

SPR2022-07 (continued)

No comments were received from the public.

Motion by McCabe, seconded by Bebak, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

Motion by McCabe, seconded by Bebak, to grant site plan approval for property located at 1800 Union Road for construction of a patio roof on the front of the existing building.

Ayes: All

Noes: None

Motion Carried

2022-04

A request of Hanley Development of WNY for a rezone and special use permit for property located at 1130 and 1140 Orchard Park Road, being part of Lot No's. 372 and 373, changing its classification from C-1 and R-75 to R-50(s) for construction of a 40-unit apartment development.

Chris Wood with Carmina Wood Design presented the following:

- Tonight, is for the rezoning portion of the process.
- The proposal illustrates 45-apartment units in five two story buildings.
- Total site area is 5.32 acres
- Seeking R-50(S) zoning which would allow the 45-units without a variance for density.
- The driveway of the project will align with the side street off Orchard Park Road; the NYSDOT has an improvement plan for that intersection.
- The site is currently occupied by Flattery's Bar which will be demolished.

Mr. Sherman questioned if the property has been purchased by Mr. Hanley. Ralph Lorigo, Attorney for the seller, stated there is a contract for purchase and is contingent upon zoning. The acreage in the front is zoned commercial and the back is zoned residential. A special use permit is needed to change the zoning to R-50(S) which is required for a multiple dwelling. The NYSDOT has provided correspondence to the town stating they have no issue with the project as they have their own project at the traffic signal. The item was previously tabled because there was an issue regarding the sewer capacity. As a result of this project, the Town of West Seneca scoped the sewer to see if there was an obstruction. It was found that there was a substantial obstruction which has now been cleared. Town Engineer Steve Tanner has stated when there is a heavy rain there could be an issue, but this is not created by the addition of this project. The project will add approximately 9,000 gallons per day in sewer capacity. The issue is when there is a heavy rain, the sewer capacity increases by 3 – 4 million gallons flowing into the sewer.

Mr. Lorigo stated this type of project adds a substantial tax base to the town. The tax situation each year grows and the only way to keep them level is to increase the tax base. This project requires no special benefits to the tax assessment. The Hanley family is top of the line builders and the rent would be \$1,400 - \$1,800 per month. There are other properties that the family has built that are good quality. If the Planning Board recommended the zoning change and there was an engineering issue the project could not be built.

2022-04 (continued)

Mr. Wood stated although the project adds 9,000 gallons per day the project is removing 6,500 gallons per day from the bar and restaurant. If the rezoning is granted the applicant would agree to deed restrict the back portion as permanent open space.

Mr. Sherman questioned the reduction of 6,500 gallons per day as this is not a busy business. Mr. Wood stated the calculation is from DEC guidelines based on number of seats at the bar. The infrastructure would be all brand new.

Chairperson Bebak requested clarification on the sanitary sewer and the storm sewer issue. Mr. Wood explained in West Seneca the sanitary sewer and storm sewer are separate. The sanitary sewer does not contribute to any storm sewer backups within the town. If there is water in the backyard it is not due to the sanitary sewer backups. As part of the project, I & I mitigations four times the peak flow must be taken out. There is a formula that calculates a monetary contribution that goes towards the town's I & I program.

Mr. Lorigo stated the development of the project benefits the situation. The 4:1 mitigation is a benefit as well as the sewer mitigation fee.

Mr. Hayes noted the Town Engineer's letter mentions a new sewer main that will be installed and will be another mitigating factor. Mr. Wood stated he believed the Town Engineer if referring to the new sewer main onsite to service the apartments. This will be an 8" private sewer main with 6' laterals to tie into the public main.

Mr. Hayes stated there is a sanitary system and a storm sewer system. The report concerns the sanitary sewer system and was completed during periods of rain fall and questioned how the two mix. Mr. Wood stated the sanitary sewer study is part of the I & I mitigation and the infiltration and inflow. Older sewer systems have cracks and low manhole covers that allow storm water to get into the sanitary sewer system and this takes capacity away from sanitary flows. The study is done during large rain fall events to have storm water in the sanitary sewer. The DEC requires monitoring for 30-days and within the time frame there must be two qualifying rain fall events of a ½' within 24-hours. The structure was monitored when the obstruction was in place and again after removal.

Mr. Hayes stated the NYSDOT has a project in the works for possibly 2024 and questioned if all was approved right now when the project would start. Mr. Lorigo stated most likely in the spring and the letter from the NYSDOT stated they do not feel the project will create a problem. The project will better the traffic as the driveway lines up with the intersection.

Mr. Frick stated it was his understanding the NYSDOT may place a traffic circle in the location to eliminate the need for a signal. Mr. Hayes stated a signal, or a roundabout would help the situation and expressed concerns that the apartment project would finish before the NYSDOT project completion. Mr. Wood stated the first unit would be available in the spring of 2024; with all available by the end of the year.

Mr. Hayes questioned if the NYSDOT decided on a roundabout, would other owners be impacted. Mr. Schieber stated the NYSDOT provided an email that states the design team has yet to settle on a preferred alternative alignment at this time. A roundabout has been mentioned and as the design team moves forward, more information will be available. There will likely be a public comment period for residents. A roundabout will most likely have the NYSDOT claiming portions of property. As for the development of the site there is no reason to hold up progress, any driveway alignment decided upon can be worked into the newly designed intersection.

2022-04 (continued)

Mr. Frick questioned if the NYSDOT would have a take on the property and if so, would there be enough room to make everything still work. Mr. Wood stated the alignment would be looked at. Mr. Frick stated the impact on a roundabout on properties is usually very small as they are more compact.

Mr. Sherman stated concerns regarding public safety with children that would live in the apartment. The bus garage stated they would not send a bus into the complex to pick up children. The bus garage would not turn around in the area noted on the site plan and this would leave children waiting on Orchard Park Road in the winter; this is a huge safety concern. Mr. Lorigo stated these are one- and two-bedroom apartments and you will not find many children in a complex like this. This is not an uncommon situation; in similar situations there is a location in the front of the property for children to wait for the bus. A project like this substantially benefits the schools.

Mr. Sherman reiterated his concerns with the location of the intersection and public safety with children waiting for a bus regardless of a tax benefit and suggested the Hanley's place a structure for families to stand in while waiting for a school bus. Mr. Wood stated there is mail building and the sidewalk can be placed to allow the children to wait under the awning.

Mr. Sherman noted the Comprehensive Plan calls for public transportation and questioned if the NFTA has been contacted. Mr. Wood stated he can contact the NFTA.

The following public comments were received from Jeff Scroger, 46 W. Cranwood Drive, Frank Davoli, 1141 Orchard Park Road, John Glose, 133 East & West Road, Scott Ciura, 28 Laurelton Drive, Thane Hoffman 73 and 77 East & West Road:

- Concerns with the sewer report; the only change is the time frame from August to September – Mr. Hayes stated the sewer report was noted and corrected. The first and second report stated 28-units in the calculations and has been updated to show 45-units and 9,900 gallons per day. The letter from the Town Engineer is based on proper calculations.
- The application submitted states 40-units and the site plan calls for 45-units
- Concerns with sewage in the basement; the town frequently pumps sewage from the manhole to the storm
- A similar project was denied, and an appeal was won in 2021; an email regarding the appeal was provided to the Planning Board members.
- The C-1 zoning has been in place for many years and served the town well
- There is an existing tax base that should be considered; the Town of West Seneca Environmental Commission has expressed concerns with the waterways and dumping of sewage.

Mr. Schieber stated he is in receipt of correspondence from Town Engineer Steve Tanner that addresses the previous sewer study analysis and the error in the number of units and gallons. The letter states the revised study was completed after town forces were able to remove the blockage at the main. With the third revision only being the total flows due to increased number of units with the development, the results show during a normal day of dry weather flows there is excessive capacity for the sewage generated by this project. The data from the revised sewer study did show some surcharging into a manhole during a rain event; there was a rainfall intensity that approached $\frac{3}{4}$ " of rain per hour for 45-minutes. The backup was not caused by the sewer main that directly service this site, rather by the trunk mains that run along Cazenovia Creek, which flows to the City of Buffalo. Given the sewer flows are estimated to be 9,900 gallons per day for this project and that a new

2022-04 (continued)

sewer main will be installed within the project site that will limit the inflow and infiltration by the private source, this amount of sewer flow is statistically insignificant as compared to the overflows that occur during a rain event in the entire town.

Mr. Schieber stated every development contributes to the sewer issues in the town. This one seems to be not the individual lines from various streets but when they come together at the main trunk lines. The town has an agreement with the DEC where the town is to fix all the feeder lines before the bigger line is fixed. The town imposes sewer mitigation fees; if this moves forward the developer will pay thousands of dollars for various sewer repairs in this sewer district.

Mr. Hayes questioned what sewer district this project is in. Mr. Schieber stated this is district 13. Mr. Hayes stated sewer district 13 has been undergoing a large mitigation due to sewer issues. Mr. Schieber stated there is an agreement with the DEC to stop pumping sewer water into creeks. The town replaces main line sanitary sewer and slip lines. The Engineering Department performs home inspections to ensure residents storm water is not being discharged into the sanitary sewer line. Prior to the work being done there were thousands of calls a day for sanitary sewer backup; the number is now a few hundred during a major rain event.

- Expressed concerns with construction being completed by 2024 and the NYSDOT not knowing if they are placing a light or a circle; how much property would be lost – Chairperson Bebak noted this is a NYSDOT decision rather than a Town of West Seneca decision and has been in the works for some time and their project is happening regardless of the proposed project. Mr. Schieber stated the NYSDOT will formally notify residents who are affected.
- 45-units will be placed on 5-acres of land and property owners along East & West Road are on less than an acre. The density is too much for the flooding and storm sewers. Suggested single family homes in the area to fit in with the character of the neighborhood.
- Lower home values for residents and lighting concerns
- Was a rumor the developer backed out and this is unethical
- Sewage and traffic concerns
- Construction concerns
- Concerns with overloading the electric grid
- What type of riffraff will be renting; will this be like Garden Village Plaza apartments.
- Rent in Buffalo is less than the proposed rent.
- Will the renters' children have behavioral problems.
- Is the greenspace permanent or a placeholder for more apartments.
- Illustrated where a drainage ditch is located for pumping sewer water behind Flattery's; requested this be investigated – Chairperson Bebak explained tonight is just for zoning and issues like this would be addressed at site plan approval.
- What will keep tenants off adjoining properties; would not have purchased home knowing an apartment complex was going in.

Motion by Frick, seconded by McCabe, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

Mr. Schieber stated the Planning Board will be making a recommendation to the Town Board. The Town Board will make the final decision on the change in zoning and special permit and residents are notified of that meeting.

2022-04 (continued)

Mr. Hayes stated Flattery's pays a certain amount in taxes, and this property would do the same. This appears to be an offset of taxes versus infringing upon the current state of the affected homes. It is Mr. Hayes opinion that this is what he is looking at to recommend a zoning change. The Town Board, if approved, would send the applicant back to the Planning Board for site plan approval. There are many steps in this project and any one of them can derail the project.

Motion by Hayes, seconded by Bebak, to recommend approval of a rezone and special use permit for property located at 1130 and 1140 Orchard Park Road, being part of Lot No's. 372 and 373, changing its classification from C-1 and R-75 to R-50(s) for construction of the updated plan which includes a 45-unit apartment development.

Ayes: (4) Bebak
Frick
Hayes
McCabe

Noes: (1) Sherman

Motion Carried

Chairperson Bebak explained this application will now move on to the Town Board for final approval on the zoning change and special use permit; if approved, the item would return to the Planning Board for site plan approval. During the site plan approval process all the technical details would be worked out, i.e., drainage, lighting, etc. The meetings are public meetings with the agenda posted online.

NEW BUSINESS
SPR2022-12

A request of Seneca Greenhouse for site plan approval for property located at 2266 Transit Road for the construction of a new parking lot.

Jake Pohlman, attorney for the applicant, gave the following presentation:

- Seneca Greenhouse was before the Planning Board in 2010 for approval for the nurse business.
- The business has been growing and needs additional parking; the required number of spaces is 4 – 6 parking stalls and does not cover the number of employees.
- Holidays are especially difficult with cars stacked up in the front.
- The traffic along Transit Road is 5-lanes and a major thorough fair
- The applicant has 3.6 acres buffering to the north.
- The proposal is to add 38 parking spaces to the 3.6 acres along with an entrance to the north; the hope is to alleviate the stacking problem.
- The parking would be moved deeper into the lot with the front being aesthetically more pleasing.
- If the project is approved there would be a storm detention area in the northeasterly corner.
- Previously there has not been a fence as the neighbors preferred to leave 100' of existing greenspace; the new plan calls for a fence along the lot line with the good side facing the north and along the back to keep deer off the property.
- Any approvals would be subject to the eleven requirements by the Town of West Seneca Engineer.
- The NYSDOT will not approve a curb cut until the Town of West Seneca grants full approval.

