

*TOWN OF ULSTER
PLANNING BOARD
SEPTEMBER 17, 2013*

The monthly meeting of the Town of Ulster Planning Board was held on Tuesday September 20, 2013 at 7:00 p.m. at the Town Hall Lake Katrine, New York. The following members were present:

Alan DeForest-Chairman–
Larry Decker
Frank Almquist
Alan Sorensen - Planner

Karl Allison
Gary Mulligan
Anna Hayner - late

The minutes from the August meeting were approved.

Mr. DeForest appointed Mr. Almquist an alternate for Mrs. Hayner

MHMG-KM KINGSTON LLC-Subdivision

Mr. Decker motioned to open the Public Hearing with a second from Mr. Mulligan and all in favor.

Mr. Sorensen stated the applicant is proposing a 6 lot subdivision that is consistent with the master plan that has been approved. A Negative Declaration was issue on the site previously. Mr. Sorensen recommended the Board reaffirm the Negative Declaration and approve the subdivision. The Board can also waive the 2nd Public hearing as the preliminary plat is the final plat.

A motion to close the Public Hearing was made by Mr. Almquist with a second from Mr. Allison with all in favor.

Mr. Sorensen read the resolution.

WHEREAS, the Town of Ulster Planning Board and its consultant planner have reviewed an application by *MHMG – KM Kingston, LLC* – seeking approval to subdivide a 14.66-acre property (Town of Ulster Section-Block-Lot: 39.082-2-7.11) into six (6) tax lots pursuant Chapter 161 of the Town Code; and

WHEREAS, the materials submitted in support of the Proposed Action includes:
- *Cover Letter* prepared by Larry Boudreau, RLA GA NY, Project Manager dated 7/16/2013;
- *Application Preliminary Subdivision Approval* by Chazen Engineering, dated 7/16/2013; and
- *Preliminary Subdivision Map* by Chazen Engineering & Surveying, P.C, dated 7/10/13.

WHEREAS, the Proposed Action is classified as a Major Subdivision pursuant to Chapter 161 of the Town Code; and

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WHEREAS, the approval of a Major Subdivision requires two (2) public hearings, but the Planning Board may waive the requirement for the second public hearing on the Final Plat, when such plat is substantially consistent with the Preliminary Plat; and

WHEREAS, the Planning Board held a public hearing on the Preliminary Plat on September 17, 2013 during which hearing no public controversy was raised; and

WHEREAS, the Final Plat was presented to the Planning Board following the close of the public hearing and found by the Planning Board to be substantially consistent with the Preliminary Plat; and

WHEREAS, the Proposed Action includes lots without frontage on an approved street; however, the subject site lies with the Town of Ulster's *"Development Facilitation Improvement District No. 1,"* which is a designated Open Development Area (ODA) that allows the creation of lots without frontage on an approved street; and

WHEREAS, the Town of Ulster Planning Board has reviewed the SEQR Negative Declaration statement for the MHMG-KM Kingston, LLC development and finds the Current Proposed Action would not pose any potentially significant environmental impacts *based upon detailed studies provided and the mitigation measures being employed in the design of the proposed MHMG-KM Kingston, LLC development;* and

WHEREAS, the Current Proposed Action does not exceed any of the thresholds established under the original SEQR Negative Declaration *for the proposed MHMG-KM Kingston, LLC development,* thus no further SEQR review is required; and

WHEREAS, the Town Board has determined it has complied fully with the procedural requirements of Part 617 of the State Environmental Quality Review (SEQR) Law; and

NOW THEREFORE BE IT RESOLVED, the Town of Ulster Planning Board **hereby** reaffirms the SEQR Negative Declaration including the Current Proposed Action; and

FURTHER BE IT RESOLVED, the Town of Ulster Planning Board finds the Final Plat is substantially consistent with the Preliminary Plat and hereby waves the requirement for a second public hearing; and

BE IT RESOLVED, the Town of Ulster Planning Board **hereby** grants Major Subdivision Approval to *MHMG – KM Kingston, LLC* subject to the conditions, limitations and restrictions set forth below:

1. Plat may be filed with Office of County Clerk after signed by the Planning Board Chairman;
2. No changes, erasures, modifications or revisions shall be made to any plat after approval by the Planning Board and endorsed in writing on the plat;

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Action: A motion to reaffirm the Negative Declaration was made by Mr. Mulligan with a second from Mr. Decker with all in favor

A motion to approve the 6 lot subdivision was made by Mr. Mulligan with a second from Mr. Almquist. All were in favor.

Mrs. Hayner arrived.

Lang Media – Sign Site Plan

Michael Lang and Brian Kremer appeared on behalf of the application for the relocation of two billboards. Mr. Lang stated he had originally applied to relocate two billboards that were on the new Quick Chek site but has since withdrawn that application. The new application is to place a billboard on the Smoker's choice site that will be 45' in height with a 35' x 36' sign face. The code states it needs to be less than 1,000 sq ft. Mr. Lang stated the review notes stated the Home Depot sign was considered a billboard and therefore he could not place another sign within 600ft. He went on stating that all billboards need to be registered with New York State and the Home Depot is not registered. Mr. Sorensen stated he based his review upon the Town Code he read section 190-4 #6. Mr. Sorensen stated that it appeared that the Home Depot sign was on the Popeye's property therefore it is considered a billboard by Town Code definition. Mr. Kremer questioned stated the Home Depot sign is the same as any sign located on Ulster Avenue that advertises multiple tenants; a permit was issued on August 22, 2005 this permit does not appear to be for a billboard. Mr. Lang stated he has worked for over a year on getting a site that complies with Town Code, he wants to work with the Town. Mr. Sorensen stated he would give the application further review; he will also review the application with regards to the recently adopted 9W corridor plan. Mr. Kremer stated there is noting in the code that states where you can move a billboard from only where it is moving to. The plan would also need to be reviewed by the County Planning Board.

Action: A motion to forward to the Ulster County Planning Board was made by Mr. Mulligan with a second from Mr. Allison with all in favor.

Dallas Hot Weiner- Site Plan

Evan Pappas appeared on behalf of the application for a change of use. The applicant is proposing to covert a vacant retail store to a restaurant. DOT has inspected the site and the plans reflect their comments. Mr. Sorensen reviewed the project stating the parking spaces need to be larger, details of the handicapped signage need to be added to the plan along with the dumpster location and details. The applicant will need to submit cut sheets for the lighting fixtures. There will be no changes to the exterior and the signage is existing. The Sewer Department is reviewing their files for grease trap information. The plans need to be forwarded to NYS DOT for formal review and the County Planning Board.

Action: A motion to forward the plans to NYS DOT and the County Planning Board was made by Mrs. Hayner with a second from Mr. Allison with all in favor.

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Pizza Hut – Facade Change

Ozzie Beichert appeared on behalf of the application for a facade change for Pizza Hut. The applicant is proposing the removal of the brick facade. Mr. Sorensen stated pictures of depicting the change have been submitted. Mr. Biechert stated the wall signs have been approved by the Building Department. A short discussion on plantings followed; the applicant will plant ornamental grasses in the front of the off street parking spaces facing Ulster Avenue. Mr. Sorensen read the resolution.

WHEREAS, the applicant – *Pizza Hut* – is seeking Site Plan Amendment approval to renovate the exterior of their existing restaurant and modify the existing signs on the subject restaurant; and

WHEREAS, pursuant to Chapter 145 of the Town Code, the Proposed Action is subject to Site Plan review and approval by the Town of Ulster Planning Board; and

WHEREAS, the application materials in support of the Proposed Action includes:
- *Site Plan Review Application* prepared by Ozzie Beichert of Timely Signs dated August 21, 2013
SEQR Short EAF prepared by Ozzie Beichert of Timely Signs dated August 21, 2013; and
- *Photo of Comparable Exterior Renovation to Illustrate Proposed Ulster Work by Timely Signs.*

WHEREAS, referral to the Ulster County Planning Board is not required pursuant to the UCPB Land Use Referral Guide, since the site has channelized access and an increase in parking spaces on the site is not required to accommodate the proposed use; and

WHEREAS, the Planning Board considered of the application materials submitted by the applicant in support of the Proposed Action, along with the comments of its consultants made via memoranda (which memoranda are incorporated herein by reference); and

WHEREAS, *photos* were provided by Timely Signs to illustrate the proposed façade renovations and submitted for review to the Planning Board; and

WHEREAS, the Planning Board upon review of the entire record (including SEQR Short Environmental Assessment Form (EAF)) found the Proposed Action was a Type 2 Action pursuant to Part 617 of State Environmental Quality Review (SEQR) law.

NOW THEREFORE BE IT RESOLVED, the Town of Ulster Planning Board has determined they have complied fully with the procedural requirements of Part 617 of the State Environmental Quality Review (SEQR) Law; and

FURTHER BE IT RESOLVED, the Town of Ulster Planning Board hereby grants Site Plan Approval to *Pizza Hut* subject to the conditions, limitations and restrictions set forth below.

1. Compliance with applicable zoning and building laws, rules and regulations;
2. Compliance with all representations made by the applicant;
3. Planting of a ornamental grass and mulch bed in front of off-street parking spaces

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facing Ulster Avenue;

4. Provision of sign details and building elevations, which meet the satisfaction of the Building Inspector; and
5. All fees, including consultant fees, shall be paid.

Action: A motion to approve the facade change was made by Mr. Allison with a second from Mr. Almquist with all in favor.

A motion to adjourn was made by Mr. Almquist.

A letter to the Zoning Board of Appeals in regards to the Volkswagen area variance was read to the members; Mr. DeForest requested permission to sign the letter. A motion to allow Mr. DeForest to sign a letter to the Zoning Board of Appeals was made by Mr. Mulligan with a second from Mr. Allison. All were in favor.

Dear Chairman Crispell:

I am writing on behalf of the Town of Ulster Planning Board. We would like to provide you with the Planning Board's insights with respect to Volkswagen of Kingston's request for an area variance to raise the height of their approved 20-foot high twin pole pylon sign above the permitted height within the RC-Regional Commercial District.

We understand the Zoning Board of Appeals has the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances. However, we respectfully request that your board take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

With respect to Volkswagen's application, the Planning Board feels the applicant's area variance request is without merit. Furthermore, granting the requested area variance to allow the freestanding sign to exceed the maximum permitted height would have a detrimental affect on the aesthetics of the U.S. Route 9W Corridor.

In recent years, the Planning Board has required the use of monument signs for individual establishments along the corridor in place of freestanding pole signs (e.g. Five Guys, Smoker's Choice, Hampton Inn, Starbucks, McDonalds, Applebee's, etc). In a number of instances existing pole signs were removed and replaced with monument signs.

The Planning Board had reservations about allowing the 20-foot pole sign on the Volkswagen site, but approved the applicant's request for the freestanding sign. Now the applicant is asking for variance. A 35-foot high freestanding sign, would result be one of the highest signs along the corridor and look out of place. More importantly, the proposed sign would not be effective in identifying the Volkswagen Dealership as drivers would lose the line-of-site for the pole sign well in advance of arriving at the subject site.

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Before the ZBA makes a determination on the applicant's request the Planning Board respectfully request that you carefully consider the 5-part test for granting an area variance as follows: *Our comments are shown in italics.*

Volkswagen of Kingston

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- (a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; *The applicant's request for a 35 foot high freestanding sign, would result in the one of the highest signs along the corridor and look out of place.*
- (b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; *The applicant can construct a freestanding sign, which complies with the Town Code.*
- (c) whether the requested area variance is substantial; *The applicant is seeking a variance to allow a freestanding height, which exceeds the permitted height by 75% - this is substantial.*
- (d) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and *The proposed 35 foot high pole sign will result in visual clutter and simply look out of place in the context of the corridor.*
- (e) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance. *The twin pole pylon sign, which was approved by the Planning Board is more than adequate to serve the needs of the Volkswagen Dealership and we do not feel there is difficulty that needs to be addressed.*

We hope our insights will assist the ZBA in its deliberations. If an area variance is granted, we hope it will be the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant.

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

Respectfully Submitted,

Mary Secreto
Planning Secretary