

Town of Ulster Planning Board

The monthly meeting of the Town of Ulster Planning Board was held on Wednesday January 6, 2011 at 7:00 p.m. at the Town Hall Lake Katrine New York. The following members were present:

Renno Budziak –Chairman
Ozzie Beichert
Larry Decker
Gary Mulligan
Scott Ricketson
Alan Sorensen – Planner

A motion to approve the minutes from the December meeting was made by Mr. Decker with a second from Mr. Beichert; all were in favor.

Mr. Mulligan was appointed Vice Chairman of the Planning Board

Mary Secreto was appointed the Secretary of the Planning Board.

Moe's Southwestern Grill – Site Plan Revision/ Change of Use- Ulster Crossing

Mr. James Boglioli appeared on behalf of the application for change of use at Ulster Crossing; the applicant is proposing to replace a vacant retail store with a 100 seat restaurant. There will be no changes on the site; the only issue is the calculation of parking spaces. Mr. Boglioli stated the applicant is willing to sign the stipulation that was prepared by the Town Attorney; he requested the Board forward the application to the Ulster County Planning Board for review. Mr. Budziak reviewed the stipulation with the Board. Mr. Beichert stated it was his opinion the parking issue forwarded to the Zoning Board of Appeals as he feels it requires a variance. Mr. Beichert stated the Board knows there is a problem with the parking requirements that is why they have been changed. Mr. Beichert went on stating he has gone by the site numerous times and there are not many parking spaces open at any one time. A long discussion followed; Mr. Sorensen stated he reviewed the original site and requested an opinion from the Town Attorney; the Town Attorney in turn drew up a stipulation stating any application for change of use from this point forward would need to comply with the current parking regulations. Mr. Beichert stated if the site plan was to use the current regulations they would be 100 spaces short. Mr. Kovacs reviewed the stipulation with the Board.

Action: A motion to refer the project to the Ulster County Planning Board was made Mr. Decker with a second from Mr. Mulligan a roll call vote was taken.

Mr. Budziak: yes
Mr. Beichert: no
Mr. Decker: yes
Mr. Mulligan: yes

Mr. Ricketson: no

Mr. Budziak requested a roll call vote giving him permission to sign the stipulation dated January 19, 2011:

Mr. Budziak: yes

Mr. Beichert: no

Mr. Decker: yes

Mr. Mulligan: yes

Mr. Ricketson: no

TOWN OF ULSTER PLANNING BOARD
COUNTY OF ULSTER : STATE OF NEW YORK

In the Matter of the Application of

STIPULATION
BENDERSON DEVELOPMENT COMPANY, LLC

for Site Plan Approval for a “Change in Use” at
SBL 48.042-3-1.100

WHEREAS, BENDERSON DEVELOPMENT COMPANY, LLC (hereinafter “Applicant”) has applied to the Town of Ulster Planning Board (hereinafter “Planning Board”) for site plan approval for a “change in use” to establish a 2,933 square foot (SF) Moe’s Southwestern Grill restaurant in the tenant space formerly occupied by Chico’s within the Ulster Crossing Mall; and

WHEREAS, some confusion has arisen over how many off-street parking spaces are required at the Ulster Crossing Mall if the “change in use” is granted by the Planning Board and which off-street parking requirement applies to the application at bar; and

WHEREAS, the purpose of this stipulation is to provide the Applicant and the Planning Board with clear direction as to how many parking spaces are required at Ulster Crossing Mall for the application at bar, and for all applications going forward, based on the

current Town of Ulster Zoning Code, codified in Chapter 190 of the Town of Ulster Town Code.

NOW THEREFORE, it is HEREBY STIPULATED and AGREED between the following:

1. That there are currently 436 parking spaces at the Ulster Crossing Mall.
2. That the following retail stores currently occupy 102,409 gross square feet of space, or 92,168.1 net square feet of space, based on the calculation that net square feet is calculated by multiplying gross square feet by 0.9: Coldwater Creek, Ameribag, Pier 1 Imports, Sports Authority, Barnes & Noble, Bed Bath & Beyond, AT&T, and Talbots).
3. That the above-listed retail stores are required to have 1 parking space per 300 net square feet of space, pursuant to the Ulster Town Code in effect when the Ulster Crossing Mall was granted approval by the Town on or about November 18, 2002.
4. That the above-listed retail stores are therefore required to have 307 parking spaces, and are legally non-conforming pursuant to Ulster Town Code Sections 190-47 & 190-48.
5. That Applebee's and Panera Bread are required to have 1 parking space per 4 seats, pursuant to the Ulster Town Code in effect when the Ulster Crossing Mall was granted approval by the Town on or about November 18, 2002.
6. That the above-listed restaurants are required to have 71 parking spaces, and are legally non-conforming pursuant to Ulster Town Code Sections 190-47 & 190-48.
7. That Aspen Dental is required to have 1 parking space for every 300 gross square

- feet of space, pursuant to the Ulster Town Code in effect when Aspen Dental was granted approval by the Planning Board in 2010.
8. That Aspen Dental is required to have 21 parking spaces, and is legally non-conforming pursuant to Ulster Town Code Sections 190-47 & 190-48.
 9. That it appears that an error may have been made on the prior plans submitted by Benderson Development Company, LLC, as follows: At the time Ulster Crossing Mall was initially approved by the Town on or about November 18, 2002, the retail parking requirement was based on net floor area, as opposed to gross floor area. While the parking requirement appears to be based on net floor area, on all the prior plans submitted by Benderson Development Company, LLC, the parking calculation was based on gross floor area. For example, on the January 27, 2010 Aspen Dental site plan, while the plan says “net” and “NSF” in the retail parking requirement columns, the 104,412 square feet referenced in that column is in fact the gross square feet for the center.
 10. That the most recently submitted proposed site plan by Benderson Development Company, LLC – dated January 17, 2011 – fixes the error identified and explained in Paragraph 9, and accurately states the parking requirements for the existing retail space at Ulster Crossing Mall.
 11. That the proposed Moe’s Southwestern Grill will require, pursuant to the current Town of Ulster Zoning Code, 1 parking space for every 3 seats, which, based on a 100 seat restaurant, translates to 33 off-street parking spaces.
 12. That the current retail stores, two restaurants, and Aspen Dental, combined with the proposed Moe’s Southwestern Grill, will require 432 off-street parking spaces.

13. That, based on the above, the proposed Moe's Southwestern Grill will not require a variance for off-street parking, as there are currently 436 parking spaces at the Ulster Crossing Mall.
14. That any future applications by the Applicant will require a new "change in use" to comply with the Town of Ulster Zoning Code in effect at the time of any new application.
15. That this Stipulation should be entered into the minutes of the Town of Ulster Planning Board.

Dated: January 19, 2011

Mr. Budziak requested an escrow account of \$2000 be established.

Kingston Buick GMC – Site Plan

Richard Praetorius appeared on behalf on the application for an auto dealership/service center. Mr. Sorensen stated the applicant has revised the plan by embellishing the landscaping and adding the sidewalk on Grant Avenue. The placement of monument sign is on the plan, the details of the sign are not yet known. When the details are decided upon the applicant will submit to the Building Department. The Water Department and NYS DOT have both signed off on the plan; the Sewer Department has concerns with the Water/Oil Separator. The Water/Oil Separator will be internal and will be addressed as part of the Building Department review. Last month the Planning Board approved recommending to the Town Board overriding the required modification of the cross access as it is not practical.

Action: Mr. Beichert motions to refer the plan to the Town Board for final approval with the conditions mentioned in the resolution forwarded to the Planning Board members. Mr. Ricketson seconded the motion with all in favor.

WHEREAS, the Town of Ulster Town Board, after holding a public hearing on September 16, 2010, granted Kingston Buick GMC conditional Special Permit and Site Plan Approval to establish a 24,037 square-foot (SF) Chevrolet Car Dealership and 3,477 SF Buick & GMC Car Dealership on their property at SBL 39.82-2-17 & 18; and

WHEREAS, conditional Special Permit and Site Plan Approval was granted, subject to the conditions, limitations and restrictions set forth below

1. Full compliance with applicable Building Code requirements.
2. Submission of final set of plans, which address technical revisions recommended by the Town's consulting planner and engineer and agreed to by the Town Board.
3. Escrow account paid in full.
4. Any required modifications that the Ulster County Planning Board, the New York State Department of Transportation, Town of Ulster Highway Superintendent, the Town of Ulster Water Department, and the Town of Ulster Sewer Department recommend after their review and report; and

WHEREAS, the Town of Ulster Planning Board and its consultant planner and engineer have reviewed the revised application by *Kingston Buick GMC* intended to satisfy the conditions, limitations and restrictions set forth by the Town of Ulster Town Board; and

WHEREAS, the revised materials submitted in support of the Proposed Action includes:

- *Existing Site Plan* prepared by Praetorius & Conrad, PC dated 10/21/2010; revised 11/1/10;
- *Existing Site Modification Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 11/1/10;
- *Proposed Site Plan* prepared by Praetorius & Conrad, PC dated 10/21/2010; revised 11/1/100;
- *Proposed Site Grading Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 11/1/10;
- *Proposed Site Utilities Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 11/1/10;
- *Erosion Control Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 11/1/10

- *Proposed Site Lighting/Photometric Plan* by P & C, PC dated 10/21/2010; revised 11/1/10;
- *Proposed Landscaping Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 11/1/10;
- *Details Sheets No. 1-5* prepared by Praetorius & Conrad, PC dated 10/21/2010; revised 11/1/10.
- *Existing Site Plan* prepared by Praetorius & Conrad, PC dated 10/21/2010; revised 12/7/10;
- *Existing Site Modification Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 12/7/10;
- *Proposed Site Plan* prepared by Praetorius & Conrad, PC dated 10/21/2010; revised 12/7/10;
- *Proposed Site Grading Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 12/7/10;
- *Proposed Site Utilities Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 12/7/10;
- *Erosion Control Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 12/7/10;
- *Proposed Site Lighting/Photometric Plan* by P & C, PC dated 10/21/2010; revised 12/7/10;

- *Proposed Landscaping Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 12/7/10;
- *Details Sheets No. 1-5* prepared by Praetorius & Conrad, PC dated 10/21/2010; revised 12/7/10.
- *Existing Site Plan* prepared by Praetorius & Conrad, PC dated 10/21/2010; revised 1/4/11;
- *Existing Site Modification Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 1/4/11;
- *Proposed Site Plan* prepared by Praetorius & Conrad, PC dated 10/21/2010; revised 1/4/11;
- *Proposed Site Grading Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 1/4/11;
- *Proposed Site Utilities Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 1/4/11;
- *Proposed Erosion Control Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 1/4/11;

- *Proposed Site Lighting/Photometric Plan* by P & C, PC dated 10/21/2010; revised 1/4/11;
- *Proposed Landscaping Plan* by Praetorius & Conrad, PC dated 10/21/2010; revised 1/4/11;
- *Details Sheets No. 1-5* prepared by Praetorius & Conrad, PC dated; revised 1/4/11; and
- Additional Landscaping/Sidewalk Plan along Grant Avenue prepared by Praetorius & Conrad, PC dated January 12, 2011.

WHEREAS, the *New York State Department of Transportation* (via an e-mail dated January 18, 2011) has stated there are only a few minor technical details, which need to be addressed prior to their final approval; and

WHEREAS, the Town Planning Board motioned to override the *Ulster County Planning Board's* required modification to provide cross access between the subject site and property to the north, but required modifications to the Site Plan which addressed the UCPB's other required modifications; and

WHEREAS, the *Town Highway Superintendent* requested a sidewalk be installed along Grant Avenue and the applicant has submitted a revised Site Plan, which provides for a sidewalk along Grant Avenue; and

WHEREAS, the *Town Water Superintendent* in a memorandum dated January 11, 2011 stated his comments were addressed by the applicant in the revised set of plans; and

WHEREAS, the *Town Sewer Superintendent* requested that trees be prohibited within the Town Sewer Easement and these comments were addressed by the applicant in the revised set of plans; and

WHEREAS, the *Town of Ulster Planning Board* requested that additional plantings and shrubs be placed on the northeast corner of Grant Avenue and NYS Route 9W along with the placement of stones to define the new planting bed; and

WHEREAS, the *Town of Ulster Planning Board's* request was addressed by the applicant in the *Additional Landscaping Plan Along Grant Avenue* prepared by Praetorius & Conrad, PC dated January 12, 2011.

NOW THEREFORE BE IT RESOLVED, the Town of Ulster Planning Board hereby determines the conditions, limitations and restrictions set forth by the Town Board were addressed by the applicant, but recommends the following conditions and limitations, which may be addressed by the applicant and Building Department during construction of the Proposed Action:

1. Full compliance with applicable Building Codes requirements.
2. Submission of building plans that include provisions for interior oil separators, which are acceptable to the Town of Ulster Sewer Department.
3. Submission to the Building Department of monument sign specification for approved location in compliance with Section 190-33 of Town Code.
4. Submission of final set of plans that address minor technical revisions, which may be required by the New York State Department of Transportation.
5. Escrow account paid in full.

FURTHER BE IT RESOLVED, the Town of Ulster Planning Board hereby recommends the Town of Ulster Town Board override the Ulster County Planning Board required modification to provide a cross access easement between the subject site and the abutting property to the north; and

FURTHER BE IT RESOLVED, the Town of Ulster Planning Board hereby recommends the Town of Ulster Town Board grant final Special Permit and Site Plan Approval of the Proposed Action subject the following conditions and limitations, which may be addressed by the applicant and Building Department during construction of the Proposed Action:

1. Full compliance with applicable Building Codes requirements.
2. Submission of building plans that include provisions for interior oil separators, which are satisfactory to the Town of Ulster Sewer Department.
3. Submission to the Building Department of monument sign specification for approved location in compliance with Section 190-33 of Town Code.

4. Submission of final set of plans that address minor technical revisions, which may be required by the New York State Department of Transportation.
5. Escrow account paid in full

Discussion on Changes to Zoning Code

Mr. Kovacs stated the Comprehensive Plan Implementation Committee has recommended to the Town Board some changes to the Zoning Code. The Town Board held a Public Hearing in November and referred them to the Planning Board for their review. The Changes are the addition of item #10 to Section 190-27 (I); Mr. Sorensen read the section to the Board:

As built lighting plan: The developer shall provide the Building Department with an as-built lighting plan to verify the pole heights, location and specifications of fixtures (type, wattage, etc) match the approved lighting plan. The as-built lighting plan shall be a requirement for a final Certificate of Occupancy.

The second change would be the addition of the word “berm” to Section 190-27(H).

Screening: In general, no parking area shall be located within ten (10) feet of any side or rear property line. Parking areas shall be screened from any residence where visible. Where a lot in a business district abuts a lot in a residence district, a berm, compact evergreen hedge, opaque fence, landscape strip of trees or wall shall be provided along such side and/or rear lot line in the business district abutting a residence district, which is designed to form a visual screen not less than six (6) feet in height. Parking areas with five (5) or more spaces in a residential zone shall be screened from all property lines including any bordering roads, but screening shall not obstruct sight distance.

A short discussion on lighting followed; with the suggestion that the board receive training on lighting and how it is measured.

Action: A motion to recommend adoption of proposed changes to Article VII of Chapter 190 of the Town Code (Sections 126-129) was made by Mr. Beichert with a second from Mr. Decker. All were in favor.

A motion to adjourn was made by Mr. Decker with a second from Mr. Beichert with all in favor.

Respectfully Submitted,

Mary Secreto
Planning Secretary