TOWN OF LOCKPORT
PLANNING BOARD MEETING MINUTES
June 22, 2010

PRESENT: Rodney Conrad
Walter Thorman
Robert Balcerzak
Morris Wingard
Mark Kilroy
Robert Langdon
Richard Forsey, Chairman
Scott Carlson, Alternate

ALSO PRESENT: Brian Belson, Senior Building Inspector
Robert Cebulski, Town Engineer
Andrew Reilly, Town Engineer
Daniel Seaman, Town Attorney
Jane Trombley, Secretary

The June 22, 2010 Town of Lockport Planning Board meeting was called to order at 7:30 pm by Chairman Forsey.

MOTION made by Member Thorman, seconded by Member Wingard to approve the April 14, 2010 minutes. 7 Ayes, 0 Nays, Carried.

CASE #1 **5802 South Transit Road – B R Associates Inc. – Special Use Permit – Public Hearing.** Chairman Forsey opened the Public Hearing. Lowell Dewey of B R Associate presenting. Chairman Forsey asked if changes had been made to the previous plans. Mr. Dewey stated yes, a sidewalk has been added and the pavement has been striped. Mr. Dewey stated they have widened the entrance to have one lane in and 2 out to stack the cars as well as put some landscaping in the front in the middle. Mr. Dewey stated DOT said it is acceptable. No traffic study is needed. A left hand turn is recommended to exit to Strauss Road and use the signal light. Storm water will be picked up at a catch basin so it won't increase water to the OTB lot. Mr. Dewey stated an easement was requested from OTB and he expects it to be coming soon. A sprinkler system won't be required.

Member Conrad asked whether there will be parking in the front. He inquired whether there will be enough room to back out of a space. Mr. Dewey stated yes, there will be seven parking spots in front. He indicated that the driving lane is 24', which provides enough room to back out of a space. There are also 11 other spots in 2 places.

Chairman Forsey asked for Public Comment. Hearing none, he closed the Public Hearing.

A discussion took place concerning the cross access through OTB. It was noted by Planner Reilly that the depicted space does not match the existing easement across OTB. Mr. Dewey explained that the applicant is attempting to move the easement to match the depicted easement. Attorney Seaman indicated that because there is an existing easement, that unless a new easement is obtained from OTB, which is recorded, the cross access should be moved to the existing easement because cross access through the OTB site to Strauss Road is important to this site.

Town Engineer Reilly stated a long form EAF for SEQRA has been completed. A negative declaration is recommended by Wendel Engineering because no adverse effects were found from a review of the EAF.

MOTION made by Member Wingard, seconded by Member Langdon to determine that, based on the information supplied in the EAF, the project will not have a significant adverse effect on the environment, and to direct the issuance of a negative declaration. 7 Ayes, 0 Nays, Carried.

Architectural Review – Member Langdon stated he feels these colors are very muted compared to other Taco Bell's.

MOTION made by Member Wingard, seconded by Member Conrad, to adopt the following resolution. 7 Ayes, 0 Nays, Carried.

BE IT RESOLVED, that this Board accepts and adopts the following findings regarding architectural design:

ARCHITECTURAL DESIGN STANDARDS – CRITERIA A-L		
A	Building Materials, variation of relief, architectural styles, colors, compatibility of amenities including awnings, signs, lighting, and landscaping in relation to architectural design.	*Building construction consists of a field stone around the bottom third of the building on the three sides visible from the street with the remainder of the building cast in stucco. The building consists of a flat roof line with "Flying Arches" over each entrance. The building design incorporates the use of varying façade projections, suspended window and door canopies, window arches, wall sconces, and windows across the front of the building.*
B	The surrounding area and the building located in the surrounding area, potential and existing development of the area, and compatibility of architectural design.	*The building is designed with a southwestern theme but includes field stone and stucco that is consistent with other buildings in the area.*
C	Overall aesthetic enhancement of the Town and its various	*This building will result in an improvement over the appearance of the building as it currently exists and will have an overall*

	districts.	*positive impact on the neighborhood.*
D	Corporate signature styles or prototype buildings shall not be of paramount importance and shall not override other considerations given weight by the Planning Board.	*The overall design of this building incorporates features of a typical outparcel development being isolated and surrounded by parking/ driveways and includes franchise design elements such as the Taco Bell "Flying Arches" and colored ribbon along the top of the building.*
E	Architectural design for multiple buildings shall not be integrated for general period, style, coloration and thematic compatibility.	*This application consists of only one building.*
F	Architectural design shall not be limited to any period, but due consideration shall be given to local, commercial, industrial, and governmental architectural style during the historic development of Niagara County from the 1820's through the 1920's.	*The design of this building does not fall into a single architectural period but does include a southwestern theme. The design does include the use of field stone and stucco and incorporates several architectural features identified in the Design Guidelines for Commercial Site Plans.*
G	Corporate logos, patterns, designs identifying details, colors, and shapes shall be reviewed for architectural and design compatibility and aesthetics and may be required to be deleted or modified when in conflict with acceptable design standards, except when incorporated into allowed signage, pursuant to Chapter 200, Article XXIV.	*The Taco Bell signage is typical of a corporate sign. The building also contains "Flying Arches" and a multi-color ribbon along the top of the building, typical of other franchises.*
H	When necessary, the Planning Board may require justification of design elements by written documentation, including narratives, by the applicant's architects or design engineers.	*It is the opinion of the Town Planner that additional justification is not required for any design element.*
I	The Planning Board may require independent architectural evaluation by an architect or such other planners or experts as may be determined, at the applicant's expense, provided no such evaluation shall cost in excess of one-half of one percent of average per square foot building costs for structure of similar type, as determined by the Building Department of the Town of Lockport, based upon the square footage of the	*It is the opinion of the Town Planner that independent architectural evaluation is not required for any design element.*

	proposed structure.	
J	New or altered buildings shall not be at variance with either the exterior architectural appeal or functional plan of the structure already constructed or in the course of construction in the immediate neighborhood or the surrounding area as to cause a substantial likelihood of depreciation in property values.	*The architectural design elements that have been incorporated into the design of this building will enhance the appearance of the site and are not believed to conflict with the neighborhood character.*
K	New or altered buildings shall not be detrimental to the desirability, property values, or development of the surrounding areas as to cause harmful effects by reason of excessive similarity, excessive dissimilarity, or appropriateness in relation to established character or other structure in the immediate area or neighboring areas.	*The use of the site as a commercial establishment has been occurring for a number of years. The improvements to the building represent an enhancement to the appearance of the site and will likely not result in any detrimental impacts to the neighborhood.*
L	Review of alterations to existing buildings shall take into consideration limitation and practical difficulties caused by the existing features and materials of the building.	*The building will be a new build*

And be it further,

RESOLVED, that the architectural design for BR Associates, Inc. is hereby approved and the Chairman is directed to so certify.

The Planning Board addressed the application for a Special Use Permit. There were no Public Comments. Town Engineer Reilly stated the development company supplied the answers, engineering reviewed it and feel it can be put into a resolution.

MOTION made by Alternate Carlson, seconded by Member Conrad:

Be it Resolved, that Pursuant to §200-137, of the Town of Lockport Zoning Code, this Board makes the following findings regarding the application of Taco Bell for Special Use Permit at 5802 S. Transit Road:

A. Will comply with all provisions and requirements of this and other local laws and regulations, and will be in harmony with the purposes of the land use district in which it is located and with the general intent and purposes of this Local Law.

Findings:
This project will comply with all provisions and requirements of this and other local laws and regulations. The site was historically a restaurant and is still occupied by the former restaurant building, to be demolished and replaced b the proposed Taco Bell 62-seat restaurant.

B. Will be detrimental to adjacent uses.

Findings:
The adjacent uses along Transit Road are commercial in nature, in keeping with the local zoning. The immediate adjacent use is the Off Track Betting building.

C. Will cause undue traffic congestion, unduly impair pedestrian safety, or overload existing roads considering their current width, surfacing, and condition and will have appropriate parking and be accessible to fire, police, and other emergency vehicles.

Findings:
The project will not cause undue traffic congestion or impair pedestrian safety. Transit Road is a 4-lane roadway with a center left-turn lane. Parking proposed is according to the needs of the business and in compliance with local codes. Emergency vehicle access is accommodated with the proposed site arrangement. (access control through future median)

D. Will overload any public water, drainage, sewer system, or any other municipal facility, or degrade any natural resource or ecosystem.

Findings:
The project will not overload any public water, drainage, or sewer system or degrade any natural resource or ecosystem. The project will include stormwater management facilities to comply with the Town's drainage requirements.

E. Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and if appropriate, its ability to be buffered or screened from neighboring properties and public roads, and its existing and proposed use.

Findings:
The project is suitable for the property on which it is proposed considering its size, location, topography, soils, natural habitat, and hydrology. The site continued to provide direct connection to the adjacent use to the south (OTB) through existing cross-access easements.

F. Will result in excessive noise, dust, odors, solid waste, or glare, or create any other nuisances, and will satisfy the general land use performance standards of this Law.

Findings:
The project will not result in excessive noise, dust, odors, solid waste, or glare or create other nuisances and will satisfy the general land use performance standards of this law.

G. Will adversely affect the aesthetics of the premises and adjacent properties and the neighborhoods.

Findings:
The project will not affect the aesthetics of the premises (it will improve them) and adjacent properties and the neighborhoods.

H. Will cause the site to be unduly congested, dangerous, unattractive to visitors, or unfriendly to pedestrians.

Findings:
The project will not cause the site to be unduly congested, dangerous, or unattractive to visitors and it will not be unfriendly to pedestrians.

Based upon these findings, it is the determination of this Board that the Taco Bell Restaurant and drive-thru facilities proposed by Ripsaw Development does not pose any significant adverse impact to the general public health, safety, and welfare. As such, the Board has determined that the Special Use Permit for the Taco Bell Restaurant and drive-thru facilities, subject to the following conditions, is hereby granted.

1. The Special Use Permit is conditioned upon the applicant obtaining an area variance to reduce the 150-foot minimum lot width to 82.4 feet and obtaining an area variance to increase the maximum building setback from 100 feet to 113.26 feet.
2. The Special Use Permit is conditioned upon the Town Engineer offering final approval of the project.

7 Ayes, 0 Nay, Carried.

MOTION made by member Langdon, seconded by Alternate Member Carlson that final site plan approval is granted conditional on final approval of minor engineering issues by the Town Engineer. 7 Ayes, 0 Nays, Carried.

CASE #2 **Lincoln Avenue- Clark/Sparks Subdivision- SBL #124.01-3-2.12.** – Final Site Plan. Robyn Cierniak and Patricia Bittar of Wm. Schutt & Associates presenting. Attorney Seaman reminded them that the recreation fee will need to be acted on.

Ms. Cierniak asked if it can be paid as the lots are done. Attorney Seaman stated that is up to the Town Board.

Chairman Forsey asked if any changes had been made to the project. Ms. Cierniak stated only design issues with the drainage, no lots have been changed.

Attorney Seaman asked what portion of the open space goes with Phase I. Town Planner Reilly stated they are not preserving anything as this is an open field, so the amenities are added. Ms. Cierniak stated Phase I has a trail and trees with a gazebo and will be graded, seeded and mowed.

Attorney Seaman pointed out that although the developer is planning the project, approval as a cluster development is based on the entire project, and the open space improvements need to be provided regardless of whether, or when, the second phase is completed.

The following recommendation was received from the Town Planner regarding recreation fees:

SUBJECT: CLARKVIEW ESTATES - RECREATION FEES

Dear Chairman and Planning Board Members:

In accordance with §165-13 of the Town of Lockport's subdivision regulations, Local Law §90-7, and Town Law §277(4) and 274-a(6), the Planning Department has found the following:

1. The Town of Lockport has experienced rapid growth in its population for two decades and is expected to continue this trend in the foreseeable future. This growth has brought with it an increasing demand for recreation opportunities for the Town's residents. Trends in recreational sports have been changing, leading to an increased demand for active recreational facilities for organized sports such as baseball and softball, soccer and other activities. Further, increased demands have developed for recreation, including nature trails and parks, walking and biking facilities and preserved land for passive recreation, picnics, and the ability to enjoy undeveloped spaces. The Town presently does not have sufficient facilities, parks and recreation areas to address present and future needs of its residents. As the population continues to grow, and as more residential subdivisions and site plans are approved, the recreational needs will significantly increase. At the same time, as vacant land in the Town is developed for housing and other purposes, the availability of land that is suitable and appropriate for park and recreational facilities is rapidly disappearing.

2. The Town Board is attempting to address this deficiency in a comprehensive manner but is hampered by the constraints of the unavailability of suitable lands and by the costs of developing and maintaining parks and recreation areas. The Town needs to address

this deficiency adequately because of the specific needs that pertain to properly sited and planned active and passive recreational facilities. Scattered collections of small individual parks often would not be suited to meet the Town's recreational needs. In order to be suitable to meet these needs, some facilities must be large enough to provide several active recreational facilities for the sake of cost efficiency and to reduce transportation and other impact. These facilities can also be centrally located as to be readily accessible to the greatest percentage of the Town's population, and some should be located in various areas of the Town to enhance quality of life in neighborhoods and groups of neighborhoods.

3. The Town Board deems it necessary to establish fees charged to developers of new residential subdivisions and site plans where such developers cannot provide suitable and appropriate lands for development as parks. In this way, the Town can fiscally plan for the recreational needs of the residents in these new subdivisions and residential sites and ameliorate the additional strain these new residential places on the already limited park and recreational facilities of the Town.

4. Due to the layout of this site, with the numerous wetlands, stormwater detention system, and buffering of building lots from adjacent neighborhoods, there remains a limited area in which to provide any passive or active recreation for Town residents on this property. There is active recreation offered to residents in the form of trails and passive recreation in the form of open spaces, some with gazebos. These areas are not accessible to the general public, and relate to the amenities required for cluster development.

5. The Town's nearest recreation area is Day Road Park located on Day Road, north and west of the subdivision location by a approximately one mile.

6. Since no suitable sites for passive (acceptable open space areas) or active public recreation area are available on-site and based on the determined need this project will create, it is the recommendation of the Planning Department that the standard fee in lieu of land be required for this project.

7. The standard fee as per Town Code Section 90-7 B.(2) is: For each building lot within a residential subdivision consisting of five or more lots: $800. ($800 x 71 lots = $56,800)

The above statements reflect the opinions of the Town of Lockport's Planning Consultant in regards to the recreation fees required for the Clarkview Estates Subdivision.

MOTION made by Member Wingard, seconded by Member Thorman to adopt the recommendation of the Town Planner as the findings of this Planning Board and to determine that a recreation fee shall be paid to the Town of Lockport as set forth in study findings.
7 Ayes, 0 Nays, Carried.

Town Planner Reilly stated only trees that are street trees are being put in, the other trees are natural trees. Chairman Forsey stated leaving it a field is detrimental and the Association takes over after it is improved. Member Conrad questioned who does the maintenance in the meantime and Mr. Sparks stated, the developer.

Attorney Seaman recommended that all amenities have to be put in whether Phase II is built or not after a 5 year time period.

Ms. Cierniak stated the pond is in Phase II and questioned why it would be needed if Phase II isn't built. Attorney Seaman stated the project was approved as a subdivision in whole, not as separate projects and noted the trails and grounds have to be mowed, seeded and maintained.

Member Balcerzak asked if it is the intent to have 2 entrances and Mr. Sparks stated yes, one in each phase. Member Balcerzak asked if there will be any fencing and Ms. Cierniak stated none is proposed. Town Planner Reilly stated the wetland area cannot be graded.

MOTION made by Member Langdon, seconded by Member Kilroy to adopt the following resolution. 7 Ayes, 0 Nays, Carried.

TOWN OF LOCKPORT
RESOLUTION

An Application having been submitted and Public Hearing having been held, and preliminary plat approval having been obtained, and State Environmental Quality Review having been addressed it is determined that Final Plat Approval be granted for the proposed "Clarkview Estates Subdivision" proposed by DJMS Development, subject to the following conditions:

1. The development is a Homeowner's Association, and a Declaration of Covenant, Restrictions, Easements, Charges and Liens of Clarkview Estates (The Clarkview Estates Declaration) in the draft form dated June 21, 2010, with any changes thereto to be approved by the Town Attorney, shall be filed with the Secretary of State and a certified copy thereof with a filing receipt shall be filed with:

   a. The Town Attorney;
   b. The Town Building Inspector

2. If the second phase is not started within five (5) years from building of first unit, the developer shall complete all open space amenities, including grading and seeding, pathways, etc., which shall be open to the results of Phase 1 at the developer's expense.

3. Grading and seeding of all common areas shall be completed by developer.

4. Final engineer approval

MOTION made by Member Langdon, seconded by Member Wingard to adjourn. 7 Ayes, 0 Nays, Carried.