Minutes of Regular Meeting
Bronxville Planning Board
Wednesday, October 12, 2005

Present:	Donald Henderson, Chairman Anna Longobardo, Member John Westerfield, Member Adrienne Smith, Member Eric Blessing, Member Richard Carey, Alternate Member Maryann Palermo, Counsel
Also Present:	Vincent Pici, Superintendent of Buildings Jeffrey Faville, DRC Member Renee Byers, DRC Member James Staudt, Outside Counsel

1. **Call to Order**

Chairman Henderson called the joint meeting of the Planning Board and Design Review Committee (the "DRC") to order at 7:40 P.M. in the Bronxville Library. He indicated that the entire Board, including the Alternate Member, was present.

2. **Minutes**

Mrs. Longobardo noted that the minutes of September 14, 2005, although previously approved, needed to be corrected to include the word "several" with respect to a reference made regarding co-op owners who had met with an applicant before the Board. Ms. Byrne indicated she would make the correction. The review of the minutes of the September 28, 2005 meeting was postponed until the next meeting.

3. **Pre-Application Hearing**
10 Park Place

Chairman Henderson informed the audience that this pre-application meeting was being held pursuant to Section 310-26 of the Bronxville Village Code for the purpose of providing an informal and free exchange of ideas. Chairman Henderson pointed out that such a meeting is not be deemed to be the filing of an application for development for the purpose of determining the time within which an application must be acted upon by the Planning Board and that no statements or representations made prior to formal review shall be binding on the Village. Mr. Robert Davis of the law firm Shamberg Marwell Davis & Hollis, P.C., appeared on behalf of the applicants Alan and Jing Lee, Banchann Lee and Yong Qui who wish to open an Asian fusion restaurant at the subject premises. Mr. Davis stated that the subject space is unusual and lends itself to use as this type of restaurant given its long, corridor-like dimensions. The applicants own several Asian fusion restaurants: the Water Moon in Rye, the Penang Grill in Greenwich, Ching's Table and Sushi 25 in New Canaan, the Hunan Café in Wilton, and the Wild Ginger Café in Ridgefield. The proposed restaurant at 10 Park Place is the former site of the Gristede's Supermarket and has been divided into several storefronts. Mr. Davis stated that the applicants were appearing this evening to receive thoughts and comments from the Planning Board.

John Fry, of Sullivan Architects, the applicants' architect, spoke about the layout and design of the proposed restaurant. He produced illustrations for the Board showing that the space is narrow in the front and opens up in the back, much like a flag lot. The applicants hope to obtain approval for a 93 seat restaurant. Mr. Fry stated that parking is available in the rear of the Building via an easement with the parking area owned by the Village. The plan for the restaurant is that the kitchen would be an open design in the rear of the space. Mr. Fry also contemplates that the 50' waiting area would serve as a sushi bar and cocktail area. Mr. Fry pointed out that there is basement space which occupies the back third of the footprint of the space. The basement will have walk-in coolers as well as additional kitchen area. Mr. Fry stated that he would have renderings of the proposed storefront for the next meeting. In response to Ms. Longobardo's questions, Mr. Fry assured the Board that the storefront would be harmonious with the three remaining stores making up the façade of the building.

Ms. Smith asked what the maximum number of seats permissible for the space would be. Mr. Fry stated that 130 seats would be permissible and further stated that the proposed design of the restaurant would mitigate the linear nature of the space.

Chairman Henderson inquired about the need for adequate parking for the patrons of the restaurant. Mr. Davis stated that the applicants' primary use would be during periods when parking was not in great demand. He further stated that the applicants would retain a traffic engineer to study the traffic and parking issues presented by the application.

Ms. Longobardo stated her belief that there was not enough space between tables on each side of the restaurant. Mr. Fry agreed that the space was "cozy". Ms. Longobardo then asked if the restaurant would be open for lunch and dinner. Mr. Davis responded that it would be.

Mr. Westerfield stated his belief that the applicants' proposal is a clever use of the space. Mrs. Longobardo stated that she would like to see a more modest proposal for this small space and believes that 93 seats will be problematic. Ms. Smith noted that in Asia many restaurants occupy small spaces similar to the proposed space. Mr. Blessing stated his desire to see a study of existing Bronxville restaurants' seating and square footage.

Chairman Henderson noted for the record the receipt by the Board of a letter in support of the application from JB Park Place Realty LLC, the owner of the subject premises, together with a copy of a letter from JB Park Place Realty LLC to Mr. Davis outlining the challenges the property owner has faced with respect to leasing the subject space. Chairman Henderson then thanked the applicants for appearing before the Board stating his hope that the meeting was helpful to the applicants, their architect and attorney.

4. <u>Site Development Application - 100 Pondfield Road</u>

Chairman Henderson stated that this is a continuation of the Board's review and public hearing on the application by Green Realty Development Co. LLC to convert the subject property from a storage warehouse into an office and residential property. Robert Davis, an attorney with the firm of Shamberg Marwell Davis & Hollis, P.C., appeared on behalf of his client, Steven Green, the principal of Green Realty Development Co. LLC. Mr. Davis acknowledged that much of the additional material he had furnished to the Board had not arrived in time for review by the Board members and would therefore be the subject of review at the following Planning Board meeting. John Fry of Sullivan Architecture , P.C., the applicant's architect, also appeared before the Board and indicated that he had provided in the written materials additional fire safety information. He also stated that the applicant's traffic and safety expert was here to review for the Board revisions made to the driveway and parking plans. Mr. Davis stated that Sound Shore, the sound expert retained by the applicant, was quite busy but that their report was completed and would be provided to the Board. He stated that the noise experts had concluded that activity on the roof of the subject property would not have more than a de minimis effect on the Central Business District (the "CBD").

Mr. Davis then addressed the subject of the façade of the building stating that Colgate Construction was prepared to begin placing netting around the building and that the applicant would like to work with the Village regarding the façade of the building. Ms. Longobardo asked if the façade of the building was a veneer. Mr. Pici stated that the façade of the building was Garden State brick and lathing. Mr. Davis stated that the applicant's plan was to remove the present system and replace it with a high quality product. Mr. Fry stated that the present system was placed over a "hodge-podge" of different materials and needed to be removed. Ms. Longobardo inquired as to the extent of the deterioration of the façade. Mr. Davis stated that the prior owner of the property had several violations and that Mr. Green had been cited in March of 2004 for violations with respect to the building but that he had conducted the necessary repairs. Mr. Davis went on to say that the applicant wished to do the permanent work at this time and not simply make some temporary repairs to the existing façade.

Chairman Henderson noted that the Planning Board did not have specifications for the proposed exterior materials. Mr. Fry said he would furnish those to the Planning Board at the next meeting. Chairman Henderson then proposed approving the applicant's site plan application in part in order to allow the applicant to begin the façade repair. Mr. Pici responded that, as he had stated in his September 30th and October 7th letters to the applicant, and his October 11th memorandum to the Planning Board, the removal of loose and falling material from the subject property must be done immediately and should not be contingent on Planning Board approval of a portion of the application.

Chairman Henderson then stated that the applicant must also have adequate fire protection in place at the building and that the Village would not issue a building permit unless the Fire Department was satisfied with the design of the building.

With respect to traffic issues, Mr. Davis stated that the October 5, 2005 letter from Collins Engineers included responses to all of the Board's questions regarding the access drive to the property and parking issues attendant to the application. Mr. Grealy of Collins Engineers appeared before the Board and stated his opinion that safety issues with respect to the access drive into the property would be best addressed by limiting movement from the driveway, adequate signage and installing a sensor in the driveway with a rotating beacon. He further stated the applicant's belief that traffic in the driveway would decrease upon Mr. Green's occupancy since there would not be a large visitor flow to his office space. Chairman Henderson asked if the ten trip per hour statistic included in Mr. Grealy's report was based upon standard usage or Mr. Green's proposed usage. Mr. Grealy stated that was based upon standard usage.

Mr. Grealy then reviewed for the Board the interior changes to the parking spaces in the building. He presented Drawing SK-12 to the Board and stated that while some of the spaces required multiple maneuvers for ingress and egress, that there was sufficient area in the parking garage for accommodating the number of spaces planned by the applicant. Chairman Henderson asked what the required width was for a parking space in Bronxville. Mr. Pici stated that the dimensions must be 8 ½' by 18' and that there was only 15' between the columns in the parking garage of the building. Mr. Grealy said his goal was to accommodate passenger vehicles in the parking spaces using tandem parking. He also noted that fire equipment would be too large to fit into the garage.

Clark Associates, the traffic engineering consultant for the Village, represented by Donald Tone, stated that the parking facility would, in all practicality, accommodate only ten cars. Mr. Grealy stated that ten spaces was more than adequate for the use contemplated by the applicant. Mr. Davis stated that the spaces were compliant with the Village Code and that is was entirely subjective to say the garage would accommodate only ten cars.

Mr. Pici raised the possibility of removing columns in order to provide easier access to the parking spaces. Mr. Fry stated that the cost of removal of the columns was prohibitively expensive.

Mr. Tone also stated that his firm would not recommend two-way traffic in the access drive of the premises. In the event two cars were to try to exit and enter at the same time there would be a need for a "by-pass" spot which has not been provided for in the plans. He also recommended that there be no left turn allowed into the driveway from Pondfield Road. Mr. Grealy added that the beacon and pavement treatments suggested by Mr. Tone were acceptable and that curb cuts would also be necessary in order to comply with the Americans with Disabilities Act ("ADA") specifications.

Chairman Henderson requested that Mr. Tone continue to work with the applicant in order to come to a mutually acceptable arrangement regarding the parking configuration and the access driveway.

There being no further comments, upon motion duly made and seconded, the Board adjourned the public hearing on this application until its next meeting.

5. Site Development Application - Kensington Road

Chairman Henderson reviewed the history of this application to date, stating that this meeting would be a continuation of the public hearings regarding the Draft Environmental Impact Statement for the proposed condominium development by WCI Spectrum Communities ("WCI"), the applicant. Chairman Henderson stated that the Board initially wished to address the design of the building and that the Board had, at the public hearings held on the matter, discussed the various alternatives proposed. He stated that while the proposed action, as set forth in the DEIS, contemplated the construction of two four-story buildings that the applicant had recently proposed the construction of one six-story building. This alternative had come about after the applicant met with several community members regarding the proposed project all of whom supported the construction of one six-story building with an adjacent park space which would be privately held and accessible to the public during certain hours. Chairman Henderson stated that, contrary to accounts in the press regarding the Board's prior hearings on the matter, no decision had been made with respect to the one building design or the two building design. Further, he stated, no decision would be made until the Planning Board had been furnished further information and renderings of the proposed structure(s) by the applicant. While the Planning Board had attempted to conduct the site plan review process concurrently with the environmental review of the project, Chairman Henderson stated that the Planning Board would now attend to these matters separately and thus proceed with the environmental review process and the publication of the Final Environmental Impact Statement (the "FEIS"). Chairman Henderson stated his desire to assure the members of the public that the Board wanted to hear more from the community regarding the applicant's proposals and that all decisions regarding the project will be made in a public forum.

Chairman Henderson then asked for comments from the Board on the DEIS. Ms. Longobardo stated that the Board would need further analysis of the figures provided in Section I of the DEIS with respect to fiscal impacts. Ms. Longobardo stated that private homes are assessed differently than condominiums and that the tax revenues projected by the applicant and reflected in the DEIS may not be correct.

Jeff Faville of the Design Review Committee (the "DRC") commented that the plans contemplate excavation of only half of one level of the underground parking garage. He asked whether it would be possible to excavate the remaining half of that level in order to provide 100 additional parking spaces. Mr. Faville also stated that there appeared to be a complicated plan for the containment of contaminated soils on the property. He asked if it would be safer and wiser to remove all of the contaminated soil rather than contain it in place.

Kevin McManus of WCI Spectrum Communities stated that the applicant would propose to contain the contaminated soil. He also responded that the Contract of Sale between the Village and the applicant required the applicant to provide a minimum of 200 spaces to the Village. He also stated that the applicant was attempting to minimize excavation adjacent to the train tracks.

Ms. Smith asked if it would be possible to renegotiate the contract between the Village and the applicant to provide for more parking spaces. Mr. McManus responded that the 200 space garage was provided to be consistent with the design parameters of the Village.

Chairman Henderson stated that regular environmental testing of the site should be done in perpetuity.

Mr. Westerfield asked if arrangements had been made with Metro North regarding the staging of blasting and construction. Mark Miller, an attorney with Veneziano Associates, WCI's attorney for the project, stated that the details of those plans will be addressed in the FEIS. Chairman Henderson then inquired about the easement to the MTA for access to their switching station adjacent to the site of the proposed development. Mr. Miller confirmed that the easement benefiting Metro North was in place.

Chairman Henderson then re-opened the public hearing on the DEIS and the site plan for the proposed development.

Dorothy Brennan, a resident of Kensington Road, stated that many of the persons who were in attendance at the meeting wished to speak to the design of the proposal and now believed that they would not be given the opportunity to speak to the design issues related to the proposed development. Chairman Henderson assured Ms. Brennan and those present that the Board would hear from everyone who wished to speak on the issues regarding the proposal, including design issues.

Barbara Murray of 89 Kensington Road stated that she is very interested in the project but does not believe that information has been forthcoming from the Board or Village. She indicated that many citizens cannot afford cable television and therefore are not able to view the Planning Board meetings on television and are too aged or infirm to attend. She stated her belief that there should be better communication of WCI's plans and Planning Board activity to residents of the Village.

Sara Penella, the President of Lake Avenue Owners, also appeared before the Board and stated that no one has approached the residents on the west side of the proposed site about their reaction to the applicant's proposals. She believes no one will be impacted to a greater extent than those people who live on Lake Avenue. She asked that her constituents' considerations be taken seriously. While she was not questioning the building(s) being built, she was concerned that a design be chosen which would have the least impact on the noise level experienced by the residents of Lake Avenue. She also stated her concerns regarding the issues of height and shadows cast by other buildings onto Lake Avenue and stated that Alger Court and the surrounding areas were "at the mercy" of the Planning Board.

Chairman Henderson assured Ms. Penella that all were invited to participate in the planning process and that all of her concerns would be considered by the Planning Board.

Mrs. Longobardo stated that public meetings have been held since the inception of this project, and that notices of all meetings have been posted in accordance with local statutes.

Chairman Henderson then stated that additional efforts would be made to communicate all issues to the public regarding the application. Mr. Pici stated that additional copies of the DEIS would be available at the Library and Village Hall. Chairman Henderson also stated that the Planning Board would arrange for the placement of the DEIS and all Planning Board minutes on the Bronxville Village website (villageofbronxville.com) in order that all citizens would be able to access all information regarding the project from their home computer or from the computers available free to the public and the Bronxville Village library.

Kevin McManus of WCI stated that the applicant would be happy to hold general information sessions for the public in order to inform the public regarding the proposed development and answer any questions members of the community might have.

Frank Bachman of 64 Sagamore Road stated his belief that the Kensington/Sagamore area gets the "short end of the stick" with respect to services provided by the Village. He stated that the services provided (police patrol, snow removal, and street cleaning) were abysmal at best. He further stated his belief that outside of the business district, Sagamore Road was the busiest and most densely populated area in the Village. He believes that the Sagamore Park is used largely by non-residents who bring children to play in the playground and park along Sagamore Road for hours, crowding the street and resulting in residents being unable to find adequate parking. He stated his preference that no building(s) be built at the Kensington Road site.

Dennis Winter, a Bronxville resident and Commissioner of the Eastchester Fire Department (the "EFD"), stated that the fire inspector had not reviewed any proposed design for the development. He also stated that the EFD needs continuous access to the Metro-North railroad tracks. He also stated that the need for parking for EMS, police and fire vehicles must be taken into account, particularly since this is an age-targeted development. He asked that there be better communication by the applicant to the EFD.

Cindi Callahan, a resident of Sagamore Road, requested that notices be sent to each of the building managers in the area advising the management and residents of each of the buildings of the developments with respect to the applicant's proposals. She restated her belief that the Planning Board, the DRC and the applicant did not do an adequate job of notifying the community with respect to the proposed project. Ms. Callahan stated that WCI contracted with the Village to build a four story building and she has not seen an amendment to that contract permitting the building of a six-story building. She stated that she was curious to know what height restrictions were imposed by the contract. She stated that she would not support a proposal which contemplated a six story building. She presented to the Board a petition containing 215 signatures stating that all those who signed the petition were in opposition to the six-story building design. Ms. Callahan then said she did not want to receive any telephone calls from any individual offering to negotiate a compromise with respect to the one building design. Chairman Henderson asked Ms. Callahan to confirm that no such phone call came from any member of the Planning Board or the DRC. Ms. Callahan stated that the phone call she received was not from a member of the Planning Board or DRC, but specifically addressed a member of the audience, Mildred Maclearn, stating that she did not wish to receive any more such communications.

Ms. Betsy Harding of 39 Homesdale Road addressed Section III.J.(Fiscal Impacts) of the DEIS stating that she believed that developer did not correctly project the tax revenues for the development. She asked that additional analysis be included in the revised report addressing the NY State Tax law provisions that provide for different taxation rates for condominium residences based upon rental value, not market value.

Ms. Smith stated that she believed that the applicant had already provided for the decreased tax revenue stream by discounting the value of the condominium residences in its calculations. Ms. Harding responded that she did not believe the discount allowed by the applicant was large enough. She also asked that the applicant segregate the various tax revenues and recipients, particularly the Bronxville School and Bronxville Village.

Ms. Harding also expressed surprise that the Planning Board would ask the applicant to develop a proposal that is not contemplated by the developer’s contract with the Village. Mr. Henderson said the Contract between the Village and WCI would have to be amended in the event the one building/six-story design was to be pursued and that the Village Mayor was aware of these developments. Chairman Henderson also stated that the one building alternative was included in the original DEIS which has been available for public review since its initial publication. Ms. Harding finds it curious that a developer would make proposals that are not in compliance with an executed contract. Chairman Henderson explained that the Board was proceeding in accordance with State Law which requires the investigation of all alternatives to the Proposed Action, specifically the construction in this case of one six-story building, which is included in the DEIS as Alternative 2.

Ms. Renee Atayan, a resident of the Kensington area, stated her belief that Ms. Callahan has done a good job of raising awareness of this large and complex project. She also stated that for the past two years meetings have been publicized and held by the applicant with community members in order to discuss the alternative design proposals. She stated that attendance by community members was always poor at these gatherings. Ms. Atayan also expressed appreciation to the applicant for its willingness to move away from a two building plan to a one building plan in response to the wishes of community members.

Ms. Carol Logalbo of Bacon Court stated that there is congestion in the Kensington/Sagamore area and limited parking is available. She believes that the 200 parking spaces to be gained by the Village as a result of the project is "woefully insufficient" and that more parking spaces should be incorporated into the plan. She also asked where those people displaced by the construction at the site would park during the construction period. She is concerned that a plan be put into place to address construction, parking and traffic in the area of the project.

Dorothy Brennan stated her belief that the Village is receiving insufficient consideration for the property given the sale price of $1,000,000. She stated that she would travel to Albany to fight against approval of this project. She believes the residents of the Sagamore/Kensington area will have to go through 2 ½ years of "misery" and she believes that the project will not be valuable to the Village. She stated her belief that there has been a tremendous lack of communication regarding the project and that she believes that the Village should send letters to the residents of Bronxville regarding the project. She expressed her desire that the Planning Board be more sympathetic toward the residents of the Sagamore/Kensington area. She also expressed concern that the members of the public had not been given an adequate opportunity to voice their concerns regarding the project.

Chairman Henderson responded to Ms. Brennan that the Board is sympathetic to the concerns of all residents of the Village. He also stated that this was the third public hearing on this matter and that Ms. Brennan had spoken at all three hearings.

Mildred Maclearn stated that she does not believe that the public correctly understands the two building design plan. She stated her understanding that in the two building design, the southerly building adjacent to One Pondfield Road would be 5 ½ stories high because it will sit on a platform and is therefore out of scale with the surrounding structures. She believes the one building design is preferable because with an adjacent park the Village will have more open green space and the one building design will reduce the number of units in the project thereby bringing less congestion to an already congested area.

Bonnie Carey, a resident of the Kensington area, stated her preference for the two building design. She also believes that the majority of the public is in favor of the two building design. She voiced her concern regarding the plans of the developer and its dealings in other suburban communities. She is concerned that the development will cause turmoil in the community.

Steven Sussman of Kensington Terrace stated his concerns regarding Kensington Road and asked that the road be repaved as part of the project.

Erica Curtis, a resident of Sagamore Road, expressed her desire to see a model of the buildings proposed by the applicant. She stated that she has not seen the plans submitted by the applicant, and that because of the lack of communication and speculation on the part of the public there appears to be many hearsay issues regarding the development of the site. She asked that information regarding the development be placed on the Village website. She stated that she is hearing impaired and the ability to review the proposal online would be of great assistance to her, as she believes it would be to many other members of the community. She further stated that the submission of a model of the proposed development would show the mass of the project and enable the members of the public to visualize the impact of the alternative proposals. She also expressed her concerns regarding the heavy traffic on Sagamore Road and asked if air quality tests had been conducted in the area of the site.

Eloise Morgan also voiced her support for models of the alternative proposals to be submitted to the Board. She also suggested that the footprint of the proposed development be painted on the ground together with the curb cuts and the setbacks, each in a different color, so that the public could view where the structures would be placed and what the layout of the property would look like. She believes that these steps, together with the placement of balloons on the property to show building height, would be of great assistance to the public in understanding the proposal. She also noted that the pictures of the site from various points in the Village which were included in the DEIS were taken at a time of year when the trees and greenery were in full bloom. She requested that pictures of the site from various points in the Village be taken at a time of year when there are no leaves on the trees so that the public could see what the views would be like during the fall and winter. She also requested that the park proposed as part of the one-building design should have a detailed plan in order to avoid it becoming a windswept and desolate area.

There being no further comments by the public, upon motion duly made by Mr. Blessing, seconded by Mr. Westerfield and unanimously carried, the public hearing on the DEIS was closed and the public hearing with respect to the site plan was adjourned until the next meeting. The period for the receipt by the Board of written comments with respect to the DEIS was extended until October 26, 2005.

6. New Business

None.

7. Next Meeting

Since the next regular Planning Board meeting scheduled for Wednesday, November 9, 2005 presents conflicts for several board members, it may be rescheduled to November 10. Chairman Henderson stated that he would notify the Planning Board of the date and location of the next meeting and that the information would also be posted on the Village website.

8. Adjournment

There being no further business before the Planning Board, upon motion duly made by Mrs. Longobardo, seconded by Mr. Blessing, and unanimously carried, the meeting was adjourned at 11:05 P.M.

Respectfully Submitted

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Lydia Byrne, Recording Secretary
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