

# PLANNING & DEVELOPMENT COMMITTEE

## *MINUTES*

**August 18, 2015 6:00 pm**

Council Board Room  
One Batavia City Centre, Batavia NY

Members present: *Edward Flynn, Alfred McGinnis, Duane Preston*

Members absent: Matthew Gray, Rachael Tabelski

Others present: *Meg Chilano – Recording Secretary, Jason Molino – City Manager, Doug Randall – Code Enforcement Officer*

### **I. Roll Call**

Roll call of the members was conducted. Three members were present and Chairman Preston declared a quorum.

### **II. Call to order**

Mr. Preston called the meeting to order at 6:02 pm.

### **III. Previous Meeting Minutes**

Mr. Flynn moved to approve the minutes; the motion was seconded by Mr. McGinnis, and on roll call, was approved 3-0.

**Result: Approval of June 16, 2015 meeting minutes.**

### **IV. Proposals**

- A. Alterations to the exterior of this commercial building located within the Business Improvement District (BID)

Address: *206 East Main Street*

Applicant: Ronald Viele (contractor)

- Actions: 1. Review application  
2. Discussion and action by the board

This proposal was withdrawn by the applicant prior to the meeting.

- B. Placement of one 5' x 2' unlit wall sign and two 4.6' x 4.6' window signs on the south elevation of this commercial building located within the BID

Address: *315 Ellicott Street*

Applicant: Steve Fairbanks (sign contractor)

- Actions:        1. Review application  
                    2. Discussion and action by the board

### **1. Review Application**

Mr. Preston read the summary of the proposal. Mr. Preston stated that the Genesee County Planning Board recommended approval of the application.

Mr. Fairbanks described the sign as composite with an aluminum/plastic core. He said that the letters are vinyl and the color of the logo is red and green. The sign will be unlit.

### **2. Discussion and Action by the Board**

Mr. Flynn asked if all three signs were necessary. Mr. Fairbanks answered that they could do without the one on the door.

**MOTION:** Mr. Flynn moved to approve the application with the condition that the door sign is removed. The motion was seconded by Mr. McGinnis, and on roll call, was approved 3-0.

**RESULT: Approval of sign permits.**

- C.     Subdivision of this existing parcel into two separate parcels and construction of an approximately 1,700 sq.' Dunkin Donuts restaurant with a drive-through window on the newly created parcel. Applications for: minor subdivision, site plan review, special use permit for drive-in restaurant, special sign permits, and recommendations to the ZBA for area variances

Address:        *401-409 West Main Street*  
Applicant:      Kip Finley (agent for the owner)

- Actions:        1. Review application  
                    2. Public hearing  
                    3. Discussion and action by the board

### **1. Review Application**

Mr. Preston explained that the applicant had submitted a proposal for a site plan review at the same location the previous year at the September meeting of the PDC. The site plan had been denied last year, and this year, the applicant returned with another proposal and a new site plan. Mr. Preston then read the summary of the current proposal.

Mr. Preston reported that the Genesee County Planning Board recommended disapproval. He said that a supermajority would be needed in order to override the decision of the Planning Board. Mr. Preston explained that the Planning and Development Committee only had three members in attendance and would not be able to vote on the proposal; however, the PDC would still proceed to hold a public hearing.

Kip Finley from Indus Hospitality Group presented the Dunkin Donuts project. He said that Indus intends to purchase a portion of the Five Star property for the purpose of erecting a Dunkin Donuts restaurant with a drive-through window. According to Mr. Finley, Mike Mikolajczyk, owner of the already established Dunkin Donuts, will be the operator of the new Dunkin Donuts.

Mr. Finley noted that the PDC had previously requested that a traffic study be conducted, which Indus complied with for this proposal. He said that for the traffic study Stantec took into consideration the intersections, traffic on the highway, traffic on River Street, and circulation on the site. After the analysis was complete, Mr. Finley said that they sent the traffic study to the Department of Transportation, the permitting agency for West Main Street, for a recommendation. According to Mr. Finley, the DOT recommended splitting the driveway so vehicles can only make a right in/right out turn. He said that one problem the DOT noted was the queue.

Mr. Finley explained that the previous plan allowed for six cars to enter the queue before it overflowed into the parking lot; but the new plan is different. Now the drive-through window is facing Five Star Bank. According to Mr. Finley, the new plan allows for eight cars to enter the queue before it overflows into the parking lot. He said that five more cars will fit into the parking area before the line backs onto the road.

Mr. Finley said that another concern expressed by the PDC concerning the previous plan had been building esthetics and signage. The first submission, according to Mr. Finley, was a Dunkin Donuts prototype, which he said was all about flashiness. He said that the new building has similar architecture but contains more classic features, such as grills on the windows. He also noted that the illumination has been removed from the signs and replaced with the goose-neck lighting that the properties on Main Street favor.

## **2. Public Hearing**

Mr. Preston opened the public hearing at 6:20 pm. He read the procedures for public hearings into the minutes. (See attached.) He also read an email concerning the proposal into the minutes. (See attached.)

Douglas Kohorst, a resident of East Pembroke, was the first to speak. Mr. Kohorst said that based on what he heard at the meeting regarding the plans for Dunkin Donuts, he believes the proposal should be approved.

Nelson Baker, 20 Redfield Parkway, agreed with Mr. Kohorst. According to Mr. Baker, he has lived at this location since 1998 and he does not believe there will be any difference in the traffic if the project is approved. He said that he believes the only traffic that will be captured is eastbound traffic, and that the right in/right out driveway is an adequate solution.

Mike Barrett, 411 West Main Street, spoke next. Mr. Barrett stated that he has no objection to the plan as long as the easement is maintained between River Street and his property. He indicated that he needs the easement for deliveries and customers purchasing propane.

The next speaker was Don Fryling, who said that he has resided at 6 Redfield Parkway since 1978. According to Mr. Fryling, a child was struck by a car last week directly across from the proposed Dunkin Donuts site. He pointed out that traffic already backs up past the Tops signal at times, and that the additional traffic from Dunkin Donuts will create even greater congestion. He said that people are already accustomed to turning left into Five Star Bank, Batavia Marine, and Taco Bell and nothing will deter them from also turning left into Dunkin Donuts.

Mr. Fryling quoted Chief Heubusch as saying that he is uneasy about the possibility that this location could cause more traffic accidents. Mr. Fryling said that emergency staff has expressed concerns over the congestion that could be created between two traffic lights. He also quoted County Legislator, Ed De Janeiro, as saying that this is the wrong place for this business. According to Mr. Fryling, Councilman Cipollone agreed that the area is too congested.

Mr. Fryling related a situation that occurred in 1990 when a small project was proposed at the corner of Redfield Parkway and Main Street. The Genesee County Planning Board disapproved of the project saying that it would make traffic in an already congested area worse. Mr. Fryling pointed out that the project was proposed 25 years ago and the traffic is even worse today than it was back then.

Mr. Fryling noted that Batavia Municipal Code requires 68 spaces and that this small space will only accommodate about one third of that amount. He said that just because Dunkin Donuts claims that there is enough space for vehicles to park, it is not necessarily so.

Mr. Fryling said that there is a reason why the County has recommended disapproval two times: the lot is too small and the area too congested.

James Owen, 2 Redfield Parkway, said that he observes a tremendous traffic flow problem and though the donuts are great, he would prefer to see Dunkin Donuts in a different location. Mr. Owen pointed out the difficulties drivers experience when turning left off Redfield Parkway since the removal of the traffic signal. He said that not only is it nearly impossible to make a left-hand turn, at times it is so congested that it is just as difficult to turn right.

Kathy Owen, a resident of Redfield Parkway, said that she has lived there her entire life and she does not think the traffic study tells the story of the numerous near-miss accidents that occur in that congested area. She noted that the only time it is possible to easily make a left-

hand turn off Redfield Parkway is early in the morning, the time when Dunkin Donuts believes they will generate the most traffic. Ms. Owen expressed concern over how the traffic flow in the area will change when Park Road is closed due to the construction which will be taking place there. Her last concern was that the signage and lighting would be too bright for the neighborhood.

Mike Mikolajczyk, owner of the current Dunkin Donuts, said that he believes they have accounted for every issue the board wished them to address, such as making left-hand turns into the restaurant and the lighting. According to Mr. Mikolajczyk, the traffic study should be acceptable because it is based on fact, rather than opinion or theory. He told the board that he wants to be a good neighbor and that they have spoken with Mr. Barrett regarding the easements. Mr. Mikolajczyk said he believes they can compromise and work out issues with neighbors, and that they can be an asset to the area.

Nann Zorn, from 12 River Street where she said she has lived for 58 years, spoke last. Ms. Zorn said that the majority of traffic comes from Lewiston Road directly into the right lane from where cars can turn into Sport of Kings, The Batavia Commons Plaza, Taco Bell, or Batavia Marine, or they are anticipating a turn onto River Street. She stated that an additional stop in that area will create more driving hazards.

Ms. Zorn said that while all vehicles are supposed to enter the site as eastbound traffic, she does not believe that will happen in actuality. The Indus Group claims that drivers approaching from the west will have already stopped at the current Dunkin Donuts, but Ms. Zorn believes that the lure of the drive-through will lead vehicles approaching from the west to use the proposed Dunkin Donuts' entrance despite creating a hazard.

Another scenario Ms. Zorn proposed was that vehicles traveling westbound would turn onto River Street and then make an immediate right and cut through Five Star Bank's parking lot. Her concern is that the turn into Five Star is very close to the intersection and the site of many near accidents and that it could become more dangerous with customers trying to use it to get to Dunkin Donuts. She pointed out that frequently there are eight or nine cars lined up on River Street at the traffic light and how difficult it is for cars exiting the bank to get out.

Ms. Zorn commented on the amount of snow that fell this past winter and expressed concern over where that much snow could be plowed and piled. She added that Dunkin Donuts' plan for extensive landscaping, while esthetically pleasing, is not a substitute for a poor location.

Mr. Flynn moved to close the public hearing at 6:37 pm; the motion was seconded by Mr. McGinnis, and on roll call, was approved 3-0.

### **3. Discussion and Action by the Board**

Mr. Preston noted once again that the Genesee County Planning Board recommended disapproval of the application and that a supermajority is needed to override their decision.

**MOTION:** Mr. Preston moved, therefore, to table the project and all actions including the minor subdivision, site plan reviews, special use permit, special sign permits, and recommendations to the ZBA for area variances until the September meeting.

The board recommended that Dunkin Donuts consider several revisions before returning to the next meeting:

- Reconsider drive-through layout. Having the lane run through the parking area is not going to work. (Mr. Preston cited Burger King as an example of how he would like to see the queue. Vehicles drive to the rear of the lot and line up along the back rather than wrapping around the building.)
- Traffic flow needs to be reconsidered, perhaps utilizing River Street.
- Landscaping between the sidewalk and parking lot is required and the plans do not show any.
- The number and size of signs, particularly the pylon sign, is beyond what is permitted.
- Include an assessment from the police.
- Engineer should provide examples of architectural options.
- Directions need to be labeled on the drawings.
- Provide information on existing easements and proposed easements.
- A larger queue is needed.

The motion was seconded by Mr. Flynn, and on roll call, was approved 3-0.

**RESULT: Application tabled.**

### **V. Other/New Business/Updates**

### **VI. Setting of Next Meeting: September 15, 2015**

### **VII. Adjournment**

Mr. Preston moved to adjourn at the meeting at 6:43 pm. Mr. Flynn seconded. All voted in favor.



Meg Chilano

Bureau of Inspection Clerk