

Minutes
Cayuga County Committee for Review under NYS GML §§239-l, m & n
December 19, 2013

The meeting was called to order at 9:10 AM in the Conference Room on the 5th floor of the County Office Building at 160 Genesee Street in Auburn, New York.

The following committee members were present:

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| Director of Planning and Development: | Steve Lynch |
| Director of Environmental Health: | excused |
| Environmental Engineer: | excused |
| Superintendent of Highways: | Steve Koon (designee) |
| Director of Soil and Water Conservation: | John Fraser (designee) |

A quorum was thereby established.

Others present: Gabriel Holbrow (staff); others.

MINUTES:

Minutes from October 17, 2013: Approval was postponed because there was not a quorum of members who had been present at that meeting.

The following municipal matters were submitted to the Committee for consideration pursuant to New York State General Municipal Law §§239-l, m, & n:

1. Town of Brutus – Special Permit – Schneider, 8839 Pump Road

The Committee carefully considered the materials provided by the Town related to the proposed sewing and alterations business in the applicant's home. The Committee was unable to identify any significant negative impacts that would be intermunicipal or countywide.

MOTION BY STEVE LYNCH:

The action appears to have no intermunicipal concerns and to be of local concern only.

SECOND BY JOHN FRASER:

All vote AYE.

Motion Approved and Carried.

2. Town of Sennett – Rezoning – Cardinell, 7564 North Street Road

The Committee carefully considered the materials provided by the Town related to the proposed rezoning from the Route 34 Corridor Agricultural Transition zone to the Commercial/Light Industrial zone and the proposed landscaping and trucking businesses that this rezoning would permit.

The Committee discussed the pressure for development in the Route 34 corridor as an alternative to the Route 5 corridor. The Committee discussed the most recent comprehensive studies for the corridor, including the Route 34 Corridor Study that led to the rezoning for the several corridor transition zones in the late 1990s and the townwide Comprehensive Plan adopted in 2009. Committee members noted that the proposed rezoning appears not to be consistent with the recommendations of either of these two previous studies.

The Committee discussed this proposed rezoning in comparison and relation to other rezonings and Planned Development Districts (PDD) on the corridor, including the Nevidomsky PDD, All Ways Pumping PDD and the Vitale PDD. In particular, Committee members noted that in light of the Committee's recommendation for disapproval of the All Ways Pumping PDD in April 2011 and the current application's similarities with that application, the Committee would have to identify what had changed since 2011 in order to justify a positive recommendation this time.

The Committee discussed the concept of Spot Zoning and whether this application could be considered sport zoning. The Committee noted that the applicant's narrative asserted that the proposed rezoning "does not constitute a potential spot zoning problem" because "the detriment to the surrounding area... is not appreciable and does not outweigh the attendant benefits flowing to the Applicant and (indirectly) to the Town (in the form of sales tax and enhanced property tax revenue with low service costs)." For guidance on spot zoning, the Committee referenced a publication of the New York State Department of State entitled *Zoning and the Comprehensive Plan* (revised 2009). Citing two landmark cases on spot zoning—*Collard v. Village of Flower Hill*, 52 N.Y.2d 594 (1981) and *Rogers v. Village of Tarrytown*, 302 N.Y. 115 (1951)—the publication explains that "illegal spot zoning occurs whenever 'the change is other than part of a well-considered and comprehensive plan calculated to serve the general welfare of the community.'" Committee members noted that although the applicant's narrative asserts that the proposed rezoning would serve the general welfare of the community, the referral does not provide evidence that the proposed rezoning is part of a "well-considered and comprehensive plan" that supports the applicant's assertion.

Turning to the question of intermunicipal impacts, Committee members noted that a local action without regard to a "well-considered and comprehensive plan" would itself be an adverse intermunicipal impact. Since the materials submitted with the referral do not include evidence that the proposed rezoning is part of a "well-considered and comprehensive plan," the Committee cannot determine whether or not there is a potential for the proposed rezoning to have adverse intermunicipal impacts.

Having identified a need for the proposed rezoning to be part of a well-considered and comprehensive plan calculated to serve the general welfare of the community, the Committee noted that a zoning commission has been working for a few years on recommendations for a townwide zoning revision. Several of the materials included with the referral mention these zoning discussions, but do not report on the findings or results from those discussions. Committee members agreed that the prior work of the zoning commission may provide the “well-considered and comprehensive plan” that supports the proposed rezoning in this referral.

The Committee also noted that in the applicant’s submitted Environmental Assessment Form, the answer to question 12.b. reports that the proposed action is not located in an archeological sensitive area. An online map from the New York State Historic Preservation Office (SHPO) indicates that the subject parcel is located in an archeological sensitive area. The online map does not provide further information about the nature of the archeological sensitivity or how this might affect the proposed project. The applicant should consult with SHPO for more information about the archeological sensitivity.

The Committee discussed the submitted preliminary site layout diagrams. The Committee determined that these were adequate for the purposes of the rezoning, but not to a sufficient level of detail for the purposes of site plan review. If the rezoning is approved, the Town Planning Board would have to refer an adequate site plan to the Committee for comments before the Planning Board could make a determination for the required site plan review.

MOTION BY STEVE LYNCH:

Take no action because the referral is found to be incomplete. The additional item that the committee requires is:

- Results or progress summaries of the Town’s zoning commission which show that this proposed rezoning is made in the context of broader community benefits.

SECOND BY STEVE KOON:

All vote AYE.

3. Town of Brutus and Village of Weedsport – Comprehensive Plan

The Committee carefully considered the materials provided by the Town related to the proposed joint comprehensive plan for the Town of Brutus and the Village of Weedsport. Committee members felt that the plan does a good job of addressing stream and floodwater management, such as in actions under the objective to “Prevent Damage from Flooding” in chapter 10. Committee members noted, however, that the plan does not address drainage and stormwater management on development sites through site plan review.

MOTION BY STEVE LYNCH:

Approve with one comment:

Comment: Adding an action to strengthen review and implementation of stormwater management would improve the plan.

SECOND BY JOHN FRASER: All vote AYE.

4. Town of Ira – Special Use Permit – Bramble, 12430 State Route 176

The Committee carefully considered the materials provided by the Town related to the special use permit for dog agility training and agility trials events. Committee members noted that the permit is for uses that are currently carried out on the site and that the uses currently generate a lot of traffic on event weekends without adverse effects.

MOTION BY STEVE LYNCH: The action appears to have no intermunicipal concerns and to be of local concern only.

SECOND BY JOHN FRASER: All vote AYE.

5. Town of Ira – Commercial PDD – Primax, 2866 State Route 370

The Committee carefully considered the materials provided by the Town related to the proposed Commercial Planned Development District (PDD) and the proposed Dollar General store that this would allow. The Committee discussed generally what a PDD is and how it is different from other types of rezoning. The Committee considered the submitted site plans and discussed the proposed drainage for the site. The Committee discussed the pedestrian draw of the proposed store and the likelihood that students and other pedestrians would try to cross the highway from the adjacent school grounds to the store.

MOTION BY STEVE LYNCH: Approve with three comments:

Comment #1: Consider putting in a pedestrian crossing with appropriate signage, markings, and signals to protect pedestrians, including students, who may cross the highway to the proposed store.

Comment #2: The project as proposed appears to require a highway work permit from the NYS Department of Transportation and a stormwater permit for construction from the NYS Department of Environmental Conservation.

Comment #3: If the proposed store intends to sell tobacco products, it may be affected by the county's

recently adopted Tobacco Licensing Ordinance
because the site is within 100 feet of school property.

SECOND BY STEVE KOON:

All vote AYE.

**Motion to adjourn by Steve Lynch. Seconded by Steve Koon. All approving.
Adjourned at 10:16 AM.**

Minutes submitted by Gabriel Holbrow (staff).

Minutes approved by the Committee on January 16, 2014.