

**Minutes
Eden Planning Board
February 26, 2008**

FINAL

MEMBERS PRESENT:

Mark Agle
William Zittel
Dennis Brawdy
Juanita Majewski
Kevin O’Gorman
Andrew Romanowski
William Mahoney (Alt)
Frank Meyer, (Alt)

MEMBERS ABSENT:

Anthony Weiss, Excused

GUESTS:

Robert Bender, Representative of Tim Horton’s
Dana Braun, Engineer, Wendel Duschcherer
Rich Ventry, Councilman and Town Board Liaison
Randy & Kim Schmitz
Mike Bolo



Chairman, Mark Agle called the February 26, 2007 Planning Board meeting to order at 7:10 p.m.

Since everyone has received and reviewed a copy of the minutes of the November 26, 2007 meeting? Does anyone have any revisions or changes? If not, can I have a motion to approve the minutes as printed and distributed? So moved by Bill Zittel, seconded by Andrew Romanowski. Being no discussion, all “Ayes” motion carried.

NEW & UNFINISHED BUSINESS:

TIM HORTONS - The first item on today’s agenda is Tim Horton’s Corporation looking into opening a Tim Horton’s Coffee/Donut Shop in Eden on the corner of Legion Drive and North Main Street (Route 62) known as 8259 North Main Street (“Nowak” property”). Based on our code, this would be an appropriate use for the property, which is zoned General Business. The property is also situated in the Hamlet Overlay area, so those provisions of the code prevail as well. With that being said, representing the Tim Horton’s Corporation is Mr. Robert Bender who will give us an overview of the preliminary plans submitted.

Mr. Bender – Good evening, as stated we are looking to put a Tim Horton's on the "Nowak" property. What we are proposing is a 2,400 square foot restaurant with 36 seats, 30 parking spaces, and what may appear to be excessive, a drive-thru lane capable of "stacking" 22 cars. We have learned our lesson over the years, that more is better in the situation [drive-thru] of Tim Horton's and we also make an effort when the property is available to keep the drive-thru traffic separate from the pedestrian traffic. We looked at several different concepts of making the stack shorter and breaking it out halfway back rather than taking it all the way through, but we have learned from experience and determined this to be the most effective and user friendly design concept as long as the property supports it, which in this case it does. We will be removing most of the present impervious area. There are a few issues that we weren't clear on between the overlay district and the code, and whether the site would require variances or not? We weren't sure if Legion Drive was considered an additional frontage area for the purposes of parking set back being that our only driveway is off of North Main Street. Some communities do consider both sides [of corner lots] as frontages; others will look at the primary frontage only. With this [Legion] being a dead-end, does it really affect the frontage factor? So we are also looking for direction as to whether any variances would be required in this situation. We also are not clear as to the classification of the dumpster enclosure and whether that encroached on a building setback limit or not? So those are just a few of the questions that we had. But I think the preliminary concept that we have submitted for your review for tonight is self-explanatory.

Brawdy – When the Dollar General (DG) went in there was an issue with the supply trucks being tractor-trailers. They had a strict footprint with how they were bringing in all of their deliveries. If I am not mistaken the tractor-trailers currently come in through the back of the [Nowak] property and unload on the side of the [DG] building. So we might need to check on that.

Mr. Bender – We receive our deliveries by tractor-trailer as well, usually during non-peak hours and they have no trouble maneuvering through a smaller parking area. We did inquire as to whether there were any existing easements, encroachments or cross access agreements with anyone and no one was aware of anything. I have the site plan for Dollar General with me showing the layout.

Agle – It was discussed with Dollar General, and it was an issue at the time, about maintaining the possibility for cross access in this area [pointing out on the plans the common property line between DG and "Nowak"] if needed. Whether the current plan lends itself to this arrangement or not is another issue. We did suggest that they look at cross access easements but again we don't know whether they were required to follow through as a condition of approval.

Mr. Bender – We will do a full abstract on the property which is standard practice prior to any closing.

Brawdy – There is also a concern as to what the current "practice" is. The "practice" might be different from what the paperwork says.

Zittel – Is there a concern about another drop out onto Main Street? Can we share the existing [DG] driveway and come off Legion? There are currently no real defined curb cuts anywhere on the current site.

Agle – When Dollar General went in we were trying to look at joint access as a part of the planning process. That is also one of the requirements for the Hamlet Overlay, to try to promote cross access where it makes sense, where it is safe. Maybe Dollar General would want to have cross access and maybe they wouldn't. There are pros and cons to both of those.

Mr. Bender – The volume of Tim Horton's does not always lend itself to cross access with our neighbors. We will inquire further with Dollar General as to these issues.

Agle – To get back to Bill's point about access onto Main Street. The post office is directly across the street and so to avoid conflicting driveways, it is important to consider having the two driveways aligned. Looking at the aerial photos they do appear to be very close.

Mr. Bender – That is a typical DOT requirement. Everything will be submitted to the County and other agencies for review and I am sure they will come back and make sure we are directly opposite to that driveway for ease in making left hand turns. So that shouldn't be an issue.

Zittel – What is the negative to having the drive around here [pointing out on the plan the portion of the proposed drive in front of the building] instead of coming back around here [pointing to the DG drive]; if they allowed a shared access could traffic go out the shared drive instead?

Mr. Bender – Probably, yes.

Zittel – Is there an option to come off Legion Drive with your entrance and exit? To get off the busy roadway?

Mr. Bender – Possibly, but we certainly prefer to have our ingress and egress on the main thoroughfare. It makes it less complicated for the customer by preventing conflicting cross-flow traffic within the parking lot. We feel that we don't create any difficulty by allowing for entrance to the larger drive thru stack with 22 cars before you even get into the parking lot. With respect to traffic, I don't think that creates any more difficulty for someone to slow down at Legion to get in as it does to slow down to get into the Tim Horton's entrance shown on the plan. Since Legion is a dead end I don't see any benefit to shifting the driveway.

O'Gorman – I can see a lot of parents grumbling if the traffic were diverted to Legion. The school uses that for parents to drop off and pick up. The idea of taking your exit, just for the drive thru, to where it would be shared with the existing Dollar General would

feed you out that way instead of going back through here [the proposed entrance/exit shown on the plan]. I think it would give you more access coming in. It would give you a little more green space in front of the building. My other question would be regarding the State and their preference for 90 degree angles for side streets, is there any way to square up the Legion corner? Is there an option to give the Town footage on this corner to straighten Legion Drive?

Mr. Bender – I don't think that would be an issue for us in any way.

O'Gorman – It would give the Legion more room for the park on the other side and you would be coming into Main at a straight angle. Isn't that what the State likes?

Braun – It is preferred, not required.

O'Gorman – The downside, however, I was out there looking around, and there are two telephone poles in that corner.

Mr. Bender – That would be taken into account because the power company would need to move the poles. Then it becomes another expense. We would certainly work with the Town, the County and the State.

Discussion points raised by various Board members:

- Alternate ingress and egress from Legion may create an opportunity for cutting in line that is eliminated by having a separate drive thru lane.
- The possibility of creating an abandonment lane from the drive thru onto Legion for people who might decide not to wait in line any longer.
 - May create more confusion by inviting people to try and enter from Legion.
 - There will be curbs and landscaping so that would not be allowed.
 - Legion gets shut down for the Corn Festival. So that really should not be considered.
- When DG originally went in, the driveway was centered between the two buildings so they could share the driveway. But prior tenants of the current property did not have nearly the volume that Tim Horton's will have and therefore forcing a shared access may not make sense for this application.

Mr. Bender – Like I said before, we will discuss the issues with DG as to the driveway and the delivery trucks, etc. The other issue would be the dumpster location.

O'Gorman – What about outdoor tables?

Mr. Bender – That is not something that is done [by Tim Horton's]. The liability issue is too high. If the franchisee wants to consider it they would have to pursue that issue on their own. We are corporate and we do not do it. At this point we don't know who the franchisee will be. We don't decide that until we have a viable site.

Further discussion points raised by various Board members:

- If you move the drive thru exit would you allow for people to walk to DG rather than drive to DG? Would that be creating any safety issues? Mr. Bender - Channel 4 did a story the other day and they picked 2 of the 6 worst stores for traffic. The problem exists in some stores and corporate has learned from its design flaws. When Tim Horton's first came on the scene, they didn't envision the huge success they have now become in the area. All of the new stores are designed better and customer service is taken into account and timing is considered and this stack is excessive for a reason. You can't have the drive thru exit to somewhere that could possibly create a backup for cars trying to enter the drive thru.
- We think DG and Nowak were in agreement to share the driveway. While it was discussed, it may not have been memorialized through legal documentation.
- Is it the general "practice" to share access?
- If it was an issue then, is it necessarily an issue now.
- There was an issue when DG went in and Nowak agreed to the shared driveway. There was discussion in previous minutes about the common driveway which were supplied to Dana for review prior to this meeting but there does not appear to be anything in writing or made a condition of any approved site plan.

Mr. Bender - In any event, this use would produce many more times the traffic volume than any of the previous tenants of the Nowak property when shared access may have worked.

Agle – Dawn, we need to locate the prior final site plan approval and final approval minutes. The shared access may not be warranted in this case. We need to look at what makes sense for the submission before us right now.

What about the proposed building façade? Mr. Bender, have you read through the Hamlet Overlay regulations? The design needs to follow the parameters set forth in the overlay regulations and fit in with the look of the community. We are not looking for a basic corporate box/flat roof building.

Mr. Bender - Yes. We feel our standard buildings are excellent however we do get approached to make aesthetic improvements but that does add quite a bit to the bottom line costs. It takes the design plans up to 20k, let alone the cost of the building. Some of the design I saw here on the table [example pictures brought in by Town Engineer] with the siding and the stone on the bottom, that adds 50k, add the peaked roof that another 50k. That's a hard sell to get that through. If it is a requirement, we will certainly take it back to committee and they will have to decide whether they want to spend the money or not.

Brawdy – The process for us with the Hamlet Overlay has truly been an evolutionary process. When this started after adoption of the Town's Master Plan, we had some

thoughts on what we wanted the Hamlet to look like. It is very difficult with the first project that comes in to jump to a higher level standard. But there have been a number of projects that we have done since then and albeit the DG is an example of a design that would not look like that if it were to come before us today. This is an evolutionary thing. But some of the newer projects are the Boys and Girls Club, The Pub, the new lawyers office building were all held to a higher standard and that it is how it will be for each new application. The bar will be raised a little higher each time, more so on Tim Horton's, because what we don't want is a Transit Road look. This is the Hamlet, and we only get one shot at this. The green space issues are important and certainly the façade issues are important.

Agle – Signage and lighting issues are also addressed in that section of the code.

Mr. Bender – We look at everything very carefully before we proceed. We do a lot of planning and spend a lot of money on landscaping and lawn sprinklers and such. If you [the Town] think at some point will be changing that corner at Legion, then we need to be aware of that and we won't put sprinklers, shrubs, curbs or sidewalks in that area.

Agle – Ron Maggs as Highway Superintendent is included as part of the coordinated review under SEQR so he will see the plans. Since he has jurisdiction over Town Roads he will be able to make any comments relative to Legion Drive at that time.

Discussion between Mr. Bender, Mark Agle & Dana Braun concerning due diligence issues:

- Bender - We have our concerns about the site and we are already assuming a Phase 2 on it and that may cause us to go away. It depends on what we find
- Bender - We will excavate the site remove any identified hazardous material.
- Bender - There is also something about this being an archeological spot? Dana - That does not apply because this site has already been improved, but the DEC could come back with some other issues.
- Bender - We won't close on this deal until we have all the loose ends and environmental issues tied up. That's standard.
- Agle - This Board will likely be Lead Agency under SEQR, this is an unlisted action under SEQR and we will include a 239M referral as well. So it will get to the State DOT and everyone will have the ability to provide comments. You can keep a copy of that memo [memo from Town Engineer] and give that to your design people. The memo does touch upon many of the things we are discussing right now and it lists the code sections that apply for each of those issues.
- Agle – Does any one have anything else? It looks like there are more than enough parking spaces allotted. We discussed landscaping and signage issues. The off-street loading berth is indicated on your proposal. As required by code, you will need to provide two concept sketches with renderings of the building that architecturally compliment the area. You should refer to 2/20/08 memorandum by Wendel Duchscherer, Architects & Engineers.

Mr. Bender - We know we have to come up with two concept renderings of upscale building options. We will come back with proposed layout once we speak with DG hopefully we will have confirmation from them as to any shared access agreements or requirements.

Agle - At some point we will need a full environmental assessment form (EAF) so we can start the coordinated SEQR review.

Braun – Yes, and then when we are somewhat set on the final Site Plan and have all of the necessary accompanying documentation we will send out the package for SEQR review. When you come back, if you have your answers from the neighbor [DG] and you bring the two renderings we should be able to give you the necessary input to get to that stage. Also on the plan, can you show where the driveways on the other side of 62 are located so we can verify their alignment with the entrance you’ve proposed?

Mr. Bender – Okay, thank you.

APPOINTMENT RECOMMENDATIONS:

Agle – I make a motion to recommend that the Town Board reappoint Franklin Meyer and Bill Mahoney for another one-year term as Alternate Members of the Planning Board and Dennis Brawdy for another 7-year term as Vice-Chairman. Seconded by Andy Romanowski. All “ayes”.

REPORTS/ANNOUNCEMENTS:

Supervisor Nellis was looking for another PB member interested in joining the Farmland Preservation/Protection Committee. Is anyone interested? They will be meeting next Tuesday. (No one interested at this time.)

Agle - Being no other further announcements or business, I make a motion to adjourn. So moved by William Zittel. Seconded by Kevin O’Gorman. All “Ayes” motion carried. Meeting adjourned at 7:40 p.m.

The next meeting is tentatively scheduled for March 25, 2008 at 7:00 p.m.

Respectfully submitted,

Dawn Palma
March 8, 2008