

**PROCEEDINGS OF A SPECIAL WORKSHOP MEETING
OF THE
VILLAGE BOARD OF TRUSTEES
June 23, 2011 – 8:00 AM**

Present

Mayor Robert C. Corby
Trustees: Paula Sherwood
Tim Galli
Lorie Boehlert
Trip Pierson
Attorney: Karl Essler
Recording Secretary: Anne Hartsig

CALL TO ORDER

Mayor Corby called this workshop meeting to order at 8:00 A.M. He explained that the purpose of this meeting was to try to find common ground regarding potential changes to the R-5 District.

MEETING DISCUSSION

Frank Hagelberg, an attorney representing the developer of the project proposed for 75 Monroe Avenue, addressed the Board. He said that if the Board wanted to kill the project, changing the R-5 to impose maximum density of 12-16 units per acre, would achieve that purpose. It would kill the project. He said that was not a threat, it is economic reality. He said if a common ground can't be reached, and if a 12-16 unit per acre maximum is imposed at this stage of the proceedings, they would consider it a breach of faith of the first order.

Mr. Hagelberg proceeded to outline the history of the project. He said the Village asked for the annexation of land from the Town on which this development is proposed to avoid commercial and industrial development on the site. In October of 2008, plans were presented to the Trustees. The plans showed a density of 220 units for that site. It was expressed to the developer that it was too much. It was agreed that the R-5 would allow up to 25 units per acre. In May of 2009, the R-5 was adopted. The Village knew what the density would be. 25 units per acre were negotiated down from the original proposal.

Mr. Hagelberg said that the cost for developing this site is high due to 1)the environmental remediation of the site, 2)the reimbursement to the Coast Guard for expenses incurred cleaning up the contamination from the Monoco Oil spill, 3)the expensive cost of building underground parking which the village asked for, 4)additional cost for sound proofing the interior of the units and for an external sound barrier because of the railroad noise, 5)the cost of the public amenity improvements to recognize and capitalize on the canal property that is adjacent to this site, 6)the requirement to build the roads in this development to the specifications of public roads, which means enhanced materials, things like granite curbs and the maintenance of the roads, 7)the expense of the off site traffic measures which the developer has to pay for, which are specific to this site, 8)various off site water, sewer, storm sewer, and other amenities that have to be provided including pump stations and separators particular to the site, and 9)other architectural requirements built into the R-5 district that add to the cost of the development. He said that all of these add to an unusually high cost for developing this site. He said that if 105-120 units are all that is allowed, based on the fixed development costs, the math won't work. The bank won't finance the project and if there is no financing, the project will not work.

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Mr. Hagelberg said that planner Doug Fox's conclusion that the R-5 ordinance is inconsistent with the Comprehensive Plan, falls of its own weight. He said the Comprehensive Plan is a combination of a number of planning documents, the zoning map, and the zoning ordinance itself. He said when four members of the current Board adopted the R-5 district, what they did was change the Comprehensive Plan. Therefore, logic dictates that the R-5 district cannot be inconsistent with the Comprehensive Plan. What the Board said was that the Comprehensive Plan for the Village, now included as part of the Special Permit approval process, permits multi family residential on selected properties bordering the canal, near Monroe Avenue. Mr. Hagelberg said that this project is not consistent with the single family grid residential that characterizes much of the village. It is different but the R-5 says there is a different kind of property here and therefore, a different kind of development is needed. He said the R-5 acknowledges that it is not consistent with other development patterns. The issue is whether it is compatible. He said other municipalities don't have contaminated industrial areas at their gateways. He noted that Mr. Fox's report does not mention the Village of Fairport.

Mr. Hagelberg continued by stating his client's fundamental objection. He said to impose a new limit at this point interrupts a process that is already underway without giving the Planning Board and the APRB the opportunity to complete the review the Board asked them to complete and without giving them the opportunity to submit recommendations that the Board asked them to submit. Perhaps that is because the APRB consultant said that the project works for that area. He said that perhaps the Trustees are making changes to stop the project and if so, the developer has a problem with that. He said that the Board is going down a false path if they look at the density numbers in isolation. That is irrelevant. What should be considered is whether or not the project being proposed creates an appropriate sense of place in the historic context of the village at this gateway. He concluded by saying that the Board has a process. He asked the members to let that process work so that there can be a win/win situation. He said the developer is willing to work together but a maximum density of 12-16 units per acre will put the project to death.

Attorney Karl Essler suggested that Board members look at a financial analysis of this project from the expense side and from the anticipated income side. When doing so, they should consider whether the applicant can expect a reasonable return, not a maximum return.

Mr. Essler said that Village Law 7-704 states that regulations shall be made in accordance with the Comprehensive Plan. He said the Village Board has an obligation to make sure that what is in the zoning ordinance is in compliance with the Comprehensive Plan. Some elements in the R-5 are not in compliance with the details of the Comprehensive Plan.

Mr. Essler said that a public hearing was held to consider a moratorium. The applicant made a plea to have dialog regarding variations. He noted that nothing has been decided regarding the moratorium. He said that the workshop was being held to begin to develop ultimate goals for the R-5 district not precluding that there could be deviations if it works for both parties. At the May 31st meeting, Mr. DiMarzo indicated that there could be room for reductions. Mr. Hagelberg confirmed that but said that the project could not be cut in half. He said the applicant is still willing to talk about density and he hoped that there would be a middle ground.

Trustee Galli said that the Board members needed to see numbers to quantify the costs and that revenue should also be considered. Mr. Hagelberg responded that that information could be supplied.

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Trustee Pierson said that the PZBA and the APRB are making recommendations that the Trustees will take in to consideration. However, as an elected official, he said it is important to him to be able to say what he thinks is important at this time and not wait until later.

Trustee Boehlert asked Chris DiMarzo what he was thinking and what he would like for the project. She said that if the project continues to be large, it won't be approved.

Chris DiMarzo said that with regard to drawings, he didn't want to produce new drawings only to be shot down. He said he needed more specifics before doing more drawings. He said he could show the Board members financial data with the understanding that the information is highly confidential.

Mr. Essler said that regarding matters that could result in litigation, an executive session could take place. There could be a private session to have the discussion regarding the financial data for this project.

Trustee Sherwood said that she is upset that the developer thinks they are being kicked by the Trustees. She said as an elected official, it is her job to protect the village. She said the Board needs to look at the big picture, the entire R-5 district, which is a gateway to the village. She stated that many people took the time to make sure that appropriate things happened for the betterment of the village. This development is not the same as the Corn Hill project. The R-5 needs to be planned carefully to protect the future of the village and to be in line with the Comprehensive Plan. She said the Trustees are doing their due diligence because their constituents elected them to do so.

Roger Brown, an architect for the developer, said that he tried to find a solution that included the density that Mark IV required to make the project financially feasible. The design result was the canal/commercial look that the Board has seen. He said that the Village of Pittsford has high standards but to support those standards will require the kinds of unit counts that other developers won't undertake. In this case, Mark IV has the confidence to do it. He said there are five elements that need to be paid for including 1)the underground parking, 2)the stronger streetscape required to create the public realm, 3)high level quality and detailing materials, 4)the building forms which are complicated because each structure is different, and 5)the cost of maintaining the high level of quality. Density will support this. Mr. Brown then compared the Park Avenue area including the Goodman Street high rises, to this project because the public realm is strong in both. He said that area is successful and that density supports it. He said it is a place where people want to be. This project will not change the existing village. He said rather, the gateway will be unique and will add to the overall character of the village.

Trustee Pierson countered that the village is country/urban. He said Park Avenue is fiercely dense. Mr. Brown said the project will support the economic vitality of Main Street. He said it is ultimately about design. Trustee Pierson replied that he believes 300 people on that site won't work no matter what the design may be. Trustee Boehlert agreed.

Mayor Corby said the purpose of the meeting was to determine what the density is that will work. Trustee Boehlert said that a large number of people will mean you have a large number of cars and a large number of parking places etc. She said there would be lots of people in a small space.

Mr. Hagelberg responded that people on the site will be helpful to the vitality of the village. The essence is that the number of cars and traffic won't matter because many of the cars will be parked underground and the traffic study showed that with modifications, the volume will work.

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Mr. Essler said that it was his understanding that among the discussions that have taken place, there was a willingness to be flexible on height. In addition, he said he had the sense from Doug Fox's report that the parking plan for this site is excessive, so maybe it can be reduced. Chris DiMarzo said he is on the same page regarding parking and he will be prepared to show this to the Planning Board.

It was suggested that a meeting be held in executive session with representatives of Mark IV to discuss confidential financial information in the event of potential litigation. Mr. Hagleberg said he is prepared, in executive session, to share why 12-16 units per acre won't work by showing the Board the financial data that supports it. His client is willing to come in with a number that works for Mark IV that will bring a reasonable return. It is estimated that it will take 40-45 minutes to present the financial information. The confidential meeting session will be June 27th at 3 PM at the Village Hall.

EXECUTIVE SESSION AND ADJOURNMENT

A **motion** was made by **Trustee Sherwood, seconded by Mayor Corby**, to enter executive session to discuss matters of potential litigation.

Vote: Corby – yes, Galli - yes, Sherwood – yes, Pierson – yes, Boehlert – yes. **Motion carried.**

Having taken no action, a **motion** was made by **Trustee Pierson, seconded by Mayor Corby**, to end the executive session portion of this meeting and to adjourn the regular session of the meeting at 9:50 AM.

Vote: Corby – yes, Galli - yes, Sherwood – yes, Pierson – yes, Boehlert – yes. **Motion carried.**

Anne Z. Hartsig, Recording Secretary