

Town of Ballston
Planning Board

**TOWN OF BALLSTON
PLANNING BOARD**

Regular Monthly Meeting: March 31, 2016

Present: Richard Doyle, Chairman
Jeffrey Cwalinski
Patrick Maher
Audeliz Matias
John VanVorst
Kim Kotkoskie
James Fischer, 1st Alternate
Kathryn Serra, PE Town Engineer
Thomas Johnson, Building Inspector
Peter Reilly, Planning Board Attorney
Members of the General Public

Absent: James DiPasquale

Chairman Doyle called March 31, 2016 meeting to order at 7:30 p.m. and led the Pledge of Allegiance. Chairman Doyle reviewed the agenda.

MOTION: Mr. Cwalinski made a motion to accept the February 24, 2016 minutes as written. Mr. Maher seconded the motion and all present voted in favor. Ms. Matias abstained as she was not present at said meeting. **CARRIED.**

BUSINESS:

Dolomite Products, Inc. Curtis Industrial Park – Consider accepting FEIS

John Munsey with C. T. Male stated the findings statement (DRAFT) dated March 31, 2016 were distributed via email incorporating all comments received from board members and legal counsel representing the Planning Board.

Mr. Munsey stated there are two issues to be clarified.

Project purpose and need – does the board want to make the statement that there will be sales tax revenues, but property assessment values since it's mostly portable equipment to be used

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at the site, does not seem to make since to make that statement; Mr. Reilly and Mr. Munsey to work out details on that. Mr. Munsey stated everything else that is in the document has been rehashed the long history of environmental review. The air impacts are principally regulated by NYSDEC and discussed and summarized and believe the final permit will have the production cap limit built into it; reporting on a yearly basis that the applicant will have with NYSDEC. In addition, the findings specify quarterly reports be given to the Code Enforcement Officer on the capping limit. The air impacts and transportation impacts have been discussed in great detail. The recreation resources are primarily the Ballston Creek Reserve and Zim Smith Trail. A turning lane to be constructed for the entrance road and a remote control automated signalization system. Site lighting, noise is discussed in great detail. The mitigation measures are specified as they relate to noise in terms of a complaint protocol that the applicant will need to adhere to. There are provisions for limited nighttime operations that require specific review and approval by the Code Enforcement Officer. Mr. Munsey stated that NYSDEC will not issue their air permit until the findings statements are adopted for the project.

Mr. Maher stated he feel we have a good document here and have addressed all the issues thoroughly.

Ms. Kotkoskie stated it may go under site plan discussion, but we were concerned about dust from the piles, how to contain it, storm water issues when it does rain and thinks we can look at the site plan and when we review the storm water design, discuss too, but that is the board's concern. Mr. Munsey stated that from an environmental standpoint, the mitigation have been built into the findings statement mitigation measures to address the potential adverse impact of the dust plume emanating. The specifics of site plan design and storm water design can provide further mitigation, but the general mitigation measures have been laid out here. One of the last provisions of the PB was to make sure the protocol was not just for noise and odors, but for anything other such as dust. Chairman Doyle stated the applicant will be using water to control dust and to make sure our storm water works well. All the solids should separate out on the four bays and everything should work great. Ms. Kotkoskie stated all the comments she originally made were accepted and that's wonderful and addressed. The complaint protocol to the original way it was read, complaints that needed addressing would be brought to the town, but that could cause an issue; if they could be notified if any complaints, because whoever is addressing them, may consider it not subsistent; it may be to that person. Mr. Munsey stated if the board if thinking of a mitigation measure for dust or any other environmental impacts to build it into the findings statement; it's not appropriate to be in the site plan approval. Mr. Munsey would not necessarily say to put a deadline on the findings statement because if the findings statement are not going to be finally adopted until the next Planning Board meeting.

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Mr. Munsey stated with due cause, the findings statement has not been adopted within the SEQRA timeframe; completing the FDEIS and the findings statement, but the applicant in consultation with the PB has agreed to delay the issuance of the findings statement. Mr. Reilly stated 30 days from the adoption of the FDEIS the findings are produced and will be working with their legal counsel on that matter.

Chairman Doyle asked Mr. Schultz if he had any questions. Mr. Schultz stated no.

Application tabled.

Dolomite Products, Inc. Curtis Industrial Park – Site Plan Review Asphalt Plant

Stephen LeFevre with Barton and Loguidice was present on behalf of the applicant.

Mr. LeFevre stated that Dolomite Company plans to construct and operate a hot asphalt plant on a 10 acre parcel within the Curtis Industrial Park which is located within the town's industrial district. The project site is located on previously disturbed vacant land that is located to the south of the existing Curtis Lumber building. Land coverage for the site includes grasses and low brush. The project is accessed from the Curtis Industrial Park Drive, which intersect NYS Route 67 approximately two miles from the intersection on I-87. The facility connections to sewer, water and gas are available at the location. Land uses in the vicinity of the projects vary; includes commercial industrial development and undeveloped forested land. Multiple industrial facilities border the project site to the north and east. Undeveloped cleared land border to the west and undeveloped forested lands boarder the south. An active railroad borders the Curtis Industrial Park property to the west and Route 67 to the north. The proposed plant will consist of aggregate stock piles, aggregate feed bins, conveyor belts, drum mixer and burner, hopper silo with drag elevator, bag house, asphalt tank and heater, truck scale and a control house. The proposed asphalt plant is comprised of prefabricated equipment located on a concrete foundation and as such has fixed dimensions. The plant will operate at a maximum 200 tons per hour. The plant will utilize approximately 1.4 acres for equipment including a control house, 0.6 acres for an access road, five employee vendor parking spaces and 0.7 acres for aggregate storage. The majority of the project site 7.3 acres, will remain undisturbed green space. The plant will operate with four full-time employees and normal hours of operation will be 7:00 a.m. to 4:00 p.m. Monday through Friday during the paving season, which is defined as April through November. The plant may also operate occasionally during the evening hours and on the weekend with prior approval of the town building department. Mr. LeFevre stated the applicant anticipates preparing a response needed to any subsistent comment that the board of public may have tonight.

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Mr. Cwalinski asked if there will be a drawing of a conveyor system showing sound absorbing panels. Mr. LeFevre stated it could be provided. Mr. Schultz stated it's not part of the requirement and could give the board a manufactures cut sheet.

Ms. Kotkoskie asked if the waterlines will be wrapped because in the findings statement they describe the soil conditions as being hydric; potentially acidic in nature and will they be wrapped in the polyethylene. Ms. Serra stated yes, but the copper line that runs through the building does not need to wrapped, but the new ductile iron pipe will be required. The outlet structure on the storm water has an easement because you are going onto the next property and asked if that easement sufficient considering you may need to get equipment there. Mr. Schultz has a working relationship with the Industrial Park and sufficient to allow that to occur. In previous meetings and other people had limit of disturbance discussions and asked should the limit of disturbance be extended around that easement area and plan on disturbing during construction. Mr. LeFevre said he did not think so. Ms. Serra stated the applicant is installing a rip rap pipe outlet and there will be a disturbance. Ms. Kotkoskie stated the secondary access to the plant will remain open with written approval. Mr. Schultz stated we have three different options for what has been discussed for emergency access to the plant and will be finalized and provided to the board as a condition of site plan approval.

Chairman Doyle stated C. T. Male has spent a lot of time going through this, in addition, have had other C. T. Male personnel look at this and thinks it is really good. We need a drawing with clarity to make it easier for the applicant to build and easier for us (the town) to review and we also have to follow it in the field. The more definitive that the drawing is the better it will be for all.

Mr. Maher stated essentially prior to the Planning Board Chairman's signature on the drawings and site plan will conduct the surveys for the roadway. Mr. Schultz stated that we have engaged a surveyor and waiting on his schedule and once they commence the survey, their prediction it should take between two and three weeks. Chairman Doyle stated getting the road done is a benefit.

Mr. Cwalinski stated there is a 22' berm on the western side of the property. Ms. Serra stated it's a berm plus fence. Mr. Cwalinski asked how that fence will be anchored. Mr. LeFevre stated that geotechnical engineering was performed to ensure it won't topple over.

Chairman Doyle opened the public hearing at 8:10 p.m.

David Pierce, 110 Lake Road wanted to thank the Planning Board for its thorough review of Dolomite's application for the asphalt plant for the Curtis Industrial Park. The board has been

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presented with the pros and cons of this project, but still does not feel that the project is appropriate for that site. In the Town of Ballston Comprehensive Plan, it states the community expresses a desire to maintain a small town rural community throughout the town as the capital region continues to attract new commercial growth and residence the town seeks to manage this growth in a manner that maintains the best of Ballston character for future generation. With an asphalt plant at this site it attracts more commercial growth at the Curtis Industrial Park. Will the asphalt plant at this site enhance the living conditions of the people that are going to be in the residences on Route 67 and Eastline Road that the board approved? On page 12 of the March 2016 FEIS document, the Planning Board states "service road and aggregate stock piles will be sprayed with water as necessary to control fugitive dust. In 2011, Blue Neil's sent a report to the town stating that open storage of aggregates and wrap in our climate will mean exposing the aggregate to precipitation; exposure will in turn mean more fuel usage with greater emissions produced at the stack. From cost efficiency standpoint it is in the best interest of Dolomite Industries to employ a closed storage system and does not see a closed storage system in the site plan. In addition, as was noted above in the literature from NYSDEC and US EPA, indicate that fugitive emissions are the most numerous and most difficult to mitigate. Research of other sources also indicate the best management practices and technologies has successfully been deployed to counter this issue specifically the use of a semi enclosed load out area with scavenging duct systems to recapture the so called blue smoke emissions and does not see an enclosed load out area on the site plan. The two categories of particulate pm and pm10 which is different than just road dust is considered criteria pollutants; pm10 or particulate matter of 10 microns in size or smaller and pm greater than 10 microns are small solid particulate produced by aggregates during heating, drying, mixing and handling bulk at the production site and stock piling areas. PM and pm 10 represent potential impacts of human health and sufficient quantities. The Dolomite report submitted said it's going to produce 1.9 tons pm a year and 1.3 tons of pm10 a year and would encourage the Planning Board to consider enclosed load out and enclosed wrapped storage facilities. Dr. Pierce stated he knows that the PB cannot ask does the town need the plant or appropriate for this location, but the PB can insist that the plant be one that's built so they personally would feel comfortable right next to it. When you vote on this project, would you please remember the hundreds of Ballston citizens who have voiced their opposition to this project for the last five years hopefully your vote will represent the people of Ballston?

Claudia Braymer, Esq. with Caffry & Flower representing the citizens for a clean environment; an environmental group made up of residents in the Town of Ballston who have been opposing the project for the last five years. Ms. Braymer thanked the board for their work over the last five years reviewing this project and the community has been doing a lot of work as well. Up

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until now, the Planning Board's comments have been constrained and limited partially due to the SEQRA process and the chilling law suits of Dolomite against the town. The public has been reviewing and offering comments and there is strong public opposition and strong evidence fact based reasons for denying this project. The Planning Board and public should be able to see the details on the design for the access roads and should be included in the SWPPP and there are no storm water management techniques related to the main access drive or the secondary access road; we don't even know where it's located and would urge the Planning Board to ask the applicant speed along its surveyor and get us that information so that we know where the secondary access is and understand the limits of disturbance on that issue. They are not just repaving, they are widening, lengthening and completely ripping up the road and putting in new road bed; all call for storm water techniques to be put in place. We have not seen any details on the left hand turn lane; something more detailed to be provided to the Planning Board to make the site plan review decision. We sincerely hope that the board does not see any public benefits of this project other than the paving of the access road and you have enough in your arsenal to deny the project pursuant to the zoning code if not pursuant to SEQRA. There are traffic impacts, area impacts, community impacts and violations of the zoning code particularly with the noise and we ask you to deny this project when the board gets the site plan review.

David Rubin, 59 Outlet Road stated what you have in front of you is a site plan, which is a promise, a two part promise, a written promise; size of the piles and acreage. The second is an implied promise by the corporation that it will in fact do what it says on the site plan and obey the regulations and the laws of the local community, county, state and federal government. In terms of mitigation of dust, odors and other pollution, Old Castle Corporation, sole owner of Dolomite has a long history of in fact not performing as promised. In Opelika Alabama, e Castle subsidiaries had to pay the city 1.1 million dollars because of the numerous sink holes and loss of spring water. In 2009 in Virginia, e Castle Subsidiary Mountain Materials received a civil charge of 12,740 dollars for fugitive emissions and proper dust control and was sure there was a promise for proper mitigation in that site plan. "In 2014 Oak Castle, Tilcon and Bronx site a 20,000 dollar fine for construction debris to properly dispose of and improper record keeping of that waste." Dolomite wants to build and asphalt plant and what you have is a promise of emissions control, but case study per how the Old Castle subsidiaries work can look up the Shelly Asphalt facility in Ohio. Despite promises made to the Department of Ohio Environmental Protection, the company has been accused and fined for violating the Anti-Pollution Limits and burning oil containing lead and mercury at 27 asphalt plants in the state. People living in the vicinity have made many complaints about the degradation of air quality including odors and dust and there is no reason based on this history to assume that this plant

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will be anyway different. Old Castle and its subsidiaries such as Dolomite Productions have a well-established history of violations of laws and regulations and the diminishing of air quality and health and welfare of its neighbors and should not be built in this area.

Henry Cardinali, 13 Kingsbridge Ct. stated there was a mention of evening operations and asked the definition of evening. Chairman Doyle stated anything after 5:00 p.m. Mr. Cardinali asked an evening end point as opposed to night. Ms. Kotkoskie stated that page 3 states normal hours of operation are from 7:00 a.m. to 4:00 p.m. Monday through Friday. There are provisions for emergencies. Chairman Doyle stated that is in the findings and there is a procedure that the applicant has to fill out a form and approved by the Code Enforcement Officer. Ms. Kotkoskie stated page 4 states it's through the Building Department approval process and this is an exception basis only, on a daily basis Monday through Friday 6:00 a.m. is the earliest start-up time and 11:00 p.m. is the latest time of ceasing operational activities. On Saturday 7:00 a.m. is the earliest start-up time and 5:00 p.m. is the latest time. Mr. Cardinali asked that 11:00 p.m. is the end of evening. Ms. Kotkoskie stated on an exception basis only. Ms. Matias stated that exception can be requested only one to two days through a two week period. Mr. Cardinali stated if they violate that, it's kind of black and white non-negotiable. Mr. Fischer stated they can only do it if they have been granted a special approval by the Code Enforcement Officer. Mr. Cardinali stated that he is against this plan.

William Pettis, 16 Kingsbridge Ct. stated that Dolomite is a global company and build many of these companies and is concerned of the air quality when you mix the oil with the stone and have the plume and the wind blows. Mr. Pettis asked how is this going to affect our town and asked the impact of the air quality. Chairman Doyle stated there is an air quality approval from NYSDEC approval that they must receive. Mr. Pettis asked the typical impacted area. Ms. Serra stated there is an entire volume of Environmental Impact Statements for air quality. Chairman Doyle stated he will ask the applicant to provide a written statement. Mr. Pettis asked about the last couple of weeks of water quality with EPA in Flint Michigan and no one is on top of this and looks what has happened to our water quality and concerned for the health of our community.

Mr. Reilly stated that its an undue burden on the applicant to provide Mr. Pettis with the information that has been disseminated in various forms in over four years; draft FEIS and final FEIS findings. All the information is available on the website or town hall and specific to this project.

Eldon Smith, 8 Everson Way stated the SEQRA findings have not been formally adopted, but do contain mitigation and controls and asked is there any reason why the mitigation measures and

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controls that are in the SEQRA report could not be incorporated into the site plan review and approvals process. If those findings and requirements in the SEQRA report were adopted into the site plan review and approval, it would give the Town of Ballston more ability to enforce those regulations; if they are only findings in the SEQRA report and not incorporated into the approval of the site plan, what recourse is there if there are violations. Chairman Doyle stated the findings are part of the SEQRA process and that is what generates how the site is built; they need to meet those requirements.

Chairman Doyle closed the public hearing at 8:35 p.m. for this meeting, but remains open.

Application tabled.

NEW BUSINESS:

Paul & Lori Moore, 227 Lake Road, Ballston Lake, NY 12019; 239.-2-40 (Minor Subdivision – one new residential lot)

Kurt Bedore, PE with KB Engineering was present on behalf of the applicants.

Mr. Bedore stated the proposal is for a two lot minor subdivision at 227 Lake Road south of Outlet Road. The applicant proposes to subdivide their 3.6 acres parcel zoned Ballston Lake Residential. The new proposed lot would consist of 1.8 acres and 175' frontage and lot 2 is being proposed for a single-family home with four tenths of an acre of disturbance. The surveyor for the project is still working through getting the thorough wetland permitting. Mr. Bedore stated the lot be served by onsite septic system and well and have provided erosion and sediment control measures. The applicants request conditional approval based on the resolution of the wetland issue.

Mr. Cwalinski stated the only thing missing on map is that this parcel is located in the Ballston Lake Overlay District. Mr. Bedore will add verbiage to final map.

Chairman Doyle opened the public hearing at 8:42 p.m.

No one wished to speak

MOTION: Mr. Maher motioned to name The Town of Ballston Planning Board the Lead Agency in the SEQR process. Mr. VanVorst seconded the motion and all present voted in favor.

CARRIED.

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MOTION: Mr. VanVorst motioned to declare this an unlisted action under the SEQR process therefore will declare this a Negative Declaration under the SEQR process. Mr. Maher seconded the motion and all present voted in favor. **CARRIED.**

Chairman Doyle closed the public hearing at 8:43 p.m.

MOTION: Mr. Maher made a motion to approve the minor subdivision for Paul and Lori Moore detailed on drawing C-101 dated March 4, 2016 be approved, Park and Rec fees of one thousand dollar per dwelling unit payable at issuance of building permit, a note to be added (Ballston Lake Overlay District) to final plans and final approval of the ACOE wetlands. Mr. Cwalinski seconded the motion and all present voted in favor. **CARRIED.**

McCormick, Lee, Cromie, 387 Middleline Road, Ballston Spa, NY 12020; 215.-1-4.1 & 5.1 (Lot Line Adjustment)

John Cromie, applicant and Wayne McCormick, applicant were present.

Mr. Cromie asked that "Lee" be changed on the application to Cromie.

Mr. Cromie stated there was a question on the SEQRA form of the location of the Cromie property on how far it is from the nearest intersection, which is approximately 300' from Middleline Road and NYS Route 67.

This proposal includes a total of 105 acres between the two parcels.

A further discussion was held on the history of said property.

The proposal is to take Mr. McCormick's western boundary and extend to NYS Route 67.

No questions from board members.

Chairman Doyle opened the public hearing at 8: 50 p.m.

No one wished to speak.

MOTION: Mr. Maher motioned to name The Town of Ballston Planning Board the Lead Agency in the SEQR process. Mr. VanVorst seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Mr. VanVorst motioned to declare this an unlisted action under the SEQR process therefore will declare this a Negative Declaration under the SEQR process. Mr. Maher seconded the motion and all present voted in favor. **CARRIED.**

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Chairman Doyle closed the public hearing at 8:51 p.m.

MOTION: Mr. Cwalinski made a motion to approve the drawings titled Lot Line Adjustment to the Lands of James G. Cromie, John J. Cromie, Carol Lee Cromie and Lands of Wayne McCormick map number 16-30-15 dated February 24, 2016. Mr. Maher seconded the motion and all present voted in favor. **CARRIED.**

MXMAC, LLC 2 McCrea Hill Road, Ballston Spa, NY 12020; 228.-3-59 (Minor Subdivision – Commercial lots)

Tom Andress with ABD Engineers & Surveyors was present on behalf of the applicants.

Mr. Andress stated the applicants are proposing one 40,000 sq. ft. building and two 15,000 sq. ft. buildings, which meets zoning at said location.

The proposal is to subdivide the parcel utilizing a common access drive. Storm water management integrated between the two lots. The site served with public water and sewer; building in front to have grinder pump and remaining to be gravity. In the original design, with a certain amount of square footage, the traffic was supposed to be reviewed and obviously it was and improvements have been done. The grading to go from the south to the north and storm water detention will bring it back down into the south side to connect to the road system. The lot is wide open and will be proposing a significant buffer along the north side of the property. There are requirements within the original development proposal to have street trees at certain distances and will be conforming to those requirements.

Mr. Andress stated that Cor Tech are presently in the park and are looking to move to this proposed location and have ownership of the building. The proposal shows 40,000 sq. ft., but proposing to phase 27,000 sq. ft. and will accommodate their needs for now.

A further discussion was held on size and location of the proposed building.

Ms. Kotkoskie stated where we see the cars on the map are not going to be facing Route 50. Mr. Andress stated no, this whole building faces into McCrea Hill Road; nothing on this building that faces Route 50 other than the far side.

Ms. Kotkoskie asked to explain about their manufacturing process and what is going on inside the building. A representative stated we work for the power industry and purchase the cabinets and assemble the components that go into the cabinets; no cutting metal on site. Ms. Kotkoskie asked if there were hazardous materials chemicals on site. There are no hazardous materials on site.

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The applicants have been located at McCrea Hill Road operating out of an 8,000 sq. ft. building; the tasks will remain the same just bigger.

Ms. Kotkosie has a comment relative to the storm water discussion versus the C. T. Male comment and asked if the applicant will be connecting or not. The applicant to connect as the storm water management system was built to accommodate all the lots.

The plan has been modified relative to show more banked parking; 24 to 26 spaces for Core Tech.

Chairman Doyle asked the proposed location of the storm water. Mr. Andress stated there will be a basin on the east side of the 40,000 sq. ft. building; roofs are single slopes and slope east to west and minor storm water in the rear.

Mr. VanVorst stated it may be difficult to have fire access to the east side and the building to have a sprinkler system installed.

Ms. Kotkoskie stated that #1 on EAF should be "No" and questions 8.b should be "Yes" and the town does have a bus route. Ms. Kotkoskie stated that question 18 – will have a basin with standing water. The basin will have water quality and the rest of the storm water will be a dry basin.

The loading docks are not in the front, but are in the job of those two small buildings and have proposed extra landscaping.

A further discussion was held on the esthetics of the proposed building along Route 50.

The board is in agreement with the proposed concept plan and should move to preliminary design.

Chairman Doyle opened the public hearing at 9:15 p.m.

The public hearing is on the minor subdivision only; no comments on site plan review.

Fred Iannon, stated this is an industrial park and this is where the town board should be looking at the growth of our town.

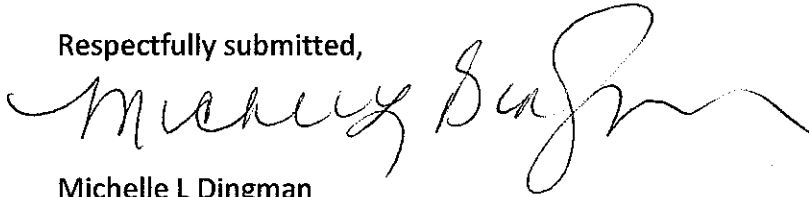
Chairman Doyle closed the public hearing at 9:20 p.m. for this evening and will remain open.

MOTION: Mr. Maher made a motion to adjourn. Mr. Fischer seconded the motion all present voted in favor. **CARRIED.**

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Meeting adjourned at 9:25 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michelle L. Dingman". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Michelle L Dingman
Planning Board Secretary