

ONEONTA, NEW YORK - FEBRUARY 15, 2012 - 7:00 P.M.

REGULAR MEETING OF THE PLANNING COMMISSION PG. 1

PRESENT: Chair Dennis Finn
Commissioner Gary Herzig (Vice Chair)
Commissioner Gene Betterley
Commissioner Anna Tomaino
Commissioner Edmond Overbey
Commissioner Michelle Eastman
Council Member Maureen Hennessy

ABSENT: Commissioner Barry Holden

Chair Finn called the regular meeting to order and asked the Clerk to call the roll.

PETITIONERS

Chair Finn indicated there were no petitioners.

CORRESPONDENCE

City Clerk Koury stated that there was no correspondence.

APPROVAL OF MINUTES

MOTION, made by Commissioner Herzig and seconded by Commissioner Tomaino, that the commission approves the minutes of the regular meeting held January 18, 2012.

Voting Ayes: Chair Finn
Commissioner Herzig
Commissioner Betterley
Commissioner Tomaino
Commissioner Overbey
Commissioner Eastman

Noes: None

Absent: Commissioner Holden

MOTION CARRIED

NEW BUSINESS

The meeting agenda was faxed to the media on February 10, 2012 and February 14, 2012 on the following items of New Business and confirmation of same is attached hereto.

1. 32-38 Rose Avenue (300.07-4-49.01): Sketch Plan Conference – Paul van der Sommen: The owner wishes to build an apartment complex at the above referenced property. There will be 30 dwelling units in the apartment complex.
2. 178 East Street (288.06-1-60) & 176 East Street (288.06-1-61.01 & East Street (288.06-161.02): Sketch Plan Conference, Site Plan Review and Short Environmental Assessment Form – Michael Ranieri: The owner wishes to create parking lots at the above referenced properties. There will be 40 parking spaces at 178 East Street and 32 parking spaces 176 East Street.
3. Training: Site Plan Review: David Merzig
4. Engineering Department Updates: Greg Mattice
5. Discussion: Balancing between training needs and current business

ONEONTA, NEW YORK - FEBRUARY 15, 2012 - 7:00 P.M.

REGULAR MEETING OF THE PLANNING COMMISSION PG. 2

(New Business) continued

Chair Finn addressed the items of New Business for discussion as follows:

32-38 Rose Avenue (300.07-4-49.01): Sketch Plan Conference – Paul van der Sommen:

The following Memorandum, dated February 1, 2012, was received from Ordinance Inspector Ferris:

“SUBJECT: **PROPERTY ADDRESS:** 32-38 Rose Avenue
 TAX MAP #: 300.07-4-49.01
OF DWELLING UNITS: 2
 # OF BUSINESSES: 1
 ZONING DISTRICT: C/I: Commercial / Industrial District
 OWNER(S): Paul van der Sommen
 APPLICATION TYPE(S): Sketch Plan Conference

PROPOSAL: *The owner wishes to build an apartment complex at the above referenced property. There will be 30 dwelling units in the apartment complex.*

Please Note: *Without all the information, I am not able to do a full zoning review. Other factors may require site plan reviews and/or zoning variances.*

§ 300-74 E: *The applicant is requesting a sketch plan conference to discuss what drawings and information the Commission would like the applicant to submit for review.*

Table 300-92: *Apartment complexes are an approved use in this zoning district.*

§ 300-12 D (1): *All new buildings and new additions to existing buildings require site plan review except buildings smaller than 200 square feet in floor area.*

§ 300-12-D (2) d): *Intensity thresholds requiring site plan review: Compatibility with adjacent zone districts: All new uses within 200 feet of the C/I district boundaries.”*

Mr. Paul van der Sommen, 32 Rose Avenue, Oneonta, stated he had been involved with the Oneonta Tennis Club for 35 years. He said his residence was right behind the tennis club and he would like to build an apartment complex, a condominium-type of complex, attached to the tennis club. He said he would like the complex to be 30 units at 4 stories high with all the code requirements and everything else needed. He said the units would be varied between 800 and 1600 square foot.

Chair Finn questioned what the purpose was of the units.

Mr. van der Sommen responded it was kind of like his retirement home and would have patrons live in the complex so they could just play tennis right there. He said there was a tennis environment with indoor and outdoor courts and a swimming pool. He said he wanted to have a place when he could just “roll out of bed and play tennis and not do anything.” He said he had a bunch of people involved and they thought it would be a good idea.

Chair Finn questioned if the units would be self-contained.

Mr. van der Sommen responded yes, full apartments.

Chair Finn stated on the elevation in the drawings submitted showed the complex with 18 front doors and questioned what made up for the rest of the 30 units.

Mr. van der Sommen responded it was not really 18 front doors. He said that was a poor drawing

ONEONTA, NEW YORK - FEBRUARY 15, 2012 - 7:00 P.M.

REGULAR MEETING OF THE PLANNING COMMISSION PG. 3

(New Business – 32-38 Rose Avenue) continued

and those were basically the porches for people to go outside and sit. He said the inside interior was basically where the people would enter from. He said there would be 2 elevators, 4 stairways and everything else. He said that design was not official but he just wanted to know if he could go 4 stories high and do what he had to do to make it official.

Commissioner Herzig stated this property was in a Commercial/Industrial District and the only requirement he saw for an apartment complex was the minimum lot size of 20,000 square foot.

Mr. van der Sommen responded he had that with having 7 acres surrounding the tennis club.

Commissioner Herzig stated as far as the Zoning Code goes that was the only hurdle this request needed to be permissible.

Mr. van der Sommen asked what about parking.

Commissioner Herzig stated yes the next step would be a complete Site Plan Review to show the details.

Mr. van der Sommen stated when he went to the Code Enforcement Office his main concern was to see if he could build 4 stories high. He said normally people object to that but this was on the other side of the tennis club and the tennis club was 4 stories high.

Chair Finn questioned if this new building would meet the peak of the tennis club.

Mr. van der Sommen responded this would go about 5 feet above it.

Chair Finn stated what the commission was looking at was a Sketch Plan Conference to discuss what needed to be submitted for review. He said looking at the large scale drawings he questioned if Mr. van der Sommen felt the space that was south of the complex was where the parking would be.

Mr. van der Sommen responded yes.

Chair Finn questioned if anything had to be done with the pool for that.

Mr. van der Sommen responded no, the pool would be far enough away and it would actually be to the side of it. He said the other thing was that one-quarter of the tennis club will disappear. He said in other words there were 2 courts and he was going to cut it down to 1 court and actually build into it. He said the building itself would go about 30 feet from the existing tennis club but it goes in 25 feet. He said cutting the 2 courts down to 1 was to make sure there was enough space for the parking and everything else. He said right now he figures out there were over 76 parking spaces available if he does it that way.

Commissioner Overbey asked about how many bedrooms the apartments would have.

Mr. van der Sommen replied it all depended on the size of the condominium, from 1 bedroom to 3 bedrooms. He said he did kind of want to go toward an older crowd and not have young adults with children. He said it was kind of like a retirement-kind of idea but would be open to all because they mainly wanted to be able to fill it.

Council Member Hennessy questioned if this would be all condos and if there would be a condo association.

Mr. van der Sommen responded yes, he would like to basically have each person who gets involved,

ONEONTA, NEW YORK - FEBRUARY 15, 2012 - 7:00 P.M.

REGULAR MEETING OF THE PLANNING COMMISSION PG. 4

(New Business – 32-38 Rose Avenue) continued

either renting or buying, to be an owner of the property. He said what he wanted to do was have an organization that runs the whole facility and everything else.

Commissioner Herzig stated this was a permissible use in that zone. He said §300-75B in the Zoning Code laid out the drawings and drawing contents required for a Site Plan Review unless waived by the commission. He said he would propose that because of the scale of the project that the commission not waive those requirements unless anybody feels otherwise.

Chair Finn stated he thought the commission would need all the drawings. He said some of the drawings were submitted in the packet and it was also Code Enforcement’s position that none of the required drawings be waived. He said Mr. van der Sommen could request all that information from Code Enforcement as to what he needed to provide for the commission to do a Site Plan Review.

City Clerk Koury stated that the City Code was available on the city’s website and he could check those requirements in §300-75B.

Commissioner Herzig stated that if Mr. van der Sommen had any questions he suggested that he contact Code Enforcement Officer Chiappisi.

Mr. van der Sommen questioned how long he had to do that.

Code Enforcement Officer Chiappisi suggested that when Mr. van der Sommen submits them to Code Enforcement he would schedule a Site Plan Review request with the commission.

Engineering Technician Mattice stated in the Site Plan Review the commission would need to see calculations for runoff and what volume of sewage would be put into the city’s system by this.

Mr. van der Sommen questioned if the water supply would come from Rose Avenue.

Engineering Technician Mattice responded yes.

Chair Finn stated because this project was south of the hillside he did not think there would be any problems with that either.

Mr. van der Sommen stated this area was not in the flood zone and the area where he was planning to put the apartments did not flood.

Chair Finn suggested that Mr. van der Sommen makes sure he has all the information needed for the Site Plan Review.

178 East Street (288.06-1-60) & 176 East Street (288.06-1-61.01 & East Street (288.06-161.02): Sketch Plan Conference, Site Plan Review and Short Environmental Assessment Form – Michael Ranieri:

The following Memorandum, dated February 1, 2012, was received from Ordinance Inspector Ferris:

“SUBJECT:	PROPERTY ADDRESS:	<i>178 East Street & 176 East Street & East Street</i>
	TAX MAP #:	<i>288.06-1-60 288.06-1-61.01 288.06-1-61.02</i>
	ZONING DISTRICT:	<i>R-3: High Density Residential District</i>
	OWNER(S):	<i>Michael Ranieri</i>
	APPLICATION TYPE(S):	<i>Sketch Plan Conference Site Plan Review Short Environmental Assessment Form</i>

ONEONTA, NEW YORK - FEBRUARY 15, 2012 - 7:00 P.M.

REGULAR MEETING OF THE PLANNING COMMISSION PG. 5

(New Business – 178 & 176 East Street & East Street - Memorandum) continued

PROPOSAL: *The owner wishes to create parking lots at the above referenced property. There will be 40 parking spaces at 178 East Street and 32 parking spaces at 176 East Street.*

§ 300-74 E: The applicant is requesting a sketch plan conference to discuss what drawings and information the Commission would like the applicant to submit for the site plan review. The applicant has submitted documentation for the Commission to review.

§ 300-8 D (2) (a): Intensity thresholds requiring site plan review: Traffic: New uses requiring more than 30 parking spaces.

§ 300-8-D (2) (c) (i): Intensity thresholds requiring site plan review: Surface and subsurface drainage: Projects disturbing more than one acre of ground surface

§ 300-8-D (2) (c) (ii): Intensity thresholds requiring site plan review: Surface and subsurface drainage: Increase in impervious coverage to more than 60% of lot.

§ 300-8-D (2) (c) (iii): Intensity thresholds requiring site plan review: Surface and subsurface drainage: Coverage of more than one half (1/2) acre with impervious material.”

Mr. Michael Ranieri, 101 Deerfield Drive, Oneonta, stated his Deerfield Drive address was right next to the property he wanted to do the parking.

Chair Finn stated that in looking at the city map he questioned if this project would be going right to the boundary between the city and the Town of Oneonta.

Mr. Ranieri responded yes.

Chair Finn questioned if the project was on the south side of Meadowbrook Lane.

Mr. Ranieri responded yes.

The commission discussed the maps and large drawings submitted.

Chair Finn questioned if the parking lot would be paved.

Mr. Ranieri responded yes, part of it. He said the property from the intersection of East Street to the creek where the water main break occurred was on city property. He said that was a separate deeded piece of property. He said when the subdivision was done that .31 acre was technically the road that the city was going to take over after it was built to specifications. He said the Town of Oneonta took over their portion of the road but the city has never taken over theirs. He said the engineers in the city approved the road and it was built to their specs at the time and all of that was documented in minutes from way back. He said the city had a contract with the town to plow and maintain that portion of the road because the town had to go through that road. He said the housing was down on Meadowbrook Lane and Deerfield Drive, which was all in the town. He said the two lots in the city were the lots he was looking to create parking.

Commissioner Herzig questioned who would use the parking.

Mr. Ranieri responded it may be used by students. He said Oneonta State College approached him originally about purchasing the property and then they started talking about leasing because of the

ONEONTA, NEW YORK - FEBRUARY 15, 2012 - 7:00 P.M.

REGULAR MEETING OF THE PLANNING COMMISSION PG. 6

(New Business – 178 & 176 East Street & East Street) continued

problem with college properties going off the tax rolls. He said they talked about doing a temporary lease deal.

Commissioner Herzig stated on the agenda it said both a Sketch Plan Conference and a Site Plan Review and he questioned which one the commission was doing.

Chair Finn stated they were separate and the commission was just doing a Sketch Plan Conference at this time. He said the commission would go the Sketch Plan Conference and tell the applicant everything that he needed when he returned for a full Site Plan Review. He said what was submitted did not indicate the curbs and there were no elevations.

Mr. Ranieri stated that the elevations had already been done and were pretty much staying the same. He said the storm water prevention plan was done on all of that property and it should be on file in the Engineering Office. He said the property was inspected every year by the NYS Department of Environmental Conservation. He said all the runoff and everything that had to be done with that was done.

Chair Finn questioned what there would be between the paved parking area and the street such as some type of curb or something to direct the water.

Mr. Ranieri responded the water was going to go down to the check dams that were there that were made to go down to the creek. He said some of the check dams were messed up when the city did their portion but they were all on the plans.

Chair Finn stated the commission was looking at the Sketch Plan and he questioned if this would be down at the lower elevation on the north side.

Mr. Ranieri responded yes, the elevation was staying the same. He said there could pretty much be a 10-15' elevation change on East Street to that lower end. He said he did not want to build it up because then it would be unsightly and it was better if it sits like this. He said there was already ditching in the planning when Keystone Engineering did all the plans for the runoff for that.

Commissioner Herzig stated he understood what Mr. Ranieri was trying to do but did have a concern, which may be a major one and he said most of the property, at least that property above north Meadowbrook Lane was R-3, High Density Residential District. He said the purpose of the Residential District was as stated clearly in the Code to support the development of residential housing. He said he had concern with taking one of the few pieces of level property in a District that was clearly stated to be designed for the development of residential housing and converting it to a parking lot. He said in addition he did not see it as an approved use in the list of R-3 approved uses. He said a parking facility was not included in that list.

Mr. Ranieri questioned if that was R-8.

Commissioner Herzig stated that area was R-3. He said he believed but was not positive that what was south of Meadowbrook Lane was R-2, which was even more problematic. He said his main concern was that the Code clearly states that R-3 designation was a zone in which the city wants to encourage residential development and this was not a consistent use with the R-3 zone, particularly considering the emphasis on housing that the city was currently looking. He said without seeing this as an approved use he did not know if the commission had the authority to approve it.

Mr. Ranieri stated he was approved for each lot up to 30 parking spaces.

Commissioner Herzig stated not unless he was building a residence and then there could be parking for the residents. He said that a parking facility as a primary use was not listed as an approved use for that area.

ONEONTA, NEW YORK - FEBRUARY 15, 2012 - 7:00 P.M.

REGULAR MEETING OF THE PLANNING COMMISSION PG. 7

(New Business – 178 & 176 East Street & East Street) continued

Commissioner Tomaino asked Mr. Ranieri if he had enough parking spaces for his residents.

Mr. Ranieri replied yes.

Chair Finn asked Mr. Ranieri if he owned the whole lot.

Mr. Ranieri replied yes. He said that a house could not be built on the smaller property to the right because the city had 2 sluice pipes underneath that road that run down to the creek.

Chair Finn stated if this project was in the R-3 District it was like Commissioner Herzig said that it did call for a multi-unit housing but this was just to create parking.

Commissioner Tomaino stated that the city needed housing but it was a big expense and Mr. Ranieri had already built housing. She said he was going to either have this lot that was useless or he could generate some income and benefit some students with parking.

Mr. Ranieri stated this was an automotive use sale of property when he purchased it in 2006. He said his whole plan in the beginning was to improve that property. He said even though the property was bare it was probably better than what was there in 2005 and 2006.

Commissioner Herzig stated he questioned whether the commission could approve it because the code was clear that anything that was not listed as a permissible use was prohibited.

Commissioner Betterley questioned if it was subject to a Special Use Permit.

Commissioner Herzig responded no, the code was very clear that it had to be a permissible use. He said another way the applicant could go was to apply for a variance.

Commissioner Overbey stated that if the applicant was going to do that he would need to withdraw this application.

Mr. Ranieri stated when he came in to apply the first time he asked if he needed a variance and it was his understanding that he could put up to 30 parking spaces per lot on that property. He said he then said he was asking for 32 spaces and over 40 on the other and they talked about the boundary lines, buffering, etc. He said it was his assumption that this was the avenue to take.

Code Enforcement Officer Chiappisi stated that a parking garage was not covered as an approved use in certain zones. He said parking lots were not covered but parking lots were generally ancillary to a business. He said Code Enforcement considered the lot a facility and brought it to the commission. He said if he made a mistake then it came from Code Enforcement and it should have gone to the Zoning Board of Appeals.

Commissioner Overbey stated that parking lots were not a listed use. He said this is not necessarily what the commission wanted but it was bound by it.

Mr. Ranieri stated he understood that.

Commissioner Herzig stated there were 2 steps. He said first under this R-3 High Density

Residential District the purpose of the district as stated in the Code was *“(1) Provide for a broad range of opportunities for the construction of one-, two- and multifamily housing and related accessory uses, and (2) Permit commercial uses that are accessory to and incidental to residential uses on the same parcel.*

ONEONTA, NEW YORK - FEBRUARY 15, 2012 - 7:00 P.M.

REGULAR MEETING OF THE PLANNING COMMISSION PG. 8

(New Business – 178 & 176 East Street & East Street) continued

Mr. Ranieri stated since he had owned the property it had been leased out to contractors for parking and staging equipment. He said it was Oneonta Tractor when he purchased it. He said Foothills Performing Arts was renting it as well.

Commissioner Herzig stated in order for Mr. Ranieri to do what he wanted to do he believed he first needed to request a variance from the Zoning Board of Appeals and then if a variance was granted Mr. Ranieri would need to come back to the Planning Commission which would then need to determine if it was an appropriate use in that location.

Chair Finn asked City Attorney Merzig if he read it that way.

City Attorney Merzig replied yes and he agreed with Commissioner Herzig that it was not that there could be 30 parking spaces on a new lot but had to be ancillary to another purpose such as multiple dwellings, apartments or condos.

Commissioner Betterley stated that it does say in § 300.8A (2) *Permit commercial uses that are accessory to and incidental to residential uses on the same parcel.*

City Attorney Merzig stated he thought the correct answer was that this should not be before the commission.

Commissioner Overbey stated unless it was grandfathered.

City Attorney Merzig stated that was an interpretation the commission gets to make but he did not know that the use in the past had ever been used as a parking lot.

Mr. Ranieri stated there was parking there now.

City Attorney Merzig stated it was not his call if that was being done illegally.

Mr. Ranieri questioned if it was being illegally used when Oneonta Tractor had their tractors parked there for sale.

City Attorney Merzig responded no because they were not just being parked there and no one was paying them. He said if a property was grandfathered in as a sales facility and there were cars for sale, that was not considered parking.

Mr. Ranieri questioned if the commission was saying that he ask for a variance and then it would have to come back to the commission for approval.

City Attorney Merzig stated that if a variance was granted it would need to come back before the commission for a Site Plan Review.

Commissioner Herzig stated that if this comes back before the commission his concern would be that this was prime residential property in a zone that has been designated clearly for the purpose of developing residential property. He said considering the city's needs for housing he would have a hard time approving converting that property to a permanent parking lot.

Mr. Ranieri stated he was a realtor and if this was prime residential property he questioned why no one has approached him in the 4 or 5 years he has had for sale signs there. He said it had also been for sale for 4 or 5 years prior to that.

Commissioner Herzig stated these had been hard times.

ONEONTA, NEW YORK - FEBRUARY 15, 2012 - 7:00 P.M.

REGULAR MEETING OF THE PLANNING COMMISSION PG. 9

(New Business – 178 & 176 East & East Street) continued

Mr. Ranieri stated the past 10 years have been hard times and he did not see it getting any easier.

City Attorney Merzig stated that was a rational basis to bring to the Zoning Board of Appeals as to why Mr. Ranieri should be entitled to a variance, by showing true economic issues as to why it was zoned improperly.

Mr. Ranieri stated he came here 5 years ago to build the road to city specs and he understood that the city was going to take it over and that never happened.

Council Member Hennessy stated she thought at that point the city was intending to take the road over based on housing being there as well.

Mr. Ranieri stated it was kind of like the cart before the horse as usual. He said it was hard to get financing when the road was not even there so he built the road and that was part of the deal to deal with banks and said it was his road until the city takes it over. He said that goes to proving hardship.

Commissioner Betterley stated the fact that there was some understanding or pledge by the city to take the road over he questioned where that goes.

City Attorney Merzig stated there was never any such pledge. He said the town very much wanted the city to take over that intersection and they wanted the city to do that because they did not want to maintain it. He said unfortunately all of the proposed housing would be going into the town. He said as a result there was absolutely no incentive for the city to take over the permanent maintenance of another road when all the tax benefits and all the assessments were going to go back to the town. He said there were long discussions with the town and when the city was asked about taking over the road the city questioned if the town would share tax benefits and pay the city some fee for maintaining land in the town but the city would not do it for free. He said those long discussions that were held were done for the purpose of protecting the taxpayers of the City of Oneonta from once again subsidizing the town and increasing the tax base in the town. He said in asking the city to take the road over the town said they would do the SEQR and the city agreed to coordinate the review but there was never an agreement to take over the road.

Commissioner Tomaino stated if Mr. Ranieri had to make a request to the Zoning Board of Appeals for a variance she questioned what the commission did for him with this.

Commissioner Herzig responded he would imagine that the application would be withdrawn.

Mr. Ranieri stated he would withdraw his application.

Training: Special Use Permit: David Merzig

City Attorney Merzig reviewed the purpose and criteria for Special Use Permits and the process in general. He said the purpose of every zoning law was to have things revert to the primary use within the zone but the purpose of variations in the law was because it was exceptional.

Code Enforcement Officer Chiappisi and Council Member Hennessy spoke briefly about Special Use Permits for fraternities and sororities.

The commission held a brief discussion on the matter.

Engineering Department Updates: Greg Mattice

Engineering Technician Mattice gave a quick overview on engineering projects as indicated in the Engineering Department Updates he had distributed to the commission.

ONEONTA, NEW YORK - FEBRUARY 15, 2012 - 7:00 P.M.

REGULAR MEETING OF THE PLANNING COMMISSION PG. 10

He said anyone wanting to know more about the projects to contact him.

The commission held a brief discussion on the matter and expressed satisfaction with getting input from Engineering.

Engineering Technician Mattice asked if the commission wanted him to attend every meeting.

The consensus of the commission was yes when there were items on the agenda regarding projects sent by Code Enforcement and Engineering was copied the memorandum.

Chair Finn stated there were some projects still on the commission's docket such as Fox Hospital where they were going to knock down the building across the street and the commission granted approval contingent on approval of the plan by Engineering and Code Enforcement Office. He said he did not think that had gone to Engineering yet.

Council Member Hennessy stated one of the things she got calls about regarding that issue was that those people in the area were not notified. She said if there was another house to be demolished she did not think it would be a bad idea to let people know.

City Clerk Koury stated he had hoped that when the Zoning Task Force rewrote the Code that they would clarify that process and require a public hearing before all of these projects but they did not and kept it the way it was. He said there was no notification required until the commission determined a hearing was necessary

Commissioner Herzig stated it was not required but that did not mean they could not notify them.

City Clerk Koury stated it was an expense but if the commission wanted it done he would do it but some of these Site Plan Reviews should not get a property owner letter which was sent to those living within 200' of the property but questioned who would make that decision. He said it should not be selective and if it was done for one it should be done for all. He said notification has been a perennial issue since he has been Clerk.

After discussion with the commission, City Clerk Koury stated that he would just make it a practice to send the agenda to those property owners within 200' of each site plan review before the commission. He stated the property notification requirement was already in place for special use permits so that was not an issue. He stated he would have his staff put in the "cc" section, "Property owners within 200' of the subject property." He also stated that there would be the legal notice and requirements as per the motion passed by the Common Council.

Discussion: Balancing between training needs and current business

After some discussion of the state mandated training requirements, commission members stated that having training during the meeting would be preferred since some could not go out of the city for training opportunities due to work obligations.

It was decided that training would be scheduled periodically during the regular monthly meeting, such as what City Attorney Merzig did earlier in the meeting.

There being no further business to come before the commission, Chair Finn adjourned the regular meeting at approximately 8:45 p.m.

JAMES R. KOURY, City Clerk

JRK/pab