

**MINUTES OF THE REGULAR MEETING**  
**AUGUST 8, 2005**

The Regular Meeting was called to order by Chairman Joseph Yagey at 4:30 P.M. at which time the Pledge of Allegiance was recited. Board Members present were Gerald Green, Hans Arnold, Bob Imobersteg, Ronald Morelle and Bob Wood. Board Member absent: Jerome Donovan. Also in attendance were Town Supervisor Ralph Humphreys and Town Planner Kurt L. Schwenzfeier, AICP.

Minutes of the July 11, 2005 meeting were distributed and motion was made by Board Member Ronald Morelle to approve these minutes as written; seconded by Board Member Bob Imobersteg. All in favor.

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**Walgreen's Pharmacy**, Commercial Drive, New Hartford. Final Site Plan Review/Approval for HDL Property Group, LLC is proposing the construction of a 14,820 SF Walgreen's Pharmacy (130' x 114') with a two-lane drive-thru service, access drive, utilities, and stormwater management facilities. The 2.72-acre project site is located on the corner of Commercial Drive (NYS Route 5A) and Henderson Street in the Town of New Hartford and in the Village of New York Mills. Tax Map #317.013-1-35-38; 317.013-3-12.13; 317.013-3-21.1; Zoning: Retail Business 1 (RB1). Thomas LoTurco of Clough, Harbour & Associates (CHA) was present representing HDL Property Group, LLC for this application.

The Town Planner provided each Board Member with a list of changes on the site plans prepared by Tom LoTurco. These revised plans were updated and received by the Town on Friday, August 5<sup>th</sup> and replace the plans that the Planning Board Members received in their mailing dated July 22<sup>nd</sup>. A question was asked regarding the meeting with the neighbor to see if the neighbor and the developer have resolved the screening issue.

Mr. LoTurco stated that there was a meeting on July 25<sup>th</sup> with the Conley's at the project site and that the Town Planner Kurt Schwenzfeier and the Town Engineer John Meagher were in attendance. The Conley's have proposed that a scalloped, cedar, dog-eared fence 10 feet in height be installed the entire length of the property line and that fruit trees, such as an ornamental crabapple, that are spaced 12' to 15' apart, that will not

exceed 15' in height at their maturity, be located on the Conley's side of the fence. These trees should also be installed the entire length of the property line.

The developer will agree to plant ornamental fruit trees down the entire length of the property where appropriate at a spacing of 30 feet. The reasoning for the 30' spacing is due to the fact that at maturity these ornamental trees will have a canopy of 30' in diameter. The developer will go to both the Town and Village Zoning Boards regarding the height of the fence. Mr. LoTurco hopes that these variances will not effect the Planning Board's approval of the site plans as both the Village and Town Codes only provide for a maximum fence height of 6 feet. The HDL Property Group, LLC will apply to both ZBA's once they receive final site plan approval.

Mr. LoTurco stated that there is not going to be any fencing around the stormwater retention/detention pond. The lights around the site are now only 25' in height from the ground to the top of the lighting fixtures. The lights are basically the same as the approved Eckerd's across the street.

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

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Ronald Morelle – yes	Board Member Bob Imobersteg – yes

Motion was **passed** by a vote of 6 – 0.

Board Member Arnold asked Mr. LoTurco questions about the planting plans. The plans indicate that there are 3 types of street trees. What is the thought on the tree type in the street tree pattern on Commercial Drive? Mr. LoTurco stated that Town Planner Schwenzfeier provided CHA with the Eckerd's Cadd file of the street tree pattern on the opposite side of the street. Walgreen's would prefer not to see any trees in the front of their stores but Walgreen's does understand that this requirement was imposed on their direct competitor on the opposite side of the road. Walgreen's also agreed to the street trees at their Kellogg Road site. Additional, Walgreen's has also continued the street tree pattern along Henderson Street.

Motion was made by Board Member Hans Arnold to grant Preliminary Approval; seconded by Board Member Ronald Morelle. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Ronald Morelle – yes	Board Member Bob Imobersteg – yes

Motion was **passed** by a vote of 6 – 0.

Chairman Yagey recommended that if the Board chooses to move to final site plan approval tonight that the conditions for final approval recommended by the Town Planner be listed in these minutes with the final approval. Also, that the Board adds the two following conditions to the approval: that the developer will meet all the requirements of Oneida County Local Law #1 of 1990 and that the Town require the developer to certify that disposal of all construction and demolition debris be in compliance with Oneida County Local Law #1 of 1990 and that a Building Permit be obtained within one (1) year of approval date.

Motion was made by Board Member Bob Wood to grant **Final Approval** with the following conditions:

- 1) That Prior to issuance of a certificate of occupancy all public improvements and other work conducted within the public right of way shall be inspected and approved by the NYSDOT and provided to the Town in writing;
- 2) An Agreement for Engineering Services be required for site construction;
- 3) That no certificate of occupancy shall be issued until all items, which were included as part of the site plan, are completed and verified by the Planning Department. These items shall include landscaping, lighting, public improvements, building colors and any special conditions or modifications;
- 4) That a Stormwater Maintenance/BMP Agreement be required;
- 5) That the developer will meet all the requirements of Oneida County Local Law #1 of 1990 and that the Town does require the developer to certify that disposal of all construction and demolition debris be in compliance with Oneida County Local Law #1 of 1990;
- 6) That a Building Permit be obtained within one (1) year of approval date.

Motion seconded by Board Member Ronald Morelle. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes

Board Member Ronald Morelle – yes

Board Member Bob Imobersteg – yes

Motion was **passed** by a vote of 6 – 0.

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**Larry Adler/Judd Road Group II, Retail – 4630 Commercial Drive**, New Hartford. Preliminary/Final Site Plan Review The Judd Road Group is proposing to raze an existing 4,002 square foot structure (formerly “The Herkimer County Trust”) in order for the construction of a 6,314 SF retail building (82’ x 77’), and a 2,100 SF free-standing structure (70’ x 30’) with drive-thru lane, as well as, for an access drive, utilities, and stormwater management facilities. The existing site currently has 3 curb cuts onto Commercial Drive. The proposed development will have one driveway to the site. The 1.348-acre project site is located on Commercial Drive. Tax Map #328.008-1-8.1 & #328.008-1-8.2; Zoning: Retail Business 1 (RB1). Mr. Larry Adler appeared before the Board.

Chairman Yagey stated that this application has already been sent out for SEQR and that the 62-day comment period is over and that Mr. Adler has responded to any agency comments that have been received.

Mr. Adler approached the Board to explain this project. First, the Judd Road Group will demolish the existing structure (formerly “The Herkimer County Trust”) in order to construct 8,400 square feet of retail. Mr. Adler clarified that it will be two new retail structures; the smaller of the two may be a possible fast food restaurant.

Town Planner Schwenzfeier was asked if the amount of parking proposed meets the requirements under the Town Code. Town Planner Schwenzfeier stated that after discussion with the Codes Enforcement Officer it was determined that the amount of parking spaces proposed does meet town code as long as the smaller structure (fast food restaurant building) has no more than 1,400 square feet of seating area.

Board Member Arnold asked Mr. Adler if he would be planting street trees along Commercial Drive - Mr. Adler stated that he was going to do this.

Chairman Yagey asked Mr. Adler what the schedule for development of this project would be if the Board chooses to grant final site plan approval. Mr. Adler stated that the demo of the existing building would begin as soon as he receives a demo permit from the codes office and that the 6,800 square foot (the larger of the two proposed structures) will hopefully be enclosed before winter.

Motion was made by Board Member Bob Imobersteg to close SEQR with a Negative Declaration; seconded by Board Member Ronald Morelle. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Ronald Morelle – yes	Board Member Bob Imobersteg – yes

Motion was **passed** by a vote of 6 – 0.

Motion was made Board Member Gerald Green to grant Preliminary Approval; seconded by Board Member Ronald Morelle. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Ronald Morelle – yes	Board Member Bob Imobersteg – yes

Motion was **passed** by a vote of 6 – 0.

Motion was made by Board Member Hans Arnold to grant **Final Approval** with the condition that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Ronald Morelle. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Ronald Morelle – yes	Board Member Bob Imobersteg – yes

Motion was **passed** by a vote of 6 – 0.

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**Benderson Development, Commercial Drive/Henderson Street – Phase II**, New Hartford. Preliminary/Final Site Plan Review The proposed project is located on Commercial Drive (NYS Route 5A) at the southwest corner of the intersection with Henderson Street in the Town of New Hartford/Village of New York Mills. A two-story single family home and a single story office structure are currently situated on the eastern end of the site along Henderson Street. The entire western end of the parcel is vacant and undeveloped. The project parcel is bordered by Commercial Drive to the north, Henderson Street to the east, a single-family residential development to the south and Mud Creek to the west.

The first phase of the project involves the construction of a single story 12,711 square foot pharmacy building with associated asphalt parking and landscaping areas (Final Site Plan Approval for Phase I was granted by the Town Planning Board on 6-13-05 and by the Village of New York Mills Planning Board on 6-23-05). The *second phase* of the project will include the construction of a 16,400 square foot retail building with associated asphalt parking and landscaping areas in the Town of New Hartford. The development will have a full access driveway on Commercial Drive and one limited access driveway (right-in, right-out) on Henderson Street. Tax Map #317.013-3-14; 317.013-3-15; 317.013-3-18.4; Zoning: Retail Business 1 (RB1). Mr. Jim Rumsey and Mr. Daniel Blamowski appeared before the Board.

Chairman Yagey gave a background summary of the Eckerd's original application, which was for proposed retail building consisting of (22,400 SF) and a proposed pharmacy building consisting of (14,752 SF), which was withdrawn from consideration. This was because there was a 40' strip that Mr. Inkawhich owned and Benderson could not do this without purchasing the additional property. Benderson came back to this Board and asked for approval of the pharmacy only with no additional buildings. We asked Benderson then if they planned on additional buildings on the site and they stated no.

This Board granted final approval to the Eckerd's pharmacy on 6-13-05 and at that time Benderson mentioned nothing to this Board about this proposal. Now Benderson is back before this Board for the remaining portion of their development, which is the retail building.

Mr. Rumsey addressed the Board. The original proposed retail building was located approximately 35 feet from the property line. The current proposal is for the building to be at least 52 feet from the property line. The green space that has been provided in this phase is 42% green space. The previously approved Eckerd's phase has 34% existing and that green space has not been taken into consideration in this new calculation. Mr. Rumsey presented the Board with a revised plan showing 88 parking spaces.

Town Planner Schwenzfeier spoke with Mr. Rumsey last week and informed Benderson that they did not meet the front parking setback or the required number of parking spaces based on Town Code. The Town Planner also addressed that the parking, green space, and setbacks have been checked against the proposed annexation that is currently in progress. The proposed Town/Village boundary is the same as the boundary between Phase I and Phase II. The landscape plantings along the fence line and along Commercial Drive and Henderson Street where approved by the Board under Eckerd's Phase I site plan approval.

Mr. Rumsey stated that the 28-foot drive at the rear of the proposed structure is for two-way traffic that is proposed for delivery vehicles. Board Member Arnold asked if it could be reduced from the 28 feet to a single lane driveway in order to gain even more green space. Benderson will agree to look into it.

The Board asked Mr. Rumsey how many stores would be in the proposed structure. It was stated that there could be from least three stores up to as many as 7 different types of stores. Benderson is looking for 3 to 7 smaller tenants such as possibly Quizno's, a beauty shop, cell phone store, tax accountants, small dress shop, etc.

Chairman Yagey spoke that the Planning Board held a Public Hearing on the Eckerd's Phase I proposal and at that time, when the Board was asked by residents if anything was going to be built on the remainder of the site, it was stated that nothing is going there. Does this Board want to hold another Public Hearing?

The majority of the residential lots that backup to this development will have structures behind them, except as you get toward Mud Creek. The detention basin is not that far off the back of those residential yards. This area does get a lot of water. Board Member Imobersteg asked, what are we gaining by holding another Public Hearing? The Chairman is just stating that there are duplications in what issues are going to be covered and what issues are new. There are not really any issues that have not already been addressed and if this Board chooses to hold a Public Hearing, the Chairman will support that discussion.

Board Member Green stated that the last Public Hearing held on the Eckerd's portion of this project the main concerns of the neighbors was the light height and the fence. Their new concerns would most likely be the height of the building and lighting so as not to cascade onto their property and homes.

Board Member Wood stated that the property slopes towards Mud Creek. The proposal includes filling part of the property and that will increase the elevation differences that currently exist at the boundary of the site with the residential lots.

Mr. Rumsey informed the Planning Board that Benderson has obtained a permit to start construction. Benderson has started contacting the adjacent neighbors as per the final site plan approval where it was requested that Benderson work with the adjacent property owners and work out with them what type of plantings they would like to see on their side of the fence.

Board Member Arnold feels that the Board should err on the side of caution as to allow for the public to have clarity and understanding in order to see how this development is going to work and how it might affect them. Board Member Arnold would like to ask if the developer is willing to review the service driveway width and if the developer would keep the building as far away from the existing residential land owners as practicable.

Chairman Yagey stated that the Planning Board will hold a Public Hearing after the SEQR comments are received and depending on the outcome of the Public Hearing, this Board could, if it sees fit, to move to preliminary and/or final site plan approval. The Chairman asked for a motion to open SEQR.

At this time, motion was made by Board Member Bob Wood to have the Planning Board be Lead Agency for this project; seconded by Board Member Gerald Green. Vote taken:

Chairman Joseph Yagey – yes	Board Member Hans Arnold – yes
Board Member Gerald Green – yes	Board Member Bob Wood – yes
Board Member Ronald Morelle – yes	Board Member Bob Imobersteg – yes

Motion was **passed** by a vote of 6 – 0.

The Board has concerns with the multiple uses of the proposed building and may have issues with the exact type of those uses. There should be no dumpsters in the rear so that is something that needs to be addressed.

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Chairman Yagey brought the Board Members up-to-date on the Dr. DeLaus, 33-lot Major Subdivision. This Board opened SEQR at last months Planning Board meeting with the understanding that Mr. Ehre was to submit a copy of an agreement to this Board. This Board was under the impression that this agreement was to be between Dr. DeLaus, the developer, and Messrs. Carucci and Eberley (Higby Woodlands) for stormwater from this proposed subdivision to be connected to the existing and proposed systems in Higby Woodlands. These existing drainage systems were sized to accept the drainage from this area and to convey the runoff into the existing storm water management detention basin located on the north side of the Higby Woodlands Subdivision. At this time, the Board has not seen anything in writing and it appears that no agreement is coming to this Board on this issue. This project will not be sent out for SEQR until the Town receives that agreement in writing and signed by both parties.

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Board Member Green wanted the Board to know that Longworth Acres Major Subdivision still has not resolved the public water issue. Longworth Acres is still not likely to get public water and if they do not get public water, then their approval is null and void.

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Mr. Curt Nichols (Shumaker Engineering) - update on the Oxford/Tibbitts/Snowden Hill Road Drainage Study. This study has still not been completed. Board Member Green asked the Town Planner to contact Mr. Nichols to find out when this study will be completed and when the Town will receive its report.

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Town Planner Schwenzfeier informed the Board regarding the current development of the Statement of Findings for parkland. There was a meeting at the Town Attorney's office with Town Attorney Vincent Rossi, Town Councilman JC Waszkiewicz III, Highway Superintendent Roger Cleveland, Planning Board Member Gerald Green, Parks and Recreation Director Michael Jeffery, and the Town Planner on August 4<sup>th</sup>. The Town Attorney and the Parks and Recreation Director will be making the list of findings based on the Parks Master Plan and will present it to the Planning Board at the next scheduled meeting.

The Town Planning Board, based on the Parks Master Plan, is looking to utilize Section 277 of town law to help meet the growing and changing needs of residents caused by future development. Section 277 requires that the Planning Board adopt a Statement of Findings in order for the Town Board to then implement Fees in Lieu of Parkland to be designated for park development. These Fees in Lieu of Parkland designated by the Planning Board can be used for not only the purchase of additional land if needed but also for the enhancement and expansion of the Town's existing park facilities. This can include the expansion of the parks linear connections through the development of sidewalks or path systems to interconnect the Town's current parks system.

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The Town Planner was asked to inform the Planning Board about the 1995 Comprehensive Plan 2005 update. Councilman JC Waszkiewicz III feels that the update

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of the comprehensive plan is not being completed quick enough by the Town Planner and would like to send it to a consultant. Town Attorney Rossi will take the initiative to oversee the scope of services that the consultant provides to the Town in order to determine the adequacy of based on what he feels is required for the comprehensive plan update.

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Subdivision Regulations Update was sent to Town Attorney Rossi December of last year in order to review the legal aspects of the document and it still has not been completed.

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There being no further business, the meeting adjourned at 6:30 P.M.

Respectfully submitted,

Kurt L. Schwenzfeier, AICP  
Town Planner

(These minutes were taken by Town Planner Kurt L. Schwenzfeier, AICP in the absence of Secretary Dory Shaw)