

**Danby Town Board
Minutes of Special Meeting
April 12, 2016
DRAFT**

Present:

Councilpersons: Rebecca Brenner, Leslie Connors, Jim Holahan, Jack Miller
Supervisor: Ric Dietrich

Others Present:

Town Clerk Pamela Goddard
Planner CJ Randall
Attorney Guy Krogh
Public Ted Crane, Ronda Roaring, Frank Darrow, Pat Woodworth, Charles Tilton,, Bill Keokosky, Naomi Strichartz, Mark Malkin, Susan Franklin, Jan Pflederer, Tom Clements, Sherry Clements, Jody Scriber, David and Adrianna Hall, Elizabeth Bergman, Lisa Patti, Dave Mastroberti, Katharine Hunter, Scott Davis, Bev Fitzpatrick, Jessie Kanowitz, Elana Broshich, Kelly Morris, Nancy Medsker, Tom Seaney, and others.

Special Meeting Opened at 7:30pm

PDZ10 Gunderman Road - SEQRA Determination

Randall led the Town Board and community through a review of the Environmental Quality Review of David Hall’s proposal for PDZ #10 on Gunderman Road. The Board confirmed that the version of the draft zoning law change used for this review is that which was forwarded to the Town Board by the Planning Board, with the changes made by that Board—also known as the “Updated Draft” version posted on the Code Office page of Danby’s web site.

There was a lengthy discussion between the Town Board and Planner Randall regarding all of the permitted uses included, by right and by special permit, in the “Updated Draft” of the proposed zoning change. Randall reviewed the scope and impact of each use, point by point. Brenner asked how many uses were included in the proposal in total. Neither Randall nor Hall had done a complete tally of all of the various uses permitted which were being requested.

There was a discussion regarding “Similar Use” permitted uses in the document. Brenner asked questions related to the use of this term as an allowed use. Krogh explained the use of this language in such zoning proposals as to be more inclusive and reflecting the proliferation of business structures in a changing time. Brenner expressed discomfort with “similar use” allowances in the proposal as being subjective and undefined. She stated that she preferred to have the allowed uses spelled out as specific uses. The applicant did not object to this language being removed from the proposal in all sections.

There was a discussion of potential building expansion of 8,700 square foot foundational footprint in the commercial lot. The PB had voted to remove this expansion as an allowed right. Hall did not agree and stated that he would like to retain the right to expand the building. There was discussion regarding how this potential expansion would trigger actions in the environmental review. Randall clarified that this is triggered as a Type 1 action through both local and state SEQRA because this is a rezoning action to allow construction or expansion of commercial development where the site to be developed is 5 acres or more and because this includes a nonagricultural use occurring within an agricultural district and the action would be granting a zoning change, at the request of an applicant, to permit changes in the allowable uses affecting 6.25 or more acres of the district..

There was a related discussion of warehouse space, particularly refrigerated space for storing foodstuffs. Brenner expressed concerns related to refrigerants and chemicals related to coolants and

environmental impacts of these materials. The current request would trigger a Code Enforcement classification related to storing “Low Hazardous Materials.” Hall asked whether there was a way to write the zoning in a more restrictive manner, in keeping with his intentions for the use. Krogh noted that the storage of materials classified as hazardous is a code concern for safety code. He gave an opinion that it was possible to allow warehouse storage for a limited uses, within reason. He noted the City of Rochester, as an example. Brenner repeated her concern that the proposal currently allows the warehousing of hazardous materials. Hall stated that he was happy to restrict the warehouse storage to “benign materials,” e.g., food stuffs and dry goods such as cloth. A revised list was not drafted at this time. The Board asked Hall to provide a limiting list of what would be stored.

Additional concern were expressed that creating additional warehouse space opens up other building space for additional employees and/or clients.

There was a discussion of “Medical Clinic” and whether that phrase could be changed to, “Center for Providing Therapy and Support for People with Disabilities and Learning Differences.” Krogh provided a legal opinion regarding the distinctions that are and are not allowed. It is possible to make some zoning classifications that are allowed, such as those which impact land use and other impacts. Krogh stated that it could be permissible to limit use through the language, “Center for Providing Learning and Support for People with Disabilities and Learning Differences.” This is to be revised in all instances.

During review, Hall stated that he was prepared to remove all auction-related activities from the proposal. It was noted that this use should be struck from the proposal. Randall noted that this may affect the environmental impact due to traffic. Brenner noted that there will still be traffic impacts from truck traffic related to warehouse use.

There was a discussion regarding a proposed allowed use for “Barber/Beauty shop.” Randall noted that the Planning Board had added a restriction that the space for this usage was to be limited to 300 square feet. Brenner asked whether there would be any restrictions regarding the handling of materials and waste products related to this usage. Randall stated that she was not aware of this being addressed in the proposal. She stated that the use was intended to be limited by the size of the operation. Hall stated that his understanding is that this would be heavily regulated by the State. Hall further stated that their family would like to offer hair cuts to clients of the Clinic for persons with disabilities.

There was a discussion of non-residential therapy sessions vs. a “school” or day care center. Hall stated that this was specifically drafted to avoid the use of a “school” so as to avoid “gun free zone” problems related to a school. Brenner stated her understanding that any use involving children triggered a “gun free zone.” Krogh was asked for his opinion. Krogh stated that he did not read this section as related to such a zone but rather a limit to the type of educational activities which could be conducted. There was clarification regarding the definition of “school,” and this would not fall in that category. Hall further clarified that therapy sessions will be limited to between 1-3 hours per client. Therefore, it is not a day care and not a group home.

There was a discussion regarding allowed uses for “laboratory.” A question was asked as to what sorts of materials testing would be included? Krogh noted that materials testing labs are common in this region. Hall stated that this had been included as part of “business incubator.” Brenner expressed concern that this use is “too vague” and therefor problematic. It was suggesting that language could be inserted to better define this use. Krogh noted that it was possible to define certain types of uses, but that this needed balance. Hall stated that he wanted to add this to the list of uses he wants to refine. If this is not possible, it may need to come out of the proposal.

Brenner asked whether Hall intended the use of a “radio/TV station” as part of his business plan. Hall stated that he thought this might be an unobjectionable use for the site. A neighbor noted that there might be a conflict with a radio tower and a nearby, active air field. Any large antenna would be regulated by the FCC and the FAA.

There was a discussion regarding retail sales, limited to 1,000 square feet, as a permitted accessory use, subject to Planning Board site plan review and approval. It was clarified that the “accessory use” would be related to programs and treatment related to the “Center for Providing Learning and Support for People with Disabilities and Learning Differences.” Hall stated that this was intended to help fund that

center. There was concern among members of the Board regarding ambiguity in the phrase “as a permitted accessory use.” Attorney Krogh suggested striking that phrase from the proposal.

There was a discussion of a long list of “light industrial and assembly uses,” subject to Planning Board site plan review and approval. Hall clarified that this list was intended to cover possible operations for the business incubator portion of the proposal, while removing uses which would involve toxic or hazardous materials. Brenner pointed out that the sole use allowed in the current PDZ #10—clothing manufacturing—is one item in a long paragraph of new uses listed in the proposed PDZ #10. Brenner clarified that, therefore, all of the existing PDZ is in this section with the addition of a long list of additional light industrial uses. Hall noted that the intent is that this might be several small businesses. Brenner noted that the proposed law would allow any one of these uses to fill the entire space. Hall noted that there was only so much space. Brenner responded that the proposal adds an additional 8,700 square feet of building space. Krogh confirmed that any such operations would be subject to site plan and environmental review but that, yes, these would be allowed by right.

Connors asked about a use for carpet and rug manufacturing and “cleaning the same.” She asked for clarification as to what this would include. Hall offered to take the “cleaning” use out as an impact on water use.

Holahan asked about finishing components to some of these uses and whether they would include a spray booth or chemical storage. Dietrich asked about venting for saw dust, emissions, and other waste materials. Hall responded that this would most likely be regulated by code. Randall noted that the Part 1 environmental review, completed by the applicant, did not note any potential impacts on air quality. This may need to be further investigated in environmental review.

There was discussion regarding a clause that would permit, “Any use allowed as of right but which exceeds the square footage or other bulk or dimensional requirements listed for a particular building, but which remain within the overall limits for the PDZ building limits.” A neighbor expressed concern that this opened the door to allowing any use to expand to fill any vacant space. Hall agreed to removal of this clause.

After review of all of the proposed allowed uses, Brenner moved a resolution finding a Positive Declaration of Significant Environmental Impact related to this proposal. She noted significant traffic, and several other impacts. Miller asked for a more complete review of the SEQRA review. Brenner noted that there is a positive check on land impacts from construction where the water table is less than three feet. Miller asked for clarification regarding impacts on land. Randall clarified the review process. Brenner noted moderate to large impact to water use through food processing. Hall stated that this impact is moderated. He has agreed to bring in water, and mitigation is written into the proposal. Krogh commented on this matter, advising that there are limits to how much regulation can be done to underground resources. Randall noted groundwater impacts based on USGS water resource data and Health Department regulations. There were several findings of moderate to large impacts on groundwater related to the various uses requested in the proposal. Krogh read municipal law related to groundwater findings for SEQRA. He additionally found data confirming that the water table is less than three feet.

Brenner noted that there are more three areas which have a finding of moderate to large environmental impact. Randall outlined five areas that have triggers. Only one finding is required to trigger a Positive Declaration of Environmental Significance for scoping of a full Environmental Impact Statement. Hall agreed that he will not get the several triggers for Positive Declaration of Environmental Impacts areas to “zero.”

Randall briefly outlined the next steps, including sending the proposal to Tompkins County Planning for review. They typically have 30 days to make a binding recommendation. Randall noted that all pertinent documents will be posted on the Town web site.

RESOLUTION NO. 43 OF 2016 - DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE, SUMMIT ENTERPRISE CENTER

Whereas, the Applicant has proposed rezoning of Planned Development Zone 10 (formerly known as Angelheart Design), located at 279-303 Gunderman Road, from the currently permitted commercial use (clothing manufacturer) on 9.22 acres under Local Law 1 of 1997 to a mixed-use business incubator with a 8,000 +/- sq. ft. future addition, JLF Holdings, LLC, Owner, David Hall, Applicant; and

Whereas, this is a rezoning action under Section 800 of the Zoning Ordinance of the Town of Danby, amended through June 10th, 2013, Applications for Rezoning; and

Whereas, the Zoning Ordinance of the Town of Danby, amended through June 10th, 2013, requires an official recommendation from the Planning Board, and the Planning Board passed a resolution recommending the rezoning with modifications on December 17, 2015; and

Whereas, 6 NYCRR Part 617 of the State Environmental Quality Review Act (SEQRA) and Section IX of Local Law 2 of 1991 Environmental Review of Actions in the Town of Danby, require that a Lead Agency be established for conducting environmental review of projects in accordance with local and state environmental law; and

Whereas, State Law specifies that for actions governed by local environmental review, the Lead Agency shall be that local agency which has primary responsibility for approving and carrying out the action; and

Whereas, the proposed project exceeds the thresholds defined for Type I projects in both the State and Town Environmental Quality Review Law. Type I actions carry with them the presumption that it is likely to have a significant effect on the environment. Specifically, this project exceeds the Type I thresholds as defined in 6 NYCRR Part 617.4 (b)(8) and Type I thresholds as defined under the Town of Danby Environmental Review of Actions, Section V. 1., both of which require environmental review; and

Whereas, pursuant to §617.6(b)(3) of the State Environmental Quality Review Act (SEQRA), the aforementioned information must be mailed to all involved agencies notifying them that a Lead Agency must be agreed upon within thirty (30) calendar days of the date that the aforementioned information is mailed to involved agencies; and

Whereas, the Town of Danby Planning Board and the Tompkins County Department of Health have all been identified as interested agencies and it has been requested that these interested agencies consent to the Town Board being Lead Agency for this project and all have consented; and

Whereas, the applicant and the lead agency, by mutual agreement, agreed to extend the deadline for determination of environmental significance on March 21, 2016; and

Whereas, Anticipated potential large impacts and mitigation measures which may need to be addressed in the dEIS (but are not limited to) are: impacts on land, groundwater, transportation, noise, odors, and light, and consistency with community plans,

Now Therefore, be it

Resolved, that this Town Board, having declared itself Lead Agency in this matter, hereby adopts as its own the findings and conclusions more fully set forth on the Full Environmental Assessment Form (FEAF), Parts 1, 2, and 3, and be it

Further Resolved, that this Town Board, as Lead Agency, hereby determines that the proposed action of rezoning Planned Development Zone 10 for the proposed Summit Enterprise Center may have one or more significant environmental impacts, and that a Positive Declaration of Environmental Significance be issued, and that a draft Environmental Impact Statement (EIS) be prepared, and be it

Further Resolved, that this resolution constitutes notice of this Positive Declaration of Environmental Significance and that the Town Clerk is hereby directed to file a copy of the same, together with any attachments, in the Town Clerk's Office, and forward the same to any other parties as required by law.

**Moved by Brenner, Second by Dietrich. The motion passed.
In Favor: Brenner, Connors, Holahan, Miller, Dietrich.**

Adjournment

The meeting was adjourned at 9:50 pm.

Pamela Goddard, Town Clerk