

## **Olean Planning Board Meeting Minutes**

**Monday, January 8, 2018  
Council Chambers  
Olean Municipal Building**

**Attendance:**

**Chairman:** Tom Barnes  
**Members:** Mary Fay  
George Pancio  
Mark Sabella  
Jerry Steiner  
Craig Polson  
Phil Smith

**Applicant:** Terence Brairton, Jahengo, LLC

**Staff:** Keri Kerper, CD Program Coordinator  
Kathleen Monroe, Sr. Account Clerk Typist

**Other(s):** Bob Clark, Olean Times Herald  
Linda Witte, Alderwoman Ward 1  
Daniel DeRose, Attorney  
Robert Simon, Attorney  
Ed Jennings, Code Enforcement Supervisor

### **1. Roll Call**

Chairman Tom Barnes called the meeting to order at 7:07 p.m. and requested the roll call show all members present.

### **2. Reading and approval of the December 11, 2017 meeting minutes**

A motion was made by Jerry Steiner, seconded by Mary Fay to approve the December 11, 2017 meeting minutes. Voice vote, ayes all. Motion carried.

**3. Old Business**

**i. The Broadway Group, LLC (SP#03-17) (SUP#02-17)  
1401 East State Street**

Ms. Kerper updated the Board and advised that The Broadway Group, LLC has met both conditions the Planning Board placed on the project. She explained the applicant provided documentation regarding New York State Department of Environmental Conservation's approval of the Storm Water Pollution Prevention Plan and the same documentation was submitted to Code Enforcement. She noted the Broadway Group, LLC was issued a building permit on 1/2/2018.

In response to Mr. Barnes' question, Ms. Kerper indicated she also has further backup documentation and emails that were placed in the file showing the conditions were met.

**ii. Jahengo, LLC (SP#04-17)  
1145 East State Street**

Mr. Barnes referred the Board to the memorandum received from Code Enforcement Supervisor Jennings stating there are no storm water issues, and after inspecting the plans/design, the project will meet all zoning and setback requirements in the district. It was noted Jahengo, LLC will be utilizing floor drains, an existing swale, catch basin and sanitary sewer.

Ms. Fay questioned if Mr. Brairton would be adding heat and insulation to the structure. Mr. Brairton explained he has no immediate plans to heat the pole barn; however, he may in the future. Ms. Kerper referred to the updated site plan noting it shows drainage and the catch basin.

A motion was made by Mark Sabella, seconded by George Pancio to approve SP #04-17, as submitted. Voice vote, ayes all. Motion carried.

**4. New Business**

**i. Forest Hills Development Referral**

Mr. Barnes explained the role of the Board is to provide comments and suggestions to the Common Council regarding the proposed Forest Hills Development per its referral. He explained the proposed development is in his neighborhood and he believes the project would cause him financial damage. Mr. Barnes then recused himself from discussion and comments on the project and members appointed Mr. Polson as Acting Chairman.

Mr. Polson stated the Board hasn't received adequate information on the project. Ms. Kerper explained, the documents referred to the Board may be commented on. Ms. Fay indicated no site plan has been submitted and the site plan is where the details would be. She noted confusion in the current scaled down single family information due to the

previous showing construction of duplex homes. Mr. Polson explained the layouts were from a previous proposal. He inquired if there was a proposal in the current format showing the buildings on the lots. In response to Mr. Polson's question, Code Enforcement Supervisor Jennings explained what was submitted to Code Enforcement was just a picture drawing, not the entire 52 buildings on the lots. Ms. Kerper explained she has one large site plan from the Code Enforcement file with setback and lot requirements which only shows the lots, that is available for viewing. She further explained the one page project description submitted by the applicant indicates the specifications of the proposed homes are 1,200 square feet, two bedroom, 1 ½ baths, patio, and handicap accessible. She noted the document speaks to the intent of the road and their proposed development.

Ms. Kerper advised the Board the Council referred the project for its initial review and recommendations. She explained a goal is to develop insight while adhering to the subdivision regulations with guidance from the City Attorney. Ms. Kerper further explained the Planning Board is not the governing body and the Common Council has not taken Lead Agency status on the project.

Mr. Sabella commented with a revised lot size of 50' x 155' the lots would not be in line with the surrounding properties. He noted the homes built in the area are of a higher quality with larger square foot plans.

In response to a comment from a member of the public, Ms. Kerper advised those in attendance, the meeting tonight is not a Public Hearing. Mr. DeRose again attempted to comment. Mr. DeRose advised his client is requesting a redivision of the subdivision of 42 existing lots created in 1987 to expand to 52. He explained construction and housing is not what has been submitted.

Mr. Simon introduced himself to the Board and advised he is the Attorney for Jim and Carol Stitt. He noted the Board has no sketch plans submitted by the applicant. He suggested to the Board to have the applicant submit sketch plans and supporting documentation, and urged the Board not to make a recommendation based on incomplete information. Mr. Simon commented the proposed project will lower the area home values. He then indicated another factor is design standards and if they are in harmony with the required subdivision regulations.

In response to Mr. Sabella's question, Ms Kerper advised a SEQR was previously submitted with the proposal for duplex homes but no SEQR for the single family homes has been submitted to the Common Council to date.

Ms. Kerper reiterated the Council referred the proposal in December and has given the Planning Board 30 days from its request to provide its initial comments and recommendations.

Mr. Polson noted the application is for a large scale subdivision for which the City should undertake a coordinated review to all Interested and Involved Agencies including the

Cattaraugus County Planning Board, Olean Planning Board, NYS Department of Transportation, Cattaraugus County Health Department and the Department of Environmental Conservation. He indicated the SEQR should be a Long Form Type I Action and the Council should perform a detailed SEQRA review regarding all areas covered in the Environmental Assessment Form, with a particularly strong focus on the proposed development's affects on traffic safety and community character.

Mr. Polson submitted a list of observations and recommendations he would like the Board to review and discuss for possible inclusion in the report to the Common Council. Members discussed the following:

### **General Observations for Common Council Review of Application and SEQRA**

1. The lower cost design and the size and style of the proposed houses, as well as the rental nature of the units, are all factors that are inconsistent with the character of the neighborhood of homes currently in the existing subdivision. The existing neighborhood consists of larger higher value homes that are individually owned and owner occupied. The scale, style, and density of the newly proposed units are completely out of character with those already established, and as such, this proposed development would result in decreased property values of other homes in the subdivision, which currently includes some of the highest assessment values in the City.
2. This is a neighborhood where there are buildable lots suitable for building higher cost/value homes, which could be attractive to upper income residents looking to build in the City. There is no other block of such buildable lots within the City limits. In concert with the ongoing efforts to improve downtown Olean to enhance quality of life and to entice new businesses and jobs to the City, the Common Council should consider this area as a potential economic development asset, which could help attract higher wage people to work and reside in the City.
3. The proposed development will result in increased traffic into and out of the subdivision, with only a single ingress/egress at Genesee Street. This is already an unsafe intersection for vehicles exiting Inwood Drive onto Genesee Street, and the level of traffic will ultimately more than double with the addition of 50 plus residences. The significant increase in traffic may also be a safety concern for pedestrians, as there are no sidewalks currently in the subdivision, and there are none planned for the proposed new development.
4. The location is not walkable for the stated target market of seniors. As there are no sidewalks planned, and the neighborhood is not close enough to shopping areas or medical facilities for easy walkable access. Again, with no sidewalks, this will be unsafe for pedestrians, particularly seniors and children. Residents will have to rely on cars or cabs.
5. There is no public transportation serving the development (OATS). This will be a problem for the senior target market, as the neighborhood is not close enough to shopping areas or medical facilities for easy walkable access.
6. The proposal is that the developer will act as landowner, leasing the homes out. Again, this is inconsistent with existing community character, as all the other homes in the subdivision are owner-occupied. Also, it is not clear that an absentee landlord would maintain the homes to the standard that an owner-occupant would. There is no guarantee that the neighborhood would not deteriorate over time. Additionally, consideration should be given to what will happen when title is eventually transferred in the future.

7. As of yet, the subdivision plan materials do not discuss or otherwise indicate any provision for sewer and water service. If this is to be City services, who is to build it and pay for it? Is the development covered by existing water and sewer districts? If not, then districts would have to be created or extended. This is not without cost, and an extension of the existing districts, or the creation of a multi-user district would require a public referendum. The Public Works Department will need to be involved regarding sizing and location of water and sewer lines, as well as storm sewers. Additionally, a Storm Water Prevention Plan (SWPP) should likely be developed by the applicant and approved by the Public Works Department.
8. With regard to electrical supply and heating, these are unknowns at this time. However, we do know that more than 50 homes will require these utilities, which is a significant impact for the neighborhood service. Questions that must be addressed are 1) How are the homes to be heated, electric or gas? 2) How does electricity get provided to the development? 3) Who will construct and maintain these infrastructures?
9. Street lighting should be consistent with other residential neighborhoods in the City. Lighting fixtures installed in the subdivision shall be the responsibility of developer. The lighting system shall be primarily for illumination of the streets and sidewalks. Design coordinated and approved by utility provider (National Grid).
10. The proposed development plan calls for phased construction of several units at a time. There is no ongoing control over a long-term build-out scenario. There is also no guarantee of the fiscal solvency of the developer. Should the developer become insolvent, then the City might have to take title of the development, or at least the roadway, which would then come with attendant maintenance obligations.
11. There is a question regarding wetlands within or adjacent to the proposed development site. Even if there are no wetlands on site, there is certainly a wetland area very near, if not adjacent, to the southwest edge of the development site. This is an issue that should be referred to DEC for disposition.
12. The entire City of Olean is listed as archeologically sensitive by NYS SHPO. Because this is a previously undisturbed site, an archeological study should seriously be considered.
13. Impacts on flora and fauna? The applicant should investigate whether or not any endangered species would be impacted and provide documentation to their findings (DEC website provides this information and U.S. Fish and Wildlife may also assist).
14. There is significant community opposition to this proposal. The OPB has traditionally rejected site plans and special use applications where there has been significant community opposition that is rooted in legitimate concern of a project's adverse impacts to the community character and/or quality of life in the neighborhood (eg., baseball dorm, soccer field, motorcycle club, etc.).
15. Due to significant neighborhood opposition to the proposed development, the Common Council can expect that the property owners in the Forest Hills Subdivision will litigate if the project is approved, and it is highly likely the City will be named in the litigation.

There was discussion among the Board members supporting the 15 points listed above pertaining to the proposed project. Ms. Kerper reiterated the project is preliminary and

when the site plan is submitted to the Council along with a SEQR then a coordinated review should be conducted and sent to all Interested and Involved Agencies.

In response to Ms. Fay's question, Mr. DeRose commented he learned of the Planning Board meeting via the Olean Times Herald, and he advised the owners/tenants for the development would be persons of 50 years of age or older.

Mr. Polson indicated he used the SEQR as a guide for his recommendations. Mr. DeRose commented the issue is not a SEQR, it is the number of units proposed, and the SEQR questions and comments are not relevant. Ms. Kerper advised that the SEQR questions and comments are relevant and that the applicant will be required to submit a SEQR. She explained the Council is looking for initial comments and the SEQR comments are recommendations for the Council to take into consideration at the appropriate time. She further noted the Planning Board is familiar with the SEQR process and it is offering guidance as it was requested to do.

Mr. DeRose advised if the Council turns down the proposal, the applicant could build on the existing 42 lots instead of 52 and no one could stop them. He explained the applicant would like to accomplish the goal in a way that helps everyone. Mr. DeRose referred to the location as a "dead area" with only 2 dwellings erected in the past 15 years and that the proposed building location currently generates no tax revenue.

Ms. Fay noted she was trying to stay objective due to the assumptions of what would be constructed. Mr. Smith agreed with the Board, noting once they receive a SEQR the Board can continue review and discussion.

Mr. Polson explained even though their comments are part of a preliminary review, he indicated if this was before the Board today he would vote to declare a Positive Declaration by reason of community character and public safety issues under SEQR review.

Ms. Kerper suggested to take into consideration the Council may refer it back to the Planning Board for an in-depth review once the required documents and plans on the proposed 52 lots are submitted to them. She indicated the Planning Board and Common Council will continue to seek guidance from the City Attorney on the Subdivision Regulations procedures.

The Board asked Ms. Kerper to add lot size, traffic safety and emphasize community character in the report to the Council. The Preliminary Review/Comments Report from the City of Olean Planning Board to the Common Council is included as an attachment to the meeting minutes.

A motion was made by Mary Fay, seconded by Phil Smith to direct Ms. Kerper to prepare the Report on behalf of the Planning Board and forward it to the Common Council. Voice vote, ayes: Mary Fay, Phil Smith, Craig Polson, George Pancio, Jerry Steiner, and Mark Sabella. Abstaining: Tom Barnes. Motion carried.

**i. Allegheny River Public Access & Recreation Plan**

Mr. Polson turned the Planning Board meeting back over to Chairman Barnes.

Mr. Barnes referred the Board to the copy of the plan (which was consultant prepared with input from the City of Olean and partnering communities) and a memorandum from Ms. Kerper regarding Common Council Lead Agency and SEQR review. He indicated the City is looking for comments from the Board with respect to the SEQR and Plan. Ms. Kerper explained the Plan will ultimately be used as a guide and tool to steer future projects. Ms. Kerper advised she sent the SEQR (Parts I & II) out to all Interested and Involved Agencies requesting their review and concurrence for the Common Council to serve as Lead Agency. Ms. Kerper noted it is a Type I Action and the Interested and Involved Agencies have 30 days to respond. Mr. Barnes requested the United States Army Corps of Engineers be added to the list of Interested and Involved Agencies. Ms. Kerper noted she will check the list to make sure it was sent the memorandum & SEQR. She indicated it is an overall Plan that would ultimately be adopted by the Common Council; however, each individual project would be subject to SEQR review.

In response to Mr. Barnes' question, Ms. Kerper advised the City Council would be Lead Agency only for projects located in the City of Olean and adoption of the Plan; each community has their own governing body that would take action accordingly with Plan adoption and individual project implementation. She then noted the Plan has been referred to the Cattaraugus County Planning Board for its review and recommendation at its 1/25/2018 meeting.

**5. Miscellaneous**

**i. GML Section 239-l. –m, -n Referral Exemptions – Cattaraugus County Planning Board**

Ms. Kerper advised she received a template from the County depicting what other communities have adopted, and she is working with Code Enforcement Supervisor Jennings on updating the exemptions. She indicated when they've completed the task she will report back to the Board.

Ms. Kerper informed the Board of the retirement of Phil Smith. She then thanked him for all of his hard work and years of dedication to the Planning Board. She explained Mayor Aiello has appointed Christopher Chapman to fill the position beginning February 1, 2018.

Mr. Barnes thanked Mr. Smith for his 25 years of service and expertise. He explained Mr. Smith has been our "voice of reason" and will be notably missed.

**6. Next Meeting Date**

The next Planning Board meeting has been scheduled for Monday, January 22, 2018, if there is business.

**7. Adjournment**

Motion to adjourn was made by Craig Polson, seconded by Mary Fay. Voice vote, ayes all. Motion carried. The meeting ended at approximately 8:00 p.m.

## **REPORT**

**TO:** Common Council Members  
Mayor William Aiello  
City Attorney Nicholas DiCerbo, Jr.

**FROM:** CD Program Coordinator Keri Kerper

**DATE:** January 9, 2018

**SUBJECT:** Preliminary Review/Comments from the City of Olean Planning Board (OPB) on Forest Hills Subdivision Development

Per the Common Council's referral, below you will find a compiled list of suggestions and comments from the Planning Board at its 01/08/18 meeting with respect to its preliminary review of the above-referenced project.

### **Comments on Forest Hills Subdivision Project**

Because the application is for a Large Scale Subdivision, the Common Council should undertake a coordinated review to all interested and involved agencies (i.e., OPB, DOT, DEC, County Health Department, County Planning Board). This review should be a Long Form Type I Action. The Common Council should perform a detailed SEQRA review regarding all areas covered in the Long Form EAF, but with a particularly strong focus on the proposed development's effects on traffic safety and community character. Additionally, the Common Council should act consistently with the manner in which the OPB addresses the SEQRA process.

### **General Observations for Common Council Review of Application and SEQRA**

1. The lower cost design and the size and style of the proposed houses, as well as the rental nature of the units, are all factors that are inconsistent with the character of the neighborhood of homes currently in the existing subdivision. The existing neighborhood consists of larger higher value homes that are individually owned and owner occupied. The scale, style, and density of the newly proposed units are completely out of character with those already established, and as such, this proposed development would result in decreased property values of other homes in the subdivision, which currently include some of the highest assessment values in the City.
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3. The proposed development will result in increased traffic into and out of the subdivision, with only a single ingress/egress at Genesee Street. This may be deemed an unsafe intersection for vehicles exiting Inwood Drive onto Genesee Street, and the level of traffic will ultimately more than double with the addition of 50 plus residences. The significant increase in traffic may also be a safety concern for pedestrians, as there are no sidewalks currently in the subdivision, and there may not be any planned for the proposed new development.
4. The location is not walkable for the stated target market of seniors. Sidewalks may not be planned, and the neighborhood is not close enough to shopping areas or medical facilities for easy walkable access. With no sidewalks, this would be unsafe for pedestrians, particularly seniors and children. Residents will have to rely on cars or cabs.
5. There is no public transportation serving the development (OATS). This may be a problem for the senior target market, as the neighborhood is not close enough to shopping areas or medical facilities for easy walkable access.
6. The proposal is that the developer will act as landowner, leasing the homes out. This is inconsistent with existing community character, as all the other homes in the subdivision are owner-occupied. Also, it is not clear that an absentee landlord would maintain the homes to the standard that an owner-occupant would. There is no guarantee that the neighborhood would not deteriorate over time. Additionally, consideration should be given to what will happen when title is eventually transferred in the future.
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developer. The lighting system shall be primarily for illumination of the streets. Design coordinated and approved by utility provider (National Grid).

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  11. There is a question regarding wetlands within or adjacent to the proposed development site. Even if there are no wetlands on site, there is certainly a wetland area very near, if not adjacent, to the southwest edge of the development site. This is an issue that should be referred to NYSDEC for disposition.
  12. The entire City of Olean is listed as archeologically sensitive by NYS SHPO. Because this is a previously undisturbed site, an archeological study should seriously be considered.
  13. Impacts on flora and fauna? The applicant should investigate whether or not any endangered species would be impacted and provide documentation to their findings (DEC website provides this information and U.S. Fish and Wildlife may also assist).
  14. There is significant community opposition to this proposal. The OPB has traditionally rejected site plans and special use applications where there has been significant community opposition that is rooted in legitimate concern of a project's adverse impacts to the community character and/or quality of life in the neighborhood ( eg., baseball dorm, soccer field, motorcycle club, etc.).
  15. Due to significant neighborhood opposition to the proposed development, the Common Council may expect litigation from the property owners in the Forest Hills Subdivision, if the project is approved.
  16. There are a lot of assumptions on what would occur on the lots.
  17. The lots are small.
  18. Once detailed materials have been submitted by the applicant to the Common Council, please forward to the Planning Board for review and comment.
- C: City of Olean Planning Board Members  
Fire Chief Robert Bell  
Code Enforcement Supervisor Ed Jennings  
DPW Director Bob Ring