. Andrews, Jr., P.E., Town Engineer
Audrey Friedrichsen Scott, Esq., Town Planning Board Attorney
William H. Povall III, P.E. for SplashDown Beach
Steve Turk for Splash Down Beach
Michael Gillespie, P.E. for Lands of Steve Fox - Site Plan Modification for Steve Fox
Nicholas Ward-Willis, Esq. for Former Texaco Research Center
Lawrence J. Paggi, P.E. for Healey Chrysler-Dodge-Jeep-Eagle and Former Texaco Research Center
Ray VanVoorhis for Former Texaco Research Center
Monica Heavey for Former Texaco Research Center
Carl Kellar for the Former Texaco Research Center
Harry Terbush - Windsor Machinery Company, Inc.
Sarah Bower - Windsor Machinery Company, Inc.

The meeting was called to order by Mr. Knips, Chairman at 7:05 p.m. Mr. Knips appointed Mrs. Cotter to the Board this evening to fill in for absent member Mrs. Lahey.

DECEMBER 8, 2011 PLANNING BOARD MEETING MINUTES

Mrs. Hendricks a motion to approve the December 8, 2011 Planning Board Meeting Minutes as amended. Seconded by Mr. Harvey. Motion carried.

NEW SUBMITTAL

SPLASHDOWN BEACH - AMENDED SITE DEVELOPMENT PLAN

Mr. Povall stated that SplashDown Beach is requesting approval to amend the currently approved site plan to provide additional improvements which will include the construction of a new water slide attraction in the front adjacent to the existing Humunga Half-pipe attraction, with a 60 foot high tower that does require a 15 foot height variance from the Zoning Board of Appeals, a concrete picnic area, a walkway between "Pirates Plunge" and "Adventure Island," lighting and temporary/movable fencing for evening usage on a portion of the site. Mr. Povall stated that in order to make these improvements, existing items would be relocated and/or removed such as a shed, storage container and a Nathan's portable booth. Mr. Povall stated that the parcels for this proposal are located at 16 Old Route 9 West and 2 Old Route 9 West and consist of 35.69 acres, in the GB (General Business) Zoning District.

NEW SUBMITTAL
SPLASHDOWN BEACH - AMENDED SITE DEVELOPMENT PLAN
(CONTINUED)

Mr. Knips asked how many variances are currently issued for this site. Mr. Povall stated that there are currently three (3) other variances on the site for other ride attractions.

Mr. Knips asked how tall this new tower is in relation to the existing ones on the site. Mr. Povall stated it is about 10 feet higher than the other towers. Mr. Povall stated in order to accommodate the new ride they will move the existing fence out.

Mr. Povall stated that they are proposing to light the back half of the park from the Crocodile Creek area back, this will include the wave pool, the Pirates Plunge, the Humunga half-pipe and the new proposed slide. Mr. Povall stated that they are proposing to utilize the lighting from 2 p.m. to 11 p.m. to accommodate the patrons utilizing the park. Mr. Povall stated that the park hours would be extended for groups that rent the park at night after 8 p.m.

Mr. Lopez asked how the lighting would affect the residents in the area. Mr. Povall stated that they are proposing more lighting fixtures so that no high light poles would be required. Mr. Povall stated that the majority of the lights are on poles about 20' to 25' high which is necessary to light the area. Mr. Povall stated that the lighting meets the Town code and is primarily directed in a downward direction. Mr. Povall stated that the majority of lighting is being used to light up the pools to meet the NYS Health Department requirements.

Mr. Harvey asked the elevation from Route 9 to the proposed attraction. Mr. Povall stated that overall the grades does go up, a lot of the land where Estelle & Alfonso is will block the sight of the tower. Mr. Povall stated that he doesn't believe the proposed tower will be visible for Route 9.

Mr. Istvan asked how big the area is and how many lights will be used. Mr. Povall showed the Board the lighting plan.

Mrs. Cotter stated that right now the park is not accommodating groups after dark. Mr. Povall stated that is correct. Mr. Povall stated that the season is Memorial Day to Labor Day.

Mr. Knips asked if a completed application and necessary fees have been received; Ms. Davis stated yes.

Mrs. Hendricks made a motion to refer the application to the Town Engineer, Town Planning Board Attorney, Town Building Inspector, Dutchess County Department of Planning & Development, New York State Department of Environmental Conservation, New York State Office of Parks, Recreation & Historic Preservation and the Rombout Fire District for their review and comment. Seconded by Mr. Lopez. Motion carried.

NEW SUBMITTAL
SPLASHDOWN BEACH - AMENDED SITE DEVELOPMENT PLAN
(CONTINUED)

Mr. Povall stated that they would like to make some adjustments to the lighting and that he would like the Board to accept them as part of this review and forward them as part of this application. The Board resolved that they would accept the revised lighting plan and that it will be referred as part of the application.

Mr. Knips stated that because this does require a variance from the ZBA, that this Board cannot issue their approval until a variance is granted. Mr. Povall stated that he did make a submission to the ZBA and it is scheduled for their February meeting.

Mr. Andrews stated it is appropriate for the Board to declare their intent to be lead agency, to classify this an Unlisted Action and conduct a coordinated review. So moved by Mrs. Hendricks. Seconded by Mr. Lopez. Motion carried.

NEW SUBMITTAL
STEVE FOX - SITE PLAN MODIFICATION WITHIN THE ROUND HILL SUBDIVISION

Mr. Adams recused himself from this discussion and left the meeting room.

Mr. Gillespie stated that the applicant, Steve Fox, is requesting approval to construct a 351.5 S.F. addition and 96 S.F. deck off the rear of the existing dwelling unit. Mr. Gillespie stated that the parcel for this proposal is located at 11 Hemlock Court, in the DMUD (Designed Multiple Use Development District) and consists of 0.14 acres.

Mr. Andrews stated that Round Hill exists as the only DMUD in the Town of Fishkill; the actual ordinance was crafted for the Round Hill project. Mr. Andrews stated that this is the first time that anyone has decided to go out with an addition at Round Hill. Mr. Andrews stated that there is no clear path through our Town Code to allow this. Mr. Andrews stated that there is a homeowners association so the path that was charted was that we need a formal application for a site plan to alter the footprint, that you have to have an up-to-date as-built survey of the lot, it needs to go through the Site Plan approval process and you also need a sign off from the Homeowners Association approving this.

Mr. Andrews stated that the best thing to do is to treat this as a site plan for a multi-family development. Mr. Knips asked if we know what we are up against as far as lot coverage. Mr. Andrews stated he doesn't know the answer to this but as long as we don't intrude on any of the out-bounds we would make the assumption it is within the lot coverage. Mr. Knips asked could we tolerate that size addition on every unit within Round Hill. Mr. Knips asked how much we could grow the structure with impervious. Mr. Andrews stated he doesn't know if the original site plan truly exists with that data on it.

Mr. Fox stated there are several additions that exist in this development currently.

NEW SUBMITTAL
STEVE FOX - SITE PLAN MODIFICATION WITHIN THE ROUND HILL SUBDIVISION
(CONTINUED)

Mr. Gillespie stated the owner did petition the HOA (Homeowners Association) and did submit an approval letter as part of the application. Mr. Gillespie stated he understands that Lisa Villone appears on the approval form and that Lisa Villone is the daughter of the owner. Mr. Gillespie stated he would have the form corrected so that it indicates Steve Fox as the owner.

Mr. Andrews stated that even though the HOA have said it is okay we have a duty to make sure it is okay so the Board's counsel will need to look at the bi-laws to render an opinion that this is allowed. Mr. Andrews stated that it is the opinion of the Building Department that there are no additions within the development currently.

Mr. Andrews stated that it is a requirement that counsel needs to sign-off on the Homeowners Association document. Ms. Friedrichsen Scott stated that usually an HOA offering document contains the rules.

Mr. Gillespie stated that he has not investigated Round Hill as to existing conditions. Mr. Gillespie stated that there is an area at the end where it appears an addition was constructed but how that was done through the building department is not clear. Mr. Gillespie stated that this development has been in existence since 1984 or 1985.

Mrs. Hendricks stated because we are treating this as site plan, do we need to declare our intent to serve as Lead Agency. Ms. Friedrichsen Scott stated this will need to be listed first but we need to take a look and see where this falls.

Mr. Knips stated that the plans do not show the deck; Mr. Gillespie stated that they would certainly place that on the drawing.

Mr. Knips asked if a completed application and necessary fees have been received; Ms. Davis stated yes.

Mrs. Hendricks made a motion to refer application to Town Engineer, Town Planning Board Attorney, Town Building Inspector, Dutchess County Department of Planning & Development, Village of Fishkill Board of Trustees and the Rombout Fire District for their review and comment. Seconded by Mr. Harvey. Mr. Adams abstained. Motion carried.

REVIEW
HEALEY-CHRYSLER-DODGE-JEEP-RAM - AMENDED SITE DEVELOPMENT PLAN

Mr. Paggi stated that the landscaping would be typically, what you see in a rain garden. Mr. Paggi stated that it situated around the proposed catch basins. Mrs. Hendricks stated we are looking to utilize native species here.

FINAL

REVIEW
HEALEY-CHRYSLER-DODGE-JEEP-RAM - AMENDED SITE DEVELOPMENT PLAN
(CONTINUED)

Mr. Andrews reviewed his memorandum to the Board dated January 12, 2012; a copy of this memorandum is attached to the original minutes.

Mr. Andrews stated that for as long as there has been a building here there has been a drainage issue. Mr. Andrews stated that the fact that they are paving this end is not making the situation any worse and theoretically, it is not impacting the drainage at all. Mr. Andrews stated that there is nothing they can do at this time with the overall drainage; this is a bigger issue than Healey, as there are wetlands involved, NYSDOT is involved, etc.

Mr. DiCesare stated that no catch basins are being installed in that area. Mr. Paggi stated no.

Mr. Knips reviewed Ms. Axelson's memorandum to the Board dated January 11, 2012; a copy of this memorandum is attached to the original minutes.

Mr. Andrews stated that the calculations are done based on the GB (General Business) Zoning District with regards to Ms. Axelson's comment pertaining to coverage calculation.

Mr. Paggi stated that they have made application to the Zoning Board of Appeals for the variance. Mr. Paggi stated that when this project first developed it was multi-faceted and some signage was proposed. Mr. Paggi stated that when the project was brought to us Mr. Healey decided just to do the paving; they took the consideration of a small sign off the plans so they dealt with Building Department for the signs and obtained the building department. Mr. Paggi stated that they now have received corporate approval for another sign and he advised his client that he would discuss this with the Board as to how to proceed.

Mr. Paggi stated that Mr. VanVoorhis has been hired to take care of the architecture of the project. Mr. VanVoorhis stated that they are looking to add a front element with the Healey sign and showed the Board an architectural drawing. Mr. VanVoorhis stated that it would tie into the building.

Mr. Andrews stated that since we have not had a public hearing, he recommends that the Board amend the application to include this signage. Mr. Paggi stated he is asking the best approach from the Board. Mrs. Hendricks asked if the new sign conforms to the sign code, Mr. VanVoorhis stated he has not had an opportunity to review it with the Building Inspector yet.

Mr. Paggi asked the Board not to set a public hearing and stated the he would resubmit the paperwork to amend the application. Mr. Andrews advised Mr. Paggi to speak to Mr. Petrus regarding the allowance for the sign.

Mr. Knips reviewed the Lead Agency Circulation Response received from the Zoning Board of Appeals indicated that they take no exception to the Planning Board serving as Lead Agency.

REVIEW
HEALEY-CHRYSLER-DODGE-JEEP-RAM - AMENDED SITE DEVELOPMENT PLAN
(CONTINUED)

Mr. Knips reviewed the Lead Agency Circulation Response received from Dutchess County Department of Planning & Development indicating that they take no exception to the Planning Board serving as Lead Agency.

REVIEW
FORMER TEXACO RESEARCH CENTER - PROPOSED SUBDIVISION
AND
FORMER TEXACO RESEARCH CENTER HYDRO-ELECTRIC FACILITY - PROPOSED SITE
DEVELOPMENT

Mr. Paggi stated that there have been no significant modifications to the plans and that they did some clean up items in accordance with the Town Consultant's memoranda.

Mr. Paggi stated that the only item worth mentioning is a small piece of landscaping that was added at the request of the Town Planner. Mr. VanVoorhis stated that the landscaping that is shown was suggested by Ms. Axelson. Mrs. Hendricks requested that you consult a natives manual and that you investigate natives. Mrs. Hendricks stated that barberry is highly invasive and has been banned in the state of Connecticut. Mr. Istvan stated you should increase the landscaping a little bit.

Mr. Knips asked if overall does this site work on its own and will there be a need over time for access and maintenance and equipment. Mr. Paggi stated yes absolutely that is why they are providing easement access. Mr. Paggi stated that if a crane has to come in and get out it could. Mr. Knips asked what is driving the number of parking spaces. Mr. Paggi stated that it is the Town Code that requires it. Mr. Andrews stated that even if you use the waiver they have to demonstrate it. Mr. Knips stated where he is heading with this is, is it a good idea encumbering lot 1 with an easement. Mr. Paggi stated that it is really to make sure we meet the Town Code. Mr. Knips stated that he is trying to decide which side of the boundary line you do it on. Mr. Paggi stated that he would like to have Mr. Ward Willis talk about the easements and the trails that we discussed.

Mr. Ward Willis reviewed his submittal to the Board dated December 22, 2011 detailing the various easements. Mr. Ward Willis stated he agrees with the Ms. Friedrichsen Scott's suggestions in her memorandum to the Board dated January 12, 2012 and will incorporate her suggested language.

Mr. Knips asked how we know that this action will not prohibit future access. Mr. Ward Willis stated that the creation of Lot 3; Chevron is retaining the right to impose public access over lot 3 in the future so when there is site wide redevelopment where it can be accommodated, there is nothing being granted here that would restrict a trail in the future.

FINAL

REVIEW
FORMER TEXACO RESEARCH CENTER - PROPOSED SUBDIVISION
AND
FORMER TEXACO RESEARCH CENTER HYDRO-ELECTRIC FACILITY - PROPOSED SITE
DEVELOPMENT

Mr. Andrews stated that he did hear the Board at the end of the last meeting to find an appropriate location to put a trail easement. Mr. Andrews stated that we asked for a topo map and he received it and has reviewed it with Ms. Friedrichsen Scott.

Mr. Andrews stated that to figure out how to do this you have to make the assumption you have a blank slate and we do not have a blank slate, you have a site encumbered by buildings, a site encumbered by topo areas of substantial steep slopes (along the edge of Fishkill creek, at the railroad it is not easy to get there from offsite) as you go along the creek they put a lot of retaining walls, so those constraints clog up the slate.

Mr. Andrews stated that the next issue you have is this whole site is subject to the SEQRA permit being investigated for contamination, it is controlled by NYSDEC, and you have to determine the level of contamination. Mr. Andrews stated that the site reserved for the hydro-electric facility is sufficiently clean to utilize it. Mr. Andrews stated that the minute you introduce a public access you are opening up an unknown, as you may never be able to clean that up to allow it to be used by the public. Mr. Andrews stated that there are legal issues and liability issues since the areas have not been declared clean. Mr. Andrews stated that you have a map that the trails committee has done and to overlay it on this site does not mean anything. Mr. Andrews stated that sometimes you draw something on a map and it hampers your thinking as to what you really want to do on the site. Mr. Andrews stated that he really tried to do what the Board suggested. Mr. Andrews stated that if you are going to put a trail here, you wouldn't put it near the creek. Mr. Andrews stated that no matter how he tried he would have ended up with a map that would not have meant anything. Mr. Andrews stated that what made sense to him was the commitment that an easement would be granted in the future, as it is the best you can get today. Mr. Andrews stated that the value to the Town in the long run is a written filed commitment that no development would take place on this site without making the proper accommodations for a trail.

Mr. Knips asked if any of the cleanup effort is designed with an ultimate goal in mind in terms of if you had an intended use of the site you need it to be at a certain level. Mr. Knips asked would a desired trail location desire a different level of clean up. Mr. Andrews stated that the level of cleanup is driven by technology, money and the ability to clean up the site. Mr. Andrews stated that haven't been able to reach the determination because they have not been able to finish their investigations. Mr. Andrews stated that he is just trying to be a realist and that he is not taking sides on this issue.

Mr. Andrews stated that the preservation of the core mill buildings and the core hydro-electric facility is a home run for everyone and is a positive benefit and he does not want us to lose sight of this in the long run.

REVIEW

FINAL

FORMER TEXACO RESEARCH CENTER - PROPOSED SUBDIVISION
AND
FORMER TEXACO RESEARCH CENTER HYDRO-ELECTRIC FACILITY - PROPOSED SITE
DEVELOPMENT

Mr. DiCesare stated that he has attended the meetings at Chevron and it his understanding that the water there is not evaporated and that the only other area there is concern about is underneath the foundations. Mr. DiCesare stated that they did test the hydro-electric facility and haven't been able to find anything in the foundations there. Mr. DiCesare stated that it is his opinion that this project has not gone far enough with what can be done with the entire site. Mr. DiCesare stated that he would have thought public access to the hydro-electric facility would have been discussed.

Mr. Ward Willis stated that there is the ability to access and view the hydro-electric facility and that this was discussed at the December 8, 2011 Planning Board meeting. Mr. DiCesare apologized and stated that he wasn't at the public hearing.

Mr. Knips stated that by waiting for some point in the future for the trail there is an advantage given the legal coverage that yes a trail is recognized and it will be there and do we have the protection we are looking for.

Ms. Friedrichsen Scott reviewed her memorandum to the Board dated January 12, 2012; a copy of this memorandum is attached to the original minutes.

Mr. Friedrichsen Scott stated that regarding the public access this easement imposes easements that will then become part of the deed and in the future anyone who is the successor or assign will be able to enforce those cross easements.

Mr. Andrews reviewed his memorandum to the Board dated January 12, 2012; a copy of this memorandum is attached to the original minutes.

Mrs. Hendricks stated that she believes Chevron is acting in good faith and accepts Ms. Friedrichsen Scott's language. Mr. Andrews stated that one can only presume that the cleanup and redevelopment will occur at a reasonable pace and at sometime in the foreseeable future you will have the opportunity to review the site.

Mr. Ward Willis stated that we are under a NYSDEC permit, which requires the investigations and the remediation, and Chevron wants to turn the property into a practical use.

Mrs. Cotter stated that she knows the soil samples will be taken once all buildings are down and asked if other soil samples have been taken in other areas. Ms. Heavey stated yes, they have been taken and there are four (4) or five (5) different opportunities for the public to comment through the NYSDEC as the cleanup is done.

FORMER TEXACO RESEARCH CENTER - PROPOSED SUBDIVISION
AND
FORMER TEXACO RESEARCH CENTER HYDRO-ELECTRIC FACILITY - PROPOSED SITE
DEVELOPMENT

Mr. Paggi stated that there is no design to control flood through that dam. Mr. DiCesare stated that it seems to him that there is a lot more water going into that creek now. Mr. Paggi stated that the last significant storm was probably in April of 2007. Mrs. Cotter stated that one of the speakers at PACE stated that the 100 year floodplain is actually being referred to as the 10 year flood plain.

Mr. Ward Willis stated that they agree to waive the 62 day timeframe for the Board to render a decision on the matter.

Mr. Andrews stated that we have reached the point where the Board may want to authorize the preparation of resolutions and a Negative Declaration.

Mrs. Hendricks made a motion to prepare a Negative Declaration, a Resolution of Preliminary and Final Approval - Subdivision and a Resolution of Preliminary and Final Approval - Site Development Plan for review at the February 9, 2012. Seconded by Mr. Lopez. Motion carried.

Mr. Harvey made a motion to close the meeting at 8:55 p.m. Seconded by Mrs. Hendricks. Motion carried.

Respectfully submitted,
Debbie Davis
Planning Board Secretary

Attachments to original minutes