

CITY OF AUBURN PLANNING BOARD
TUESDAY, MARCH 5, 2013 6:30 PM, MEMORIAL CITY HALL

Present: Sam Giangreco, Anne McCarthy, Tim Baroody, Crystal Cosentino, Shelli Graney

Absent: Frank Reginelli

Staff: Stephen Selvek, Planning and Community Development Program Manager; Andy Fusco, Corporation Counsel; Greg Gilfus, Officer-APD Traffic Coordinator

Agenda Items: 1-19 Rear Prospect Street and Franklin Street Road, 35 Bradley Street, City of Auburn Zoning Code Revisions

Chair calls the meeting to order. The Pledge of Allegiance is recited. Roll is called. Chair asks staff to clarify the agenda.

Agenda Item 1: Approval of February 5, 2013 minutes.

Chair asks for a motion to approve the minutes of the February 5, 2013 meeting. So moved by Tim Baroody, seconded by Anne McCarthy. All members vote approval. Motion carried.

Agenda Item 2: Final Major Subdivision Review of existing parcels located at 1-19 Rear Prospect Street and Franklin St. Rd., East Side Heights, to create residential building lots for the construction of patio homes. Applicant PMV Vitale Realty, LLC.

Chair asks applicant to explain the Home Owners Association (HOA) structure.

Andrew Leja, Counsel to PMV Vitale Realty, LLC – Present a description of what the applicant is anticipating of the home owners association for East Side Heights. East Side Heights itself is largely going to be made up of privately owned land. Therefore there is going to be very little green space or common area. The roadways will be dedicated to the City and there will be no common area except for a single lot that has been reserved for the creation of a storm water detention basin that will provide storm water control for the flows from the site. That basin has already been constructed, which was part of the original approval of the subdivision when it had less homes in it. For purposes of that small area of land that will be common area ownership. The typical home owner's association process involves submittal of application to the Attorney General and Attorney General approval and disclosure to homeowners is not intended for something this small. The Attorney General's office has an alternative in that regard, it is what they call a no action application. This is specifically intended for common area home owner association that involves a de minimis amount of land and does not involve any type of ownership of roads. That is exactly what we have here. The roads will be dedicated to the City however the common area, the storm water pond, is the only aspect of common land that will be part of this subdivision. Therefore we are able to go through a no action application, asking for approval. In some respects we have to go through the same procedure which involves the Attorney General's approval. We have to inform the Attorney General on what this going to be like, who is going to control it, and what the rules are going to be for the home owners association. We also need to inform or provide to the Attorney General's office a copy of declaration of covenants and restrictions that are going to be made a part of this. These covenants

and restrictions are given to every prospective owner of a parcel in the subdivision. A home owners association will be formed by the purchasers of land. The homeowners will then, through the homeowners association, control the parcel that is reserved for storm water purposes. They will have responsibility to maintain it, to repair it, and basically keep it in good working order. For the initial part of this, PMV Vitale will retain ownership of the land on which the storm water retention pond will be located. PMV Vitale will be responsible for maintenance and upkeep of that parcel and as part of the restrictions and covenants, once 75% of lots sold within the subdivision then PMV Vitale will turn over responsibility to the home owners association. As new persons join the HOA from 75% of the lots sold to 100% of the lots they take their restrictions and covenants that were already approved by the attorney general and will be required to be put on notice of their responsibilities. That is the no action application that we have provided a draft to your Corporation Counsel for review and we anticipate will be submitted to Attorney General shortly.

Chair asks staff for comments

Stephen Selvek- The final plan itself, the layout of the land, the configuration of the homes, and the placement of the homes on the lots was reviewed last meeting. We have been trying to ensure that there is safety from the City standpoint in terms of the storm water management area. The City's main concern is that it does not want to be saddled with the care of that storm water management pond. Last meeting the applicant discussed a similar mechanism for dealing with the storm water detention pond but the applicant realized that it is not necessarily applicable to this situation. The traditional home owners association was noted the de minimis requirements because of the impact the home owners association has is what is appropriate. The home owners association per the covenants that were presented last month are what call out the actual requirements for the storm water management area. It will be the responsibility of the Vitales until 75% of the lots are owned and then the responsibility is transferred to the homeowners association. The concern that the City continues to have is that there needs to be a careful coordination of permitting. The recommendation of staff is approval of subdivision with fifty-two (52) lots. There is a draft resolution with a series of requirements that are attached to this approval. *Reviews conditions listed on resolution*

Chair asks for questions and comments for the board. None.

Chair asks for a motion to approve the Final Subdivision Review of 1-19 Rear Prospect Street. Motioned by Tim Baroody, seconded by Anne McCarthy. All members vote. Motion carried.

Agenda Item 3: Major Site Plan Review for the construction of a 40,000 SF warehouse facility together with associated site improvements located adjacent to 5500 Tech Park Blvd., at 35 Bradley Street. Applicant Mack Studios, Inc.

Chair invites applicant to present

Bill Murphy, Space Architectural Studios- Mack Studios is a large employer in the City of Auburn, located at Tech Park. The business is looking to expand and construct a 40,000 warehouse/manufacturing facility on a vacant adjacent parcel. The intent is to keep the two parcels separate but it will be one facility, connected by a bridge. The bridge would carry between the two structures, allowing existing utilities (gas, water and sewer) to be relocated to an

area below the bridge. Currently the parcel does not have electric serving it and if this parcel is kept separate the utility provider will provide the power. Mack Studio has spent a great deal of money diverting storm water in this area. When Tech Park was built, storm sewers were not installed and it's a very flat area of the City so the water has to take a really long slow path and does not drain real well. With the addition of the building and creating the foundation we are going to be installing some drainage to divert that water around the building and continue it down adjacent to the tracks to the second entrance to the park. A hydrant is located at the intersection of Alan Street and Tech Park Blvd. The second hydrant is near the top of the current driveway that exists and a third hydrant near the McQuay side, at their driveway. Three hydrants can serve the facility. We have talked about a sprinkler system being near one of these hydrants. We do have to amend site plan to extend the driveway further to the North to give us 300 feet of hose length off of the pavement so we can cover the full perimeter of the building. We have also been asked to provide a double door on each side of the connective bridge so that fire personnel can access the back court yard area behind the two buildings.

Stephen Selvek- What is the construction of the building?

Bill Murphy- The construction of the building is a prefabricated metal warehouse much like what is already there. It will be fully sprinkled.

Tim Baroody- Are the lot lines as shown on K 1 accurate?

Bill Murphy- There is a lot line adjustment that will take place when it is ultimately conveyed and purchased by Mack Studios.

Chair asks board for questions or comments. None.

Chair opens public to be heard. None.

Chair closes public to be heard.

Chair asks for staff comments.

Stephen Selvek- The expansion of existing manufacturing facility in the City is something that we would like to see more of, from an economic development standpoint. The concern is ensuring that code requirements are met. The site plan as presented right now is the initial sketch. I have spoken with the Architect and tonight he has presented some of the changes that will be incorporated. If you look at SK 1, you will see a number of lines between the two buildings. One was a sewer line and one was a gas line they will have to be relocated so they will be under the enclosed corridor that will link the two buildings with overhead doors on both sides and it needs to be detailed out in such a way that the load will be carried above grade so utilities can pass under it. Other elements that were discussed were fire hydrants. There are three fire hydrants in the area and adequate protection from that standpoint. With the building size, 200 feet deep by 200 feet wide, the fire department's main concern is that they have access all the way around the building and any exterior portion of that building has to be within 300 feet from that building. Right now that 300 feet would be exceeded and that is why there is a need to extend that fire lane all the way along the front portion of the building. The other element that comes

into place is because we have this corridor between the two buildings, the fire department requested double doors on opposite sides of the corridor.

Another question we had is the intent behind this parcel. The parcel is currently the City's and part of the waste water treatment plant. It is remnant land that the City does not utilize. I will also be requesting a minor subdivision application from the applicant.

The area of disturbance, with this being a 40,000 square foot building is likely to be over an acre. The architect is going to run the numbers on the area of disturbance. If it is over an acre a storm water pollution prevention plan will be required.

Crystal Cosentino- Questions if additional parking is needed

Bill Murphy- There are some parking spots accommodating that area. Number 6 on the plan is a handicap spot, there are several spots in front of the building and parking will be available around back. Some additional spots will be created as well.

Stephen Selvek- We will have to evaluate the number of employees as parking spots are related to the number of employees.

Chair asks for a motion to adopt SEQRA lead agency resolution of Mack Studios Expansion at 35 Bradley Street. Motioned by Shelli Graney, seconded by Crystal Cosentino. All members vote. Motion carried.

Stephen Selvek- Environmental Review will be coordinated with City Council, NYS DEC, AIDA, and ZBA. The Environmental Review determination will hopefully be in April.

Agenda Item 4: Other Matters

Discussion and Lead Agency Declaration for revisions to the Zoning Code regarding to Home Occupations and related issues.

Stephen Selvek- Distributes material to board members. City Council has approached staff with concerns regarding home occupations, specifically the rooming and boarding of two individuals as of right. Last year the College put in place that any rooming and boarding done in that fashion receive a Certificate of Occupancy from the City for their students. This issue has become larger to student housing and the impacts it is having on single family resident neighborhoods. Council requested that we revisit sections of the code.

Home Occupations found in the section: Uses permitted in all zones. One item in the code affects other items in the code so I have been working with Corporation Counsel to clean up this section of the code.

Packet of materials distributed to board members includes a SEQRA lead agency resolution and draft of revisions within the code section-Uses permitted in all sections.

Reviews revisions of the code.

- 1.) Garages and sheds. ZBA receives many requests for area variances.
- 2.) Location of satellite dishes in front yard
- 3.) Home Occupations

Under home occupations what is being proposed is allowing home occupations allowable under the code but essentially requiring a certificate of occupancy and putting a time limit to that certificate of occupancy. In regards to space utilized for home occupations, it should be that a certain percentage can be used of your home. For example a 3,000 sq. ft home, 25% of that can be used for a home occupation.

There is a section that prohibits home occupations but in the following section it says those not permitted or prohibited may be issued by special permit. This may have been an oversight. The intent would be aside from those elements that are permitted as of right such as babysitting or studios for artists and others such as auto repair, mortuaries, restaurants, clubs that are prohibited as a home occupation.

The section on public uses should be in its own section.

The code currently regulates unattached garages but not necessarily attached garages. Revise with current lot line setbacks relating to attached and unattached garages.

All changes proposed are for discussion. This board is able to make recommendations for code changes to City Council.

Also, bed and breakfast are permitted as a home occupation. There are two separate areas in the code that address bed and breakfasts which do not necessarily relate to each other. We would like to bring a bit more cohesion to that. Currently, our requirements are for four bedrooms and eight guests. The state building code is five bedrooms and ten guests. There is question on whether we should match the State building code.

Final note is to our definition on family. The City of Rochester has defined "family". They say that it should be presumptive evidence that more than four person living in a single dwelling unit who are not related by blood, marriage, domestic partnership, legal adoption do not constitute a family unit. The intent behind this is preserving the characteristics of our single family residential neighborhoods.

Tim Barody- Where did you get the definitions?

Stephen Selvek- Rochester zoning code defines the term single family. Also there is case law that states that zoning code can define what a family unit is for the purposes of protecting the characteristics of a zoning code. We are bringing this up because of the issues we have had with roomers and boarders and this definition may help address a small portion of the concerns in regards to the impacts on our single family neighborhoods.

Anne McCarthy- Questions paragraph L, the third paragraph from the bottom, of the memo. "The jurisdiction of any appeal from revocation will go to the Planning Board for the administrative hearing and not to court."

Stephen Selvek- One of Corporation Counsel's concerns is that the court system is already overloaded so we are looking at is there is a mechanism available that allows us to work through this in house.

Anne McCarthy- Questions current code violations and enforcement

Stephen Selvek- If someone has a code violation and does not come into immediate compliance then they are issued and appearance ticket to City Court

Anne McCarthy- If this did come before planning board then we need to think about what the enforcement is going to be? Does it go through the Code officer?

Stephen Selvek- I will some discuss with Corporation Counsel if a fine can be put in place.

Tim Baroody- Renewing may have a lot of objection. It may cause an unfair burden on people in the City to renew every two years.

Stephen Selvek- I will discuss that with John Rossi and Brian Hicks. There is State requirement on Certificate of Occupancy renewed every so many years.

Anne McCarthy- How many home occupations do we have in the City?

Stephen Selvek- I will look into that. The intent is not to limit home occupations in the City but to specifically look at the impact that they have in a neighborhood. Let me look into the renewal and how that will work. The renewal was specifically for the rooming and boarding component, not necessarily to all home occupations.

Shelli Graney- What would lead to a renewal being objected?

Stephen Selvek- In the very first section that is discussed, but it may need to be better defined, it states: In an order to protect residential area from the adverse impacts associated with home occupations such as excessive noise, traffic and other adverse effects of commercial and businesses uses conducted in a residential area.

In most cases you may have significant complaints on a particular property and those complaints will be part of the renewal process. Also, we will take a look and review all home occupations and the renewal period for them.

Chair asks for a motion for adopt SEQRA Lead Agency resolution of The City of Auburn Zoning Code Revisions. Motion made by Anne McCarthy and seconded by Crystal Cosentino. All members vote and motion carried

The date of the next Planning Board meeting scheduled for Tuesday, April 2, 2013 at 6:30pm

Motion to adjourn by Anne McCarthy, seconded by Tim Baroody.