

Town of Montgomery Planning Board Meeting
Held at the Town Government Center, Second Floor
110 Bracken Road, Montgomery, New York 12549
Monday, October 29, 2018

PRESENT: F. REICHLE, Chairman
J. BEAUMONT, Vice Chairman
R. PENNING, Board Member
R. McGUIRE, Board Member
W. KELLY, Board Member
J. BROWN III, Board Member
R. MONTEMARANO, Board Member

ALSO PRESENT: R. W. HOYT, Attorney for the Planning Board

L. DOTSON, Garling Associates, Planning Consultant
A. FETHERSTON, Engineer for the Planning Board
MEMBERS OF THE AUDIENCE

PLANNING BOARD CLERK: S. HADDEN

ABSENT:
RECORDING SECRETARY: J. CASTON, Recording Secretary

AGENDA

7:30 PM Comment Session

7:30 PM WW Commons, LLC – Albany Post Road – SEUP/Site Plan – Public Hearing

7:45 PM National Builders L.P. – Van Rompaye Trucking Corp. – 134 Neelytown Road
SEU Permit/Site Plan – Informational meeting for neighbors

7:50 PM Orange County Ironworks – Maybrook Road
Amended SEU Permit & Site Plan with a Lot Line Change – Public Hearing Continued

8:00 PM Matrix Development, LLC – Solar Facility – Maple Avenue/NYS Rte. 17K
SEUP & Site Plan – Public Hearing Continued

Winding Hills Golf Club – Invoss, LLC – NYS Route 17K
SEU Permit & Amended Site Plan – Presentation

Medline Montgomery – Medline Industries, Inc. – NYS Route 416
SEU Permit/Site Plan – Presentation

84 Square Associates – Hawkins Drive – SEU Permit & Site Plan – Approval Decision

Cranesville Block – Stone Castle Road – SEU Permit Renewal – Extension Request
Aug. 29, 2006 – Approval by Resolution – 3-year Renewal Expires October 29, 2018

Introductory Local law No. 9 of 2018 – Six-month moratorium on Solar Facilities
Recommendation to Town Board for November 1, 2019 Public Hearing

AGENDA

Gas Land Petroleum, INC. – NYS Rte. 52 and Albany Post Road
SEU Permit and Site Plan Approval with Lot Line Changes – Extension Request
Feb. 13, 2017 Conditional Approval Granted
Lot Line Change (Lasts 180-days); 5th 90-day Extension- Expires November 12, 2018
SEUP/Site Plan Approval; 1st Extension Expires November 12, 2018

Montgomery Corporate Park Bracken 4.3 – Bracken Road
Extension Request of SEU Permit and Site Plan Approval
Approved April 30, 2012 lasts 18-months;
Ten Six-Month Extensions Granted; Expires October 30, 2018

Campbell Freightliner – NYS Rte. 208 & Henry Henning Drive
SEU Permit & Amended Site Plan Approvals
Extension Request – Approved October 31, 2016 (18-months)
1st Six-Month Extension; Expires 10/30/2018

St. Andrews Place – St. Andrews Road (Co. Rd. 85)
Nine-lot Clustered Major Residential Subdivision
Oct. 31, 2011 Reverted back to Conditional Preliminary Approval
Extension Request of Conditional Preliminary Approval;
Nineteen extensions granted (17- 6 month & 2-3 month); Expires November 01, 2018

Introductory Local Law No. 9 of 2018 – Six -month moratorium on Solar Facilities
Recommendation to Town Board for November 1, 2018 Public Hearing

Chairman Reichle called the meeting to order.

Comment Session There weren't any comments received.

WW Commons, LLC – Albany Post Road – SEUP/Site Plan – Public Hearing

Lawrence Marshall, PE with Mercurio, Norton, Tarolli and Marshall was present for the applicant. He described the proposed expansion of the existing self-storage facility. He said there are currently four buildings on the site and there is a proposed expansion for two. They previously received 3 – variances for this site, one use variance for self-storage in the B4 Zoning District as this isn't a permitted use in that zone and recently two area variances to allow the facility to be constructed without a paved surface and without a fence surrounding the facility; on September 17th.

Chairman Reichle opened the floor to public comment. Hearing from no one, he asked the board if they had any comments?

A discussion was held on the proposed lighting, the relocating of the existing landscaping, combination of the lots and a MS4 agreement not being necessary because it is under an acre of disturbance.

Attorney Hoyt found the mailings, affidavit and posting of the notice to be in order.

Member Kelly motioned to adjourn the public hearing to November 13, 2018 at 7:45 p.m. or as soon as the matter can be heard, awaiting Orange County Department of Planning response, seconded by Vice Chairman Beaumont. All in favor, all ayes, motion carried.

National Builders L.P. – Van Rompaye Trucking Corp. – 134 Neelytown Road
SEU Permit/Site Plan – Informational meeting for neighbors

David Young, PE with the Chazen Companies and Brian Sekel, owner, both present for the matter.

Mr. Young described the proposed project.

Blain Petzold, audience, voiced his concerns about the water that inundated the Maybrook Sewer Plant from the wetlands and his worries about water spreading to Conklin Lane, where he lives.

Member Kelly discussed the proposed lighting with a woman in the audience.

Member McGuire asked about the hours of operation?

Mr. Sekel said there is not a tenant proposed at this time, so there are no set hours.

A discussion was held on the back up beepers and possible mitigation.

Lawrence Marshall, audience, said he was there with his extended family and asked if there have been any soil borings done on the property because of the shale in the area. Could blasting be an issue?

Mr. Young said they have done a number of borings throughout the site and that's how they established where their stormwater facility is going to go. He pointed out the areas of where rock removal could occur. He said he would provide a sketch of where the rock would be located.

A discussion was held on the Orange County Department of Public Works letter regarding the entrance.

Antonio Figueiedo, Saracino Drive, audience voiced his concern about noise during the construction and after the facility is built.

Mr. Young described the proposed operation and showed where the loading docks would be located.

Chairman Reichle asked if anyone else in the audience had any comments. Hearing from no one he said at some point there will be a formal public hearing and you will get notified and it will be noticed in the paper.

Mr. Petzold said that his son, who lives at 5 Conklin Lane did not receive the notice.

Orange County Ironworks – Maybrook Road
Amended SEU Permit & Site Plan with a Lot Line Change – Public Hearing Continued

Chairman Reichle opened the continued Orange County Ironworks Public Hearing.

Thomas Olley, PE updated the board on the project since the last meeting and his response back to the Orange County Department of Planning's review letter.

Chairman Reichle opened the floor to the public for comment.

Kathy Pitts, audience, voiced her concern on the water that could impact her property.

Chairman Reichle said since there are no further public comments, he asked the board if they had any comments?

Member Kelly updated the board on his review of the lighting.

Vice Chairman Beaumont motioned to close the Orange County Ironworks Public Hearing, seconded by Member Pennings. All in favor, all ayes, motion carried.

Chairman Reichle read most of the draft Negative Declaration into the record.

Vice Chairman Beaumont motioned to adopt the Negative Declaration, seconded by Member Pennings. All in favor, all ayes, motion carried.

Member Brown III motioned to approve the Orange County Ironworks lot line change, seconded by Member McGuire. All in favor, all ayes, motion carried.

Member Kelly motioned to approve the Orange County Ironworks Special Exception Use Permit and amended site plan, conditioned upon everything in the adopted Negative Declaration and the lighting and the landscaping being signed off on, seconded by Member Montemarano.

Attorney Hoyt asked, MS4, I think we'll need the agreement?

Mr. Olley said yes, the original approval happened before the MS4 applied to the whole town, so it only applied to that part over by Newburgh. So now we would need the MS4 acceptance.

Attorney Hoyt said okay so we will make that as a condition of the SEU and the final comments and all final fees.

All board member voted in favor of the motion that was made with the added conditions, all ayes, motion carried.

Matrix Development, LLC – Solar Facility – Maple Avenue/NYS Rte. 17K
SEUP & Site Plan – Public Hearing Continued

Chairman Reichle opened the continued Matrix Development Public Hearing and said we did hear from county planning.

John Cappello, Attorney for the applicant and with Jacobowitz and Gubits Law Firm said yes, we did and Kristen O'Donnell with Lanc & Tully is here with the map revisions.

Ms. O'Donnell said they have answered the county comments and she reviewed the site plan.

Mr. Cappello discussed the county comment regarding agricultural soils, stating that this is an industrial zoned property and the overlay zone would have allowed a casino that would have taken this whole site. Solar installations do not alter the soils underneath and they can still be used for farming sometime in the future. This use is the most consistent with agricultural that you could find.

Vice Chairman Beaumont said the Planning Federation Class on Friday presented a map showing that most of the town is in prime soil. They do use augers and they don't put any foundations or footings or disturb the soil other than screw the post into the ground and most of these are planted with some sort of pollinating friendly growth that is agriculture positive. So, this would be up to the board.

Ms. O'Donnell said the county comments are just recommendations.

Chairman Reichle said they are not binding comments.

A further discussion was held on the soil classes and County comment Number 8 about scaling down the project to provide a buffer between the panels and the wetland areas.

Ms. O'Donnell said there is at least a minimum 25- foot buffer between the panels and any wetland area. She further reviewed the county comments and noted that there isn't any pesticide use proposed.

A discussion was held on the proposed landscaping for screening and the proposed fencing.

Chairman Reichle opened the hearing to the floor. Hearing from no one he asked the board if they had anything to add?

Member Montemarano read some of a letter from the DEC concerning protection of waters with regards to the Tin Brook, recommending no disturbance of the bed or banks up to 50-feet of the stream.

Chairman Reichle said they will be required to get a disturbance permit. Correct, in the buffer?

Mr. Cappello said correct, for the buffer disturbance permit that's submitted that's before the DEC. One of the things they will be looking for is to see a Negative Declaration first. The disturbance here is as minimal as you can possibly be and there will be no real degradation of the wetlands associated with the installation of the panels, which is why the DEC, usually is very strict, has relaxed their standards in several areas regarding solar panels.

Matrix Development, LLC – Solar Facility – Maple Avenue/NYS Rte. 17K
SEUP & Site Plan – Public Hearing Continued

Chairman Reichle asked as far as where the service will be, will it be down the easement or up to Maple, we don't know that yet, right?

Scott Sabbagh, applicant with Matrix Development said Central Hudson is studying both as part of their study and they will let us know.

Chairman Reichle asked if anyone else had anything further? Hearing from no one he said because we just received the county comments Friday, we don't have a Negative Declaration prepared yet. We should be able to wrap this up, close the hearing and do it all at the next meeting. I think everything has been answered that there is to answer; it is commercial property.

Member McGuire motioned to adjourn the Matrix Development Public Hearing to November 13, 2018 at 7:50 p.m. or as soon as the matter can be heard, seconded by Vice Chairman Beaumont. All in favor, all ayes, motion carried.

Chairman Reichle said this will be the public's notice, there won't be anything mailed out.

Winding Hills Golf Club – Invoss, LLC – NYS Route 17K
SEU Permit & Amended Site Plan – Presentation

Lawrence Marshall, P.E. with Mercurio, Norton, Tarolli and Marshall presented the proposal for the applicant. He said this proposed development is located in what was to be Phase II of the proposed subdivision. He described where the proposed town road and houses were supposed to be located and said that subdivision was never finalized. They are looking to expand upon their catering facility. They currently hold smaller weddings on site, in a tent, or inside their dining facility. They would like to expand on that and allow larger events to occur on the site. He displayed a reception area with a kitchen on the westerly side of the property.

Mr. Marshall further reviewed the conceptual proposal and a brief discussion was held.

Attorney Hoyt said Larry, your application has the use as 30.12, which is commercial public recreation and 30.21 is golf course country club.

Mr. Marshall said we transposed the numbers.

Attorney Hoyt said I didn't know because .12, commercial public recreation, it was close, so you've clarified, that's an inversion, you meant to come in under the country club use. Second, this can't be responded to tonight, in 2001 the town took the Conservation Easement on about 26, 27 acres in two different areas. A 22-acre to 24-acre area and a small 3 ½ acre area and I presume that your plans stay out of those areas, although you will need to confirm that. There's metes and bounds on that Conservation Easement, but the same day a set of covenants and restrictions were recorded, and they apply to the whole 110-acre parcel; just take a look at that between now and the next time you come in because it seems to talk to the subdivision lots, of which there were 20, I believe. Perhaps 6 in the phase you plan to abandon, and 14 or maybe it's 5 and 15. The Declaration of Covenants speak to nothing else other than those building lots and the golf course and the existing club house. Take a look at that because that is of record and it needs to be complied with. I thought there was only one Conservation Easement and that was 17-years ago, but there were actually two.

Mr. Marshall said I believe the conservation areas are down on the other side.

Attorney Hoyt said when we did the lot line change with Godegreen and it wasn't that long ago, we had the then engineer of record show us the Conservation Easement on the Godegreen map. So, you may want to take a look at that.

A further discussion was held on the location of the easements.

Mr. Marshall said it does look like this property and he will add it to an overall map.

Attorney Hoyt said Larry, you may want to write this down, the Covenants and Restrictions recorded, Liber 5602 Page 1 and the Conservation Easement recorded in Liber 5601 Page 337.

Engineer Fetherston asked what would the total occupancy be?

Mr. Marshall said they were looking for 200-people max.

A further brief discussion was held on the current golf course layout and the current parking space.

Medline Montgomery – Medline Industries, Inc. – NYS Route 416
SEU Permit/Site Plan – Presentation

John Cappello, Attorney for the applicant and with the Jacobowitz and Gubits Law Firm presented the proposed project that is planning on relocating on the northside of I84 and on the eastside of 416, in the I-1 Zoning District on the Aden Brook Farm area. He introduced Dmitry Dukhan from Medline, who will explain what Medline is about, their plans and how they arrived to pick this site. He then introduced the consulting engineers and planners from Kimley Horn. Bonnie Von Ohlsen, Planner for the project, Mike Junghans, the Engineer and John Canning, the Traffic Engineer, who will all be doing a brief presentation for the board to orientate you as to where we are. This is the initial presentation, so what we are hoping to accomplish after this presentation is for the board to start the SEQRA action by commencing and adopting a notice of intent to become lead agency under SEQRA, so, we can start the process.

Mr. Dukhan, Vice President of Real Estate Operations for Medline Industries presented the project.

Mr. Junghans reviewed the proposed site plan.

Mr. Canning briefly updated the board on the status of their communication with the NYSDOT.

A brief discussion was held on the size of the parcel.

Nick Fitzpatrick, owner of Aden Brook Farm said I think it is off from when 84 was put in, they never took it out of the tax lot; it's about 12-acres.

A further discussion was held about the project with the board.

Member Pennings motioned for the planning board to notice its intent to be Lead Agency for the Medline Montgomery, Medline Industries application and Type I Action, seconded by Member Kelly. All in favor, all ayes, motion carried.

84 Square Associates – Hawkins Drive – SEU Permit & Site Plan – Approval Decision

Member Montemarano is recused from this matter because he is an adjoining property owner.

Ross Winglovitz, P.E. with Engineering Properties and John Cappello, Attorney for the applicant and with the Jacobowitz and Gubits Law Firm were both present.

Chairman Reichle read most of the draft Resolution of approval for the project.

Member Pennings motioned to adopt the 84 Square Associates Resolution of approval document, seconded by Member Brown III, with the adopted Negative Declaration to be attached to the Resolution. All in favor, all ayes, Member Montemarano as recused, motion carried.

Gas Land Petroleum, INC. – NYS Rte. 52 and Albany Post Road
SEU Permit and Site Plan Approval with Lot Line Changes – Extension Request
Feb. 13, 2017 Conditional Approval Granted
Lot Line Change (Lasts 180-days); 5th 90-day Extension- Expires November 12, 2018
SEUP/Site Plan Approval; 1st Extension Expires November 12, 2018

Dominic Cordisco, Attorney for the applicant and with the Drake Loeb Law Firm said I know we're on for an extension request, which we have been submitting regularly for a number of times and I wanted to update the board. You may recall that you recently referred the matter over to the Zoning Board because you were unable to pursue the shared access with the neighboring property and at this last month's zoning board meeting the zoning board did grant those variances, which was an increase of a variance to allow us to have our access closer to the intersection and so we have to get an amended approval before this board. I know that's not on your agenda for tonight, but I wanted to provide that update for you.

Planner Dotson said she will put together an amended Negative Declaration for that.

Chairman Reichle reviewed the extension request form.

Member McGuire motioned to grant a 90-day extension to the proposed lot line changes approvals and a 90-day extension to the amended site plan approvals, to extend from November 12, 2018 to February 11, 2019, seconded by Member Brown III. All in favor, all ayes, motion carried.

Cranesville Block – Stone Castle Road – S.E.U. Permit Renewal – Extension Request
Aug. 29, 2005 – Approval by Resolution; 3-year Renewal Expires October 29, 2018

Chairman Reichle said it's straightened out, but we're waiting on comment from DEC. There is a letter owed to us from them signing off because they made an inspection. We're not going to grant the entire extension, only for 30-days.

Vice Chairman Beaumont motioned to grant a 30-day extension for Cranesville Block to extend to November 26, 2018, seconded by Member Kelly. All in favor, all ayes, motion carried.

Montgomery Corporate Park Bracken 4.3 – Bracken Road
Extension Request of SEU Permit and Site Plan Approval
Approved April 30, 2012 lasts 18-months;
Ten Six-Month Extensions Granted; Expires October 30, 2018

Chairman Reichle reviewed the extension request form.

Member Brown motioned to grant a 6-month extension to Montgomery Corporate Park Bracken 4.3, conditioned on the traffic light fund, approvals to extend from October 30, 2018 to April 30, 2019, seconded by Member Pennings. All in favor, all ayes, motion carried.

Campbell Freightliner – NYS Rte. 208 & Henry Henning Drive
SEU Permit & Amended Site Plan Approvals
Extension Request – Approved October 31, 2016 (18-months)
1st Six-Month Extension; Expires 10/30/2018

Chairman Reichle reviewed the extension request form.

Vice Chairman Beaumont motioned to grant a 6-month extension to Campbell Freightliner, approvals to extend from October 30, 2018 to April 30, 2019, seconded by Member Montemarano. All in favor, all ayes, motion carried.

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St. Andrews Place – St. Andrews Road (Co. Rd. 85)
Nine-lot Clustered Major Residential Subdivision
Oct. 31, 2011 Reverted back to Conditional Preliminary Approval
Extension Request of Conditional Preliminary Approval:
Nineteen extensions granted (17- 6 month & 2-3 month); Expires November 01, 2018

Member Kelly is recused because he is an adjacent property owner.

Chairman Reichle said I owe everybody an apology; I was supposed to get in touch with Mr. Zwart and I did not do that, and I will work on that. I think we should extend for 3-months, after that we're going to have to make a decision.

Member Brown motioned to grant a 3-month extension to the St. Andrews Place, approval to extend from November 01, 2018 to February 1, 2019, seconded by Vice Chairman Beaumont. All in favor, all ayes, motion carried.

Introductory Local Law No. 9 of 2018 – Six -month moratorium on Solar Facilities
Recommendation to Town Board for November 1, 2018 Public Hearing

Chairman Reichle asked has everybody had a chance to look at the draft letter I sent around? Any comments or additions?

A discussion was held.

Member Kelly motioned for the planning board to send a letter of recommendation to the town board for Introductory local law No. 9 of 2018, seconded by Member Montemarano. All in favor, all ayes, motion carried.

Member McGuire motioned to adjourn the meeting, seconded by Member Pennings. All in favor, all ayes, motion carried.

Respectfully Submitted,

Suzanne Hadden, Clerk