

## **Town of Kendall Planning Board Special Meeting**

October 10, 2012 7:00 p.m.

Chairman Gray opened the meeting at 7:03 p.m.

Planning Board members present: Chairman Paul Gray, Joyce Henry, Bruce Newell, Jeff Conte, Phil D'Agostino

Also present, Town Supervisor Gaesser, Town Clerk Richardson, Deputy Town Clerk Bakutis, Deputy Code Enforcement Officer Strong, David Wegman, Dan Wegman, Matt Tomlinson of Marathon Engineering, Don Beers, John and Ishbel Lennon, Mr. and Mrs. Clement, Dan Pixley, Tyrone Whitehair, Larry Gurrslin, Don Nichols from Hamilt, three unidentified observers.

Chairman Gray welcomed those present, and reviewed the process thus far of the Planning Board's assessment of the Wegman Group application for a development project at Troutburg on Countyline Road. After much review and work, the Planning Board is now in a position to present its recommendations to the Town Board. The site plans are not approved by the Planning Board. That is a responsibility of the Town Board. The Planning Board role in this stage of the process is to act as a reference to and make recommendations to the Town Board to use in its review and decision process.

Chairman Gray asked that Joyce Henry's suggestion of including an update to the Association Rules be added to the recommendations.

Planning Member Newell read, and Planning Member Henry made a motion to adopt the following resolution and attachment, seconded by Planning Member Conte:

### **Resolution Issuing Recommendation To The Town Board of the Town of Kendall Regarding The Cottages At Troutburg Project**

WHEREAS, The Wegman Group (the "Applicant") has submitted an application (the "Application") to the Town of Kendall (the "Town") to develop a three-season cottage resort located on approximately 125 acres of land in the Town (the "Project" or "The Cottages at Troutburg") pursuant to Local Law No. 1 of 2012 entitled "A Local Law Authorizing the Creation of Waterfront Planned Development Districts in the Town of Kendall" (the "WPDD Local Law"); and

WHEREAS, the Town Board reviewed the Application and determined that it was complete pursuant to WPDD Local Law § 6(c); and

WHEREAS, the Town Board, pursuant to WPDD Local Law § 6(c), referred the Application to the Town of Kendall Planning Board (the "Planning Board") for its review and recommendation; and

WHEREAS, pursuant to WPDD Local Law §§ 6(e) and (f), the Planning Board has reviewed the Application and has applied the criteria set forth in the WPDD Local Law; and

WHEREAS, as part of its review the Planning Board has considered whether the Project is consistent with the Town's Comprehensive Plan and the Town's Local Waterfront Revitalization Program ("LWRP");

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Town of Kendall that:

1. The Planning Board hereby recommends to the Town Board the following:

a. that the Project and its Site Plan, be approved, with the conditions as noted herein;

b. that the Town Board require the Site Plan be updated to comply with all of the agreed modifications during the Planning Board's site plan review;

c. that the Town Board require an updated landscape plan to include thorny bushes along the western boundary buffer zone;

d. that the Town Board condition any approvals with a requirement that each phase of development shall be completed, including infrastructure, before a certificate of occupancy is issued for any part of that phase;

e. that the water supply analysis be completed to the satisfaction of the Town Engineer and the Town Board;

f. that the fire hydrant locations meet the recommendations of the Morton Fire Company;

g. that the Town Board address concerns regarding the safety of the fire pits;

h. that the cottage size be set at a minimum of 300 square feet; and

i. that all applicable and required federal, state, and local permits be obtained for the Project, including, but not limited to, permits from the U.S. Army Corps. of Engineers, the New York State Department of Environmental Conservation, the New York State Department of State, the New York State Office of General Services, the Orleans County Health Department, and the Town of Kendall.

2. The Planning Board adopts the attached findings and decision document and incorporates it into this Resolution.

3. This Resolution shall be effective immediately.

After an examination period, and minor changes to the attachment, a discussion was held, including the assurance that this review process will now continue with the Town Board, and that the Planning Board still has the responsibility of conducting its Consistency Review, and the site plan is certainly not finalized at this point – the Town Board will be charged with considering and carrying out the recommendations to get to a preliminary plan, after a public hearing. Planning Board work over the past months will be heavily considered.

Chairman Gray asked for a roll call vote, with the following results:

Jeff Conte	aye
Phil D'Agostino	aye
Joyce Henry	aye
Bruce Newell	aye
Chairman Gray	aye

Chairman Gray declared the resolution passed.

The following is the corrected referred to attachment:

The Town of Kendall Planning Board Review and Recommendation of The Cottages at Troutburg

### **1.) Project Description**

The Wegman Group is proposing a three-season cottage resort on land located on the lakeshore of Lake Ontario in the far northeast corner of the Town of Kendall. The 125 +/- acre site owned by the Salvation Army is bounded by the Monroe-Orleans Countyline Road on the east, Lake Ontario to the north, Norway Heights residents, woods and farmland to the west, and Lake Ontario State Parkway to the south.

Part of the existing site was purchased by the Salvation Army, a nonprofit organization, in 1940 and developed over time as a summer camp for underprivileged children and used also by Boy Scouts, Girl Scouts, and local schools and church youth groups. Over the years, three additional parcels were added to the original purchase. The camp portion has paved roads, a large lawn area, dormitories, a cafeteria, many activity and storage buildings, a large swimming pool and a large 1900's cottage style house. The remaining land is dominated by brush and forest, several small federal designated wetlands, a small unnamed stream, and agricultural land rented to a local farm operation. In the 1990's and early 2000's the camp activities wound down and, for the most part, by 2003 stopped altogether. The property has been for sale for the last 5 + years. Many of the buildings have deteriorated and would be removed as part of the development.

The development will be a gated community on a single parcel of land. The Wegman Group will own the land and enter into long term lease agreements for the land on which the individually and privately owned cottages will be placed. The Wegman Group will own and maintain the property, amenities and infrastructure and provide services that include lawn care, garbage removal, etc. This will ensure that each resident will have access and can enjoy the entire property.

The Wegman Group's vision is to provide affordable lakefront living, a return to nature, preserve open space, with a minimal footprint and simple living design. Amenities will include fishing ponds, walking trails, swimming pools, picnic areas, access to the beach, and personal, non-power watercraft.

## **2.) Consistency with the Town of Kendall Comprehensive Master Plan**

### **Residential Development Policies**

Residential development shall achieve variety by integrating **various types and densities of housing** throughout the Town of Kendall.

Major residential developments shall include **sufficient open space and recreation areas** to meet the needs of the residents of the development.

High-density residential uses shall be located in areas which are convenient to basic services, including **recreational resources**, commercial facilities, schools, **major transportation corridors, and public utilities**.

### **Commercial Development Policies**

It shall be the policy of the Town of Kendall to retain, encourage, and promote the location and growth of commercial development within the town.

Commercial development shall be encouraged to locate within areas served by public services such as water and/or sewer, and major highway transportation facilities.

### **Cluster Development Policies**

The Town of Kendall shall explore zoning provisions to increase land use densities within high-density development areas.

Cluster development shall be encouraged where appropriate to reduce the costs of providing public services and to keep land in open space or to make it available for recreation.

The Town of Kendall shall encourage developers to **design innovative housing** developments using measures such as cluster and **planned unit development**.

### **Coastal and Inland Water body Policies**

It shall be the policy of the Town of Kendall to preserve, enhance, and expand the use of the Lake Ontario shoreline and its tributaries as a recreational and natural resource.

Water-dependent uses as described above shall be encouraged to locate in areas with adequate space for public access, and in areas with natural site characteristics that will reduce the amount of dredging, filling, and earthmoving necessary for construction of such facilities.

Stripping of vegetation, land grading and filling shall be discouraged along the shoreline of Lake Ontario and its tributaries, and **tree planting and re-vegetation shall be encouraged so as to enhance the natural wooded character of the shoreline**, maintain soil stability, prevent erosion and sedimentation, and to regulate water temperatures for fish habitation.

Development in the shoreline areas of Lake Ontario, in addition to conforming to the above policies, shall be in conformance with the policies established in the Kendall-Yates-Carlton Local Waterfront Revitalization Program (LWRP).

### **Wetland Policies**

It shall be the policy of the Town of Kendall to maintain state and federally-designated wetlands in their natural state, to prevent draining, filling and development within their established boundaries, and to maintain the natural water levels of these areas, by regulating development that would modify these levels.

The Town of Kendall shall support conservation of wetlands to ensure their preservation and longevity.

### **Floodplain Policies**

It shall be the policy of the Town of Kendall to discourage development within the flood hazard areas of the Lake Ontario shoreline and its tributaries in order to minimize property damage and to keep these areas potentially for public recreation.

All development within flood hazard areas shall be designed to withstand flood damages by meeting federal flood insurance standards, and shall be designed so as to not have an adverse effect on the flow of floodwaters.

Development within flood hazard areas, in addition to conforming to the above policies, shall be in conformance with the standards established in the Local Law No. 1 for Flood Damage Prevention, 1987 and the Kendall-Yates-Carlton Local Waterfront Revitalization Program (LWRP)

### **Drainage Policies**

It shall be the policy of the Town of Kendall to minimize the modification of natural drainage systems by preserving, where possible, existing vegetation, topography, and natural drainage patterns.

Adequate drainage facilities shall be required to accommodate natural storm water and increased surface water runoff anticipated as a result of development. Culverts, drainpipes, retention and detention basins, and similar facilities shall be designed using current engineering standards.

Conservation easements shall be encouraged along natural drainage systems to preserve these areas, and to make the drainage systems available for channel enlargement or cleaning, if proven necessary.

The policies set forth for wetlands and floodplains shall be strictly administered to prevent the undesirable modification of natural drainage systems.

### **Sewage Disposal System Policies**

The Town of Kendall shall require Orleans County Health Department review and approval of all sewage/septic disposal systems, and shall encourage the upgrading of existing private septic systems posing a threat of pollution.

### **Transportation Policies**

New development shall be encouraged to provide accommodations for pedestrians and bicycle circulation, and every effort shall be made to provide organized circulation facilities to schools, commercial centers, recreation areas and similar uses.

### **Recreation Policies**

The Town of Kendall, in its review of residential, commercial and light industrial development proposals, shall recommend that all such proposals include appropriate lands to meet the needs of the population for both active and passive recreation.

### **Open Space Policies**

Increased emphasis shall be given to identifying potential open space opportunities and in developing an open space system which links active and passive recreation areas.

The Town of Kendall shall require major new developments (residential, commercial and industrial) to preserve the integrity of existing natural open areas through the proper design and planning of such developments.

### **Kendall Special Attorney Input:**

To: Letter to Dan Gaesser TOK Supervisor

Date: March 26, 2012

Subject: The Cottages at Troutburg - Consistency with Comprehensive Plan

The final Paragraph states:

“Since the Cottages project is a mix of water-enhanced/water-dependent uses, expands use of waterfront land that was an unused camp, and provides water-related recreation as a multiple use, it is consistent with the LWRP and the Comprehensive Plan”

Charles Malcomb

## SITE PLAN REVIEW

### (1.) The need for the proposed land use in the proposed location:

The Cottages at Troutburg would not exist without a waterfront location. The application is for a three season cottage resort providing affordable lakefront living with preservation of open space, minimal footprint and simple living design.

The LWRP references cottages as a water-enhanced use. 2900 feet of lakefront provides scenic vistas. The land has gently rolling hills to add interest to the site. Fishing, swimming, and canoeing/kayaking are considered water dependent uses.

The site has a large area of mature trees, an existing water line and access to major highways.

### (2.) The existing character of the waterfront and the neighborhood in which the uses will be located:

To the north of the proposed project is Lake Ontario with approximately 2900 feet of shoreline.

To the west is Norway Heights, a private road with approximately 23 single-family lakefront, year round homes on 28 lots covering a distance of approximately one-half mile along the shoreline. The next westerly private road on the lakeshore is Bald Eagle Drive with 33 lakefront year round homes.

Norway Heights was originally laid out with 60 foot lot widths with approximately 0.4 acre per lot and 5 foot side setback requirements. In looking at housing density, approximately 50% of the homes are separated by 20 feet or less.

Bald Eagle Drive has 33 homes, with 64% built on 75 foot lot widths and an average lot size of approximately 1/3 acre. Twenty four homes, or approximately 73%, have house to house separation of 20 feet or less.

Looking further southwest the area is forest and farmland.

To the south is the Lake Ontario State Parkway. The proposed project abuts the Parkway right-of-way.

To the east are three homes abutting the project. On the east side of the Monroe Orleans Countyline Road is an undeveloped area with a deteriorated hotel from the 1800's. Farther east is the Troutburg-Beachwood waterfront community.

Based on the surroundings, the proposed project of three season cottages with water enhanced and water dependent activities is consistent with the area land uses.

(3) The pedestrian circulation and open space in relation to structures:

There is sufficient open space and space for pedestrian circulation in relation to structures. The building setbacks as proposed are adequate with respect to these issues.

(4) The traffic circulation features within the site and the amount, location and access to automobile parking areas; the impact of the proposal on existing transportation systems:

(a) Ingress and egress

- The ingress and egress as currently proposed in the site plan are adequate for the Project.

(b) Road layout

- Roads must meet all NYS fire access code requirements (20 feet road widths increasing to 26 feet at fire hydrants).

(c) Parking areas

An average of approximately 2 ½ parking spaces per cottage are provided. The Planning Board is satisfied that this meet the needs of the project.

- The remaining 90 degree parking spaces on one way roads need to be changed to angled parking.
- Handicap spaces provided by request should be identified by a staked blue handicap sign that is ADA compliant.
- Guest parking areas should be identified by signage at the main entrance.

(d) Loading areas

The applicant has stated that no truck traffic will be allowed beyond the gate. Parcel delivery will be handled through the on-site manager.

Postal packages will utilize a locked drop box.

(e) Traffic control

All on-site speed limits will be 10 mph. There will be signage sufficient to control low speed traffic at the site.

(5) The adequacy of the proposed public/private utilities, including water supply, sewage treatment and storm water drainage facilities:

Water Supply

A 12" plastic water main with hydrants runs in an east-west direction through the property. The water is supplied by the Monroe County Water Authority (MCWA). A portion of the project is located in the TOK water district #5. The developer will install a looped, private water system within the development that provides water to each cottage. The private system will include 12", 8", and 6" plastic lines with private hydrants. Flow rates measured at a MCWA hydrant was determined to be 1200 gpm.

## Fire

- LaBella Associates and Marathon Engineering to continue flow analysis calculations.
- Base on the joint review, LaBella Associates and the MCWA to sign off on final calculations.
- Before any Certificate of Occupancy is issued, flow testing to be performed on each hydrant to verify it meets calculated model and Health Dept. requirements.
- Flow rates of hydrants to be identified in a manner which allows fire responders to choose the best action to fight a fire.

## Sewage Treatment

The project will be serviced by a private package plant sanitary sewer system.

During the one year monitoring period the odors also need to be monitored to determine the effectiveness of the equalization tank and system for odor control.

- Monitoring Data is to be shared and provided to the Town
- Final approval of system by DEC

## Stormwater

The Applicant has developed a Storm Water Pollution Prevention Plan

(“SWPPP”) in Construction Activity, which complies with or is equivalent to the NYS Storm water Design Manual. The Planning Board finds that the Project SWPPP adequately controls storm water both during and post construction. The Planning Board recognizes and approves of the use of green infrastructure for the Project.

- (6) The height and bulk of buildings and their relation to other structures in the vicinity:

No issue. Color scheme to blend with surrounding area.

- (7) The proposed location, type and size of display signs, driveways and/or loading zones and landscaping:

Street signs to be reflective lettering. The entrance sign as submitted was approved with the condition it will be lighted at night. The landscaping plan was approved, including planting of a minimum of 1500 trees.

- (8) The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general:

Buffering zone – A 50’ side set back was approved. A buffer will be created using a variety of trees including a security row of thorny bushes in lieu of a security fence, along the western boundary line. It will minimize noise and light spillage.

(9) Impact on the waterfront, including preservation of resources, open space, and recreational activities:

Environmental impact –

Noise – noise level is not industrial in nature, and will be noise resulting from normal activities of a residential area. No significant traffic noise. This area has been a children's' camp.

Firepits – Safety – a ready means of extinguishing should be available.

Air quality – Planning Board determined that the impact would be minimal and only that of normal residential use.

Visual impact – the Planning Board determined to accept plans as presented. Landscaping and building design are acceptable as proposed.

Erosion and preservation of open spaces and natural resources – the Planning Board felt the plan would have a positive impact in these areas.

Open space – The project is being developed utilizing green infrastructure techniques and standard storm water management practices.

Recreational activities – considered consistent with water enhanced and water dependent uses of the lakefront.

(10) Economic benefits and costs.

Benefits

During construction the Wegmans will be employing contractors to develop the site, install services, construct buildings and roads, install ponds, and develop shoreline protection. Up to two thousand trees are planned to be purchased from local nurseries along with grass seed and plants. While no figure has been given, this has the potential of being a multi-million dollar development.

At full build-out approximately 26 full and part time jobs are expected to be created. Cottage residents will be purchasing food and other personally needed items from local retail businesses, service stations, restaurants and local marinas, etc.

It is expected, through negotiations with the Town Board, that Water District #5 water users will see the individual burden of repaying a bond loan now shared by 82 units reduced by the build-out of the project.

The Salvation Army is a tax exempt entity and the site has been tax exempt for decades. It has been estimated by the Wegman Group that the tax revenue generated by this project at full build-out could approach \$1,000,000.

## Costs

It is expected that there will be an increased burden for Town Clerk services along with Code enforcement, which collects fees. Summer youth programs may increase. No additional cost to the school is expected.

The Morton fire district will see its district increase in size. At this time they are comfortable with the capability they have. With the increase in tax revenue there is the potential to add needed equipment as necessary. Ambulance is provided by the Kendall fire Department and Monroe Ambulance.

(11) Such other matters as the planning board may consider pertinent.

### RECOMMENDATIONS:

- a. that the Project and its Site Plan be approved, with the conditions as noted herein;
- b. that the Town Board require the Site Plan be updated to comply with all of the agreed modifications during the Planning Board's site plan review;
- c. that the Town Board require an updated landscape plan to include thorny bushes along the western boundary buffer zone;
- d. that the Town Board condition any approvals with a requirement that each phase of development shall be completed, including infrastructure, before a certificate of occupancy is issued for any part of that phase;
- e. that the water supply analysis be completed to the satisfaction of the Town Engineer and the Town Board;
- f. that the fire hydrant locations meet the recommendations of the Morton Fire Company;
- g. that the Town Board address concerns regarding the safety of the fire pits;
- h. that the cottage size be set at a minimum of 300 square feet;
- i. that all applicable and required federal, state, and local permits be obtained for the Project, including, but not limited to, permits from the U.S. Army Corps of Engineers, the New York State Department of Environmental Conservation, the New York State Department of State, the New York State Office of General Services, the Orleans County Health Department, and the Town of Kendall; and

j. that the Association Rules be updated.

Chairman Gray allowed public input:

Dan Pixley – asked why this is being “rushed”?

Chairman Gray responded that this portion alone was allowed 62 days. The Planning Board and Town Board have done extensive work - reading, researching, meetings and work sessions, and examining the changing plans. Chairman Gray said the role of the Planning Board is to conduct a review based on several aspects of health, safety, and welfare, and to pass its findings and recommendations on to the Town Board. Chairman Gray is comfortable with the review process, and that the recommendations are complete. The site plans will, of course, continue to change.

Mr. Pixley - said he does not think that Section 6 of Local Law 1 of 2012 has been done to his liking. Mr. Pixley asked if the 20 items listed by the Town Board at its presentation of the plans to the Planning Board have been provided.

Chairman Gray said, “Yes”.

Mr. Pixley said that item 20 on that list was a schedule of the completion of the buildings, and so the job is not complete as to 22 items of interest.

Chairman Gray said that will be part of the final site plan review. The Town Board determined the completeness of the application, prior to submittal to the Planning Board. All submissions of the developer have been studied in depth. The Planning Board acts as a referral agency.

Mr. Pixley said under Section I of the law, the Town Board may act by approving, approving with conditions, or denying the application. Mr. Pixley accused the Planning Board of not doing its due diligence in providing the Town Board the proper information.

Bruce Newell answered by reiterating that the tapes and meeting notes and minutes need to be gone through thoroughly and documented.

Mr. Pixley complained that the Town Board could now choose to ignore the recommendations.

Bruce Newell and Joyce Henry acknowledged that is true, and by design. Chairman Gray explained that is the difference in the roles between the two Boards. The Town Board can ask for additional help and information at any time from the Planning Board. The Town Board is the ultimate authority.

Jerry Clement – asked if the Planning Board feels it has had adequate time to explore this and have intelligent discussion among themselves, and to reach out to professional agencies, and to present to the Town Board a well-thought-out analysis of this project, or did it feel pressured by the 62 day requirement in the law?

Chairman Gray responded that he feels his board has had and taken adequate time. The board has worked with the engineers for the town, LaBella Associates. There has been extensive discussion with the Wegman Group and its engineer, Marathon. Special legal counsel has been sought and

provided. Code Enforcement has been extensively involved. The site plans have been changed several times to accommodate suggestions. The DEC, NYS Department of State, U.S. Corps of Engineers, and the Orleans County Department of Health have been consulted on many issues. Multiple analyses have occurred. Many, many hours and a great deal of co-operation have resulted in a thorough review.

Bruce Newell stated that experts will be more involved as the permitting process begins. This process is ready to move to the next stage. The Planning Board has done its job to its capability.

Mr. Clement said he thinks they have done well for having to rush.

Chairman Gray said they have not rushed. Time has been taken for extensive, and in some cases, exhaustive discussion, and the impact on neighboring residential properties has been foremost in many of those discussions and considerations. Chairman Gray also reminded those present that in the Town of Kendall's Zoning Ordinance, a development IS and has been an allowed use for this area. This property has been for sale by the Salvation Army for several years, and it will sell. Everything necessary has been done.

Mrs. Lennon – asked about the Health Department's involvement, and asked if tonight's resolution will be available to the public.

Chairman Gray said the O.C. Health Dept. will be involved with water issues. Town Clerk Richardson said tonight's resolution will be available immediately for public review.

Don Nichols, Hamlin resident – asked if the Salvation Army still owns this property.

Supervisor Gaesser the Wegman Group is under contract to buy this property. The transaction is pending.

Chairman Gray adjourned the meeting at 8:09 p.m.

Respectfully Submitted,

Amy Richardson  
Kendall Town Clerk

