

**PLANNING BOARD MINUTES  
MONDAY, JANUARY 14, 2013  
BUTLER MEMORIAL HALL  
48 GENESEE STREET, NEW HARTFORD, NY  
RODGER REYNOLDS MEETING ROOM  
5:30 P.M.**

The Regular Meeting was called to order by Chairman Elis DeLia at 5:30 P.M. at which time the Pledge of Allegiance was recited. In attendance were Board Members Peggy Rotton, G. Brymer Humphreys, Julius Fuks, Jr., William Morris II. and Heather Mowat. Board Member absent: Ellen Rayhill. Also in attendance were Councilman David Reynolds, Councilman Paul Miscione, Town Attorney Herbert Cully, Codes Officer Joseph Booth, Highway Superintendent Rick Sherman, Mr. Chuck White of Barton & Loguidice, and Recording Secretary Dory Shaw.

Chairman DeLia welcomed newest Planning Board Member, Mr. William C. Morris II, and congratulated Heather Mowat on her reappointment to a full term.

Draft minutes of the December 10, 2012 meeting were received by each Board Member. Motion was made by Board Member Peggy Rotton to approve these minutes; seconded by Board Member Brymer Humphreys. All in favor. (Board Member Julius Fuks, Jr. did not vote as he abstained from the December 20, 2012 application of Trail Side Subdivision; also Mr. Morris as he was not a member of the Board at this time).

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N & D Restaurants, Inc. for **Olive Garden Restaurant; 4636 Commercial Drive, New Hartford, New York**. Preliminary Site Plan Review for a proposed restaurant. Tax Map #328.008-1-12.2; Lot Size: approximately 3.03 Acres; Zoning: Retail Business 1. Mr. Neil Terwilliger of Darden Company, Orlando, Florida and Mr. Chris Boyea of Bohler Engineering appeared before the Board.

Chairman DeLia stated that this application received Preliminary approval in October 2012; it was sent out for SEQR responses with the Planning Board as Lead Agency. Responses were received and addressed.

Mr. Chris Boyea of Bohler Engineering addressed the Board and explained what has transpired with this project in the last few months. He thanked Town staff, Joseph Booth, Dory Shaw and Chuck White for their assistance. They have worked on updating comments and traffic information - additional counts with movements were made and they provided a supplemental report, which documents left turn movements. An agreement was solidified with the adjacent property owner and they submitted it to the Town for review to allow cross connections. Town Attorney Cully stated he reviewed the cross easements which provides access into the other parcel and parking spaces to be allowed to be used by the other parcel – this agreement looks fine to him – there are no other easements to the site – there are two (2) easements to the benefit of a fully connected lot.

Mr. Boyea addressed storm water and it is in place and won't impact anything further downstream. They have taken a hard look at this and worked with the Town's consultant to document that they are reducing storm water flows. The runoff from the site will be less. SWPPP was addressed and there are no zoning issues. Since the last meeting they have obtained NYSDOT sign off on this project – their contractor has to get a permit. NYSDEC permit is in hand. Also in hand is the NYSHPO (New York State Historic Preservation Office) sign off for this project. He brought the building elevations in case anyone wanted to look at them.

Chairman DeLia to Chuck White: do you have any comments under SEQR and does he feel we are in a position for a negative declaration with findings of no significance – Mr. White said yes. Mr. White has no objections to the responses as far as engineering comments. Town Attorney Cully has no further comments as they have addressed all the issues.

Board Member Mowat referred to the following:

- 1) #4 under the responses relating to storm water management agreement and asked Mr. White, does the Town have those types of agreement. It was mentioned that this has been initiated on other projects. Who oversees these agreements - Town Attorney Cully said Codes Officer Booth is involved with this and also we insist a third party be available to do those inspections for us – an independent during the construction process. Codes Officer Booth would manage it after. Town Attorney Cully stated we could go after the developer with any problems.
- 2) Snow Removal: two different agencies brought up as an opportunity to reduce parking spaces and green space – did you look into this. Mr. Boyea said yes, they have made sure there are enough parking spaces to support the business – they have done parking assessments and have looked at this very carefully. They have minimized the parking. Also, they have the agreement with the neighbor to use some of the spaces near Men's Warehouse – it is shared. Board Member Mowat asked if they believe that by having these fewer parking spaces it will affect the storm water issue any more or less – Mr. Boyea said there is infrastructure underground and Darden is investing in it – it will reduce the storm water up to 60%.
- 3) Traffic study: does the traffic study address newly opened Moe's restaurant on Commercial Drive. Mr. Boyea said he didn't know about specific use of Moe's but they review potential growth in the area. The traffic study and all improvements and all considerations were addressed as if this stood alone. Everything is in place.
- 4) Enough land to have some other type of project was discussed previously - it was anticipated at some point. Mr. Boyea said not at this site. This is one large parcel – everything back to the creek would not be appealing for development. Board Member Mowat asked why they would consider a subdivision here. Mr. Boyea said it is up to the mall owners for that – they may have different reasons.

Board Member Humphreys addressed a 100 year storm. Mr. Boyea said all storms are reduced by this project.

Board Member Fuks addressed traffic studies that have no issues. Mr. Chuck White did a review of the study and he concurs with NYSDOT responses. Board Member Fuks asked Mr. Boyea if they see the need for any pavement markings to the adjoining facility, especially by Men's Wearhouse. Mr. Boyea doesn't know what condition they are in, but regardless it is up to that owner to do something. They are going to install arrows, stop bar, stop sign and everything entered into the parking lot.

Board Member Mowat referred to the summary paragraph regarding determination that the additional count program wouldn't have a negative impact. She would like that this be considered part of the record in that it was from Atlantic Traffic & Design Engineers, Inc. dated November 30, 2012.

Chairman DeLia stated NYSDOT has approved left-hand turns. Chairman DeLia asked if there were any other questions.

Motion was made by Board Member Peggy Rotton to close SEQR with a negative declaration; seconded by Board Member Julius Fuks, Jr. All in favor: vote of 6 – 0.

Chairman DeLia addressed a clerk of the works with Codes Officer Booth. Mr. Booth said this would be on infrastructure and storm water impacts. He would ask that the Planning Board have a third party engineer to report to the Town for site inspections, cost to be incurred by the developer, as this Board has the authority under Site Plan Review.

Motion was made by Board Member Bill Morris that a "clerk of the works" be appointed at the developer's expense and report to the Town; seconded by Board Member Heather Mowat. All in favor – vote of 6 – 0.

At this time, motion was made to grant **Final Approval** for the **Olive Garden** project by Board Member Peggy Rotton; seconded by Board Member Brymer Humphreys. All in favor: vote of 6 – 0.

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There being no further business, the meeting adjourned at 5:50 P.M.

Respectfully submitted,

Dolores Shaw  
Secretary/Planning Board

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