

**VILLAGE OF ESSEX JUNCTION  
PLANNING COMMISSION  
MINUTES OF MEETING  
May 6, 2010**

**MEMBERS PRESENT:** Liza Kilcoyne (Chair); Diane Clemens, Aaron Martin, Andrew Boutin, Dan Kerin, John Alden.

**ADMINISTRATION:** Robin Pierce, Development Director.

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**1. CALL TO ORDER and AUDIENCE FOR VISITORS**

Chairwoman Liza Kilcoyne called the meeting to order at 7 PM. There were no comments from the public at this time.

**2. ADDITIONS/AMENDMENTS TO AGENDA**

There were no changes to the agenda.

**3. MINUTES**

*April 1, 2010*

**MOTION by John Alden, SECOND by Diane Clemens, to approve the 4/1/10 minutes as written. VOTING: unanimous (6-0); motion carried.**

**4. PUBLIC MEETING**

The procedure to be followed with applications before the Planning Commission was explained and individuals to give testimony were sworn in.

Site plan amendment to revise the approved plan and change the NECI Student Union, Building 1 and NECI Gymnasium, Building 2 (buildings not constructed) to residential buildings with 32 units each, revised parking and storm water retention pond at 48 Park Street in the MCU District by O'Leary-Burke Civil Associates, agent for 222 Franklin, Inc., owners

Paul O'Leary, Michael Dugan, Dean Bartlett, Curt Montgomery, and Tom Weaver appeared on behalf of the application. Andrew Boutin recused himself.

**APPLICANT COMMENT**

Paul O'Leary gave a brief overview of the 2001 approval of the development as a PUD (Planned Unit Development) on approximately 28 acre parcel off Park Street. The original plan was construction of the NECI campus to include dorms, a library, student union, and gymnasium. Market housing not associated with NECI was also constructed on the south side of the site. Construction began with dorms on the NECI main campus, but then NECI withdrew from the contract. The dorm units were converted to conventional housing. Traffic was an issue with the initial proposal and a condition of approval required a traffic signal to be installed on Park Street when the predetermined traffic threshold was met. The traffic signal has been installed. Approvals have also been secured for water and sewer, Act 250, storm water, and historic artifacts. The permits will be amended as necessary with the new proposal. The project was also amended for the parking structure and building size because soil conditions would not support the

proposed structures without expensive foundations which impacted costs so the number of units were reduced (building size reduced) and the parking was changed to be surface parking. Mr. O'Leary showed pictures of the existing buildings. The student union and gymnasium buildings proposed in the original development have not been built. There are 175 existing units on the site that are occupied (rental units). An additional 131 one bedroom rental units with surface parking are proposed. Sixty-four units (32 one bedroom units by the former student union building location and 32 one-bedroom units by the former gymnasium location) will be built in phases. The building fronting Park Street will be constructed first along with some parking. Sewer allocation and the storm water system are already approved. The traffic impact is not expected to change from what was determined in the traffic study for the original plan. In fact, the current proposal will have less sewer usage, less traffic, less parking, and less impervious area. The already built units are fully occupied. The 24-unit building (one bedroom units) is built and fully leased. There is a waiting list for this and the other buildings. There is demand for quality, reasonably priced (utilities included in the rent) rental housing in the area. The one bedroom units are attractive to young professionals and families from all walks of life.

Liza Kilcoyne asked if any of the housing is affordable housing. Curt Montgomery stated the housing is market value. Mr. Montgomery clarified between the two proposed buildings there are 64 units to be added to the 67 units previously approved (for a total of 131 units) One parking space per unit is assigned for the one bedroom units. The space is adjacent to the unit. There is additional parking available in the overflow parking area by the building.

Diane Clemens mentioned the requirement as part of a PUD for 750 s.f. of private yard space for each unit. Paul O'Leary pointed out there is a large green area surrounded by the buildings, and there is an open lot behind the building fronting Park Street.

Tom Weaver explained extensive repair/rebuild was necessary on the apartments used by NECI (kitchens, floors, doors, and framing all had to be replaced) which was very costly. The development is now more intensive in terms of management and tenant relationships.

#### STAFF REPORT

The Planning Commission received a written staff report on the application, dated 5/6/10. Robin Pierce noted the buildings in the proposed locations meet the requirements of the districts (Residential-Office and Mixed Commercial Use). A building of 35' in height (three stories) is allowed in the R-O District unless the Land Development Code is changed to allow four stories. A building of 72' in height (six stories) is allowed in the MCUD. Existing buildings in the area are one-and-a-half stories or two-story buildings, and the positioning of the proposed buildings is different from the other buildings already on the site. The Fire Dept. has requested using the building to be removed along Park Street for training, and requested pre-emption for emergency vehicles at the traffic light on Park Street. Comments from the Wastewater Superintendent and the Village Engineer have been provided. It is suggested that six months after construction traffic will be evaluated and if there is a problem changes will have to be made. The landscaping meets

the requirement, and the parking exceeds what is required. A fence is proposed along the property line by the houses fronting Park Street. The roads in the development are private at this point in time.

#### PUBLIC COMMENT

Ted Liamos, 54 & 56 Park Street, expressed concern about the project due to the scale of the proposed buildings (four stories does not fit with the character of the area). Mr. Liamos agreed there is demand for one bedroom units and the existing buildings with 175 units are generating good rental income, but the proposed four story building located behind his property will have an impact on the value of the property. Traffic and lights will also have an impact. Mr. Liamos said his tenants are mainly IBM shift workers who sleep during the day so the construction will have an impact. Mr. Liamos requested a 10' high fence or berm with plantings for screening. There is a buffer now (the undeveloped area) to the view of the existing buildings. Mr. Liamos suggested parking be below ground level.

Suenetha Prabher, 27 Sunset Drive and 52 Park Street, stated the four story building height is too high, and for privacy and to block the view of the building and lights a fence and trees would be nice. The developers indicated they are amenable to having a buffer of some sort.

Yvonne Baker, 8 Silver Bow Terrace, expressed concern about the storm water pond at the property line in regard to mosquitoes, other pests, and overflow into the stream in the ravine. Ms. Baker also agreed the proposed building does not fit with the neighborhood. Paul O'Leary explained the permitted location of the pond backs up to the property line. The pond is an extended duration treatment retention pond. Health impacts have not been found with these ponds. For safety purposes fences have been installed around ponds if requested. The pond will have about 18" of free standing water about nine months out of the year. After a storm there could be up to four feet of storm water in the pond. Wetlands in the area have been delineated. The pond is outside the wetlands.

Greg Kelly, 6 Silver Bow Terrace, expressed concern about the pond location (health and safety issues), the lack of private space for the apartment dwellers, and the height of the four story building. Mr. Kelly questioned why the last open space on the parcel must be developed, and asked the Planning Commission to consider the concerns of the neighbors and the impact of the development on their property. The developers are asking for an amendment to what was approved and the Planning Commission is urged to reconsider options for the pond, such as tapping into a sewer drain or finding a different location, said Mr. Kelly. The applicant explained the pond was fully vetted and permitted in Year 2000. Also, an Act 250 permit was secured. There is low, excellent discharge and treatment of run off with the pond. It is unlikely a retention pond will work in another area on the site.

Billy Jo Rainer, 4 Silver Bow Terrace, mentioned the water in his basement that started to occur 10 years after purchasing the house. A sump pump and back-up pump are needed

to pump the water out of the basement. In the spring there is lots of water running off the hill behind the house.

Bob Baker, 8 Silver Bow Terrace, recalled the original development plan showed a catch basin that drained into the ravine rather than a pond. The area has always been wet and in heavy rain water flows from Park Street down to the ravine. Mr. Baker mentioned the lighting in the parking lot which shines in their yard during the winter months when the leaves are off the trees. Paul O'Leary stated the approved plan shows a retention pond. The pond is seven feet below the existing grade and will have some effect on the water table on adjacent properties and eliminate some pressure on the properties (likely improving the current situation). On the other side of the ravine is a strong north-south sub-flow. Additional drainage was installed around the buildings. Regarding lighting, a lighting plan has been submitted. The lighting will meet the standards of the village. Cut-off fixtures and lights on the buildings will be used.

Janice Burns, 50 Park Street, asked about the street between the buildings and if the spruce trees will be removed. Paul O'Leary stated the street will remain, but there is no reason at this point in time to remove the trees.

Ray Barry, resident, asked for confirmation that the ravine will not be disturbed. Paul O'Leary confirmed this.

There were no further comments.

**MOTION by Dan Kerin, SECOND by Aaron Martin, to close the public portion of the application for 48 Park Street by 222 Franklin, Inc. VOTING: unanimous (5-0); motion carried.**

#### DELIBERATION/DECISION

Site Plan Amendment, Change to Residential Buildings, Parking, and Retention Pond, 48 Park Street, 222 Franklin, Inc.

There was discussion of the fence, plantings, lighting, the pond, and the mass of the buildings. It was noted the developer is not opposed to planting evergreens and other landscaping for screening. Setbacks do not apply to storm water facilities, utilities, and driveways. There was further discussion of the overwhelming scale of the building and the PUD requirement that the design be compatible with surrounding structures. The building could be located farther into the lot to help mitigate the mass. Mike Dugan noted the placement of the building is dictated by the civil engineering work. The lot is narrow and the best utilization is front to rear. John Alden observed the rhythm of the neighborhood and scale that is proposed need to come together. Zoning wants compatibility and transition from one zone to another. Liza Kilcoyne stated the first floor elevation is six feet higher than any house on the street front and there will be four more stories on top of that. The building is actually five stories. A three story building may be more compatible. Mike Dugan stated the building is four stories. Robin Pierce referred to Section 615.G.I regarding design and compatibility. Paul O'Leary noted the developer owns the adjacent house which can be torn down, but the resident has a lifetime lease.

There was discussion of amenities within the site for the tenants. Tom Weaver stated an open area is being sought. There is a lot of pedestrian traffic from off the site going through the area because it is a nice place to walk. Aaron Martin suggested a rec path or pocket park on the site. Tom Weaver stated the ravines make it difficult to have a path. There are sidewalks now. There is not much to connect to with a path.

Diane Clemens asked about the driveway between 48 and 50 Park Street. Paul O'Leary said the driveway will remain. Diane Clemens commented the parking in front of buildings B and C may adversely impact the trees. Mr. O'Leary said the existing trees are four or five feet off the edge of the parking. The trees will likely survive in that location. Ms. Clemens asked about Building #3. Mr. O'Leary explained the building exists and is noted because the parking counts were included.

There were no further comments.

**MOTION by Liza Kilcoyne, SECOND by Dan Kerin, to go into deliberative session. VOTING: unanimous (5-0); motion carried.**

It was reiterated issues to consider include the storm water pond, size of the building 1 structure, transition from the existing houses, change to the area, capability to the surrounding area, impact on abutters, zoning that allows six story buildings, building 1 fitting in with the context of the surrounding buildings, the application being a PUD, existing buildings on the site creating an impact on neighbors now, having a fence around the southern edge of the pond for safety and to block car headlights and a fence along the western section of the parking south of building 2, and the ravine which is steep and not fenced. The Planning Commission agreed a fence should be installed on the south and west sides of the pond along with planted vegetation for screening. The applicant must ensure no additional drainage goes onto adjacent properties. The applicant needs to propose recreational amenities appropriate for the site (pocket parks, benches, basketball courts). Section 615.G.3.C makes note of amenities. At the street front of building 1 the actual ground elevation is above ground level. There is no accessible access from the street side of building 1 (the access is in the back of the building by the parking area). The building is actually five stories where all the other buildings are two and a half stories. This is a drastic difference. The top story of the building could be incorporated in the roof level. It was acknowledged the Code allows six stories, and there is a burden on being the first tall building in an area.

**MOTION by Liza Kilcoyne, SECOND by Diane Clemens, to table the proposed site plan amendments by 222 Franklin, Inc. for 48 Park Street and request the applicant return with a revised proposal addressing the following:**

- 1. Comments from the Village Engineer shall be addressed and satisfied prior to the issuance of a zoning permit.**
- 2. Bike racks shall be shown on the plans.**
- 3. Comments from the Wastewater Superintendent shall be addressed and satisfied prior to the issuance of a zoning permit.**

4. The Village reserves the right to require modifications to the proposed collection and filtration pond if storm water run off does not meet village standards, and screening of the pond shall be done from the south elevation and west elevation up to the jog of the property line going to the northeast corner of the property line, and further, there shall be no change to the vegetation on the new development side (fence behind the proposed vegetation).
5. Pre-emption for fire/rescue vehicles shall be added to the traffic light system if work or upgrades to the system are undertaken.
6. The applicant shall discuss the possibility of the Fire Dept. assisting in the removal of buildings E, F, and H as part of Fire Dept. training.
7. Redesign of building 1 shall be done to aid building design compatibility with adjoining structures on Park Street and a street front elevation study shall be done to show compatibility and building massing to adjacent buildings.
8. Along with the lighting plan that was submitted the applicant shall submit evidence the lighting has not changed from the prior approval and the lighting meets the lighting requirements in the Land Development Code.
9. Redesign of Building 1 shall be considered to better meet the design requirements of a PUD.
10. The applicant shall perform morning and afternoon turning movement counts within six months of completion and occupation of the additional 131 units.
11. The Village reserves the right to require the applicant to evaluate and implement appropriate traffic improvements at the project access drive intersection on Park Street should the project result in an adverse impact on the operation of the intersection.
12. The applicant shall consider adding recreational amenities on site for the building tenants as a swap for the gymnasium.

**VOTING: unanimous (5-0); motion carried.**

#### **5. OTHER PLANNING COMMISSION ITEMS**

None.

#### **6. ADJOURNMENT**

**MOTION by Liza Kilcoyne, SECOND by Aaron Martin, to adjourn the meeting.**

**VOTING: unanimous (5-0)[Andrew Boutin not present for vote]; motion carried.**

The meeting was adjourned at 9:05 p.m.

*RScty: M.E.Riordan*