

All in favor –7

All opposed –0

Agreed and carried

Dan Gettel: Like I said we reviewed this at the last meeting, but there was a technical error, it is a two lot subdivision there are no new utilities, no new construction, it is two houses on one lot. I need a motion that we grant this application negative declaration.

Motion for neg declaration by Steven Simpson, second by Susan Brown Otto

All in favor –7

All opposed –0

Agreed and carried

Dan Gettel: Michael, (Weeks) you were satisfied at the last meeting?

Michael Weeks: Yes

Dan Gettel: Kimberlea, any comments?

Kimberlea Shaw: No

Dan Gettel: Any comments from the board? If that's the case, I would like a motion to approve this two-lot subdivision for Mr. Fulton

Motion by Susan Brown Otto, second by Steven Simpson

Roll call vote

Mike Cassaro – Y

Susan Brown Otto – Y

Bill Brey – Rescues himself

Dan Gettel – Y

Steven Simpson - Y

Wilfred Hughson – Y

David Slater –Y

6 ayes

1 rescues

Agreed and carried

2) Application for a 2-lot subdivision located at 1460 State Route 17B near State Route 55, known as Bethel Tax Map#: 34-2-13, proposed by HSD, LLC. (Smith)

Glen Smith – Engineer: At the corner of Rt 17B and Rt 55 in White Lake, we were here at the June meeting and had a discussion with the board at that time we had a very preliminary discussion on what the proposal is. The plans that I put in front of you, there are 6 plan sheets, they are reduced version of what the project involves. I will highlight on these larger copies of what the project involves. Basically this is a 12.2 acre parcel on the corner of Rt 17B and Rt 55 right across from Schulz Road, the Candy Cone and the seasonal grocery store (showing on map) owned by HSD LLC. This is the site that the El Monoco Restaurant was on at one time; there was another smaller store on the property. Basically, two things we are looking for, one is a subdivision to subdivide off .78 parcels for a branch bank for Jeff Bank. We would be opposite Schulz Road pretty much, and of course site plan approval for this. I have shown roughly where that .78-acre parcel would be right here (red spot on my map) roughly 42 ft by 43 ft in size; it is a

one-story building. It would be done in stone and wood similar to the clock tower on the corner. For sewer service for the bank there would be pump station right behind it. It would pump up to a manhole on Rt 55 up near where the Candy Cone is, we're showing access from Rt 55 into the property, and also an access point from Rt 17B, roughly where Schulz Road intersects with 17B now. (Showing on map) 17B down here Schulz Road, and Rt 55 over here, the bank building with a overhang 3 drive through lanes, and a 4th lane here a by pass lane to go around and parking (showing parking on map). Vehicles are coming from 17B go around and park go through the drive through exit to 55, come back around exit to Rt 17B, The 17B exit we anticipate that we will need a permit from DOT. It will require a right turn and a right turn out only on that. They are not going to want traffic crossing the two lanes coming up the hill on 17B either get in or get out of the main entrance (showing on map). I show a well near the building for water to the bank. Bank demand is about 250 gallons a day. It is a very low demand, and also very low amount of wastewater will be sent up to the town manhole on Rt 55. This spot in the corner (showing on map) is storm water retention basin. What I am submitting tonight a SWPPP storm water pollution prevention plan, all this water in the impervious areas will be captured in catch basins, and some drainage swales brought down to storm water basins to discharge out to the drainage systems along Rt 17B, which goes down at the bottom of the hill about 1,000 ft into White Lake brook, which crosses 17B at the bottom of the hill. This is in the hamlet commercial 17B zoning district of the town it does permit business and professional offices on .5 acre lot sizes with sewer services we are showing more than a .5 acre lot size for the bank parcel. We meet all the other setbacks that are required by zoning.

Michael Weeks: Glen are you okay on the side yards?

Glen Smith: The side yard is 15 ft on one side, and 10 ft, 25 ft total. We should be okay with that. If you want us to adjust for public hearing, we can do that.

Michael Weeks: New is 10 ft on one side.

Dan Gettel: So you will meet minimum requirements

Glen Smith: Yes, we are not looking for any variances. One thing I would like to accomplish tonight if we could, subsequent to the June meeting we submitted a notice of intent to be lead agency which was sent apparently, I'm not aware of any other agencies indicating their desire to be lead agency.

BJ: Actually, State DOT has requested they want to be an involved agency

Glen Smith: They are an involved agency, but they don't say that it has to be lead agency.

BJ: No, they did not

Glen Smith: That is one thing we are looking for tonight, at least get the lead agency designation out of the way. Let me give Mike a copy of the storm water plan. I'll just touch on a couple of comments that Michael came up with. One was the right of way, this proposed right of way was shown coming on Rt 55. This existing house, it's not really a rental unit, it is occasionally occupied that is going to be a field office for construction the house that sits on the corner now across from Rt 55, we have to meet the side yard setbacks for that also. We will either have to adjust our right of way line, or possibly take off the porch to meet the setbacks for that. We will do that before any approvals also so as not to need a variance on that. Mike had mentioned the

30 ft right of way that goes to the property here that accesses the property in the back, that has been abandoned and a deal made with people behind them, so that way that right of way is showing going to this storm water basin, that is being eliminated, and we will provide documentation to show that. We need some more detail – one thing I haven't shown a lot of detail on yet is landscaping – sheet #6 –on the reduced version I gave the board, landscaping plan needs more detail, and more plantings on there. We will supply more on the landscaping and more on the lighting also. There is going to be a sign. We will have to supply more detail on the sign. Other than that as far as the parking, and the access, the sewer discharge, and the water supply, and the storm water, we are getting to the point that we are getting somewhat finalized.

Michael Weeks: Glen, are these plans different than what you emailed me.

Glen Smith: They are different along the sense the sheet numbers changed; these just have more detail on them.

Michael Weeks: Just so the board understands, Glen has emailed me the plans, here and there. All I've done is a courtesy review both times. I haven't gotten into storm water, haven't looked at grading detail, landscaping detail, haven't done an in depth review, other than what the setbacks were, the general issues, I haven't spent a lot of time on this yet.

Glen Smith: We expect more comments from you. Part 1, the long form EAF was submitted at the last meeting. That was sent out to the involved agencies, I did fill out the worksheet of Part 2 EAF long form. I'll give Mike a copy of that. Basically they are mostly no answers. I will give you a copy, Mike. That is where we are

Dan Gettel: Michael, I know you had a comment of the shifting of the driveway, your other comments I believe Glen touched on, am I right?

Glen Smith: Mike's comment was the proposed driveway into the site is not directly opposite Schultz Road here. It is kind of skewed off, the reason for that is there is a large telephone pole with large transformers on the top. I can probably shift that driveway over a little. We would like to avoid moving that pole, because that would adjust the utilities down 17B here. I can probably get the driveway to shift over closer to that pole, but again I want to submit to DOT first.

Michael Weeks: They may require improvements with DOT they will have something to say about the pole or an exit lane

Glen Smith: We haven't gotten that question sent to DOT yet. They will probably say something about that pole, and they may want an exit lane coming to the site. I don't know yet. We haven't submitted anything final to them. We kind of want to get a step farther with this board and then go to DOT.

Michael Weeks: If you – do you have room to move the driveway, or can you shift it over. That may be a possibility, or will that significantly change your site plan

Glen Smith: We can shift over a few feet, and still keep the pole where it is. That might be a possibility.

Susan Brown Otto: How wide is the entrance to the bank off 17B?

Glen Smith: That's about 28 ft right there. These other roads are all showing 24 ft wide.

Susan Brown Otto: The reason why I ask this, for the past year and half I drove to Mongaup Valley 5 or 6 days a week, and almost every day I went to the gas station down in Mongaup Valley, the Mobil station there, and twice in the past two months I was trying to enter the Mongaup Valley gas station, and somebody who was trying to exit the station was right in the middle of the road, there is all this traffic on 17B, and everyone is driving fast and I am trying to pull in and I can't pull in, because somebody is right in the middle of the exit. I said to the people that own the Mobil station because most of that gas station is in the town of Bethel, I said why don't you paint a line on there and that at least get traffic directed one way or the other and the thing is my concern is you have traffic coming up 17B those people you have people that are going to pull into 55 whatever, and people there is a lot of traffic there and is it going to be enough is it going to be wide enough to enter there in case somebody is to far over?

Glen Smith: One thing I might alleviate if you can only turn right into this drive, and exit right out so that your not getting cars coming wanting to turn left, the DOT would never allow that.

Dan Gettel: That would be the person that would hug the center lane, the person trying to make a left turn

Glen Smith: Exactly, people coming out and going right, they would probably be more likely to hug the right side and you'll be coming in on your right side. Another option would be a narrow divider in there. I don't think you are going to have that issue here, as much as over there

Susan Brown Otto: I almost had two near misses with what happened down in Mongaup Valley. Is there some way we can paint the line, or have a little barricade or something in the middle because.....

Glen Smith: Some striping wouldn't be no problem at all

Dan Gettel: Typically commercial driveways are 20 feet. These are 28. I think they are generous. I imagine Mongaup Valley; I don't know if it is the Town of Bethel even.

BJ: It's not; it's in the Town of Thompson

Susan Brown Otto: He said most of its in Bethel

Dan Gettel: I believe they are probably only 20 ft wide

Glen Smith: They are two separate

Susan Brown Otto: But they are not marked like one is the entrance and one is the exit

Dan Gettel: I do think 28 ft would address that concern

Glen Smith: Right in and right out that should solve the problem

Dan Gettel: You haven't submitted anything to DOT, correct?

Glen Smith: No, we will be shortly

Susan Brown Otto: Another item, with regard to the sign, I know you haven't said anything yet, with regard to the sign but we are just trying to unofficially.....

Glen Smith: Yes, we will do the same type of thing

Dan Gettel: Kimberlea, do you have any comments

Kimberlea Shaw: No

Dan Gettel: Did you read the resolution?

Kimberlea Shaw: Yes

Dan Gettel: It seems fair?

Kimberlea Shaw: Resolution seems fair, DOT comments if you want to declare lead agency

Motion for Town to be LEAD Agency, motion by Bill Brey, second by Susan Brown Otto

Roll call vote

Mike Cassaro – Y

Susan Brown Otto – Y

Bill Brey – Y

Dan Gettel – Y

Steven Simpson - Y

Wilfred Hughson – Y

David Slater –Y

Agreed and carried

Dan Gettel: Any other comments from the board before we let Mr. Smith go?

No comments

Dan Gettel: Again, I think it is a good project, work closely with Michael, between you and Michael and the DOT.

3) Application for a Site Plan Review located on SR 17B next to 1761 SR 17B, known as Bethel Tax Map #: 40-1-6, proposed by Redwood Estates, LLC. (Illing)

Wes Illing: The topography of the property, what the slopes were, it is a very gentle grade, everything drains into this corner (showing on map) there is an old abandoned pool, there are some old trailers Lynden Lilley has parked on the property, that is not a very big deal, he is on very good terms with the owners of the property. They have a long-term good relationship. A minor issue here, his house (Lynden Lilley's) is actually on their property. The plan will mitigate all those issues.

Dan Gettel: Whose house is on whose property?

Wes Illing: Lynden Lilley's house. One of the first things we did for this property, we took a hard look at if we did a subdivision of this property. How many lots would this property use? The subdivision approach we would be able to get 13 lots on the property.

Dan Gettel: Just to clarify, we don't have that plan, so the Planning Board shouldn't be looking for it

Wes Illing: No this was done before; I sent a pdf file over for Mike to look it. This was really done just to see. Here are all the lot numbers, the gross land areas, and then we take the reduction that is required for the design standards for the new code. Then the available land which is .5 acres, and there is the width and depth requirements which we exceed the lot coverage varies from 10 – 15 %, the maximum was 30% and the setbacks they were illustrated a lot easier than trying to tabulate that. The objective here was to demonstrate that the piece of property completely offered a yield of 13 lots. However, we don't feel this approach is consistent with the overall goals and objectives of your master plan. This is the gateway corridor here, and one of the objectives of the master plan is to keep the green space green down the gateway corridor and if you put houses here that really isn't consistent with the primary objectives of the town. So what we would like to propose tonight is a completely different approach. Where we put a lot of green space up front on the property. We have originally submitted a plan with more stuff, tennis courts and handball courts, and then we got rid of those to make more green space up front to keep the corridor more consistent with what is in your master plan. This is still 13 units but we have clustered them on the rear of the property, so when you are driving down 17B, what you are really going to see is the greenery up front, not the houses

Dave Slater: This is different – this says 14

Wes Illing: It is 13, when we did the density calcs we realized the plan would not support 14 homes in accordance with your code.

Dan Gettel: So you have a slightly different layout.

Wes Illing: We got rid of one house. The plan would not support 14 homes when we did the standard... If the lot density would support when we did the area calculations, if you just lay it out in a standard subdivision format where each individual lot has to meet the sign standard for the area, depth and the width, we could just squeeze in 13 homes instead of 14. So we took one of the homes off the map because we feel it complies as an appropriate density for the property.

Susan Brown Otto: Wes, when you look at what's up there, on the easel, it looks like you have 3 circles than a big purple thing

Wes Illing: We are going to put a water feature up here, there is green scape, flower beds at the entrance, a gate, larger trees in the center, shade trees (showing on map) swimming pool, club house, green things here are different size trees and shrubs and what not for the property to create screening and shade for the residences

Dan Gettel: What is the property like now? I assume it's vacant?

Wes Illing: It's vacant. It's about half wooded, and half cleared land

Dan Gettel: As I recall the last time you were before the board with this proposal, you are taking a piece of property, is it Sunshine's, Sunflower?

Wes Illing: We were, we looked into that, and that cannot be done.

Dan Gettel: So, this is its own tax lot

Wes Illing: That's correct

Dan Gettel: So the pool and clubhouse are still in, but the tennis and handball court are out?

Wes Illing: We wanted more space up front to be consistent with your master plan. So the realm that we get into here now with this, where does this fit in your zoning code?

Dan Gettel: That is a good question, that did come up prior to the meeting, and it is really up to our attorney and engineer to advise us if this fits our current zoning. There are some concerns about it. Michael, I don't know if you want to start with your review comments

Michael Weeks: The way this plan is laid out right now, I would call it a cluster development. Cluster developments are not permitted in this zone. They are permitted elsewhere in the township. I don't see that it fits in this zone.

Steve Barshov – Attorney: There is a couple of possibilities here when I looked through your code and obviously you guys deal with this on a day to day basis here is what I observed at least – section 345 - 18 the gateway design guidelines that would be section b – 2 a - there are various requirements that are supposed to be incorporated into the design of how buildings are supposed to be oriented, these would be probably impossible to do if one was confined to a conventional subdivision layout. They are talking about multiple buildings, which would describe this, orientating the buildings around courtyard screens or quadrangles obviously very desirable on design elements that would be very difficult if not impossible to do in a conventional subdivision. Also there is language in your code which gives the planning board on it's own motion the right to require a sub divider to pursue a cluster subdivision. It does not appear at least to me that it is limited to any particular zone – I'm not sure if that is in fact the way you have interpreted the code in the past. But one of the sections, it is addressed more than one place, it is the section 345-24 sub section b which is procedure for conservation subdivision, subsection 1 planning board initiative -

"B. Procedure for Conservation Subdivision.

Planning board initiative. The Planning Board may on its own motion require a sub divider to pursue a Conservation Subdivision subject to the criteria in this section if, in the Planning Board's judgment, Conservation Subdivision of a requested subdivision would benefit the public interest or protect characteristics of the subdivision site consistent with goals and objectives of the Town of Bethel Comprehensive Plan."

So that really picks up on what Wes was saying. It is our position that it is within your authority to actually mandate this should you so choose. If that is not your interpretation and obviously your attorney will tell you what her interpretation is, if that is not your interpretation, there is another process that can be followed. And that is that the planning board can request that the town board authorize a cluster subdivision, not approve it, but authorize you to consider it for this piece of land only. This is something not commonly done as much today as it was 20 or 30

years ago, but some of you old timers you have been around as long as I have know that cluster subdivision first started by the town board authorizing individual properties to be cluster subdivided in terms of delegating the authority to the Planning Board and that authority still exists for the Town Board, you as the Planning Board to consider a cluster subdivision on any land that it so designates, and I have cases that confirm that proposition as well as a reference in the practice commentaries in Section 278 of the Town Law. I'll provide those materials to your attorney, I'm sure she will give advise and input, but those are our evaluations and the different ways in which this could happen. So A, we think you have the authority to mandate it on your own, B. if that not your interpretation of your own authority, then definitely the town board has the ability to authorize you, not direct you to approve it, not to even tell you that they like it, but simply to authorize you to review it and consider it as a cluster subdivision.

Kimberlea Shaw: My opinion this is not permissible in this particular district. I would not recommend the Town Board to override. With respect with Mr. Barshov's latter suggestion, if you would like to pursue that before the Town Board, you can do that. I am not endorsing that.

Steve Barshov: I don't know what you are suggesting, if we should just take what you are saying as that's it, or the board has to express itself, but what I think you are saying to us make your request to the Town Board.....

Kimberlea Shaw: If you want to approach the Town Board you may do that, I am not endorsing or suggesting I don't actually agree with your interpretation,

Steve Barshov: You wouldn't want to see the cases?

Kimberlea Shaw: It's not before us right now

Steve Barshov: I'm trying to put it before you is what I'm saying. What I'm trying to say is, I've got cases, and I do not want to go around in circles. I have cases that I'm happy to give you the sites of, that specifically the Orell case, in Westchester County, deals with a resolution adopted by the Planning Board requesting that the Town Board give them cluster authority for a particular piece of property. That is what the case is all about, and the court says yup, that's fine, and then there is another case that follows it, that says the same thing. It's not me being creative, I wish I were that creative, but I'm not. That's just the law.

Kimberlea Shaw: I don't know what the zoning requirements were in that particular municipality.

Steve Barshov: It's not that, it is the Town Law, they are talking about town law prior version of the town law 281, it is now 278 that is what they were construing. Not the individual provision of any locality zoning law. It was strictly to say that under the authority granted in the Town Law, State Statute, Planning Board's can requested and/or Town Board's can grant to the Planning Board the authority to review a cluster subdivision on a particular piece of property. Nothing more, or nothing less than that. It does not affect the use. The use is still residential. No one is proposing a use that is prohibited. We are only talking about how the use will be undertaken on the property as what type of a subdivision cluster subdivision or conventional subdivision. What I've said to you is the cases say that the Town Board has the authority to give the Planning Board the ability to consider.

Kimberlea Shaw: If you want to pursue this, please send to the Town attorney, it's really going to be his evaluation.

Dan Gettel: It is our opinion that without knowing if it fits, it doesn't really make a lot of sense for us to proceed with review, I appreciate the fact that you came to present it to us, obviously we have problems. Wes you show the swimming pool very close to the property line, I don't know what the setbacks are, but there are requirements for that. I don't know if the pool is going to be illuminated or not. There are other things that we are going to want to look at. We are definitely going to have concerns with the design itself. Without knowing if it will fit in the district it is kind of foolish for us to go ahead with any kind of review.

Steve Barshov: Mr. Chairman, we were hoping for I'm not sure if this is something you guys want to do, but we were hoping for your saying you know what, it would be better for all concerned if there were a cluster development on this site, as opposed to a conventional subdivision again assuming that the design meets all of your criteria, and the kinds of things you like to see on it and so that you would say to the Town Board we would rather review this, and hopefully get a good cluster subdivision design because that is preferable to a conventional subdivision design on this property no matter how the cluster would be laid out. That is what we were hoping you would say tonight as a result of hearing Wes' presentation and seeing how the layout would be if it was a conventional subdivision. The reason why Wes brought up the comprehensive plan was to say we don't think you want your gateway to have lots on it right up to the edge, that was what we thought the gateway district was intended to avoid. We were simply coming to you tonight to say why not request to the Town Board authority to review this as a cluster they don't have to give it to you. That is up to them, but if you thought it was a good idea to at least to have the ability to do it, to review it, that is what we were hoping you would express.

Dan Gettel: I would like our attorneys to take a look at before we make any recommendations, if any to the Town Board. I'm not willing to make that motion, I don't know if the board is willing to. I think we will let the attorneys.....

Steve Barshov: I will be happy to get the material to your counsel, I will put together in a memo, so that it is all laid out, sites will be there, everything will be laid right out, and then you'll let us know if you feel that we should be coming back before you at your next meeting, or if we are on our own to do as we will.

Dan Gettel: Well you're not on your own to do what you will, but

Steve Barshov: Well we will attempt to do what we will...

Michael Weeks: Wes, I would suggest, if we do end up proceeding, I would suggest you go back and look at your conventional subdivision plan, because I don't believe you will get 13 lots if you actually go by the subdivision standards, put in a 50 ft right of way

Wes Illing: The 50 ft right of way does not reduce density.

Michael Weeks: Lot area does not include right of way

Wes Illing: It does not include right of way for, it says right here in your code, for lot design, the lot area must be reduced.....

Michael Weeks: Where is this?

against the Town Board, the Planning Board, the Code Enforcement Officer, and the Asst. Code Enforcement Officer. An answer is shortly due. I would like to have authorization from the Planning Board to file a response to plea in your behalf.

Dan Gettel: What do you actually need from us

Kimberlea Shaw: Authorization to file these pleas

Motion to authorize our attorney to file those pleas by Steve Simpson, second by Susan Brown Otto

Roll call vote

Mike Cassaro – Y

Susan Brown Otto – Y

Bill Brey – Y

Dan Gettel – Y

Steven Simpson - Y

Wilfred Hughson – Y

David Slater –Y

All in favor –7

All opposed –0

Agreed and carried

Dan Gettel: We received a nice letter from the Bressler family, and I would like a motion to receive and file this into our records

Motion to receive and file thank you note by Bill Brey, second by Steve Simpson

All in favor –7

All opposed-0

Agreed and carried

Motion to adjourn by Steve Simpson, second by Bill Brey

All in favor –7

All opposed-0

Agreed and carried

Adjourned 8:15 pm

Respectively submitted,

Jannetta MacArthur

Jannetta MacArthur
Recording Secretary