

Draft Minutes
8/6/2014



Regulatory Programs Committee
July 10, 2014 Agency
Meeting; REW:mlr

Regulatory Programs Committee
July 10, 2014

Committee Members present: Sherman Craig, Chair, Richard Booth, and Dede Scozzafava (Department of State), Art Lussi with Chairwoman Ulrich voting in Mr. Valentino's absence.

Other Agency Members and Designees present: Lani Ulrich, Chairwoman, Daniel Wilt, Robert Stegemann (Department of Environmental Conservation), Bradley Austin, (NYS Department of Economic Development), and William Thomas and Karen Feldman.

Agency Staff present: Terry Martino, Executive Director and James Townsend, Counsel.

Local Government Review Board Representative: Fred Monroe, Executive Director

The Committee convened at 10:00 am.

1. Approval of June Draft Regulatory Programs Committee Minutes

On motion of Mr. Lussi and seconded by Mr. Booth the Committee unanimously adopted the Draft Regulatory Committee Minutes of the June 2014 Agency meeting with edits.

2. Project

2014-33
(C. Parker)

Kenny-Dittrich-Amherst, LLC
Village of Lake George- Town of Lake
George: Warren County
Hamlet

Ms. Parker recognized Dave Kenny, from Kenny-Dittrich-Amherst, LLC and Authorized Representatives, Attorney Jon Lapper and Mr. Jeff Anthony from the LA Group.

Ms. Parker presented a slide show which described Agency jurisdiction, project site location, Hamlet land use area, and the project description as proposed. Ms. Parker explained that the Village of Lake George administers an Agency approved local land use

program and has reviewed and approved the proposed project. However, the proposed project requires Agency review as a Class A regional project because the proposal is to construct a structure greater than 40 ft. in height with more than 100 units.

Ms. Parker showed aerial photographs of the proposed project in relation to the shoreline of Lake George, public roads accessing to the property, existing development and near the project site and vegetation.

Mr. Craig asked if there were any chain hotels near the project site and Ms. Parker answered there is one located on the northend of Canada Street and a few chain hotels located south of the Village. She showed slides that depicted the property boundaries and the six tax parcels that comprise the 2.09 acre project site.

Ms. Parker explained the applicant's first proposal was to construct a taller hotel which was rejected by the Village of Lake George. She stated the Village reviewed their local zoning regulations and design guidelines and subsequently, in 2013 amended the Village Code to designate certain areas within the Hamlet as maximum height overlay districts allowing structures up to six stories tall, 72 ft. in height. She said this proposal is consistent with the uses allowed in the district and does not need a height variance from the Village.

A brief discussion ensued regarding the status of Parrott Street and potential parking spaces along Canada Street which was depicted on the site plan.

Mr. Weber stated that there is a contract to purchase Parrott Street which has been approved by the Village of Lake George but has not been finalized at this point.

Ms. Parker explained the parking issue was a topic discussed at length during a local planning board meeting. She said there are several notations in the planning board minutes that the Village will be seeking additional public parking areas within the Village.

Ms. Parker stated the 132 spaces for the proposed hotel parking lot meets local code.

Ms. Parker showed several architectural drawings and visual simulations for the proposed hotel

Ms. Parker stated it was determined that there would be no visibility of the structure within 3 or 5 miles away from the proposed project site. She showed several before and after visual simulations within a half mile from the project site.

Mr. Booth asked Ms. Parker if staff were certain there were no areas on the Lake where the hotel will be more visible. Ms. Parker replied that after communication with the applicant and further review of the existing shoreline and vegetation, staff are satisfied the visual simulations identified the most visible viewpoints of the proposed project.

Designee Stegemann asked if the proposed hotel is the tallest structure in the Village. Ms. Parker answered it has the tallest roof line, but there are components of the public school and courthouse that are taller than the proposed hotel. She explained that the building will be 72 ft. tall on the highest end and lower on the south end due to the topography of the project site.

Ms. Parker stated the visual simulations do show the most significant visual impact will be the view from on the waters of Lake George north of the Village, looking southwest towards the Village. The new hotel will be more visible than the structures that it is replacing. However, the views of the hotel will primarily be within the context of the surrounding developed area and the Village of Lake George. There is significant shoreline development in the foreground view of the new structure and staff agree that the proposed structure will not result in significant new visual impacts uncharacteristic of the surrounding area.

Ms. Parker discussed the Village of Lake George's local land use program. She said that a notice was completed by the Village's Assistant Zoning Officer which stated the proposed hotel is an allowed use and is not prohibited by any local law or ordinance in the Village, and had received required permit and variance approvals for the Village.

Ms. Parker discussed proposed Conditions and Findings of Fact described in the proposed draft permit. Ms. Parker also stated all adjoining landowners and concerned parties were sent a public notice with a description of the project and as a result the Agency received 65 comment letters. Of these, 46 letters opposed the project (with some opponents submitting more than one letter) and 19 letters supported the project.

She discussed both the concerns and benefits listed in the letters of opposition and the letters of support.

Ms. Parker introduced Mr. Lalonde, Agency staff, to discuss wastewater and stormwater issues.

Mr. Lalonde stated that NYS Department of Environmental Conservation (DEC) and Agency staff worked together on the wastewater issue and concerns. He stated that all sanitary sewage generated from the project will be connected to and treated by the municipal wastewater collection and treatment system. Mr. Lalonde said the Village of Lake George is responsible for complying with the SPDES permit issued by DEC.

Mr. Lalonde described the components of the municipal wastewater collection and treatment system. He stated in 2012 the Village of Lake George hired an engineer to measure the capacity of the wastewater treatment plant, which a report was provided to Agency staff to review.

Mr. Lalonde noted a "nitrate" problem within the Village of Lake George and the wastewater treatment plant. He said that since 2012, when the report was issued, the Village of Lake George has been continuously attentive to and is presently upgrading the treatment plant to handle the "nitrate" situation. Mr. Stegemann said that DEC has planned to evaluate the system and stated that the Village has steps in place to manage and handle the "nitrate" problem.

Mr. Booth asked Designee Stegemann to discuss the process to handle the on-going "nitrate" problem. Designee Stegemann replied the Village is planning to hire an engineer to study the problem and provide the Village with a plan to control the "nitrate" situation. Mr. Stegemann added that the DEC has confidence in the Village's support system to control the present "nitrate" situation. Mr. Lalonde stated the proposed hotel will not add a dramatic amount to the existing flow in the system and will not be an adverse impact to the plant.

Mr. Lussi asked about stormwater plans and Mr. Booth asked if staff had done a stormwater review. Mr. Lalonde answered yes, and explained that this project is "re-development" on an existing site, with existing drywells, non-jurisdictional to the Agency. He stated the applicants agreed to do additional stormwater management than what might typically be required for "re-development," such as permeable pavement and plant trees along the project site.

The applicants addressed the "new runoff" from the buildings with new stormwater components built into the parking area along with the drywells for the roof runoff. Staff considers this to be an improvement to what is presently there now.

Mr. Lussi asked if stormwater in a pre-existing parking lot is reviewed by Agency staff. A brief discussion ensued regarding the applicants modifying the existing parking lot to include new stormwater management devices, and all runoff will be contained on-site. Mr. Lalonde explained that the applicants modified the proposal to use the drywells only for rooftop runoff. He also noted that there are some pre-existing drywells in the parking lot that staff did not require the applicants to remove.

Ms. Feldman asked about where the water drains once it is in the drywell. Mr. Lalonde answered that it infiltrates into the soil.

A discussion ensued regarding stormwater standards between new impervious projects and preexisting projects. Mr. Lussi questioned staff whether this proposed project complies with DEC and APA stormwater review. Staff stated we applied the DEC redevelopment standards and made sure that the design also complied with the Town stormwater management requirements. Designee Stegemann stated DEC has every expectation that a plan will be prepared to the standards. He said conditions will be required if necessary, but if the plan meets DEC standards that will be the extent of the review.

Chairwoman Ulrich re-stated Mr. Lussi's question, whether the stormwater plan complies with both DEC and APA requirements. Mr. Lalonde responded yes.

After referring to a comment letter from the Lake George Water Keeper, that the wastewater does not address treatment, Ms. Feldman asked Mr. Lalonde if staff are satisfied that the issue has been resolved. Mr. Lalonde replied that staff has discussed with DEC, (the nitrate issue) and staff are satisfied that the Village has taken the appropriate steps to address that issue.

Ms. Feldman asked if Mr. Lalonde knew of any time frame for the issues to be resolved regarding the wastewater issues and construction of the proposed hotel. Mr. Lalonde answered that the wastewater upgrades are currently being addressed and he noted he does not know the timeframe for construction.

Mr. Booth questioned whether there is a different standard for new projects versus a pre-existing project site. He noted that he would expect that the Agency would be using one standard-a "Best Practice" Standard-for major commercial projects to be applied in every circumstance.

Mr. Lalonde answered there is one standard that includes re-development and in some situations there is physically not enough space to build a retention basin, as an example, so other practices are reviewed to accomplish a result that works best for the project site.

Mr. Lalonde stated that all stormwater circumstances treat the stormwater quality volumes and with this proposed project the water quantity volume is being addressed.

Chairwoman Ulrich stated that she understands that staff reviewed the project following the law and APA Regulations but noted she is unclear on the differences between APA review and DEC review with stormwater. She stated that the differences in review standards between existing (re-development) and new projects is a topic for a later conversation but that staff agrees this project complies with APA standards.

Designee Stegemann stated that DEC will have its own review of the proposed project according to DEC standards and will require a permit or require re-modification if necessary but he noted he does not see an issue with the proposed project. Mr. Lalonde added that if there is over an acre of disturbance DEC requires a permit, and he said re-development is encouraged.

Ms. Parker noted that the stormwater plans are available for review. Ms. Parker discussed comment letters received in support of the project.

Ms. Parker reviewed several conditions in the draft permit including the stormwater plans previously discussed.

Ms. Parker stated all signs on the project site will comply with the Village of Lake George Zoning Regulations. Any changes to the signage which deviates from the project plans shall be submitted to the Agency for approval in the form of an amended permit or letter of permit compliance.

Ms. Parker stated the staff recommendation is to approve the project with conditions; the project does comply with requirements of the approved local land use program. She noted the staff concern with the visual impacts but agreed the project is not uncharacteristic of the surrounding area.

Mr. Monroe commented that the "Canada Street Overlay Plan" was not approved by the Agency. Ms. Parker stated the Plan was referred to the Agency and referenced a letter from the Agency stating that there was no further approval necessary from the Agency.

A brief discussion regarding the parking spaces ensued. Ms. Parker reiterated the parking lot meets local code.

Mr. Booth suggested language be added to the draft permit that referenced the proposed project site is located 600± from the lake.

Mr. Craig asked the Regulatory Committee to make a motion to move the proposed project to Full Agency for approval. Mr. Lussi made the motion and Chairwoman Ulrich seconded the motion.

Mr. Booth stated he will vote for the proposed project encouraging development within the Hamlet of the Village but noted his deep concern regarding the stormwater discussion at today's meeting. He stated that for the review of major commercial development the best standards possible should be applied.

Mr. Lussi commented that re-development is expected in Hamlet areas. He stated he approved of the design of the proposed hotel but noted his concern regarding the project's approved parking spaces. He also noted his concern regarding the development versus the green space available. Ms. Parker stated there is no existing green space on the project site nor any proposed green space except for the roof of the hotel.

Mr. Lussi said that the green space issue can be deferred to the Village of Lake George. He stated he is not comfortable with the stormwater issue that the Agency is approving.

Mr. Thomas commented that there is not a lot of green space in the Port William Henry Hotel which was also approved by the Agency. It is not unusual not to have green space in Lake George.

Mr. Weber stated that stormwater management review is an integral element of everything staff does in its review. The stormwater review for the proposed project before the Board today was very carefully reviewed and the Agency used the DEC standards and in this

case the project met higher standards than required in "re-development." He stated the Board should have confidence that staff reviewed this project very carefully.

Mr. Monroe commented the APA Act clearly recognizes that the Agency has jurisdiction over matters with regional impact and he noted that most of the issues discussed today are local impacts, other than the view from the lake.

Mr. Craig asked for the vote from the Committee to move the proposed project forward to Full Agency for approval. The Regulatory Committee vote was unanimous in favor of the motion.

3. Old Business: No

4. New Business: No

Adjournment: The Regulatory Committee meeting adjourned at 11:35 am.

Note: The power point presentations referred to herein are on file at the Agency. Copies are also available for inspection on request and can be viewed at http://nysapa.granicus.com/ViewPublisher.php?view_id=2 of this meeting: