

Minutes

Village Board of Trustees

October 15, 2009

A **Special Meeting** of the Village of Horseheads Board of Trustees was held on the above date at 5:00 p.m. Present were:

Village Board and Staff:

Mayor Donald Zeigler
Trustee Ronald Swartz
Trustee Walter Herbst
Trustee George Koliwasky
Trustee Suzanne Peters

Village Attorney John Groff
Clerk-Treasurer Sharron Cunningham
Fire Chief Arthur Sullivan
DPW Chris Lawrick
Code Enf. Bob Young
Manager's Assistant Rachel Baer
Ron Sherman, MRB

Others:

Dave Padgett, W. Franklin St.
Val Rohver, Ridge Rd.
Mike Manzari, Corning
Howard Miller, Susnet Dr.
Ken Andrus, Lynhurst Ave.
Ray & Lorie Cass, Redwing Lane
Dan Bury, Westlake St.
Jim Benedict, Old Ithaca Rd.
Tess Banfield, Catalpa Dr.
George Miner, STEG
Joe & Elizabeth Danaher, South Ave.

Bill & Tess Danaher, Steuben St.
Stan Casselbury, Horseheads
Dave Blauvelt, Erin
Mike Swasta, Horseheads
John & Audrey Dunlap, Horseheads
Kevin Kessler, Horseheads
Jean Quinn, Gardner Rd.
Lisa Gole, Meadowlark Rd.
Neva Knisely, Waktins Rd.

Atty. Groff stated that this meeting is regarding Site Plan Review of the Schlumberger project.

The Board referred to their copies of the Village Codebook and began their review. Discussion focused on the following code sections.

Article XII, M1 Industrial Zone

246-69 - Under Permitted Principal uses, falls under A and B.

245-71 talks about special uses and 245-72 has to do with minimum lot requirements. Checked with Code Enf. They are within the requirement for that.

245-74 - Height Restrictions

Checked on silo height. They do come within the 50 ft. req. See no problem with this

245-75 - Max Lot Coverage

It is less than the 40% requirement. Performance Stds. covered under 245-124.

Article XIX. Special Uses and Site Plan Review

245-119 - Special Use and Site Plan Approval

Under this section, sub-paragraph C talks about requirements of design, drawings, etc. regarding how they are prepared, signed, etc.

Received signed affidavit from engineer regarding this signature.

245-120, Preliminary Application and Approval

A. Preliminary Application. Possible to both submit preliminary and final. Which is what this applicant has chosen.

Economic analysis - was received and notarized. Meets with Board's approval.
Costs of projects exceeding 100,000 - in addition to annual report, financial stmts indicate they have financial capability. Internally financed - no outside funding sources.

Area map showing everything within 500 ft. Map is here, shows everything.

Sub-paragraph 1(e) 1-14 lists requirements for site plan document:

Site plan includes all these necessary requirements.

Question on fence - 6 ft plus 1ft.

If there is barbed wire on top that would have to be measured. It is possible to grant waiver for this limitation if you feel its appropriate. Usually used for residential zones.

Discussion - Make it a condition of approval.

County taking over sewer line. Existing privately owned system would become part of Chemung County Sewer District's own system prior to completion of project. Water supply is from the village.

Outdoor lighting ok. Change in lighting - they downsized poles and wattage.

landscape architect certified

2a - Evidence of community needs, yes.

2b - Comprehensive Plan, one on file is many years old. Working on updating.

2c - Staging, ok.

B. Preliminary Approval.

2a-i:

Vehicular traffic - revised site plan makes traffic patterns safer.

Pedestrian traffic - confined to admin area, separately accessed from E street.

Off street parking and loading - ok

Size of buildings, etc. - very well organized

Relationship of the uses - improved in site alternate plan.

Arrangements of trees, etc., yes its covered

Stormwater and sanitary waste disposal - covered in SWPPP - sanitary sewer issue in process of being deeded over.

Flooding/ponding - covered under SWPPP

Any other matter - all of these environmental issues have been covered in SEQR review.

245-121 Final Application and Approval.

Planning Board conducted review and analysis, and recommended approval, then recommended approval on site alternate also.

Affidavit of Mailing - it is on file.

245-122, Special Provisions

A. SWPP - provided by Jimmie Joe Carl in conjunction with our engineer, those comments in our engineer's recommendations.

B. Storage and accumulation of refuse - outlined in the construction plans. Plans reflect that contractors will be responsible for refuse containment and appropriate disposal on a daily basis

C. Emergency vehicles - fine.

D. Landscaping - been provided by a landscape architect.

E. Expend project funds for landscaping based upon total project costs. General contractor has provided statement it will equal or exceed 1 ½%.

Aeration fountains will be aesthetic. Other than that, due to the type of facility, we feel that is plenty of artwork. ½ of 1% on artwork is a lot. Should we waive.

Discussion - add as a condition.

Take into consideration these stds are not just applicable to industrial but to commercial projects also. That is main focus of the artwork requirement.

F. Layout of buildings - adequate green spaces. Excellent.

ARTICLE XX, Performance Standards

245-124 Applicability.

These are performance stds for M1 zone.

A. Sound. Testing done supports the conclusion that sound should not be a problem. If it were it is covered by code.

B. Smoke and particulate matter. Covered by rules of EPA. Our engineer required a microscale air analysis. Even at that level it meets requirement. Cement and fly ash all sealed.

C. Noise. Met all requirements easily,

D. Vibration. Not relevant to this type of operation.

E. Radioactivity. Covered by requirements of NRC - sealed in separate units.

F. Odor. No issue.

G. Toxic or noxious matter. All contained- any spill has to be reported to DEC. Perimeter of buildings has a containment, extremely tight regulations. If all of the haz mat within the bldgs, if they all leaked the containment would be within. Building will hold much more than what is even contained there.

H. Glare. Not an issue. Any glare from light poles has been reduced.

I. Heat. No issues.

J. Dust and fly ash. In the silos, all sealed.

K. Lighting. Already addressed.

End of codebook review.

Trustee Herbst stated that fundamentally the applicant is seeking a trucking facility including administrative offices, chemical/material receiving, storage and distribution, truck and passenger vehicle parking, truck washing and service facilities which serves the oil and gas industry. This facility does not drill oil/gas wells. Much of the commentary received in various forums was directly or indirectly concerned with gas well drilling. Our task however is whether or not the proposed facility meets code requirements and environmental considerations. The process therefore requires a SEQR to assess the potential environmental impact of the project. The determination and narrative following represent our best collective judgements about potential impacts and the mitigation thereof having considered all of the commentary, data, requirements and guidance gathered over the last 4-5 months.

Discussion on Conditions for Approval

Fence, artwork waivers.

Need taller fence for safety and security reasons.

Mayor Zeigler - Number of trucks. County is on fast track to put the connector road from Route 13 to Ithaca Road. That will nearly take all the truck traffic off Westinghouse Road and Ithaca Road.

George Miner, STEG - County spent over \$1Million on design of that road.

Trustee Swartz - trucks idling, DOT or DEC now require that they cannot idle over 5 min. So they won't be idling all night.

Trustee Herbst - on the number of trucks, even 80 trucks a day is less than number of school buses in one day. Put in perspective what Schlumberger project is offering.

Trustee Koliwasky - as far as explosives, 4 different components not even brought together until they are at the site. Nothing can happen to it. You can go into Walmart hunting section and cause a bigger explosion.

Trustee Herbst - misunderstanding on pounds contained. The bunker is able to contain 2400 lbs of explosive. But the max will never exceed 500 lbs. Rarely if ever will reach 500 lbs.

Trustee Koliwasky - on the aquifer - probably in this County tons of pesticides applied to lawns, highways, that leads directly into aquifer. Salt on highways, not bothered by that.

Atty. Groff - we prepared a resolution for your review and consideration after your review and analysis.

Mayor Zeigler - residential waste hauling rumor. Water used in these vehicles is pumped at the site. Certain amount of residue and dirt that builds up. By law they have to haul in residential waste trucks. Talked to DEC about this.

Discussion and Possible Action: Site Plan Review Application - Schlumberger

Resolution by Trustee Herbst, seconded by Trustee Koliwasky

WHEREAS, Schlumberger Technology Corp. ("Schlumberger") is the owner of approx. 88 acres of vacant land situate in the Village of Horseheads in the Center Industrial Park and generally located at the southwest corner of the intersection of Wygant Road and Ridge Road, and

WHEREAS, the parcel is located in an M1 industrial zone in the Village of Horseheads, and

WHEREAS, manufacturing assembly, industrial operation, warehousing and distribution are permitted principal uses in such zone, and

WHEREAS, Section 245-71 of the Village Code provides that large scale industrial park development is a Special Use requiring compliance with Sections 245-119 through 123, and Section 245-124, and

WHEREAS, this Board is in receipt of materials, drawings, specifications and design details from Bergmann Assoc. on behalf of Schlumberger for the Schlumberger OFS Facility at Horseheads, NY,

(drawings #C000, C080, C100, C101, C102, C103, C104, C105, C110, C111, C112, C113, C114, C115, C120, C121, C122, C123, C124, C125, C130, C140, C141, C150, C151, E100, C300, C301, C302, C303, C304, C305, R100, C501, C502, C503, C504, C505, C506, C507, C508 all dated September 8, 2009, signed September 9, 2009),

and Site Alternate drawings, details and specifications

(C100, C101, C102, C103, C104, C105, C113, C114, C122, C123, C124, C150, C151, C301, C302, and C508 all dated October 1, 2009, signed October 2, 2009),

along with other supporting documentation from Schlumberger and Bergmann, and

WHEREAS, this Board is in receipt of materials, reports, analysis and recommendations from various local, state and federal governmental agencies and departments, including but not limited to Village of Horseheads Planning Board, Chemung Co. Planning Board, Town of Horseheads Planning Board, NYSDOT, NYSDEC, USEPA, US Fish and Wildlife, NRC, USBATF, US Army Corps of Engineers, Chemung County Sewer District, Chemung County Department of Public Works, Chemung Co. Highway Department as well as voluminous materials from concerned citizens and the public, and

WHEREAS, this Board has conducted several public hearings regarding this project, including public hearings in relation to a review of the project pursuant to State Environmental Quality Review Act, and a public hearing conducted in reference to the site plan and the alternate site plan.

THIS BOARD, having reviewed this project for over six months, together with the various revisions, modifications, and changes thereto by Schlumberger in response to input from a multitude of sources including governmental agencies and departments, makes the following findings:

FINDINGS

- A. Relative to Section 245-68 through 245-75 of the Village Code
 - 1) The applicant's use is a Special Use, being a large scale industrial park development.
 - 2) The site plan is compliant with the minimum lot requirements
 - 3) The site plan is compliant with the minimum yard requirements
 - 4) The site plan is compliant with the height restrictions
 - 5) The site plan is compliant with the maximum lot coverage restrictions.

- B. Relative to Section 249-119 through 245-123 of the Village Code

- 1) The design drawings and details were prepared by a NYS licensed engineer and have been signed and sealed.
- 2) A satisfactory certified or notarized economic analysis of the project has been received.
- 3) The applicant has satisfactorily documented its financial ability to undertake and successfully complete the project.
- 4) An area map showing the applicant's holdings and other land uses and ownership within 500 ft. of the applicant's property has been received.
- 5) A topographical map showing the required contour intervals has been provided.
- 6) The drawings signed September 9, 2009 and Site Alternate drawings signed October 2, 2009 referred to herein above comprise the preliminary and final site plan for the project; are titled including name and address of the applicant; contain north point, scale and date; depict the boundaries of the project, plotted to scale; show the location of land uses, proposed use and height of buildings; show location of existing and proposed site improvements; show location of parking and truck loading areas with traffic patterns; contain adequate parking spaces; describe sewage disposal and water systems together with location of same; provide location, design and details regarding signage and outdoor lighting facilities; depict location of buffer areas and landscaping together with existing vegetation; and describe fire protection services and facilities.
- 7) Documentation has been received establishing that the proposal meets existing community needs, is compatible with the comprehensive plan of the Village, and staging or phasing of the project has been provided.
- 8) Adequacy and arrangement of vehicular traffic access and circulation is satisfactory.
- 9) Adequacy and arrangement of pedestrian traffic access and circulation is satisfactory.
- 10) Location, arrangement, appearance and sufficiency of off street parking and loading is satisfactory.
- 11) Location, arrangement, size and design of buildings, lighting and signs is satisfactory.
- 12) Relationship of uses and scale is satisfactory.
- 13) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer is satisfactory.
- 14) Adequacy of stormwater and sanitary waste disposal is satisfactory.

- 15) Adequacy of structures, roadways and landscaping with moderate to high susceptibility to flooding and ponding and/or erosion is satisfactory.
- 16) Adequacy of other matters effecting health, welfare and safety of the community or neighborhood is satisfactory as reflected in the environmental review under SEQRA.
- 17) A public hearing was held on the site plan and site alternate on October 13, 2009. The applicant provided written notice to property owners within 200 ft. and has supplied an affidavit as proof of mailing.
- 18) A Stormwater Pollution Prevention Plan has been prepared, reviewed by appropriate parties, and has been approved with conditions.
- 19) Refuse will not be stored or accumulated outside the building unless containerized.
- 20) The site plan has been reviewed and approved by Village of Horseheads Fire Department, and Chemung County Emergency Management.
- 21) The required landscape plan has been supplied and is suitable.
- 22) The landscaping minimum expenditure and site art work minimum expenditure cost factors have been satisfied.
- 23) The buildings are located and arranged to create suitable usable open green spaces, avoid monotonous silhouettes, and produce a satisfactory micro-climate, and sidewalks have been provided and are integrally designed so as to provide safe and convenient access.

C. Relative to Section 245-124 of the Village Code

- 1) The volume of sound inherently and recurrently generated from the site shall be controlled so as to not become a nuisance to adjacent uses.
- 2) As designed, the uses on the site shall meet the required local, state and federal air pollution standards.
- 3) Noise shall be muffled so as not be objectionable beyond the lot line.
- 4) Vibration is not an inherent byproduct of the use of the site.
- 5) Emissions of radiation are compliant with state and federal regulations and shall not be emitted beyond lot lines.
- 6) As designed there will be no emission of odorous gas or other odorous matter so as to be detectable beyond lot lines.

- 7) As designed, there shall be no discharge of toxic or noxious matter in quantities detrimental to the public health, safety, comfort and welfare beyond lot lines.
- 8) Glare is not an inherent byproduct of the proposed use.
- 9) Heat is not an inherent byproduct of the proposed use.
- 10) No solid or liquid particles shall be emitted in detectable quantities beyond lot lines.
- 11) Exterior lighting has been controlled so as to not create a nuisance to adjacent lots.

NOW THEREFORE BE IT RESOLVED, that the Village of Horseheads Board of Trustees does hereby approve the site plan drawings, design and details noted above dated September 8, 2009 as modified by Site Alternate drawings and details dated October 1, 2009 subject the following conditions, such conditions to be satisfied prior to the issuance of any and all required building permits from the Village of Horseheads Code Enforcement Officer:

CONDITIONS

1. Review of the Storm Water Pollution Prevention Plan with all drainage system design calculations , construction details, and construction specifications , and issuance of a favorable opinion of completeness by the Chemung County Storm Water Coalition to the Village of Horseheads MS4 Officer.
2. Storm Water Pollution Prevention Plan approval by the Village of Horsheads MS4 Officer.
3. Revision of the Final Site Plan submission to reflect any detail modification(s) resulting from the final review and certification by the Chemung County Storm Water Coalition.
4. All impact mitigation measures identified in the Applicant's final Environmental Assessment Report, Part 3 of the SEQR long Environmental Assessment Form completed by the Village Board of Trustees on October 6, 2009, and required preconstruction permitting, shall be included on the final construction drawings and in the project manual technical specifications. The Applicant and its design engineer shall complete a notarized statement to the Village of Horseheads certifying that these project impact mitigation measures have been included in the above documents. A similar unsigned statement shall be included on the completed Final Site Plan, Final Site Construction Drawings released for construction, and in the Project Manual with Technical Specifications. This does not limit the required mitigation measures, but is intended to assure a minimum level of compliance.
5. The groundwater monitoring plan shall be finalized with review by the NYSDEC

and CCHD, monitoring wells installed, and the initial sampling, analysis and reporting completed prior to the onset of any permanent site construction . Additional requirements are as follows:

- 5.1 - During the first year of sampling, the samples shall be taken quarterly for evaluation of the seasonal impact of the variations in groundwater elevation.
 - 5.2 - Quarterly sampling shall be continued until the completion of construction.
 - 5.3 - Once a baseline is established, the sampling frequency shall be reduced to biannual sampling.
 - 5.4 - Reporting will be distributed, at a minimum, directly from the analytical laboratory directly to the Applicant, Chemung County Health Department, and Chemung County Storm Water Coalition.
 - 5.5 - All costs of the monitoring program, installation, maintenance, sampling, analysis, reporting, and indicated remediation detected after construction, shall be borne by the Applicant.
 - 5.6 - The monitoring wells and program requirements shall be conveyed with the property.
6. Review of items 1, 2, 3, 4, and only the approved plan in 5, by the Village Engineer.
 7. Permitting and compliance with the requirements of all utilities providing service to the proposed facility.
 8. Approval of the Water Service Connection by the Village.
 9. Approval of the RPZ backflow prevention and metering installations by the NYS Health Department.
 10. Approval of the sanitary sewer collection system and wastewater quality by Chemung County Sewer District #1 and the NYSDEC.
 11. NYSDEC issuance of a SPDES permit for general construction activity.
 12. Submission of a NYS/USACOE Joint Application for Permit due to wetland impact, and subsequent NYS/USACOE permit issuance.
 13. Scheduling, holding, attending, and documenting a pre-construction meeting(s) and at least monthly, if not bi-weekly, construction progress meetings to be attended by the Village Code Enforcement Officer, Village Engineer, Chemung County Storm Water Coalition representative, and other Village representatives as the Village determines necessary. Detailed and revised project construction schedule(s) shall be provided at each meeting. All site and building construction

to be completed in a maximum of the four (4) proposed phases within the ninety-three (93) week construction period, or less.

14. Issuance of building permit(s) by the Village of Horseheads Code Enforcement.
15. Access during construction shall be from Old Ithaca Road, 5th Street, and E Street, and must use State and local designated truck routes.
16. Installation of all temporary soil erosion and sedimentation control devices prior to the onset of construction. These measures shall be maintained until the impacting site construction is complete and dense ground cover established. Measures at the outlet of the storm sewer within the wetland buffer shall be maintained until the completion of all construction and establishment of lush ground cover.
17. Construction of the stormwater management system from the outlet in the wetland buffer through the detention and treatment facilities shall be completed prior to the onset of the remaining site construction.
18. Operational permits shall be in-place prior to use of the facilities, or portions thereof, for their intended purpose. This shall include, but not be limited to, the following:
 - 18.1 - Radioactive storage, transport, and handling - Nuclear Regulatory Commission, NYS Department of Labor-Division of Safety and Health, NYS Department of Transportation, and NYS Department of Health.
 - 18.2 - Explosive storage, transport, and handling - Bureau of Alcohol, Tobacco, Firearms, and Explosives; NYS Department of Labor-Division of Safety and Health, NYS Department of Transportation.
 - 18.3 - NYS Department of Environmental Conservation - SPDES Multi-sector General Permit for Stormwater Discharges; Coverage under 6NYCRR 612- 614, petroleum bulk storage; Coverage under 6NYCRRR 595-599, chemical bulk storage.
 - 18.4 - All other operational permits not listed above, as their need is identified or arises.
19. Certificate(s) of Occupancy not be granted until all record/as-built drawings, prepared under the supervision of and certified by a professional engineer with NYS licensure and active registration, for all improvements associated with the project have filed with the Village of Horseheads in both paper and electronic format. On completion of all construction, complete record/as-built project drawings shall be submitted to the Village of Horseheads.
20. Phase and overall construction compliance is to be certified to by a licensed professional engineer with NYS licensure and active registration.

21. Applications of pesticide or herbicide for landscaping purposes are not to be applied more than twice per year.
22. The undeveloped 27.47 acres of the 88.53 acre parcel shall remain undeveloped.
23. The NYS Office of Parks, Recreation and Historic Preservation approved (letter dated September 2, 2009) avoidance plan shall be implemented.
24. The designated truck route for all Schlumberger fleet trucks is to leave the facility via E and 5th Streets onto Old Ithaca Road, and proceed north to NYS Route 13 to NYS Route 17/1-86. This shall be amended to include the proposed Old Ithaca Road to NYS Route 13 Connector Road proposed by Chemung County.
25. Rail delivery of bulk material to this site will be restricted to sand. If regulated material is considered for rail delivery, additional site review and approval is required by the Village.

Discussion -

Trustee Herbst moved to make the following amendments to the resolution on the floor:

- Add 5.7 under conditions - The Village reserved the right to require more frequent sampling or modification of the groundwater monitoring plan in the event of spill/disposal/unauthorized release of a hazardous or toxic material, or the like.
- Add 26. waiver of perimeter fencing. Applicant can install 7 ft fencing.
- Add 27. waiver or dispense with minimum expense of ½ 1% for artwork.

Trustee Swartz seconded motion to amend resolution.

Roll Call Vote on amendment:

Mayor Zeigler:	Aye
Trustee Swartz:	Aye
Trustee Herbst:	Aye
Trustee Koliwasky:	Aye
Trustee Peters:	Aye

Roll Call Vote on whole resolution as amended:

Mayor Zeigler:	Aye
Trustee Swartz:	Aye
Trustee Herbst:	Aye
Trustee Koliwasky:	Aye
Trustee Peters:	Aye

Mayor Zeigler thanked the Board and staff for their time and efforts. There have been many rumors and emails through all this. We did an honest and fair appraisal. Technology, assurances, safety precautions. They have gone through all the hoops.

As there was nothing further to come before the Board, the meeting was closed at 6:25 pm.

/rmb