

**MINUTES OF THE SPECIAL MEETING**  
**MAY 23, 2005**

The Special Meeting was called to order by Chairman Joseph Yagey at 7:00 P.M. at which time the Pledge of Allegiance was recited. Planning Board Members present were Hans Arnold, Gerald Green, Jerome Donovan, Ronald Morelle, Bob Wood and Bob Imobersteg. Also in attendance were Town Supervisor Ralph Humphreys; Town Planner Kurt L. Schwenzfeier, AICP; Police Chief Raymond Philo; Councilman Richard Woodland; and Secretary Dory Shaw.

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Minutes of the May 9, 2005 Planning Board meeting were distributed to all Board Members for review. Motion was made by Board Member Hans Arnold to approve these minutes as written; seconded by Board Member Jerome Donovan. All in favor.

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**Salvation Army, Seneca Turnpike, New Hartford.** Public Hearing for the Preliminary/Final Site Plan Review of a proposed new 25,672 square foot building with associated parking (127 parking spaces) on approximately 4.32 acres. Zoning: Planned Highway Business. Tax Map #328.011-1-39.2 and #328.011-1-1.2; approximately 4.32 Acres. Mr. Robert Seigart of Schopfer Architects, LLP, appeared before the Board. Legal Notice was published in the Observer Dispatch on May 14, 2005 and residents within approximately 500' were notified.

Chairman Yagey explained the procedure for tonight's Public Hearing.

Mr. Seigart appeared before the Board and explained the project – a one-story 25,672 square foot new building for a retail store. Storm water is through catch basins to a detention basin. Landscaping is primarily along Route 5 around the front of the building. A fence is proposed around the detention area and a 6' fence planned in the rear of the lot. They will be open Monday thru Saturday, 9 AM to 9 PM and open on Sunday but no retail business on Sunday. Employees will be at the site during all hours of operation. Closed circuit cameras will be installed and the donor drop off is on the Seneca Turnpike side - they have been very successful with drop offs in the front as it alleviates any dumping problems.

Chairman Yagey asked if there was anyone present to address this application:

-Mrs. Mary Gigliotti Tupaj, 8263 Seneca Turnpike. She lives four (4) houses from Woods Highway. She is concerned about people leaving packages and bags; it is an eyesore to the community. Even with signs, people ignore them. Mr. Seigart said employees would take the goods so people can't leave bags outside and they brought signage to be posted; also, they have cameras installed at the site. He stated that the Salvation Army would prosecute any violators. He further stated that there will be no dumping outside. She also wanted to know if the light can be activated at Alfredo's.

Mrs. Tupaj addressed traffic. She is excited about progress, but feels we have a responsibility with safety. There have been fatalities in front of this location and with PAR it is a traffic nightmare. Mrs. Tupaj wondered why we couldn't get a light at Woods Highway and Seneca Turnpike or activate the one by PAR. She felt we have a 1950's road with 21<sup>st</sup> Century traffic. She stated that there is no bus service to this site and wonders how their clients would get there.

-Mrs. Rosemary Ruzinsky, 8353 Seneca Turnpike. She displayed pictures of their sites in Rome, Chittenango, Utica and Colonie, which had rubbish piled high at each site, even with employees there. Other people are going through the rubbish also after it is deposited – how do you control this when the employees can't. She is also concerned about contractors looking for a place to dump. She referred to the previous project that the Planning Board conditioned with an exit road to Middle Settlement. Traffic has grown in the last five (5) years and why can't an exit be installed to Middle Settlement – if not a road, a driveway. She referred to the other adjacent businesses in the area with ingress and egress at their sites. Mrs. Ruzinsky referred to the lack of deceleration or acceleration lanes and also the speed limit. She is in favor of a road out to Middle Settlement to help alleviate a congestion of traffic on Seneca Turnpike. Further, she referred to no bus stops at this location – are people going to be hitchhiking? She feels this facility will cater to a certain clientele and is concerned about their safety on the highway.

-Mr. Norman Ruzinsky, 8353 Seneca Turnpike. He referred again to the photos of existing Salvation Army sites that are not kept up. He asked who would issue tickets to violators?

-Mr. Rekha Trivedi, 9612 Chapman Road. He is a concerned citizen who feels there are beautiful shops in the New Hartford area and he feels we do not need a thrift store on Seneca Turnpike.

-Mr. Ralph B. Humphreys, Supervisor for the Town of New Hartford, asked to be shown where the power lines are on site. Mr. Seigart referred to those lines.

-Mr. John Shaw, 8320 Seneca Turnpike. He referred to the December 15, 2004 Planning Board minutes which projected the number of cars a day for this facility, and he wanted to know about the access road/driveway as he thought it was approved for a previous project. He would like to see no left turn signs placed at the entrance to avoid cars turning to a westerly direction on Seneca Turnpike, as he is concerned about traffic and safety. He referred to lighting in the parking lot and store and how often dumpsters would be emptied. He also wanted to know if this facility would be used for housing and meal service. Mr. Seigart said there would be no housing or meals served at this site and they would put it in writing.

Chairman Yagey asked Police Chief Raymond Philo to address the Planning Board and public. Police Chief Philo said he feels it is his responsibility for all projects in the Town to comment on impact and public safety. He is familiar with this project as well as other projects in this area and feels other projects would be developed along this strip, and that is why he looks at things collectively. He walked the property and reviewed the minutes of previous projects. He has concerns regarding the amount of traffic along this corridor, unlawful dumping which he feels could be a blight for this area of our community, any possible housing of transient individuals and a site for meal services, which he feels would be problematic in this neighborhood. He has recommended the following:

- Entrance/exit to Route 5B should be evaluated by Staff regardless of the statement to the contrary by NYSDOT. He reviewed the Planning Board minutes of July 9, 2001 where a similar recommendation was made and could find no opposition by NYSDOT
- No housing of transients or meals served at any time
- Continue to pursue a speed limit reduction on Route 5 from Woods Road east to the intersection of Middle Settlement Road. A reduction to 40 MPH would, he feels, provide for a safer traffic corridor
- Left turns exiting from the property onto Route 5 should be prohibited by signage. He also recommended this for a previous project
- Digital security cameras should be placed on or around the building that would provide coverage of the circumference of the building and the property boundaries. If illegal dumping takes place, especially after hours, these cameras should capture the violation
- Lighting should be installed to discourage unlawful acts
- The owner adopt a firm "pro-arrest" policy for unlawful dumping as that term is defined by Oneida County Solid Waste Management Law and the Town of New Hartford Code
- Rear-area fencing to prevent trespassers and dumping from Route 5B
- Appropriate signage prohibiting trespass after-hours, dumping, and alerting potential dumpers to the existence of cameras

- The owner complies to all of the above with a locked-in Pre-development Agreement addressing all these issues as five (5) years down the road it doesn't change.

Police Chief Philo said he is not familiar with bus service to this location as Centro bought out Utica Transit, but he has an issue with people walking along Route 5 – this area is not designed as a walking corridor.

-Mr. Brian Wyman, he is a Deacon of the adjacent Church on Middle Settlement Road and also chairman of the school board of the school that operates there five (5) days a week. He has concerns with storm water as it has been a problem with Alfredo's for years. Mr. Seigart said storm water has been addressed at this site with this project. Mr. Wyman said he has concerns with an access driveway to Middle Settlement as his school is K thru 12 and he is worried about speed and liability. There is a ditch there and it is steep. The children use the hill to sled in the wintertime. He feels that as a Church they don't have enough property to give easements to Salvation Army. Mr. Wyman feels an access would become a cut through. He feels this new facility would be a clean one.

-Mr. Luke George, 4445 Middle Settlement Road. He wanted a clarification of what constitutes a retail store as Salvation Army receives donations so he feels this is different than a retail store. He questioned who the employees would be. . . paid workers, volunteers or beneficiaries. Would anyone be able to sleep at the site as now he considers this a burden on the Town, Salvation Army and Police – he feels this could be a big financial commitment on the Town. Mr. Seigart stated this facility will not house anyone – it's a retail store only open from Monday to Saturday with no retail on Sunday. Mr. George asked who controls the dumping as he's seen the pictures of what exists at Salvation Army sites now. He feels this is a nice facility they are presenting, but is concerned about how to control the dumping and traffic. He would also like the fence to be higher than 6' with additional plantings given the elevation of the site – the 6' fence won't hide the facility or parking lot from someone living behind this. He is also concerned about light pollution as his home is lower than this project. He saw news footage from an area and they show people dumping on Sunday and there were employees there. We don't know when the public is coming and how can they guarantee it will stay clean. Mr. George said he has had a problem with Alfredo's dumping in the rear before and wants to be assured that if this is approved he doesn't look at the type of dumping as shown in the pictures presented.

Mr. George referred to businesses in the area, i.e., PAR, Michael T's Restaurant and Pizza Hut, who have dual accesses. If there isn't liability concerns there, why is it prohibited with Salvation Army with all the traffic concerns in this area.

Mr. George asked about trucks – Mr. Seigart said there will be three (3) trucks all the time with two (2) trucks coming in and out – Mr. Seigart said the trucks would operate from 9AM to 9PM. Mr. George referred to storm water drainage. Town Planner Schwenzfeier said a storm water maintenance agreement is to be provided with every new development based on what type of storm water facilities. Mr. George is also concerned about parking on Route 5 and people walking to this facility – he feels it's not safe. Mr. George referred to NYSDOT and their input. At this time, Chairman Yagey explained the SEQR process to Mr. George, in which NYSDOT had responded.

-Mr. Ken Andela, NYSDOT representative was present to address comments.

-Mr. Richard Woodland, Town Councilman, 4<sup>th</sup> Ward. He shares a lot of the concerns of those present and is aware of the traffic problems with the lane compression by Woods Highway. He feels we still need to petition the State for a speed reduction. He would still like the Planning Board to investigate the option of a rear driveway to Middle Settlement and maybe something can be worked out with the Church. He also has a major concern with dumping, as it is already a concern on Woods Highway.

-Mrs. Kim George, 4445 Middle Settlement Road. The existing light is a problem and she would like to see some type of down directional lighting is used. She still has concerns with dumping and security, especially where her property sets in relation to this project, and would like to have an 8' fence rather than 6'. She doesn't want anyone walking through her yard.

-Louis Ablove, Esq., 1750 Genesee Street. He represents Mr. Ken Woolsey who leases the Alfredo's property. He feels there is a problem with traffic on Route 5 and not limited to this site and he doesn't want this site blamed for these problems. It is a function of the State and the Town to enforce traffic. He doesn't feel it is the development but the speed on the highway that is the problem. He stated that this is a retail operation for a donation center and there are many different types of retail operations. He is concerned about comments made towards the people who might utilize this center and doesn't want this facility not being built because of the possibility of a certain clientele. He understands the concern of dumping but this has been addressed and agrees with the Salvation Army having an enforcement policy would be helpful.

Attorney Ablove suggested gating those entrances and exits when the facility is closed would help. He addressed what he feels is a sharp disagreement between the NYSDOT and the Town for another driveway to the rear. He feels it should be resolved and the rear entrance would cause more of a problem, which he agrees with the Deacon of the Church. He feels if the speed could be reduced and entrance and exit controlled, we don't need to have a road to the back.

-Mrs. Rosemary Ruzinsky, 8353 Seneca Turnpike. She referred to the lighting and how much is needed and noise from the dumpsters. She also addressed Attorney Abelove's comment regarding bias; she said her concerns are about safety.

Chairman Yagey said he doesn't feel anyone here is bias.

Caption Schuse of the Salvation Army said the dumpsters are emptied 1 – 2 days a week maximum – they do not compact at this site.

-Mrs. Mary Tupaj, 8263 Seneca Turnpike. She asked if a light could be activated at Alfredo's.

Chairman Yagey said we could take this comment to the State.

-Mrs. Kim George, 4445 Middle Settlement Road. She stated she is not against development but wants what is good for the community. She is not bias to where people shop at a particular store.

-Mr. Norman Ruzinsky, 8353 Seneca Turnpike. He referred to who actually owns the property. Chairman Yagey said our Town Attorney addressed this issue with a review of their contracts and based on the property owner's attorney, they are fully dedicated to selling the property and turn it over to Salvation Army.

Attorney Abelove said it is under contract but not sold yet. Mr. Woolsey told him he wants to protect the community and he doesn't feel the traffic would be any worse than Alfredo's on a busy night.

\*-Mr. Ken Andela, NYSDOT, appeared before the Board. He is familiar with the Zumpano project of 2001. The reason that NYS Route 5 had no left turns was due to the fact that it was all hatched. Also, that the proposal did not go forward before NYSDOT got to comment on the preliminary plans. Since then, Seneca Turnpike has been restriped. The proposed store will average 45 cars per hour. McDonald's averages 95 cars per hour and they were not required to do any mitigation. The flag lot can be no less than 70 feet wide. A 24 foot road width and 25 foot turning radius at the road junction. If used as travel lane, what happens to the drainage? He recommends leaving the land as a drainage corridor. NYSDOT can find no reasoning to allow access to Middle Settlement Road and a road would impact on the adjacent property owners. He feels the flag lot will never be used as access to NYS Route 5B; also, he feels it is a dead issue unless the owner purchases 33' of area. Drainage is better and notable accent to NYSDOT facilities verses what currently exists. The speed of the average driver is traveling at a greater speed than years ago. He feels this is an enforcement issue. NYSDOT cannot design for

people not following the posted signs, 85% percentile. If 85% of traffic is traveling at 47 MPH than the posted speed, it would be either 45 or 50 MPH. If the Town were to post it for 30 MPH, it would be considered a speed trap. The accidents in this area are within the average statewide. The capital improvements for this area conceptually are around the Jay-K intersection, however if anything happens, it would be 5 – 10 years. They recommended no left turns for Zumpano until he repainted to where left turns were shown but nothing evolved with this project. He stated that NYSDOT has restriped an area and he explained the averages calculated for traffic. He referred to the traffic situation at Burger King and Wendy's. Also, he feels the flag lot to the rear isn't wide enough for a road. He stated that it is his opinion that this lot would never be used as an access to Middle Settlement Road and in his opinion it is a dead issue. He feels drainage is an issue with this road proposal. He stated that perhaps the Church would donate 30' or Niagara Mohawk sacrifice square footage to allow this drive. Mr. Andela feels the traffic problem is an enforcement issue and accidents are within the average statewide for this area and he doesn't see the accident history as an issue. He referred to the speed percentiles and how they are determined. He wants to see enforcement and Police checking the speed. He reiterated that the speed needs to be enforced.

-Mrs. Rosemary Ruzinsky, 8353 Seneca Turnpike. She disagrees with the comparison with traffic by Burger King and Wendy's as there are more traffic lanes and lights there.

-Board Member Jerome Donovan referred to the NYSDOT's letter and what is expected on Route 5. Mr. Andela doesn't know if anything is scheduled for Seneca Turnpike but he is not sure – if anything is to happen, in his opinion, it won't be for 10 years.

-Mrs. Kim George asked how does the average accident rate here compare to the County and State. Mr. Andela said the County rates are less. The statewide figures are within the bounds of the State.

\*-Captain Lawrence Schuse of the Salvation Army addressed everyone present, as he is responsible for this region. He wanted to talk about the interests of the community and the undesirable people. The Salvation Army takes the undesirable people off the Town streets and takes them to Syracuse, New York. They are given one year of free rehabilitation care. This is a retail facility only. Out of the 26,000 square feet, only 10,000 square feet in the rear portion is for donation and sorting area; 75% of the merchandise sold will be shipped from Syracuse to this facility. Seven days a week people will be present at the facility. The Salvation Army does have a very aggressive policy for dumping and they will prosecute. They will work with the local Police. The Salvation Army encourages this through the design of their new facilities. Thirty paid

employees will work here - no beneficiaries will be working at this facility. No one will be allowed to sleep here. He stated that this is a retail store site only, not a rehabilitation facility – there will be no meals or housing at any time – only selling merchandise. All the Salvation Army is asking for is that the Town holds them to the same standard as all other businesses for consideration.

Mr. Seigart stated that there will be no light spill beyond the fence but they will address it further with the Planning Board – the light poles are 25' in height and about 35' from the fence. The Planning Board will look at it and take it to our engineers to review it.

-Tracy Wittenburg, Esq., attorney for Salvation Army. She thanked everyone for their comments. She referred TO the access road out to Middle Settlement – she said the biggest concern has always been the safety issue and they don't want to create a dangerous situation – they aren't trying to be difficult. She stated that dumping is a very expensive issue for Salvation Army because they have to haul it away – they want this facility to look nice.

-Mary Tupaj, 8263 Seneca Turnpike. She asked is this facility is tax exempt – the answer is yes.

-Planning Board Member Jerome Donovan asked Mr. Andela – if there was a situation where litter or debris is dumped on a State road or Town highway, who is responsible for it? Mr. Andela said ANY dumping along a NYSDOT roadway – they are responsible for it and they try to find out who did it - they are trying to remedy it.

Chairman Yagey asked if there were any additional comments. At this time, motion to close the Public Hearing was made by Board Member Bob Wood; seconded by Board Member Ronald Morelle. All in favor.

Discussion ensued regarding the closing of SEQR. Board Member Arnold wanted to outline the process from here before we consider the SEQR question, as Board Members may want more information. The Town Planner said the Board Members could listen to concerns or questions and investigate it so the developer can know tonight what exactly this Board is looking at and prepare a statement to figure it out. We should list it using the comments from the public, and our issues that we want to discuss further, i.e., (see the Town Planner's recommendations which will be made a part of these minutes) – then create conditions which we want to see done. Especially the Police Chief's comments regarding an additional Pre-development Agreement that addresses his concerns.

Board Member Arnold asked, would it be accurate to say that SEQR isn't an approval process – yes. This is where we get input from the Involved Agencies.

Chairman Yagey stated that by closing SEQR, we are saying we went to the agencies and they responded. It is not an approval or disapproval.

Board Member Green would rely on the Town Planner to advise this Board. Town Planner Schwenzfeier doesn't have a signed Pre-development Agreement from this project yet.

Board Member Arnold to Town Planner Schwenzfeier, have we received from NYSDOT answers to everything to fully answer questions raised by SEQR – Mr. Schwenzfeier said yes. Board Member Arnold: no new issues we could go back to NYSDOT on – Mr. Schwenzfeier said no.

Board Member Donovan asked if there were any comments received from Utica Transit, which is now Centro – Town Planner Schwenzfeier said no. He asked if Salvation Army contacted Centro to find out if they could get service to this site. He knows people are concerned about bus service and he is of the opinion that many of the stores clients are from the inner city of Utica and many people utilize the thrift store from suburbs as well. He is concerned that there is no accommodation for folks who would be displaced, as the new store would be in New Hartford – how would those folks avail themselves to get there. The bus service stops at Jay-K intersection. There are no sidewalks in this area of the highway. He is concerned we have not heard from Utica Transit/Centro and it is because Centro hasn't been notified to accommodate these folks. Board Member Donovan wants to know if they have discussed it with Centro and he wants to know of those conversations. He talked to Centro last week and they reported to him there has been no request from the sponsor to the site.

Chairman Yagey stated that he feels this is a good idea to get something from Centro.

Motion was made by Board Member Bob Wood to close SEQR with a Negative Declaration; seconded by Board Member Jerome Donovan. Vote taken:

Chairman Joseph Yagey – yes	Board Member Bob Wood – yes
Board Member Jerome Donovan – yes	Board Member Hans Arnold – yes
Board Member Gerald Greene – yes	Board Member Ronald Morelle – yes

Motion passed by a vote of 6 – 0 (Board Member Bob Imobersteg abstained from voting as he has an affiliation with the Utica Salvation Army).

It was stated that the Police Chief's comments and recommendations were excellent and he approves of an agreement between the Police and Salvation Army.

\*Board Member Bob Wood encouraged the following be required:

- no left turns for the entrances
- no dumping on the site
- a Pre-development Agreement to prosecute any violators to include, by agreement, for the Police to go onto the property and have the right to prosecute
- Route 5 through the Town of Kirkland is 40 MPH and four (4) lanes, why won't NYSDOT allow it here at 40 MPH
- Add additional buffering toward the residences to the rear of the property
- No light on the rear of the building facing outward
- Gating the entrances if dumping becomes a problem

Board Member Green wants additional time to review the comments and recommendations of the Town Planner, Chief of Police and Highway Superintendent, and he wants to see a Pre-development plan to see what it entails. Town Planner Schwenzfeier said he has drawn up a Pre-development Agreement for this project, but a separate Pre-development Agreement has to be made up to include the Police Chief's requests.

Board Member Donovan stated that based on comments from NYSDOT, he doesn't think there will be an exit or entrance off Middle Settlement Road. He feels we have to take a look at what is there presently and he feels we are not talking about increasing the burden of the highway at this time. He has raised the issue of bus service and this concerns him greatly because we need to address impacts on projects in the community – he is concerned about how people would get to the site. It is his suggestion to the developer that they enter into a PILOT Agreement with the Town that would reimburse the Town for essential municipal services, particularly the Police Department, Fire protection and Emergency Medical services as Salvation Army is tax exempt and not obligated to pay taxes.

The Board discussed the Pre-development Agreement and mitigation fees applied to this which cover Police, Fire, etc. and which is preset and paid for one time only. Board Member Donovan said his suggestion of a PILOT Agreement would be different, as it would be ongoing and that policy rests with the Town Board.

Board Member Arnold thought it was a good Public Hearing. He would like to digest all the information and he would go through the same traffic issues if it were a restaurant or retail store at this location. He feels commercial development is going to be happening in

this area and it is hard to envision a commercial corridor and that presents a difficulty for people who own homes in this area. He agrees that this corridor is a 1950's road with a 21<sup>st</sup> century traffic situation. Board Member Arnold would like to see some changes from NYSDOT on this road, plus the reduction of the speed limit. He understands Salvation Army is a developer coming along, but we have to look at the community to try to advance the traffic improvements on this road. He would like to pursue this with our professional staff and NYSDOT.

Chairman Yagey said we could meet with NYSDOT again but he doesn't know how to make NYSDOT recognize what is happening in this corridor.

Discussion ensued regarding how to proceed with this project. It was the consensus of the Board Members that they needed time to reflect upon Police Chief Philo's comments and his recommendations, a statement from Centro regarding bus service, traffic and speed limit reduction, additional buffering, lighting, signage, dumping, rear access, security, gated entrances after hours, dumpster removal, etc., and to absorb the comments from the public.

Board Member Donovan reiterated that until he sees a response from Centro or the developer on bus service available, he isn't prepared to act on this.

Chairman Yagey explained the process to the developer stating that the Board Members have indicated they would like to absorb all the information and comments and that we would be willing to meet with the developer on what needs to be done by them and what needs to be in the Agreements.

Attorney Tracy Wittenburg would like a list of the exact issues. Chairman Yagey will meet with the Town Planner and any Board Member as soon as possible to enable this project to move forward in the process.

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Chairman Yagey referred to the proposed tax exempt letter from the Planning Board to the Town Board. It will be sent out tomorrow.

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There being no further business, the meeting adjourned at 9:45 P.M.

Respectfully submitted,

Dolores Shaw  
Secretary

DbS

\*Excerpts also taken from Town Planner's notes.