

**TOWN OF NORTH HARMONY
PLANNING BOARD
TUESDAY, APRIL 8, 2008 7:00 PM**

PLANNING BOARD MEMBERS PRESENT: Pat Rice, Steve Senske, John Warner, Dick Sena, Dick Johnson, Julie Lescynski

OTHERS PRESENT: Sally P. Carlson, Supervisor; Ralph Whitney, Councilman; Joe Komar, Greg Michalak, ZBA; Brad Lawson, Zoning CEO; David Stapleton, Attorney; Nick Dean, P.J.; Robin Miller, Bookkeeper; Jennifer Dougherty, Phillips Lytle; Denny Vant, Randy Holcomb, Louis Rieg, Assessor's Office; John & MaryAnn Johnston, Bonnie Johnson, Patricia Morton, Kenneth Scholtz, Jim & Barb Fox, Barbara & Frank Tercek, Bob Allison, Phil Strand, Betsy & Joe Bergen, Clayton & Helen Emick, Steven Blair, Charles Cooley, Dave Foster, Deborah & Ward Kinney, Roger Miller, Wade Morse, Deirdre Lauer, Preston Buchtel, Tom Davis, Gerard Linnecke, Mary Brant Gamma, Lyndon H. Landon, Ed Bradford, David Seeger, Attorney; Mary Jane Tomaselli, Mark Schlemer, Nancy Thomas, Town Clerk

Mr. Rice opened the meeting by stating that the Planning Board scheduled this public comment meeting as a means of gathering additional information before they make their recommendations to the Town Board on the creation of an R6 Resort District as requested by the developer. He requested that statements be confined to the amendment of the zoning law.

- **DENNY VANT – Bemus Pt.**

Mr. Vant stated that he is a resident of Bemus Pt. and is Mr. McGraw's cousin. He said their family has lived in and had ties to the area since 1923. He emphasized that the project would bring year round jobs (approx. 175) and would be tourism oriented with skiing, boating, snowmobiling, etc. He said Mr. McGraw had no intentions of just building the project and leaving the area, he already has two hotels in Warren and is committed to the area. Mr. Vant stated that he is in favor of the project.

- **JOE BERGEN - Woodlawn**

Mr. Bergen said he hopes this is the first of several meetings to gather public input and said a Saturday meeting later in the summer would be good so that more seasonal residents could have input. He expressed concern about the exact nature of the project and how the R6 District intertwines with this specific hotel development. If requested specifications are altered will Mr. McGraw follow through? He said the PB appears to be grappling with the process and it is confusing. He said that just as Mr. McGraw has hired counsel to present his plan, they have also consulted an attorney who will speak later to help them understand the process and how it should proceed and how they can assist. He said they all have a strong interest in the project. He said growth and jobs are necessary. He said it has to be sustainable growth and decent jobs, not just any jobs. He said a major issue is what a comprehensive plan would say about this type of zoning change. He said he understands there is no comprehensive plan. He said if the district is for the benefit of one property owner it is spot zoning. He said any decision should wait for the completion of a comprehensive plan. He said the PB has stated they are going to craft an R6 District that would be best for the town and Mr. McGraw will have to work within it. He said the question should be does the town need an R6 and if so, what should it look like. He said areas briefly identified by the PB for this type of district are Ashville Bay, Gravel Pit, Pine Hill, Camp Chautauqua and Bootey Bay. He said many people in the town would have an interest in any type of district that would allow a building up to 126' tall. He stated that Mr. McGraw purchased the property with the knowledge that it is zoned R5 Hotel. He said there seems to be a real desire for sewer infrastructure. He said the initial sewer district would deal only with the Hotel waste and that would be paid for through the IDA PILOT program. He said Mr. McGraw's attorney is on record

stating that sewer and water for residents who hook on would have an annual cost of \$1,000, not including the initial hookup and maintenance. He said he is not aware of outcry in the area for sewer or water services. He said he and his wife had paid for a good functioning septic system that passed inspection at their house closing. He also stated they have a good well and no water issues. He said the \$1,000 would be tax they have no interest in paying for a service they don't need. He feels the sewer company has excess capacity and would like the business to increase their bottom line revenues. Mr. Bergen said there is a lack of specifics on what this project will look like: one building or two, shoreline, etc. He feels the project info submitted to the board has a distinct lack of information. He said all this needs to be taken into consideration before a vote.

Mr. Senske clarified that Rex Tolman Engineering had been hired by the town to provide the water/sewer studies not Mr. McGraw's attorneys.

- **MARY JANE TOMASELLI – Ohio (Home on Lakeland)**

Ms. Tomaselli said they have owned their home on Lakeland near Tom's Point since 1982. She said they had been advised to look elsewhere for their home because of the wetlands and flooding problems. She spoke briefly about the area wildlife and conditions at their home on the lake. She expressed concern for the future of the area and asked if the project was in the best interest of the entire North Harmony community. She questioned the proposed hotels effect on the harmony of the environment on the lake (bio-diversity). Concerns expressed were noise and light pollution, habitat loss, species displacement and decline, intrusiveness to residents and environment, contaminants from construction effect on land, water, and public safety. She also expressed concern for storm water parking lot runoff into wetlands and their effect on ground water aquifers and questioned how this project would blend with the pre-existing land view. She said the new condominiums in Bemus intrude and overpower the shoreline. She also expressed concern for their property value if the project is allowed. She said tourism can bring profit but can also bring costs to local government and to taxpayers (i.e. traffic congestion).

- **TOM DAVIS – Woodlawn**

Mr. Davis said he has had a cottage at Woodlawn since 1981 and hopes to retire there if he can afford the taxes. He feels his taxes will increase to pay for the development and the infrastructure. He said he has written letters to the board and the P.J. in opposition to the project citing aesthetics, environment, and consequences of this type of development for North Harmony. He said he understands the promises of more business, enriching the tax base and incentive of free sewer that the town might envision. He said he has done research and talked to city planners in Cleveland on the basics of development. He said his data supports evidence that the hotel would be a big mistake for the area. He raised the following questions: who wants the hotel other than Mr. McGraw; what reasons for supporting the hotel have been gathered (letters, phone calls, etc.). He said he would have liked to have an answer to letters he has sent to the town but has received only silence. He said Sally Carlson had sent a letter to the editor of the P.J. that suggested most of what people were saying was inaccurate or wrong and that nothing yet has been decided. He said all should consider what the town will be like in 30-40 years. He made the following assumptions: that most of the board members feel development is good and will raise needed taxes, create jobs, fill shops and the "super structure" will be free. Mr. Davis cited Self Imposed Myths of Development and his belief that 1) the larger the town the higher the taxes because of infrastructure and services 2) no guarantee that local people will get jobs, in fact they rarely do 3) tax abatement stimulates growth by artificially lowering the private sector's cost for land development 4) limiting growth will not cause housing costs to rise 5) environmental protection standards do not hurt local economy and states with higher standards grow faster than others 6) growth should be limited to what land, roads, water and communities can support in ensuing years 7) most people support environmental protection 8) the more growth the poorer we get in quality of life 8) municipal meetings tend to trivialize people who complain that a development will be ugly.

Mr. Sena asked Mr. Davis where he had gotten the information for the list of “Myths” and the proof behind them. He said the board has attended many seminars sponsored by New York State Southern Tier West which do not concur with his findings.

Mr. Davis said the book is by author Even Fodorf, a town planner from Oregon titled Better not Bigger.

- **RENATE BOB – 571 Front St., Jamestown (Ward Kinney read her letter in her absence)**

In her letter Ms. Bob expressed concern for the impact of the hotel on the lake which she said is already 90% developed. She feels the hotel at 10 stories is not compatible and will have a negative aesthetic impact on the lake, traffic, noise and the environment (i.e. runoff). She expressed concern for shoreline preservation and stated that the town should hire professional consultants to address these issues and resort development in general. She said the town should follow town law which is required by the legislature. She questioned if the town would do this. She expressed the concern that the R6 designation would be spot zoning and this change would not be a substitute for a comprehensive plan. She quoted from an article in the P.J. which questioned how much use a lake can stand before it becomes dangerous (i.e. quality of recreation). Respect the lake and do the right thing.

Mr. Rice stated the town has hired a professional consultant to work with the PB and they have been working on a comprehensive plan for the Stow area for approximately 6-8 months.

- **DIERDRE LAUER – Woodlawn**

Ms. Lauer said she was representing her family who has owned property at Woodlawn since 1917. She expressed concern for the re-zoning and development of Bootey Bay and how it will affect the entire town. She said she hopes the towns committees will insist on preparing full studies to determine the impact. She requested that the town utilize all county resources available and hire a professional planner to do a comprehensive plan to address not only the Bootey Bay project but all R6 development within the town. She stressed full disclosure on restrictions and allowances of an R6 district and how it affects the precedent (good or bad) for future opportunities. Full Environmental and Economic Impact studies should be done for the entire town and not just spot zoning for this project. She expressed concern for the sustainable future of the town.

- **WARD KINNEY – Woodlawn**

Mr. Kinney said his family has been coming to the area for about 50 years. Mr. Kinney expressed many of the same concerns as those who spoke before. He feels the proposed hotel does not have the best interest of the property owners on the lake, visitors to the lake, nor the year round community members. He said the survey given by the developer in 2006 could drive such an investment. He feels the balloon test was intended to confirm to the developer that the hotel could be viewed by passer bys from I-86, guaranteeing summer season bookings at the expense of smaller local establishments. He spoke of concern about signage height, and asked if tractor trailers will be welcome to stay overnight. He said property values will decrease within the area and consequently affect the tax base. **Mr. Kinney read a letter from William Kern, 5 Vincent Ave., Chaut..** Mr. Kern expressed many of the concerns of previous speakers with an additional concern about the ability of the local volunteer fire dept’s. ability and equipment in case of fire at such a large structure. **Mr. Kinney also read a letter from property owner William G. Kinney** in which he states concern over local voting and ruling residents of the area using their votes to override the long term best interests of the lake and non-voting, non-ruling, but tax paying members of the community in favor of personal convenience and financial gain. He said decisions made now will devalue the enjoyment of his property and life and he will seek restitution and damages if zoning is allowed for the hotel.

Mr. Senske asked Mr. Kinney to clarify the statement that he had seen a survey that Mr. McGraw had done.

Mr. Kinney said no he had not seen a survey. He had mentioned it in his 2006 meeting that the reason for the proposed height was the need for elevation to attract condominium owners to the top floors.

Mr. Senske said that Mr. McGraw had clearly stated that the height of the building was not intended to draw highway business and Mr. Kinney's earlier statement about the balloon test was false. He said the PB has not seen the survey but Mr. McGraw states that the hotel is to be a 3-4 night tourist destination and until the survey is seen, fair comment cannot be made about his plans.

Mr. Sena said Councilman Yates had suggested the balloon test and the town board had requested it.

- **STEVE BLAIR – Victoria Rd.**

Mr. Blair said his family has enjoyed the area year round for 50 years and briefly discussed the many changes that have occurred. He said as a past resident of Warren, he is familiar with Mr. McGraw and his projects there, one of which is currently in progress. He said there is an opportunity to attract commerce to this area associated with the access to I-86 and his family endorses the development opportunity that North Harmony has been given. He said the potential to develop city services water/sewer for both private and commercial use would be advantageous. He feels that real estate values will improve and help to make every ones pay day possible. He asked that height specifications be coupled with skyline/horizon of what the geography of the site is. He said both a shoreline and skyline should be considered as they relate from Point A to B on the water. He said the micro-responsibility consideration would include, for example, Pine Hill Cottages advertised as a resort and could be considered in the R6 design. He said it is nestled among private homes in Woodlawn and over time has gone from 2-3 small cottages to 19 cottages, motel rooms and efficiencies that blend in with the surroundings. He stressed that what the board does today has a multiple site consideration. He stressed due diligence while considering effects on the interest of the larger community. He said we are all partners in the future of North Harmony.

- **CHARLES COOLEY – Victoria Rd.**

Mr. Cooley said among the town's responsibilities is the welfare of private land owners. He said that Article I of the Towns Zoning Ordinance states that the general benefits derived from zoning laws include the promotion of the health, convenience, economics and general welfare of the community. He said in the last few months non-resident awareness of this has grown considerably. He said it can be difficult for these persons to travel several hours for week night meetings and hopes the town will schedule future meetings on weekends for their benefit. Mr. Cooley expressed many of the same views and concerns outlined by previous speakers. He said any height taller than the tree tops (50-60') is excessive. He asked if the comprehensive plan specifically addresses Resort districts which might call for a separate plan. He feels if other locations are considered for R6, EIS studies should be done at the same time as the current hotel to evaluate cumulative impact. He asked for a declaration of real intent from the developer with regard to the inclusion of a second tower at the Bootey Bay site. He spoke about shoreline preservation and asked if the board would consider ways of obtaining offsets to limit environmental impact elsewhere to offset the impact of the proposed project. He expressed concern for waterfront density and funneling issues. He questioned the effect of this project on other businesses in the area. He asked that the town consider the suggestions outlined in John Jablonski's letter of 3/21/08 to Mr. Rice.

Mr. Senske commented that many of the points brought up would be handled in the scoping process which is a public process that is held before the SEQRA hearings. He urged attendance and public input at the scoping sessions.

Mr. Warner commented that the Zoning Ordinance of 1989 is for all intents and purposes a comprehensive plan. He said currently they are focused on changes that will involve Central Stow.

Mr. Sena assured those present that the NYS DEC has been involved in this project from its inception and will be kept current through the entire process.

- **BOB ALLISON – Bemus Pt.**

Mr. Allison asked the board to let the past two decades of work done by the county on how to make the lake better, inform and enhance the development of overall planning and in context, zoning decisions. He said that we are doing things to the lake faster than it has the capacity to heal itself. He said that a diagnostics and management plan had been done by local experts, outside experts, legislation and towns. He said these reports for a management plan include a survey for residents of the watershed. He said these studies had discussed the protection of scenic vistas, natural beauty of the watershed and regulation of building heights on the lakefront. He said these two studies were correlated by County Planning employee Don McCord in the Local Waterfront Revitalization Program document. Mr. Allison said he lives on the other side of the lake and this decision by North Harmony will set precedent for all sides of the lake. He spoke of the draft LWRP document that Mayville is using and said other towns will be reviewing it for adoption. He said he hoped the PB would use it in their study of this project. He said he hoped it would be done in a timeline that doesn't have just the developer and his legal hired guns answering all the town's questions. He said there are other experts that should be used. He said the CWC has spent \$5,000,000 in the last 10 years to save open space in a natural state. He spoke of other organizations and the money they have spent to study and preserve the lake's quality of water. He asked the town not to do things that would go against this process.

- **JIM FOX – Woodlawn**

Mr. Fox said his family has been coming to the lake since 1966. He said they have spent their discretionary money on their cottage and the local economy. He said if they hadn't inherited the cottage they would not have been able to afford it now. He said every year it gets financially more difficult and taxes continue to rise. He said there is an opinion among summer people that locals don't take their opinions/desires very seriously because they cannot vote. He said he hopes this is not the case. He said the environmental impact the proposed development has far outweighs the aesthetic impact. He said the aesthetic quality is very important because those who come are drawn to the rural appeal and quiet waters. He said that prior to the developers presentation the PB would not have even thought of considering anything over 70' high in the creation of the R6 District. He said the developer's original plan was for an Adirondack style structure which has grown to 10 stories. He said the developer is holding the carrot of sewer/water before the county and town as an incentive to allow their plan. He asked that the town consider the original zoning of the property at 2 ½ stories. He said Mr. McGraw is trying to dictate to the PB instead of the other way around. He asked for a full comprehensive plan. He asked that the town "set the bar high".

Mr. Rice asked Mr. Fox what he viewed as the negative environmental impacts of the project.

Mr. Fox said runoff from the hard surfaces and negative implications on the waterfront.

Mr. Sena said once again that the DEC views the lake as its "baby" and they will protect the water.

- **DAVE FOSTER – Victoria**

Mr. Foster said his family has a home on Victoria Rd. and a cottage on the lake built by his family in 1898. He said he appreciates the emotions and feelings expressed. He said maybe some of these discussions are "putting the cart before the horse", but appreciates the opportunity for all to speak in constructive dialogue. He expressed his faith in the strictness of the DEC and the PB. He said the area is a great place to live if you can make a living. He said six months out of the year this can be a tough place to make a living. He said if there is an opportunity for financial advancement that is not state supplied that option should be studied carefully. He emphasized that not all residents of North Harmony live on the lake and there are many good people including the volunteer fire department as well as those in retail who serve all year round who should be counted also. He said this is a tremendous opportunity and all the options should be weighed carefully. He said that a 10 story hotel seems a bit overwhelming, but has confidence in the PB to do their

job and said support should be offered in a constructive way. He said he has a problem with the proposed massiveness of the project and feels a tree line or 4-5 story building would be more desirable. He said that if the developer can help create sustaining jobs they should be given all the tax breaks possible. He said the private purchases such as condominiums should be considered differently. He spoke of sewer/water and said that many in the room who rely on private sewers should be happy when their sewer tests past. He said the testing is not strenuous and if the sewers were dug into for structure it might be a different story. He said they only use dye to test and if many of the homes which are in the watershed were looked into more carefully there may be deficiencies not seen or tested. Mr. Foster said sewer for the lakeside of Rt. 394 would be good. He said we are kidding ourselves if we think our sewers aren't affecting the water quality. He said in relation to the R6 designation we must be careful not to do something today that will hurt us later on.

Mr. Sena said Bill Daly of the IDA had spoken of the PILOT (Payment in Lieu of Taxes) toward infrastructure. He asked how the School Board views this. Do they have to vote on it?

Mr. Foster said he could not speak for the board, but in the one situation he is aware of it is basically what it is. It is a tax base that wasn't there before, so nothing is essentially taken away. Something is added to the tax base that cannot be initially used but will be later.

- **MARY ANN & JOHN JOHNSTON - Victoria**

Mrs. Johnston said that they are year round residents (33 yrs.) on the site of the old Victoria Hotel. She feels that the proposed development will seriously damage the ecosystem of the lake which is already in jeopardy. She expressed concern that this development would bring strip malls, fast food, and a four lane highway with it. She said the area needs development and jobs because it is depressed, but more on the lines of a 3-4 story hotel with quaint shops and a village type atmosphere. She expressed concern for the precedent a 10 story hotel will set. She further expressed many of the concerns of previous speakers.

Mr. Johnston said many people believe that the proposed hotel will be a good thing for tax revenues both to the town and the schools. He feels this will not happen since the taxes will be abated for approximately 20 years and a portion of the taxes will be used to buy Mr. McGraw's new sewer line. He feels the taxes will be used for the sewer and not lower the taxes of those who live in North Harmony. He also expressed many of the same concerns as those who spoke before. He spoke of the new condos in Bemus and the new Chautauqua Suites. He said he is not against 4 stories and the zoning should cap it at that and if Mr. McGraw walks, he walks. He said the cottages that existed on the property have been demolished and until something is built, Mr. McGraw will still have to pay taxes on the property. He said he is not pumping sewage into the lake and is not concerned that sewer lines be provided. He said that sewer lines would be nice, but are not necessarily needed. He said the town should do the right thing.

- **DAVID SEEGER (Attorney from Buffalo retained by nascent neighbors organization including Bergens)**

Mr. Seeger stated he does not own property in the town. He said he could provide valuable insight and advice to the PB. He said there is nervousness among property owners about Mr. McGraw's proposal. He said according to the developer this is to be a Hilton Doubletree and according to the official website of the Hilton, they come in different varieties; Doubletree Hotels, Doubletree Guest Suites, Doubletree Resorts, Doubletree Club Hotels, etc. He said that in the sketch provided by Mr. McGraw the first floor is labeled Doubletree Resort. Hilton's definition of a resort is "located in vacation destination markets, Doubletree Resorts provide guests with the ultimate vacation, whether they are looking for fun and excitement or rest and relaxation. From Niagara Falls to Key West each location is an upscale property with at least two types of recreational facilities such as golf, tennis, snorkeling and spa facilities". He said there will be no golf, no horseback riding, no snorkeling and it is mysterious as to what will exactly be happening at this project. He stated that disclosure is the issue. He wants plans, details, engineer stamp, elevation details supporting documentation and an answer to whether the building will be "green". He said the country

is going “green” and people would be less nervous if the development was. He asked if the building would be visible at night with respect to lighting. He asked if the development would take an unfair share of lake usage. He questioned the number of persons allowed to take advantage of the lake frontage. He questioned what the building would look like 50-100 years from now (i.e. will it have served its usefulness in 20-30 years such as a “big box” building). He questioned the architecture and its value through the years. He claimed these were issues answerable by the developer and alluded to plastic, hundreds of party lights, 1,000 people on the terrace, tie into boat club with dozens of people speeding up and down the lake, etc., as issues that had people nervous and should be addressed by the board now rather than later. He again stressed disclosure before scoping and EIS on destination resort district. He said segmentation is not allowed and the only land which would benefit from the new district is Mr. McGraw’s property. He said a comprehensive plan is necessary and current zoning does not allow this plan. Mr. Seeger stressed density limits, visual impact, preservation credits, designation of vulnerable environmental features, encouragement of clustering to preserve open space, using sound levels, etc. He said his clients are enthusiastic about participating in the process.

- **HELEN EMICK – Lakeland Rd.**

Mrs. Emick said they are not opposed to development, but to the development as it is proposed. She said she was concerned that the board’s decision making process should encompass a comprehensive plan. She said Mr. McGraw’s plan should not be done or approved as spot zoning. She said the entire North Harmony area should be considered in the process of designating an R6 District. She said based on the current economic situation, the length of the proposed tax abatement period (20 years) should be considered. She brought up the scenario of bankruptcy for the project and its implications to the town residents with regard to the tax base. She questioned the number of residents who actually want water/sewer and what percentage it would serve. She spoke of hidden costs of the project not factored in to the taxpayer, not just initially but on a yearly basis. Mrs. Emick brought up the employee costs associated with these services to the taxpayer with regard to insurance, social security benefits, postage, paper costs, etc. She said the project would increase pollution to the lake (i.e. runoff, debris from boaters, oil/gas spillage, etc.). She questioned if the proposal included a gas filling station on site for boaters. She also expressed many of the concerns stated by previous speakers with regard to height, etc.

Mr. Sena stated that no gas pumps on site have been proposed.

- **KEN SCHOLTZ – Woodlawn**

Mr. Scholtz said he is from Pittsburg and has a place at Woodlawn which they love. He said he does not care about the property value, it is his families “piece of heaven”. He said summer people appreciate the lake more than those who live here year round. He said the summer people enhance the local economy. He said they feel they pay more than their share of taxes being on the lake. He reminded those present that they don’t use the services (i.e. schools, social, economic and medical benefit of community). He said the only benefit they receive is the transfer station (which many don’t use). He said they are silent partners in that they pay all of their taxes and really care about the place. He said the process should be taken slow. He said he had contacted Chautauqua Suites and Webb’s to determine their occupancy from Nov. till May and they said it was very slow. He questioned the level of business the new hotel would get from snowmobilers, ice fisherman and skiers. He also called the postmaster in Jamestown and asked if there was a 10 story building there and was told there was not. He said there are no 10 story buildings in Erie or Warren.

- **ED BRADFORD**

Mr. Bradford said that he lives in the area and appreciates the summer people because his business is landscaping and docks. He said without them and the lake he would be unemployed. He said the lake is

not very clean and we all need to do whatever possible to get a sewer system in place. He said no one is being accused of deliberately dumping sewage into the lake, but if you live on the lake and your septic has not been redone in the last few years things are leaking into the lake. He said in the fall when they are removing docks the water is disgusting. He said there are a large number of cottages and homes not on sewer lines and the septic systems are deficient. He said sooner or later NYS and the DEC will mandate sewer and all residents will have to pay for it. He said cleaning off after coming out of the lake in the fall is much more difficult and dirty than in the spring before these homes are heavily used. He said years ago people used to take baths in the lake and that certainly can't be done now. He said if Mr. McGraw is willing to provide the infrastructure, those truly concerned about the condition and wellbeing of the lake should seriously consider his proposal. He said if the lake continues to deteriorate we will have lost the very thing that people come here for and this will ultimately affect property values, jobs, schools, etc.

Jennifer Dougherty of Phillips Lytle, said that tax abatement discussions with the IDA are in the preliminary stages and she couldn't speak to that issue at this time.

Mr. Johnston said he had spoken to Bill Daly of the IDA and asked if it is true that there will be a bond issued and taxes would go to pay the bond.

Ms. Dougherty said she is an Environmental Attorney involved in the SEQRA process and rezoning issue and is not familiar with the tax abatement portion of the plan.

Mr. Stapleton, Town Attorney stated that it is our understanding that there will be a bond issued in concert with either the IDA or the South and Center Sewer District and the PILOT agreement would be used to pay for the life of the bond. He said the PILOT agreement would provide the sewer infrastructure to the development. He said that according to the assessor the condominiums would go on the tax roll at full valuation.

- **CLAYTON EMICK – Lakeland Rd.**

Mr. Emick said his family has been coming to the lake seasonally for 30 years and 5 years ago retired to their lake property as full time residents. He said his career had included the position of City Comptroller and he has been involved in many planning sessions. He said in his experience a comprehensive plan comes first that is well thought out and reviewed using NYS Town Laws. He questioned the need for an R6 District and feels its institution would be 100% spot zoning. He said Mr. McGraw's request for tax abatement is not fair to other hotels in the area that pay taxes. He expressed concern for fire and police protection. He stated that the area only has a volunteer fire department and spoke about mutual aid calls and the level of training of the members. He said this should all be totally planned before any commitment. He said other items that concerned him are the floating bar, boat club, possible dock parties and exit plans for North Harmony and I86. He asked the board to please make the right decisions for the town.

Mr. Senske said that Mr. Emick had been at the last few PB meetings and asked if he was not satisfied with the response and answers received from the Fire Department, County Fire Commissioners and County Emergency Management personnel?

Mr. Emick said he was not satisfied with the answers received. He asked if they were going to have a ladder truck.

Mr. Senske said that issue had been addressed.

Mr. Emick said he understood that they would enter the building with tanks strapped to their backs.

Mr. Senske said that at prior meetings fire and emergency management representatives had clearly stated that there are 3 ladder trucks available in the area that could handle a fire in that type of building.

Mr. Emick again questioned the type of training and response time of the local services.

Mr. Senske asked what further information the board could provide Mr. Emick since he doesn't seem to have faith in the information provided by area experts on the fire issue.

Mr. Emick said in a comprehensive plan, these types of issues should be addressed.

Mr. Senske said many of those present have brought up the comprehensive plan issue. He asked

how many present had ever seen or read one. He stated that if North Harmony had a comprehensive plan in place today this meeting would still be going on. He said that a comprehensive plan is a guideline for townships and municipalities. He said he has seen several that have been done in WNY communities and they don't deal with specific answers. He said they are a guideline and overview for an areas use. He explained that they don't address whether or not a 10 story building should or should not be allowed. He agreed that a comprehensive plan is a good idea but the issue at hand will still have to be decided by the Planning, Zoning and Town Boards.

David Seeger said he does not agree with Mr. Senske. He said the law was changed in the 1990's and comprehensive plans in accordance with Sec. 272-A of NYS Town Law do drive all future way of use regulations. He said if the plan says this is farmland you cannot put in a 10 story building. He said the comprehensive plan is the basis for zoning. He said zoning is for what you can and can't do and the comprehensive plan is the guideline that drives what the zoning regulations are.

Dick Johnson said he did not want those present to have the wrong understanding of the comprehensive plan. He said the plan they are working on currently with professional help is the Stow Interchange area and more recently the Stow Hamlet area. He said currently this does not include an overall comprehensive master plan for the Town of North Harmony.

Mr. Allison asked if the Toms Point and Bootey Bay areas are under the umbrella of the Stow Hamlet plan.

Mr. Rice said yes and there has been a building moratorium in that area extended for an additional 6 months by the Town Board until the plan is completed. He said Dudley Breeds will be providing a more conceptual idea of the plan at the 4/30/08 PB meeting at 7:00 PM.

Mr. Warner said the intention is to complete that area and then move outward.

Mr. Senske clarified that Mr. McCord and Mr. Breeds had not been hired to produce the comprehensive plan, but to assist the PB in its development.

Mr. Sena said the PB has reviewed other comprehensive plans and many seem to be pretty much boiler plate plans. He said the PB wants to tailor one that fits our town and its needs in each respective area.

Mr. Emick asked if the plan process was started in response to Mr. McGraw's project.

Mr. Rice said this plan for Stow Central had been in the works for many years prior to the hotel request.

- **MARK SCHLEMER – Bemus Pt.**

Mr. Schlemmer said he lives on Lakeshore Dr. and is a Town Councilman in Ellery. He said he is a civil engineer for the city of Jamestown and urged the PB to stay focused on the application and not just other issues. He talked about the condo project in Bemus and stated that village zoning allowed for 2 ½ stories on that site. He said the Zoning Board of Appeals granted the developer 5 variances which resulted in the 4 story condos which now exist. He made it clear that no matter what is recommended now, the ZBA can grant variances. He urged the board to keep that in mind as they discuss and move forward.

Mr. Johnson asked if anyone had raised the fact that the variance requested was more substantial than should be allowed.

Mr. Schlemmer said the point had been made but the vote was 3 to 2 and no one challenged it. He said he had been told later that it could have been challenged in court.

On a motion made by Mr. Senske and seconded by Mr. Rice the meeting was adjourned at 10:00 PM.

Included in the minutes is a letter dated 4/8/08 from John Jablonski, III, Executive Dir. of the Chautauqua Watershed Conservancy.

Nancy Thomas – Town Clerk



Chautauqua
Watershed
Conservancy

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Preserving and enhancing the water quality, scenic beauty and ecological health of the lakes, streams and watersheds of the Chautauqua region.

April 8, 2008

John P. Rice, Chairman, Planning Board
Town of North Harmony
Stow, NY 14785

Dear Planning Board:

For this public hearing today, the Chautauqua Watershed Conservancy urges you to consider the concerns in our previous letter and especially consider the following suggestions.

- Please obtain expert planning assistance to assist the planning board and town board to craft provisions for a new R-6 zone. This person should illustrate setbacks, height limits etc. to show what the end result is of such provisions.
- Establish a natural vegetative buffer requirement for R-6 and eventually town wide:
 - 3 zone approach
 - 25' primary natural buffer zone: only grass or chip paths, concrete or macadam walkways from 2ndary zone to lake not to exceed 10 feet in width for every 100 feet of shorefront width and area
 - 50' naturally vegetated buffer, no disturbance to more than 25% of lakeshore buffer zone width and area, area may be used for lawns, paths above
 - 25' no primary use structures, but accessory uses (gazebos, decks, patios, walkways, lawn, not more than 25% of the width and area of the buffer, and no more than 15% coverage of this area with lawns, or impervious or semi pervious surfaces, such as concrete patios, gazebos, decks or other structures
- Limit building height to sixty (60) feet maximum.
- Adopt lot coverage limits (buildings, driveways, sidewalks, other impervious surfaces of no more than 30%).
- Adopt parking lot shade tree and landscaping requirements: no less than one shade tree (tree with mature height of 40 feet or more) per 12 parking spaces, with no less than 50% of shade trees within parking areas; all parking shall have appropriate screening with shrubbery, vegetated berms, or ornamental stone or brick walls, from public roads, adjoining properties and lake
- Adopt storm water management provisions: 1) capture and infiltrate to groundwater or treat to achieve a minimum of 80% total suspended solids (TSS) and 60% total phosphorus and total nitrogen removal from 90% of the average annual rainfall events volume. (Precipitation from average storm events would be infiltrated or treated). 2) Oil and grease separators are required for parking lots and driveway storm water treatment to protect water quality.

We thank you for considering these points.

Sincerely,

John Jablonski III
Executive Director

Arthur D. Webster, *President* John Jablonski III, *Executive Director*

Board of Directors: David L. Andersen Janis Bowman Philip J. Brunskill Lou F. Clementi Jane E. Conroe Jane D. Kidder
Robert J. Lannon William R. Locke Michael K. Lyons Rebecca L. Nystrom Thomas A. Small David W. Todd Edward P. Wright

Buffers: An Efficient Tool for Watershed Protection

What Are Buffers?

A **buffer** is a strip of naturally vegetated land along a lake, stream, or wetland that provides numerous benefits. Preserving a buffer zone protects water resources from neighboring land uses. Nutrient inputs are of great concern because of their abundant sources (fertilizer, septic tank drain fields, leaking sewage lines, animal waste). Excess nutrients in lakes and estuaries cause toxic algal blooms and depleted oxygen. Natural chemical and biological processes within buffers alter or uptake nutrients and pollutants *before* they enter a water body, thus providing a cost-effective treatment system. Buffers preserve native habitat for wildlife and enhance aquatic habitat. The range of benefits provided by buffers includes:

- Water quality protection 
- Erosion control
- Storage of floodwaters and flood damage reduction
- Aquatic habitat enhancement 
- Habitat for terrestrial riparian wildlife 
- Maintenance of base flow in streams
- Improved aesthetic appearance of stream corridors
- Recreational and educational opportunities

Riparian refers to the land adjoining a body of water, usually a river or stream.

Buffer Width: Bigger is Better

Choosing a buffer width depends on your planning goals. As buffer width increases, the buffer provides greater benefits. As seen in the table below, a 30-foot buffer provides minimal service. At 50 feet, the buffer meets minimum water quality protection recommendations and gives some aquatic habitat benefits. For effective water quality and aquatic habitat protection, a buffer width of 100 feet is needed. Buffers to enhance riparian wildlife should be 300 feet or greater. Special buffer zones may be required to protect vulnerable species.  Width should be increased where slope, impervious surface, and soil type reduce buffer effectiveness. The consequences of an inadequate buffer may be an increased need for stormwater ponds, increased flooding, decreased abundance of sportfish, and/or loss of certain species such as some salamanders or crayfish.

Benefit Provided:	Buffer Width:					
	30 ft	50 ft	100 ft	300 ft	1,000 ft	1,500 ft
Sediment Removal - Minimum						
Maintain Stream Temperature						
Nitrogen Removal - Minimum						
Contaminant Removal						
Large Woody Debris for Stream Habitat						
Effective Sediment Removal						
Short-Term Phosphorus Control						
Effective Nitrogen Removal						
Maintain Diverse Stream Invertebrates						
Bird Corridors						
Reptile and Amphibian Habitat						
Habitat for Interior Forest Species						
Flatwoods Salamander Habitat – Protected Species						

Sources

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For Further Information Contact:

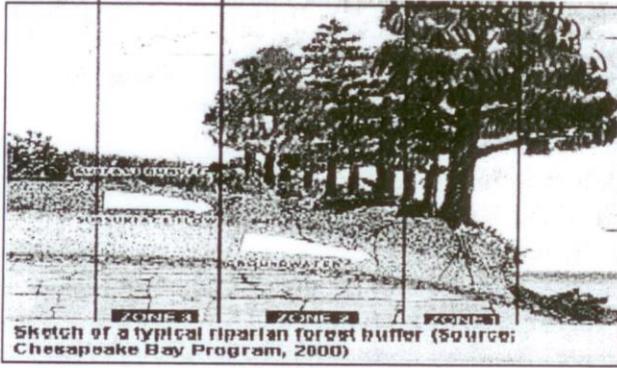
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Floodplain Management: Stream Buffer Examples



Description

A vegetated area, including trees, shrubs, and herbaceous vegetation, which exists or is established to protect streams, wetlands, or other water bodies.

Agency/Community Standards and Recommendations:

EPA 3-zone Buffer

100 foot buffer extending on both sides of stream. Plus:

- 1) 25 feet added to base buffer for streams third order and above
- 2) steeper slopes require wider buffers
- 3) buffer should extend 100 feet or 25 feet beyond the 100 yr floodplain, whichever is larger
- 4) buffer extended to encompass wetlands plus 25 feet

Streamside zone - 25 feet - undisturbed natural vegetation

Middle zone - 50 feet - passive recreation, limited tree clearing, stormwater management facilities, mature native vegetation.

Outer zone - 25 feet - no permanent structures or impervious cover - encourage native vegetation

Center for Watershed Protection : Three-zone Urban Stream Buffer System

Streamside zone: Min. 25 feet plus wetlands and critical habitat. Undisturbed mature forest, reforest if grass. Uses: foot paths, utility right of way, flood control

Middle zone: 50 to 100 feet, depending on stream order, slope and 100 year flood plain. Managed forest, some clearing allowable. Some recreational uses, some stormwater BMPs, bike paths, tree removal.

Outer zone: Min. 25 foot setback to structures. Forest encouraged, but usually turf. Residential uses including yards, garden, compost, most stormwater BMPs

Floodplain Management: Stream Buffer Examples

Agency/Community Standards and Recommendations:

Natural Resources Conservation Service: Conservation Practice Standard Riparian Forest Buffer

Zone 1 - 15 feet horizontally either side. Undisturbed forest.

Zone 2- from edge of zone 1 plus 20 feet. Managed forest.

*Zone 1+ 2, 35 feet or 30% of 100 year flood plain, whichever is greatest. When 30% of the 100 year flood plain exceeds 100 feet, the minimum width is 100 feet.

Zone 3 - can be added to consist of stiff stemmed grasses adjacent to zone 2 where erosion is a risk. Haying and recreation allowable; no paving, livestock, or chemical pollutants.

Lower Platte South Natural Resource District: 3-Zone Buffer Minimum 100 foot buffer on either side

Stream side zone - mature riparian forest, undisturbed

Middle zone - variable width - mature forest with some clearing allowed for storm water management, access, and recreational uses.

Outer zone - 25 feet - usually turf, but shrubs and trees are encouraged

Chesapeake Bay Program

Resource Protection Zones (RPZ) - overlay zoning used to protect wetland and riparian areas. Minimum buffer of 50 feet each side for smaller stream channels, 100 feet for wider stream channels. If the floodplain extends beyond the buffer, the edge of the floodplain constitutes the edge of the RPZ

United States Dept. of Agriculture

Minimum 95 feet on either side

Zone 1 - 15 feet from top of bank horizontally - native riparian trees and shrubs

Zone 2 - 60 feet horizontally from zone 1 edge - managed riparian vegetation, emphasis on native species and nitrogen fixing species.

Zone 3 - 20 feet horizontally from zone 2 edge - stiff stemmed and sod forming grasses and forbes.

Baltimore County, MD

Class I and II stream buffers measured from centerline of stream, all others measured from stream bank of active channel. Class I or I-p stream buffer widths greater than 75 feet, 25 feet from outer wetland boundary, or 25 feet from 100 year floodplain boundary, whichever is greatest. Class III, III-P, IV or IV-P stream buffer widths greater than 100 feet, 25 feet from outer wetland boundary, or 25 feet from 100 year floodplain boundary, whichever is greatest.

City of Napa, CA

50 feet either side of bank, use of indigenous vegetation.

Floodplain Management: Stream Buffer Examples

Agency/Community Standards and Recommendations:

Wisconsin Dept. of Natural Resources

100 feet either side of perennial streams

35 feet either side of intermittent streams

Vegetation should be long-lived trees, selectively harvested to promote vigorous growth.

Montgomery County Planning Commission, Norristown, Pennsylvania

75 foot minimum either side of stream, native vegetation in 2 zones 1) undisturbed 2) managed

Metro Regional Government, Portland, OR

50 - 200 feet using a formula that incorporates slope.

Slope is measured for first 50 feet. If the slope of the first 50 feet is < 25%, the buffer is 50 feet. If it is more, the slope of the next 25 feet is calculated. If this slope is <25%, that 25 foot section is included, *plus* another 25 feet, to make a 100 foot buffer. This continues until the slope is <25%, or until a 200 foot buffer has been created.

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Chesapeake Bay Program

<http://www.chesapeakebay.net/bayprogram/localgov/wetlands/noframes/cs-25.htm>

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Lower Platte South NRD.

Environmental Protection Agency

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