

January 14, 2015

A MEETING OF THE PLANNING BOARD of the Town of Ossining was held in the Ossining Public Library, 53 Croton Avenue, Ossining, New York, on the 14th day of January 2015. There were present the following members of the Planning Board:

Ingrid Richards, Chair
Gregory McWilliams, Vice Chair
Dennis Kirby
Gareth Hougham
Jim Bossinas

Also Present:

Wayne Spector, Town Attorney
David Stolman AICP, PP, Frederick P. Clark Associates, Inc.
Daniel Ciarcia, PE, Consulting Town Engineer
Sandy Anelli, Secretary

High View Farm, 123A B & C Morningside Dr. & Barnes Rd. Cluster Subdivision Plan

A new application form, Environmental Assessment Form (EAF) and Plans titled High View Farm, 123C Morningside Dr., Town of Ossining, Westchester County, NY, dated October 24, 2014, prepared by Hudson Engineering & Consulting P.C. were on file. Mr. Adam Wekstein, Attorney and Mr. Carlos Morales, Project Engineer were in attendance representing the applicant.

Mr. Wekstein reported a 24 lot conventional subdivision plan submitted last year and based on that review, a cluster sketch plan is now being presented. The new plan shows 28 units, three different road scenarios and cluster zoning using 5,000 square foot lots as a minimum. This plan includes a component of below-market-rate units which allows a density bonus based on Section 200-34 of the Town Code. Option A shows a through road from Tavano Rd. to Morningside Ct. which connects the two clusters of houses. In Option B all of the access is would come from Morningside Ct. and serve all of the homes. Option C is a split cluster plan, half take access from Tavano Rd. and half from Morningside Ct. Sheet 4 shows road profiles.

Mr. Stolman submitted and reviewed a memo originally dated May 14, 2014; updated January 14, 2015, titled High View Farm – Next Steps as follows:

MEMORANDUM

To: Ingrid Richards, Chairman, and the Town of Ossining
Planning Board

Date: May 13, 2014; updated January 14, 2015

Subject: **Highview Farm Application – Next Steps**

As requested, we have prepared this memorandum for the purpose of outlining the next steps in reviewing the Highview Farm application, which would be for the:

1. Applicant to prepare and submit a sketch plan application which clusters the proposed lots, along with a *new* Department of Environmental Conservation Full Environmental Assessment Form (EAF) with appropriate attachments.
2. Planning Board to refer the application and EAF to the appropriate entities in accordance with the Town code and other laws.
3. Planning board to determine whether it will require that the applicant prepare a Draft Environmental Impact Statement (DEIS) in accordance with the requirements of the State Environmental Quality Review Act (SEQRA).
4. Planning board to continue processing the subject application in accordance with the Town Subdivision Regulations, SEQRA and other applicable regulations. Please see the SEQRA flowchart which accompanies this memo.

I look forward to discussing this memorandum with you.

David H. Stolman, AICP, PP
President

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He also said the next step in the process is for the Planning Board to issue a positive declaration which is a finding that there may be significant adverse environmental impacts as a result of the project. The step after that will be the applicant's responsibility to prepare a draft scoping outline which will be submitted to the Planning Board. The Planning Board will take that to a public scoping session and review the scoping outline to see where it might be deficient or it might not be comprehensive enough and we would move as a group, the public and the Planning Board, go over the scoping outline and ultimately prepare a final scoping outline of the draft environmental impact statement which will contain a variety of things, including various alternatives to the cluster subdivision the applicant is proposing.

The Planning Board has quite a bit of latitude when it comes to cluster subdivisions; it can mandate a cluster subdivision; it can mandate a conventional subdivision, if the Board decides that a conventional subdivision is more appropriate. It can dictate the size of the lots of a cluster subdivision and all of those things can be studied as part of the alternative section of the draft environmental impact statement. Once the DEIS is prepared by the applicant, the Planning Board generally has a number of reviews to make sure of its completeness to make sure it is complying with its final scoping outline and when the Board is finally satisfied that the DEIS complies and has completed everything in the final scoping outline, the Planning Board accepts the DEIS which is followed by a Public Hearing of the DEIS and subsequent reviews of the DEIS which will be followed by the preparation of a Final Environmental Impact Statement. Mr. Stolman clarified that the project is at the very beginning of this process.

Mrs. Richards asked Board Members for their input and comments regarding the scenarios presented. Mr. Ciarcia noted that when we go through the scoping process, he would be requesting things like storm water retention plans. These will be examined in great detail; the advantages of cluster verses a conventional layout is a likely issue that we would want to include in that process. Also, Mr. Kirby added steep slopes and wetlands are to be included. Dr. Hougham requested, on behalf of the neighbors, that the applicant provide 3D representation of the plan using a program such as Google SketchUp. Property owners could see what the homes would look like and get a perspective of the project from their homes.

Mrs. Richards raised concern with the change from the original proposal of 24 units on the conventional plan to 28 units on the cluster plan shown today. Mr. Stolman referred to and read through Section 200-34, paragraph C. of the Town Code, Residential Density Bonus. Mrs. Richards opened the meeting for public comment:

Mrs. Wendy Masserman, 10 Morningside Ct., read her memo dated January 15, 2015 to the Board. Mrs. Masserman also submitted a letter dated January 12, 2015 from Mr. William Jaenike of 12 Morningside Ct. Copies of these were distributed to all members of the Board and are attached.

Mr. Howard Fleischer, 22 Tavano Rd, raised the question of the new number of 28 homes when a determination of 24 was shown the conventional plans. Another concern is the layout of the road where the road is in the back yard of existing properties. He noted that this creates an island type layout of the properties which he understands is not permitted.

Mr. Mark Hoeflich, 98B Morningside Dr., expressed concern with the 40 or 50 foot slope near Morningside Drive, drainage and sewage. He also expressed concerns with the homes shown on the Aqueduct and steep roads with no sidewalks proposed.

Mr. David Gordon, Attorney for "The Citizens of Ossining" urged the Board to re-think the original number of 24 units on the conventional plan and urged review of comments from the community and two memos from the Town EAC. In his opinion, the density bonus leading up to 28 units was not determined correctly. In closing he said, all of these things can be revisited by the Board and community during the DEIS Scoping process.

Mrs. Mitzi Elkes, Environmental Advisory Committee Chair, asked for clarification of the areas noted as open space on the plan. She also asked if there are any homes situated on the buffer zone and if they can be identified. There are two lots that are not cluster type lots. These two lots are larger than the others. One of which has access to Barnes Road which is part of New Castle.

Mr. Stolman clarified that the Planning Board has not made any determinations as to whether the cluster plans presented are appropriate or not. The Planning Board has a lot of leverage with cluster subdivisions. The Board can decide what size the lots should be; the location of the lots, or that this project can't be a cluster at all. It may have to be a conventional subdivision. In response to Mrs. Elkes, there are two lots that are significant in size shown.

Mrs. Richards thanked audience members and the Board. She noted this project will further be reviewed by the Board.

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Briar Commons LLC, 558 North State Road, Architectural Review & Revisions

Mr. Wekstein and Mr. Morales remained in attendance representing the applicant. Mr. Wekstein noted that minor changes, as requested by the Board, have been made to the subdivision plat. Mr. Spector said that the issue discussed at earlier meetings having to do with the project being converted from an HOA, or elimination of lot lines to allow for condominium has been removed. That application was withdrawn. A copy of Mr. Wekstein's letter dated January 2, 2015 was submitted to the Board which confirms this.

Dr. Hougham asked for clarification of the changes that were made. Mr. Stolman pointed out that the changes are minor such as the location of a fire hydrant location and a parking space, also a side note was removed from the plat.

Neighbors expressed concerns with the project. Mr. Albrecht, 552 North State Rd, expressed that they haven't seen any fencing or trees. Mr. Stolman noted these are shown on the approved plan. Mrs. Richards referred Mr. Albrecht to the Building Department with this issue. Mrs. Trainham, 55 Gordon Avenue, expressed that the storm water retention vault is unsightly and she doesn't believe this is what was originally approved. This item was changed and approved by the Board. It is more efficient than the original vault and will be fully landscaped and stone facing added which will make it more attractive. Ms. Sharratt asked if a landscape plan was provided for this project. It was suggested that she review the file at the Building Department as well.

Mr. Morales outlined certain architectural features have been added to the buildings which are enhancements. Exposed concrete footings have been changed to show a stepped down finish with more siding. Stone face material has been added in different areas and to the storm water attenuation vault. Mr. Wekstein asked if the Subdivision Map could be signed. Architectural updates can be forwarded at a later date. Mr. Stolman asked Mr. Wekstein to provide a vellum map for final review and signature.

Minutes

A motion was made by Mr. Kirby, seconded by Mr. McWilliams and unanimously passed to approve minutes of Planning Board meeting December 10, 2014.

Adjournment

There being no further business to come before the Planning Board of the Town of Ossining, Mr. Kirby made a motion, seconded by Mr. Bossinas that the meeting be adjourned to January 28, 2015.

Time noted 9:05 p.m.

Respectfully submitted,

Sandra Anelli

Sandra Anelli, Secretary
Town of Ossining Planning Board

Approved: February 25, 2015

January 14, 2015

1/14/15 PLANNING BOARD MEETING – HIGH VIEW FARMS

MADAME CHAIR AND MEMBERS OF THE BOARD, I WANT TO THANK YOU FOR ALLOWING ME TO SPEAK TONIGHT.

MY NAME IS WENDY MASSERMAN. MY HUSBAND BRUCE AND I HAVE LIVED AT 10 MORNINGSIDE CT. IN THE TOWN OF OSSINING FOR 33+ YEARS. WE HAVE BEEN INVESTED IN THIS COMMUNITY AS OUR CHILDREN WENT THROUGH THE OSSINING SCHOOLS AND WE BUILT AND OPENED OUR CHILD CARE CENTER ON N. STATE RD. IN THE TOWN, IN 1996.

I HAVE BEEN INVOLVED IN THESE PROCEEDINGS SINCE THE 1ST PLANNING BOARD MEETING WHEN ZAPPICO MADE ITS PRESENTATION ON MARCH 13, 2013. OUR HOME IS DIRECTLY ADJACENT TO THE PROPERTY. THE MAJORITY OF THE HOMES SHOWN ON THIS NEW CLUSTER PLAN, WILL BE IMMEDIATELY BEHIND OUR PROPERTY.

MY MAIN CONCERN THEN, AND REMAINS NOW, THE STEEP SLOPES ON THE HIGHVIEW FARMS PROPERTY AND THE ONE IMMEDIATELY BEHIND MY HOME AND #12 MORNINGSIDE CT. AT THE APRIL 13, 2013 PLANNING BOARD MEETING THE BOARD, WAS INFORMED BY MITZI ELKES, CHAIR OF THE TOWN ENVIRONMENTAL ADVISORY COMMITTEE, THAT THIS PARTICULAR SLOPE IS THE HIGHEST POINT IN THE TOWN OF OSSINING (HIGHER THAN CLIFFDALE FARMS). IT IS A 40 FOOT SLOPE.

AFTER THAT MEETING, I ASKED TO HAVE MR. CIARCIA, THE TOWN CONSULTING ENGINEER, COME TO OUR HOME AND SEE THIS SLOPE. DURING HIS VISIT, I INFORMED HIM OF A MUDSLIDE THAT HAD OCCURRED IN A MUCH SMALLER SLOPE BEHIND #6 MORNINGSIDE CT. DURING CONSTRUCTION OF A NEW HOME. I ASKED THAT HE INVESTIGATE. HE WAS UNABLE TO FIND ANY REPORTS AND, AS IT WAS PRIOR TO HIS COMING TO OSSINING, HE HAD TO ASSUME THAT THE SLOPE WAS ILL PREPARED.

RECEIVED

JAN 14 2015

Town of Ossining
Building & Planning Department

THE NEW CLUSTER PLAN, DATED 10/24/14, SHOWS 5 HOMES AT THE BASE OF THIS 40 FT. SLOPE. THREE MORE HOMES ARE SHOWN ADJACENT TO #7 MORNINGSIDE CT. THIS IS A 30 FT. SLOPE.

IN THE CODE OF THE TOWN OF OSSINING CHAPTER 167- STEEP SLOPE PROTECTION SECTION B1 STATES THAT "ONCE A STEEP SLOPE IS DISTURBED, THAT DISTURBANCE IS, FOR ALL PRACTICAL PURPOSES IRREVERSIBLE."

B2. READS, "THE DISTURBANCE OF SLOPES CAN AGGRAVATE EROSION AND SEDIMENTATION BEYOND RATES IN NATURAL GEOMORPHOLOGICAL PROCESSES."

THE ACREAGE DIRECTLY BEHIND OUR HOME, IS THE FLATTEST PIECE ON THE HIGH VIEW FARMS PROPERTY. WE ALREADY HAVE EXPERIENCE WITH TREE REMOVAL BY THE OWNER, MR. ZAPPI. A LINE OF TREES WAS REMOVED ALONG A STONE WALL RUNNING PERPENDICULAR TO OUR PROPERTY LINES. SINCE THAT TIME, WE HAVE HAD WATER RUNNING ONTO OUR PROPERTY. IN HEAVY RAIN, IT ACTUALLY CREATES A RUT IN OUR BACKYARD AND PUSHES POUNDS OF DEBRIS ONTO OUR LAWN. THE REVISED ENVIRONMENTAL ASSESSMENT FORM, SUBMITTED ON 1/6/15, FROM ZAPPICO, PAGE 9, SHOWS THE REMOVAL OF 4.84 ACRES OF FOREST. THESE SLOPES ARE ALREADY FILLED WITH WATER FROM THE WETLANDS ABOVE. IF THERE IS A COLLAPSE THERE WOULD BE IRREPARABLE DAMAGE TO OUR'S AND THE NEIGHBORING PROPERTIES.

ZAPPICO'S CONVENTIONAL DRAWING, SUBMITTED IN 2013, SHOWS 24 HOMES USING R-40 ZONING CODES. IN THE 5/13/14 MEMORANDUM FROM FREDERICK P. CLARK ASSOCIATES IT STATES "PLANNING BOARD TO GIVE THE APPLICANT A THEORETICAL NUMBER OF LOTS/DWELLING UNITS TO USE FOR APPLICANT'S PREPARATION OF A CLUSTER LAYOUT." THE NUMBER 24 WAS GIVEN, DESPITE OUR QUESTIONS ABOUT THE FEASIBILITY OF THE PLAN. THIS NEW PLAN PROPOSES 28 HOMES.

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I'D LIKE TO LEAVE YOU WITH THIS QUOTE FROM THE TOWN ENVIRONMENTAL ADVISORY COMMITTEE MEMORANDUM, 9/19/13 REGARDING ZAPPICO'S ORIGINAL ENVIRONMENTAL ASSESSMENT FORM SUBMISSION. AFTER REVIEWING PART 1-B PROJECT DESCRIPTION ITEM 1h. "WE QUESTION THE RESPONSE OF '24' HOUSING UNITS. THE PROPOSED TWENTY-FOUR HOUSING UNITS ARE OF CONCERN TO THIS COMMITTEE. GIVEN THE POTENTIAL LARGE ENVIRONMENTAL IMPACT OF THIS PROJECT AND PHYSICAL PROPERTIES OF THIS SITE, THE NUMBER OF PROPOSED UNITS MAY BE CONSIDERED AND CONSIDERABLY SCALED DOWN."

YET HERE WE ARE TODAY, WITH MORE UNITS THAN ORIGINALLY PLANNED. I HOPE THIS BOARD WILL RECONSIDER THE ENTIRE PROJECT.

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To: Ms. Ingrid Richards
Chair, Town of Ossining Planning Board

January 12, 2015

RECEIVED

From: William Jaenike

JAN 14 2015

Town of Ossining
Building & Planning Department

Subject: The Currently Proposed High View Farm Cluster Plan

Dear Ms. Richards,

I've lived at 12 Morningside Court for 42 years and share a property line with High View Farm. I've written to the Board in the past and given a more complete description of my concerns that serve no purpose to be repeated here. I've also spoken at several meetings regarding the earlier plans that had much of the same potential for catastrophically affecting the community and myself. Sandy Anelli's file has these letters and references to several arguments I made orally. She can provide these to you so that I don't have to burden you with repeating them here.

The Plan as proposed has two, almost certainly catastrophic impacts on the Town of Ossining and my large neighborhood in particular, as well as on our own home at 12 Morningside Court.

First and most importantly, the Plan will severely impact the appeal of, and almost rural nature of, that part of the Town extending from Route 133 and Tavano Road all the way down to Morningside Court and beyond it, to and across across Morningside Drive.

We're knowledgeable about this point because some years ago after a severe nor'easter we had such flooding on our property that, after a few weeks' drying out period but when it was still swampy, we hired a Professional Engineer to run a perk test in our front yard well away from our severest residual swampy area. The test failed, totally. The

ground was all clay! The 18" deep and 4" wide hole, now holding water he poured in did not have its water level decrease even an inch over two hours. He volunteered that the property and probably those nearby should never been built on. Won't the High View Farm development with its terribly steep slopes yield similar "never build on" results? Won't paving over for access roads and the concrete foundations and car ports and drive ways of the now growing number of units worsen the already impervious clay soil's effects? The answer is yes. The slope is extreme, up to 40 degrees(!) and the soil is mainly clay, is it not? Storm sewers will NOT solve the problem. The best that storm sewers can capture is a fraction of the runoff down the various complex slopes. How come these issues aren't addressed?

The bottom line of all this is that the Plan will affect all of the people of the Town Outside, often indirectly, by over-developing real estate that could easily have been left under-developed for their environmental and economic welfare and recreational enjoyment. Let's go back to the beginning and develop a Plan with a nature preserve that accommodates a sharply reduced number of cluster units, none smack up against others' properties as they are now, and is open to use by Ossining's residents. Do the nature preserve first and THEN fit in housing, second.

Second, and less important but still a serious issue for those homeowners at or near the bases of the slopes surrounding the planned development, is the harm done to those homeowners. I'm at the base of the steepest of the slopes—the epicenter. Any objective, competent observer sees immediately the effects of the ground's absorption ability. A tour by representatives of the Board, of my 12 Morningside Court and the adjacent 10 Morningside Court soon after a substantial rainfall showed the quagmire that our properties had become especially our back yards. Unfortunately, not all the visitors got the full impact when they missed (through no fault of their own) those

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areas where the water from the upslope French drains had poured down the hill through them and spilled out into our yards causing a foot to sink in several inches or more. The Plan could only exacerbate this. When we tried to deal with the problem some time ago by installing a storm drain system on our lot, it turned out to be wholly inadequate during and after downpours leaving more flooding and washouts.

There's no need to recapitulate here the powerful arguments being made by others and which I totally subscribe to, over the flora and fauna environmental impacts, by our Environmental Advisory Committee (EAC) whose members have done professional, copious analyses (in spite of the active opposition of the developer—a fact known to some Board members who debated him at a Board meeting over that opposition); the high and steep cuts in the hillside for the access roads with retaining walls, ticking time bombs set to blow at great cost and risk to the Town months or years after the developer has gone (and the Town itself might have to pick-up a six-figure reconstruction bill); or the routing of emergency vehicle access (from Morningside Court to Tavano Road) through the large swamp between my home and 7 Morningside Court. That emergency access is simply not going work. That access would have a slope unmanageable during bad weather for all but off-road vehicles. Testimony by some advising the Board to the contrary isn't from the real world. I'm especially dismayed that one of the cluster plan choices would leave this as a public access road. Public access was thoroughly rebutted and dismissed long ago. Why is it being reintroduced at this late date? I hope to get an answer to that question, or be forced to conclude there's something disingenuous going on here.

I would be happy to show the access route and give a tour to the Board at its convenience. Unfortunately, assertions have gotten in the way of facts making a Board decision all the more difficult. It's often hard to

tell the difference. A tour under the right weather conditions could wash away the misinformation.

Finally, I would like to add my appreciation to the Board members for the thankless task they have taken on for the betterment of the people of Ossining's Town Outside, just as we did when we served on Catherine Borgia's advisory council.