

**NORTH CASTLE PLANNING BOARD MEETING  
15 BEDFORD ROAD – COURT ROOM  
7:00 P.M.  
March 25, 2019**

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**PLANNING BOARD MEMBERS:**

Christopher Carthy, Chairman

Absent - Steve Sauro

Absent - Michael Pollack

Jim Jensen

Gideon Hirschmann

**Also Present:**

Adam R. Kaufman, AICP  
Director of Planning

Joseph M. Cermele, PE CFM  
Kellard Sessions Consulting

Valerie B. Desimone  
Planning Board Secretary  
Recording Secretary

Roland A. Baroni, Esq. Town Counsel  
Stephens, Baroni, Reilly & Lewis, LLP

Conservation Board Representative:  
John Krupa

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**PUBLIC HEARING CON'T:**

**CARQUEST [16-023]  
215 Business Park Drive  
114.01 - 1 - 1  
Amended Site Plan  
Eric Kingsbury, PE Langan Engineering  
Discussion – adjourned 1/28/19  
Consideration of resolution of approval**

Present for this application was the applicant Irwin Stockel and his professional Eric Kingsbury.

Mr. Carthy made a motion to reopen the public hearing. Mr. Hirschmann second the

motion and it was approved with three ayes. Mr. Sauro and Mr. Pollack were not present for the vote.

No noticed neighbors were present.

Mr. Kingsbury briefly reviewed the application and stated that he had received Conservation Board and Architectural Review board approvals. The application was identical to what was approved of by the board last time, the only reason for his appearance this evening is that the document expired.

The board had no further comments at this time. Mr. Jensen made a motion to close the public hearing, Mr. Hirschmann second the motion and it was approved with three ayes. Mr. Sauro and Mr. Pollack were not present for the vote.

Discussions were had at this time regarding the maintenance and monitoring plan on pages 4 & 9 of the resolution. In response to comments, renumbering of conditions on page four will also be updated in the final draft.

Mr. Carthy made a motion to approve the negative declaration. Mr. Hirschmann second the motion and it was approved with three ayes. Mr. Sauro and Mr. Pollack were not present for the vote.

Mr. Jensen made a motion to approve the resolution as amended. It was second by Hirschmann and approved with three ayes. Mr. Sauro and Mr. Pollack were not present for the vote.

### **NEW AND CONTINUING BUSINESS:**

**AIRPORT CAMPUS (formerly MBIA) [02-004]**

**King Street, Cooney Hill, Weber Place**

**113.04-1-13 & 14, 118.02-1-1**

**Mark Miller, Esq. Veneziano & Associates**

**Discussion**

**Consideration of extension of time site plan resolution**

Present for this application was Mark Miller, attorney for the applicant.

Mr. Miller stated that the Town Board extended the approval to 2024 and he is before the Planning Board today for an extension to 2024.

Mr. Jensen made a motion to request an extension of time. Mr. Hirschmann second the motion and it was approved with three ayes. Mr. Sauro and Mr. Pollack were not present for the vote.

**GDC EQUITIES, LLC [18-032]**

**873 North Broadway**

**122.12-4-27**

**Site Plan**

**Rich Williams, PE Insite Engineering Surveying & Landscape Architecture, P.C.**

**Discussion**

Present this evening was the applicant Stephen Tobia and his professional Rich Williams.

Mr. Williams reminded the board of the work done on his clients site and a joint site walk took place as a result of that. The site walk took place with Mr. Kaufman, Mr. Cermele, the professionals clients and the neighbors from 11 Washington Place East. Based on this meeting he noted the swale will be restored to its original state and will coordinate with his neighbor regarding the headwall installation that was originally approved on their site plan and from an elevation impact it does not impact their lot. He will work with the neighbor to the south to remove the understory and additional landscaping will be provided. Solar panels will most likely be added to the roof. Water and sewer flows were also provided. This is an approved use for the site according to the zoning code. A no left turn sign will be mounted when exiting the site to the west. Whose property the sign will be located on will be determined. As previously requested, he will submit architectural layout inside the building. In response to comments, Mr. Williams reviewed why the dumpster was moved 90 degrees. The board was not in favor of this move because the dumpster will now be visible upon entering the site, the applicant was directed to return the dumpster to its original location.

Discussions were had regarding lighting at the rear of site and light on the access driveway to the site. The flood lighting on the peak of the roof will have to be removed. The pedestrian access on the North Broadway entrance upper level was also reviewed. Mr. Kaufman agreed with the applicant that lighting was not really necessary on the access driveway.

Mr. Carthy stated he was not clear about the drainage on site and where the water comes from and where it goes to and who will maintain it was not very clear. Mr. Williams stated that his client prefers that everyone maintain their own property and none of the water was his client's to begin with. Mr. Williams explained route the water takes. Mr. Carthy inquired if there was anything further we could do regarding this matter. Mr. Kaufman noted the water has been flowing this way this way since the mountain was formed.

Mr. Williams stated that a letter of intent was part of the 11 Washington Place application, not an easement.

A public hearing was scheduled for the next meeting, the applicant was instructed to submit the floor plans, update the plan with the placement of the no left turn sign, obtain DOT approval for the plant material in the right of way (that will be a condition of approval in the resolution). The dumpster will remain in its original location. Mr. Jensen noted that his plans were not signed and sealed, the applicant will submit signed and

sealed plans. He also asked that the font be more legible with the next submission, a full size set will be part of the next submission.

The applicant will submit an updated set of plans addressing these outstanding conditions by the close of business Wednesday afternoon. The board discussed possible locations for the no left turn sign.

A brief conversation took place regarding sprinklers in the building. The Planning Board can request water sprinklers but only to the extent of what the code allows.

At the end of the meeting the board briefly discussed this application again and noted that the plans never seem quite complete, the board helped the application early on by allowing the applicant at their own risk, to do interior work only and during that time the applicant never came back with a complete application, there are still no floor plans, the lighting was not submitted, the plans were not signed and sealed, without all of this information we are not seeing a complete picture of the site. Mr. Baroni noted the exterior of the site was being worked on, Mr. Kaufman noted Mike Cromwell gave them permission to do that, he was not sure why the outdoor work was permitted.

The board wondered If the next submission was incomplete again would we adjourn the public hearing until it is complete. Mr. Kaufman noted that the applicant was more than 90% of the way complete and if the board feels there are too many outstanding conditions in the resolution they have the option to not approve it and request the applicant address more of the outstanding comments and resubmit another set of plans addressing the outstanding comments and the resolution will be updated and the board can consider it again at another meeting. The board opined that this applicant is moving along with all of its work without Planning Board approval and the board is just rubberstamping this application and is concerned this was similar to other applications in North White Plains. It was noted that the board worked with the applicant and the Building Inspector to allow the interior work to begin at the applicant's risk without the board's approval and now they are doing outside work as well, where does it stop.

### **SIR JOHN'S REZONING [19-002]**

**3 Emmalon Avenue**

**122.12-4-55**

**John Magnotta**

**Referral from Town Board**

**Discussion**

Present for this application was the applicant and property owner John Magnotta and his professionals, Elliott Senor, engineer and both of his attorneys Tom D'Agastino and Allan Focarile.

A referral from the Town Board regarding rezoning a portion of the existing R-2F (Residential Two Family) Zoning District on Emmalon Avenue to the CB Zoning District adjacent to the Sir John's Plaza shopping center. The applicant has indicated that the rezoned land would be utilized for additional off-street parking for the plaza

and would attract a new restaurant, or other tenants which require additional off-street parking as compared to retail, personal service and office uses.

The Town Board noted that “in making this referral - the Town Board has concern that the actual need under the Zoning Code for the requested parking be adequately demonstrated.”

The Planning Board will need to determine whether the requested proposal is consistent with the Comprehensive Plan.

1. The new Comprehensive Plan includes the following:

Protect the Vitality of Existing Retail Areas. To ensure that retail in North Castle remains healthy and competitive, the existing retail areas should not be expanded, and should instead be enhanced through transportation improvements, landscaping and other beautification and targeted infill housing as appropriate. This is particularly true along Route 22 in North White Plains, where the current condition of the roadway and certain properties is contributing to long-term vacancies and a generally weak retail environment.

Mr. Senor reviewed the application as noted above. He stated that most tenants want more parking spaces on site and Mr. Magnotta is trying to get better clientele who needs more parking spaces. The additional 25-30 spaces would increase the parking on site by 20 – 30%. He reviewed the parking on site presently.

The board wanted to confirm that that the site was compliant presently with the parking count. The board questioned how could they expand the parking count without knowing the use. The board wanted to know what the impact would be in putting in all of the parking spaces if they are not utilized.

Mr. Focareli stated that we know a makeover is wanted but without the tenants we can't do that. We are aware people don't like seeing the vacancies. The Emmalon lots were originally zoned CB and then rezoned to R-2F by Mr. Martino and now Sir John's wants the commercial zoning back. Sir John's owns the abutting lots and is his own neighbor. His client will manicure and clean up the wall on site. More stores will fill up when more parking is provided. His client needs help and is asking the town for help.

In response to comments from the board, Mr. Baroni stated that if no response is made by the board it is deemed a positive referral.

The board noted that the property was landlocked and there are a lot of vacancies on site presently. The proposed property to be rezoned had no use and now it has a use.

It was noted that there was an approved home site on the lot with an existing easement between the two lots to access it.

Mr. D'Agastino stated that he would be obtaining shortly two letters of intent for a renter or lessee. One of the letters of intent will need an additional 9 parking spaces.

Mr. Carthy inquired what the implications are of expanding the CB district. We can't guarantee that these additional parking spaces will always be parking spaces. The board questioned if this change of zoning was contradictory or not contradictory to the Comprehensive Plan. The board considered that if this zoning change were granted, in time, the shopping center could be torn down and buildings could be placed where the parking spaces are shown presently. It was noted that the applicant was looking to join the CB district, not change it.

It was stated that the applicant's intent is to keep the existing plaza and all of the land proposed to be converted to CB can't all be building because you need to have the parking to go with the building. You would also need to get all the necessary approvals from the Town like any other building that is proposed.

The board wanted to know if the FAR was consistent or inconsistent with the Town Comprehensive plan. The board was discussing the comment from the Town Board regarding proof of actual need for the additional parking spaces. It was noted that if there were additional chairs and tables that the existing businesses would be more successful. With additional parking spaces the search for businesses to move into the plaza could be expanded. It was also stated that this piece of land was not very good piece for residential development.

It was noted that the Planning Board did not have to make a referral this evening.

The board discussed the impacts to the site with the additional FAR site due to the zoning change. There were discussions of recommending the change of zoning for parking spaces only with no increase to the FAR for the applicant.

The applicant asked to have a few moments with his professionals.

The applicant returned and discussed this further with the board and the professionals. The Planning Board had another long discussion as to whether the Applicant has demonstrated whether the requested rezoning for additional parking is necessary. In addition, the Planning Board spent time discussing whether the proposed rezoning would be consistent with the Comprehensive Plan. The Planning Board also discussed limiting the FAR (Floor Area Ratio) on property and only permitting parking on the rezoned land. The Town Attorney felt that using deed restrictions to achieve control was not appropriate. Planning Board also discussed whether rezoning the property would constitute an expansion of retail areas. The Planning Board thought rezoning could be considered an improvement to the existing shopping center and not construed

as an expansion of retail areas. The Planning Board decided that a full board discussion at the 4/8/19 meeting was necessary and Chairman Carthy requested those board members not present watch this portion of the meeting to be brought up to date.

At the end of the meeting Mr. Hirschmann stated that we need to have a clearer understanding from the Town Board regarding the interpretation of the Town Comprehensive Plan regarding this application so that board clearly knows how to proceed. Mr. Kaufman stated that he and Mr. Carthy and Mr. Jensen were present at the meeting discussing the Town Comprehensive Plan and at no point when discussing this item did they ever discuss not increasing the size of the buildings, we spoke about expanding the retail zones to incorporate more retail. That is what we discussed. Mr. Baroni stated that he did not agree with how that fits with the second half of the sentence that says:

Protect the Vitality of Existing Retail Areas. To ensure that retail in North Castle remains healthy and competitive, the existing retail areas should not be expanded, **and should instead be enhanced through transportation improvements, landscaping and other beautification and**

Mr. Kaufman stated they are not mutually exclusive. Mr. Baroni read it as one sentence you are speaking about retail areas and instead of allowing them to expand within themselves you would increase transportation, landscaping and other beautification instead. You are speaking of more green space in an existing retail area, it does not speak about expanding the zone, it talks about a retail area. Mr. Kaufman stated that he always understood expanding retail areas as expanding the zone. That comes out as an expansion of the recommendation from the 1996 comprehensive plan which had a similar – Mr. Baroni stated that does not make it right, he was not sure how we fix it at this point. He understood Mr. Hirschmann's point that the attorney and planner are at very different points of view on this. Mr. Kaufman stated that we can't function as a town if we have a restriction on building getting done. Mr. Baroni stated that he agrees but he is very literal and why would you reference the words landscaping in the same sentence, you would not expand the zone just to landscape it. You would not add a rezoned area to an existing retail area just to beautify it. It has to be the existing area you are talking about.

Mr. Hirschmann stated that there is the written law and the intention and we need to find out what the intention is. Mr. Kaufman stated that we have three people here who there and can answer that (Mr. Carthy, Mr. Jensen and Mr. Kaufman) Mr. Jensen stated that his interpretation was that it was not a plan for taking parcels that were not currently retail use today to another use and then converting those to retail, that was the intent. Mr. Kaufman agreed, Mr. Baroni inquired why was landscaping, beautification and transportation improvements referenced in the same sentence, what does that all mean? Mr. Jensen stated that is encouraging within the corridor, the streetscape, landscape etc. of those parcels that are currently zoned retail. Mr. Kaufman stated that

it could have been worded better. Mr. Baroni stated that how Mr. Kaufman sees it is the right intent but how it is worded does not get you there.

Mr. Carthy suggested that the town board amend the language to be clear. Mr. Baroni stated that is a minor change and you would probably wait until you had other changes to go with that before going through a public hearing to amend it. Unless the board thinks that increased parking is an enhancement to the retail area which was what Mr. Loberman stated, rely on the word enhancement.

Mr. Kaufman stated that it depends on the mix of uses, the applicant could get to the maximum FAR on site if the restaurant was removed and more residential was put in since that has a lower parking count. He is not implying that would be a bad idea, he is just stating that the FAR can be maxed out.

Mr. Baroni suggested this discussion continue when the applicant is present.

**SIR JOHN'S [19-008]  
909 North Broadway  
122.12-4-52  
John Magnotta  
Amended site plan- Overnight Parking spaces  
Discussion**

Proposed overnight parking use of five spaces at the rear of the Sir John's Plaza building.

Present for this application was John Magnotta and his professional Elliot Senor.

Mr. Senor stated that there are 100 parking spaces on site and stated his client is proposing five overnight parking spaces at the rear of the site for commercial vehicles. Mr. Carthy stated if the site is compliant with 100 spaces and five spaces are now being used for overnight parking that brings the parking count down to 95 parking spaces and the site is not compliant and the applicant will need a variance for the five overnight parking spaces. The Planning Board continued discussing the proposed application. Mr. Magnotta noted that one of the trucks is his that he uses to go to the market for his restaurant. Another truck is for his tenant that runs his business from this site, he has a desk in his office. The truck goes out in the day and comes back at night and this has been going on for years. The primary use and accessory use of the trucks will need to be demonstrated with the on-site business. The applicant has three leases with business names and trucks that have matching names. Two additional spaces are requested for future tenants that would need overnight parking. Mr. Kaufman noted that the board has not approved spaces like that in the past, every time a new tenant comes in that needs overnight parking, they would come back before the board.

It was suggested to the applicant that if the parking count does not work out that would be supporting data for his other application to rezone some land for additional parking



spaces.

The applicant will need to address comments in Planning Department memo which include the parking space count for all the uses on site. The applicant intends to return to the April 8, 2019 meeting for further discussion.

**ZINMAN [17-007]**

**73 Round Hill Road**

**102.03-1-46.1**

**Site Plan**

**Joseph Risoli, Engineers, Planners, Surveyors**

**Discussion of field change**

Mr. Carthy made a motion to approve the field change regarding the change in location of the proposed pool. Mr. Hirschmann second the motion and it was approved with three ayes. Mr. Sauro and Mr. Pollack were not present for the vote.

**NYCDEP BOWLING ALLEY [13-045]**

**1 George Smith Place**

**107.04-2-17**

**Maria Mandarino, NYCDEP**

**Discussion**

**Consideration of 6th Extension of Time Resolution**

The application was moved to the next meeting. There was not a quorum present to vote on this matter. Mr. Jensen recused himself from this application.

**WORKSESSION:**

**TOWN COMPREHENSIVE PLAN [18-036]**

Discussion of implementation of priority recommendations

Mr. Jensen made a motion to refer the Town Comprehensive Plan Implementation work sheet to the Town Board. Mr. Hirschmann second the motion and it was approved with three ayes. Mr. Sauro and Mr. Pollack were not present for the vote.

The board offered to create a road map regarding implementation of the work sheet for the Town Board if that would assist them, to let them know.

Mr. Carthy made a motion to adjourn the meeting. Mr. Hirschman second the motion and it was approved with five ayes.

Meeting was adjourned at 10:12 p.m.