

**Town of Rotterdam
Planning Commission
November 20, 2018**

Approval of the Summary of Minutes November 8, 2018

1. **Edward Kaufmann Jr. (O)/Zappone Group Management, LLC (Designated Contact) - 2142 Hamburg Street.** Report and Recommendation to the Town Board for a Change of Zone request on ±24,701 square feet of property from Retail Business (B-1) Zoning District to Light Industrial (I-1) Zoning District. Engineer: Advanced Engineering & Surveying, PLLC.
2. **Lecce Senior Living, LLC – 2200 & 2204 Helderberg Avenue & Fort Hunter Road.** The applicant requests a Waiver of Site Plan review for Phase IA of the Whispering Pines Senior Living District for the clearing and grubbing of ±14 acres of trees with a total site disturbance of ±15.3 acres. Engineer: ABD Engineers, LLP.

DPW Comments
November 20, 2018

1. **Edward Kaufmann Jr. (O)/Zappone Group Management, LLC (Designated Contact) - 2142 Hamburg Street.** Report and Recommendation to the Town Board for a Change of Zone request on ±24,701 square feet of property from Retail Business (B-1) Zoning District to Light Industrial (I-1) Zoning District. Engineer: Advanced Engineering & Surveying, PLLC.
 1. Town Board referred to the Planning Commission on October 24, 2018 for a report and recommendation.
 2. Planning Commission reviewed at November 8, 2018 meeting.

3. Edward Kaufmann Jr. (O)/Zappone Group Management, LLC (Designated Contact) – 2142 Hamburg Street. Report and Recommendation to the Town Board for a Change of Zone request on ±24,701 square feet of property from Retail Business (B-1) Zoning District to Light Industrial (I-1) Zoning District. Engineer: Advanced Engineering & Surveying, PLLC.

Chairman Denny: Mr. Costa is here tonight.

Mr. Costa: Good evening, my name is Nick Costa and I'm with Advanced Engineering & Surveying. We did prepare the application on behalf of Zappone Group for the rezone of this parcel.

This parcel is located really, the address is for Hamburg Street, but there is no access. It's a right-of-way without access. The DOT took that access when they built the overpass for Hamburg Street. So that is what caused the spilt zone that we are here to rezone because this parcel that is located on Chrisler is zoned industrial, but this one is general business. It kind of makes it difficult to try and develop the parcel having that spilt zone. We are requesting to have it zoned the same to the one that the parcel provides access to it which comes off of Chrisler Avenue.

The existing parcel does have a driveway and it's paved all the way back to here and the use here right now, they do store some recreational vehicles.

Chairman Denny: We went over to look at the site and it had camper trailers and stuff like that in there.

Mr. Costa: The site is fairly flat. It's not wooded and fairly open. Most of the storage buildings are found in the front portion too. That is what we are requesting the rezone to be the same as this which is the existing Light Industrial.

Chairman Denny: Let me open it up to the Planning Commission to see if anyone has any comments or questions. Mr. Yuille?

Mr. Yuille: It has been used as storage, just not all of it has been done, when they took that access out, that bridge was built years ago.

Mr. Costa: It's been that way for a very long time.

Mr. Yuille: As long as I can remember it's been like that. With it being a storage unit, it didn't look like it was going to give anybody problem there and it is far enough from the property line and you don't get that much traffic in there. The only thing that would be, when and if the zoning gets changed, I'd like to see the details on the entrance that there is enough queuing to get cars in and off of Chrisler Avenue. It looks like a good use of the property.

Mr. Costa: We believe it is.

Mr. Yuille: That's all Mr. Chairman.

Chairman Denny: Mr. D'Alessandro?

Mr. D'Alessandro: No questions at this time.

Chairman Denny: Mr. Bradt?

Mr. Bradt: When you say light industrial, what do you mean by that? What kind of businesses will be in there?

Mr. Costa: It will be storage. The Zappone Group has a purchase option for this and we have done the layout and that is what it will be.

Mr. Bradt: That's all I have, thank you.

Chairman Denny: Mr. Collins?

Mr. Collins: It was a scrap iron place back in the 60's. It's a good use there because of the business around it on Chrisler Avenue and it fits in. That's all I have, Mr. Chairman.

Chairman Denny: Mrs. Flansburg?

Mrs. Flansburg: Are there two (2) separate owners? Are they staying two (2) separate parcels?

Mr. Costa: There are two (2) separate parcels, there are two (2) deeds for the parcel. It is one (1) parcel. I believe it's a 1.07 size parcel. That is the way that we have it shown. It is owned by one (1) owner and that's Mr. Kaufmann and the Zappone has a purchase agreement to purchase the entire parcel. We just need to have this portion of the parcel to be rezoned. It used to be two (2) separate parcels.

Mrs. Flansburg: It can't be one (1) parcel right now and then two (2) different zones or is that what you are saying it does have.

Mr. Costa: I believe it does.

Mr. Comenzo: Spilt zoned.

Mrs. Flansburg: Spilt zoned among the same thing by circumstance because of Hamburg Street but really it's more Chrisler Avenue that is available. I think it's been doing this for years anyway and I think it's perfectly appropriate of what you're doing. It's probably actually cleaning it up a little bit. Thank you.

Chairman Denny: Mr. Tingley, do you have any comments.

Mr. Tingley: I just want to point out to the Board that they have presented conceptual plan for storage and I just wanted the Board to know that if the zoning is change it can be any use that is permissible in the I-1 District and it's not limited to what they are presenting right now. I just want the Board to be aware of that.

Chairman Denny: No action tonight. We will have Mr. Tingley prepare a draft report and recommendation and look to adopt and forward this report to the Town Board for the next meeting on November 20th.

Mr. Costa: Thank you.

DPW Comments
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2. **Lecce Senior Living, LLC – 2200 & 2204 Helderberg Avenue & Fort Hunter Road.** The applicant requests a Waiver of Site Plan review for Phase IA of the Whispering Pines Senior Living District for the clearing and grubbing of ±14 acres of trees with a total site disturbance of ±15.3 acres. Engineer: ABD Engineers, LLP.
 1. Planning Commission to discuss SEQR and potential action on the Waiver of Site Plan request.
 2. Planning Commission reviewed at November 8, 2018 meeting.

DPW comments from November 8, 2018

1. Applicants presented Phasing Plan for 1A to the Commission for discussion purposes on September 18, 2018, attached are the minutes from that meeting.
2. See attached response letter from ABD Engineering dated October 25, 2018 in regards to the original comment letter from CHA dated October 19, 2018.
3. See attached comment letter dated October 30, 2018 from CHA.

4. **Lecce Senior Living, LLC – 2200 & 2204 Helderberg Avenue & Fort Hunter Road.** The applicant requests a Waiver of Site Plan for Phase 1A of the Whispering Pines Senior Living District for the clearing and grubbing of ±14 acres of trees. Engineer: ABD Engineers & Surveyors.

Chairman Denny: Joe, you're back. I have Luigi down here but he's not going to be here tonight, I guess.

Mr. Bianchine: Luigi is out of town and his daughter has a medical thing.

All we are doing is requesting a waiver so that we can do some clearing at the site.

Chairman Denny: You are looking for a waiver? Mr. Yuille, do you have any questions?

Mr. Yuille: No, I looked over the map and I read the documentation that came with it. I noticed there was a change that when they are doing Phase 1A the golf course is going to close temporarily?

Mr. Bianchine: I'm not that familiar with it. Maybe Lou can answer that?

Mr. Lecce: Lou Lecce, I'm the applicant. Last time we were here and because we are getting so late in the year, we are just going to shut the golf course down.

Mr. Yuille: You are going to maintain it? It would be a shame to lose the golf course off that project.

Mr. Lecce: We are going to maintain it. We are going to start the cottages in the back, we're going to clear and then we will maintain the golf course until we sell our first unit and the owner will become a member and then it will open up to the public again. They are going to winterize it now anyways, so by the time we take trees down it will still be the middle of the winter.

Mr. Yuille: I'm not a golfer but I just thought it was something...

Mr. Lecce: It will be maintained while we are under construction.

Mr. Yuille: One question that I have and we have discussed it before, in a meeting that I was in, if for some reason that this project doesn't go forward after you clear cut all of this, there should be some kind of a plan to restore the property ✓
vegetation or whatever if you clear cut, because you don't own the land that you're clear cutting now, correct?

Mr. Lecce: I will own it when I clear cut it.

Mr. Yuille: You're going to buy it?

Mr. Lecce: We are going to buy it before we do any work?

Mr. Yuille: Before you clear cut it?

Mr. Lecce: Yes.

Mr. Yuille: I didn't understand that.

Mr. Lecce: We hope to close in 30 days.

Mr. Yuille: They gave us permission from the owners so that you could go in there...

Mr. Lecce: To get the approvals.

Mr. Yuille: I misunderstood. I thought they were giving you permission to clear cut it.

Mr. Lecce: We're going to close and then once we close we're going to do the work. I will own the property.

Mr. Yuille: That's the whole site? The whole 96 acres or whatever it is?

Mr. Lecce: That's correct.

Mr. Yuille: That clarifies that for me. That is all I have, Mr. Chairman.

Chairman Denny: Mr. D'Alessandro?

Mr. D'Alessandro: That was the question that I was going to ask. I have no other questions.

Chairman Denny: Mr. Bradt?

Mr. Bradt: I think it's a good project and I am in favor of it.

Chairman Denny: Mr. Collins?

Mr. Collins: It's a good project. I was concerned with the golf course. I am a golfer and building the cottages and so forth, it would have been a shame to lose that to the Rotterdam residents.

Mr. Lecce: That's going to stay. That was part of the Senior Living District, the golf course will remain. Just the Armstrong's they want to close and get out of the business. I can't force them to keep them open.

Mr. Bradt: Do you know who started that golf course, the Deputy Chief of Police, Armstrong?

Mr. Lecce: Was it Harold Armstrong?

Mr. Bradt: Armstrong, he was Deputy Chief of Police.

Mr. Collins: That's all I have. Thank you.

Chairman Denny: Mrs. Flansburg?

Mrs. Flansburg: I didn't know if our TDE had any comments that he wanted to share. I have nothing in addition to what anyone else said, but I would like to hear what the TDE has.

Chairman Denny: Peter Lilholt is our TDE and if anyone has any questions or concerns that maybe you can help them with.

Mr. Lilholt: Good evening, I'm Pete Lilholt with CHA Consulting. We are the TDE for the project. Last time before the Board the applicant proposed Phase 1A of the project which was basically clearing in preparation of Phase 1 which would be contemplated for the cottage units and the main access into the site. Since that point in time, we have been working with ABD and Luigi on several iterations of reviews. They have prepared a number of documents including a revised campus master plan, stormwater management plan, stormwater management report, a site plan, which was a site clearing and grubbing plan, and since that point in time we have asked for some additional documentation and some additional details as well as some protections and other measures and then we subsequently issued, what is essentially a sign off letter on October 30th with all of our technical comments having been addressed. However, outlining certain next steps

involved with the project which includes the site plan waiver from the Planning Commission and their own independent findings statement, execution of a MS4 acceptance form from the Town Stormwater Management Officer, filing of the Notice of Intent to gain coverage under the SPEDES General Permit and then we're understanding that the Town will engage a stormwater management professional to observe the operations which will be key because the work is being done in the winter past the growing season.

The plan that has been developed seems acceptable and everything has been done appropriately, but nonetheless should conditions change, for example, we don't have a good frost, there will have to be certain temporary erosion and sediment control measures implemented in the field during the course of construction as site conditions warrant. That is key to have that person involved as well as required by the permit, the owner/operator needs to have their own qualified inspector and a pre-construction meeting should take place to get all the parties involved, the Town Stormwater Management Officer, the qualified inspector from the applicant, the Town stormwater professional and the contractor to get everyone on the same page to review all the aspects of the stormwater management plan prepared by ABD.

It's also proposed as a point of clarification despite the fact that the clearing is 14 acres of trees, the plan to stabilize with woodchips during the course of construction which is smart and acceptable means of temporary stabilization and to limit disturbance to less than five (5) acres at a time. Should more than five (5) acres be opened at one time, which is not the plan, then a five (5) acre waiver would have to be issued through DEC.

Chairman Denny: Let me see if anyone has any questions. Mrs. Flansburg?

Mrs. Flansburg: A significant amount of it is dependent upon weather, is what you're saying, from your description, because of the timing of when they are trying to do this.

Mr. Lilholt: The plan that has been developed works and it contemplates that but if you don't have a hard frost, depending on the vehicle traffic coming in and out, conditions can change quickly and therefore additional measures may be required, for example, stabilizing a haul road if you're bringing trucks in and out, that it's premature to specify certain things until you get into it and that is why you have a qualified inspector engaged to oversee those things during the course of construction. The standard practices are identified in the New York State Erosion Sediment Control specifications are shown on the plan, everything has been sized properly including diversion swales, temporary culverts, sediment traps, so it's designed appropriately, one with protection measures with the on-site fresh water wetlands and so on. Everything is done in accordance with the appropriate regulations.

Mrs. Flansburg: That's all I have at this time, thank you.

Chairman Denny: Mr. Collins?

Mr. Collins: You explained in detailed what is going on and we have a lot of faith in your ability to oversee this project. I don't have any questions at this time, Mr. Chairman.

Chairman Denny: Mr. Bradt?

Mr. Bradt: No, I'm in favor of the project.

Chairman Denny: Mr. D'Alessandro?

Mr. D'Alessandro: No, my questions were answered.

Chairman Denny: Mr. Yuille?

Mr. Yuille: When they are clear cutting this, is there going to be anyone inspecting it to make sure of what is going on here?

Mr. Lilholt: Yes, there will be two (2) layers of inspection. That is what I was trying to describe. By a requirement of the SPEDES General Permit is that the owner/operator have a qualified inspector on site and so they have to perform at least weekly inspection and then document any deficiencies and they go through all the practices and any deficiencies there are noted need to be corrected within 14 days, however, the Town takes it a step further and it is my understand that they are going to employ their own independent stormwater professional, Aaron Frank, typically does that for the town, I think, and he is an extra set of eyes on the site to make sure that everything is done properly and to coordinate those activities.

Mr. Yuille: Thank you. That's all, Mr. Chairman.

Chairman Denny: Mr. Tingley, do you have any comments you would like to make?

Mr. Tingley: Yes, I would just like to explain for the Board the process as I recommend it, at least. The application before you is a waiver of site plan application which is not exactly a site plan application, it's a waiver application, but it is a discretionary approval that would allow activity to occur on the site in furtherance of the project. The Planning Commission was an involved agency under the State Environmental Quality Review Act and there was an EIS prepared for this project. So the Planning Commission will have to adopt a findings statement prior to approving any action, any discretionary action that would allow the project to move forward.

It is my recommendation that the Board adopt the findings statement at this time before the waiver is approved rather than prior to approval of the first actual site plan that is submitted. So, having said that, the EIS reviews the project in a phased approach and the current application for waiver is seeking effectively approval for, if you want, a portion of the first phase that was reviewed under SEQR. It's a little bit disjointed as it's moving forward. I think it would be appropriate if the Board wants to, if it's intent on approving the waiver to tie the waiver in some way through a time mechanism to approval of the second half of Phase 1 and Phase 1B, the actual cottages because what you have in the EIS is not a review of the environmental impacts of the clearing and then if Phase 1B is never pursued you have this cleared site, what you have is, they looked at the environmental impacts during construction and operation, but they presumed a full build out of the project.

So I think it would be an appropriate condition of any approval for the waiver based upon the Board's jurisdiction as an involved agency under SEQR to impose a condition that the waiver is approved conditioned on approval for Phase 1B being secured within a certain amount of time and that's really within the discretion of the Board, subject to any, if there needs to be extensions or what have you and I think if the Board wants to, it would also be appropriate to impose a condition that if Phase 1B is not pursued and approved within that period of time as maybe extended on request that the site be restored, meaning re-vegetated so that it's put back in the condition it was before the clearing or at least as close as it can be. I think those are appropriate conditions. I think you certainly have authority and jurisdiction to impose those if you want too.

I also think that under your SEQR jurisdiction as an involved agency and your requirement of making your own findings that you have jurisdiction if you want to, to ensure that financial security is available to re-vegetate the site in the event that Phase 1B is not approved or is not pursued and that obviously is up to the Board as to whether or not that is something you want to do.

I think the process going forward, my recommendation is that draft findings statements be prepared in anticipation of the next meeting and that a draft resolution be prepared in anticipation of the next meeting and then at that time the Board will have that, be able to review it, be able to review the draft findings statement in relation to the EIS and the Board can take whatever action it wants to or not take action if it wants to at that time. That is my recommendation.

Chairman Denny: At this time, is there anyone in the audience that has any comments for this project?

Mr. Dodson: Jack Dodson, 1311 Cypriana Terrace. Minor comments only in that there is new information available and I guess my question is directed to Peter as far as the availability, the most recent information and obviously that information is included in Peter's letter as the TDE and making the availability that either on the website, or again, if I need to, I will come in to the Town to review those. In addition to prior to the meeting, is the information going to be available relative to the findings, the draft findings and stuff or is that something that is going to be made available only to the Planning Commission prior to the next meeting.

Mr. Tingley: That will be intra-agency material and that will be up to the Town whether or not it's released or not, but it will be, the Planning Commission members will have it and it's up to the Town whether or not it's released or not. There is certainly no requirement that it be released.

Mr. Dodson: Once the meeting is had, will the information be made available after that meeting?

Mr. Tingley: If it's addressed at the meeting, then it will be public.

Mr. Dodson: Thank you.

Chairman Denny: At this time, there is no action to be taken tonight.

Next meeting is November 20, 2018.

Meeting adjourned at 8:04 p.m.

Motion to adjourn made by Mr. Bradt and seconded by Mr. Yuille.

Respectfully Submitted,

Marlo L. Carter
Planning Commission Secretary