

TOWN OF KENDALL
TOWN BOARD MEETING
Tuesday, November 27, 2012, 7:30 P.M.

Supervisor Gaesser reconvened the meeting at 7:30 p.m., and led the Pledge of Allegiance.

ROLL CALL

Councilman Pritchard	present
Councilman Joseph	present
Councilman Schuth	present
Councilwoman Szozda	present
Supervisor Gaesser	present

Also present, Attorney Malcomb, CEO Hennekey, Clerk Richardson, Planning Chair Gray, Bruce Newell, Joyce Henry, Dave Wegman, Jon Wegman, Matt Tomlinson, Ty Whitehair and two unidentified observers.

SUPERVISOR'S REMARKS

As many of you know, the Town has been reviewing The Cottages at Troutburg Project for almost a year. There have been 11 months of Planning Board and Town Board meetings wherein this project was discussed and exhaustively reviewed. The Planning Board and Town Board have received numerous public comments, questions and concerns, both in writing and at the Public Hearing held November 19, 2012. Both boards have considered each and every comment. The Planning Board's referral of approval listed nine recommendations. The Town Board has thoroughly addressed every one. The County Planning Board's unanimous approval contained only three conditions: 1) being re-zoned, 2) meet the Planning Board's recommendations, and 3) resolve the emergency access issue for emergency responders. We have addressed this and included that condition tonight. Tonight's agenda is the next step in the process, making a determination of significance under SEQRA, making a determination of LWRP consistency, and determining whether to approve the project. Thereafter, the applicant will be required to secure additional required permits from other involved agencies.

PUBLIC COMMENT ON CONTENT PERTAINING TO THIS AGENDA

Bruce Newell – asked how this is final approval, when there has not been preliminary approval.

Attorney Malcomb – the law does provide for preliminary and final plan approvals. Preliminary plans are generally much less detailed. There is a provision in the law, section 7, that if the submitted plans are sufficiently detailed and contain all the requirements of the final plans, the building permits can be issued after the plans are submitted. There is nothing else necessary to meet final requirements.

No further public comment

Attorney Malcomb said the Town Board has in front of them a resolution with an attached proposed negative declaration under SEQRA and a consistency determination by the Town Board. SEQRA requires that before any action can be approved, a determination of significance must be made. A hard look is taken at all potential environmental impacts, and a determination is made as to whether these impacts will be significant enough to have to file environmental impact statements. The SEQRA regulations set forth the criteria which must be evaluated to make the determination. Those criteria range from impacts on traffic, air quality, erosion, flooding, wetlands, noise, lighting, visual, odor, vegetation, historical or archeological or architectural esthetic resources, and community character, as well as considerations as to compliance with Town zoning regulations and Master Plan, use of energy, impacts to health, use of land. During the past year, the Town Board has taken a hard look at each of these areas of impact, has thoroughly reviewed these in light of the SEQRA regulations to determine significance. The proposed negative declaration puts forth a reasoned elaboration as to why an environmental impact statement is not necessary in this case. This determination rests with the Town Board. The second document is the consistency with the LWRP determination. Review of various aspects has been extensive.

RESOLUTIONS

Councilman Pritchard made the following motion, seconded by Councilman Schuth:

RESOLUTION 109-1112 RESOLUTION ISSUING NEGATIVE DECLARATION AND LOCAL WATERFRONT REVITALIZATION PROGRAM CONSISTENCY DETERMINATION FOR THE COTTAGES AT TROUTBURG PROJECT

WHEREAS, The Wegman Group has submitted an application to the Town of Kendall (the “Town”) to develop a three season cottage resort located on approximately 125 acres of land in the Town on four parcels, SBL Nos. 11.-1-9, 11.-1-10, 11.-1-11, and 11.-1-15 (the “Project” or “The Cottages at Troutburg”); and

WHEREAS, the Applicant has sought approval of a Planned Development Plan, a rezoning to create a Waterfront Planned Development District (“WPDD”) pursuant to Local Law No. 1 of 2012, and related State and local approvals; and

WHEREAS, the Town Board of the Town of Kendall (the “Town Board”) must comply with SEQRA and its implementing regulations at 6 N.Y.C.R.R. Part 617 in the review of the Project; and

WHEREAS, the Town Board is the Lead Agency pursuant to SEQRA; and

WHEREAS, the Town Board has duly considered the Planned Development Plan, the proposed rezoning Local Law, the Full Environmental Assessment Form, the criteria for determining significance set forth in 6 N.Y.C.R.R. § 617.7(c) of the SEQRA regulations, the administrative record, public comments, the draft Negative Declaration, and such other information deemed appropriate; and

WHEREAS, the Town Board has identified the relevant areas of environmental concern, has taken a hard look at these areas, and has made a reasoned elaboration of the basis for its determination; and

WHEREAS, the Town Board has completed a consistency review of the Project in light of the Town’s Local Waterfront Redevelopment Program (“LWRP”) and pursuant to Town of Kendall Local Law No. 1 of 1996;

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

1. The Project will not result in any large and important impacts and, therefore, it is an action which will not have a significant adverse impact on the environment.
2. The negative declaration, attached as **Exhibit 1**, incorporated herein by reference, is issued and adopted for the reasons stated in the attached negative declaration.
3. The Project is consistent with the Town’s LWRP.
4. The LWRP consistency determination, attached as **Exhibit 2**, incorporated herein by reference, is issued and adopted for the reasons stated in the attached consistency determination.
5. This resolution is effective immediately.

Supervisor Gaesser called for a roll call vote, with the following results:

Councilman Pritchard	aye
Councilman Joseph	aye
Councilman Schuth	aye
Councilwoman Szozda	aye
Supervisor Gaesser	aye

Supervisor Gaesser declared the motion carried.

Attorney Malcomb said the next resolution before the Board is to approve the planned development plan for The Cottages at Troutburg Project, and would adopt Local Law 2 of 2012, creating a WPDD. Applications under Local Law 1 of 2012 are twofold – to submit a planned development plan and concurrently to ask for re-zoning to a WPDD overlay district. The resolution addresses both. Also under consideration are the listed conditions, derived from Planning Board recommendations and Town Board discussions. These conditions would become part of the final planned development plan.

Councilman Schuth made the following motion, seconded by Councilman Joseph:

RESOLUTION 110-1112 RESOLUTION APPROVING THE FINAL PLANNED DEVELOPMENT PLAN FOR THE COTTAGES AT TROUTBURG PROJECT AND ADOPTING LOCAL LAW NO. 2 OF 2012, CREATING A WATERFRONT PLANNED DEVELOPMENT DISTRICT IN THE TOWN OF KENDALL, NEW YORK

WHEREAS, The Wegman Group (the “Applicant”) has submitted an application to the Town of Kendall (the “Town”) to develop a three season cottage resort located on approximately 125 acres of land on four parcels, SBL Nos. 11.-1-9, 11.-1-10, 11.-1-11, and 11.-1-15 in the Town (the “Project” or “The Cottages at Troutburg”); and

WHEREAS, the Applicant has sought approval of a Planned Development Plan and a rezoning to create a Waterfront Planned Development District (“WPDD”) pursuant to Local Law No. 1 of 2012; and

WHEREAS, the Town Board declared itself the Lead Agency, pursuant to the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, the Town Board issued a negative declaration, pursuant to SEQRA, and determined that the Project would not result in any significant adverse environmental impacts and that an Environmental Impact Statement will not be prepared; and

WHEREAS, the Town Board completed a consistency review of the Project in light of the Town’s Local Waterfront Redevelopment Program (“LWRP”) and pursuant to Town of Kendall Local Law No. 1 of 1996; and

WHEREAS, the Town Board issued a determination that the Project is consistent with the Town’s LWRP; and

WHEREAS, the Town Board referred the Project to the Town Planning Board for its review and recommendation, pursuant to Local Law No. 1 of 2012; and

WHEREAS, the Town Planning Board recommended that the Project be approved; and

WHEREAS, the Town Board referred the Project to the Orleans County Planning Board, pursuant to the General Municipal Law, and the County Planning Board recommended that the Project be approved; and

WHEREAS, the Town Board called for a public hearing on the Planned Development Plan and Local Law No. 2 of 2012; and

WHEREAS, in accordance with its public notice, the Town Board conducted the public hearing on November 19, 2012, where all interested parties were allowed to address the Planned Development Plan and proposed Local Law; and

WHEREAS, the Town Board completed a comprehensive review of the Project over the course of approximately one year;

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

1. The Final Planned Development Plan for the Project, attached hereto as **Exhibit 1**, is hereby approved, subject to the following conditions, which are hereby incorporated into the Final Planned Development Plan:
 - (a) The minimum size for any cottage shall be 300 square feet.
 - (b) The Applicant shall conduct annual flow testing of the internal (private) water distribution system for the Project to ensure adequate fire flow.
 - (c) All deliveries are restricted to the South entrance. The Applicant shall post signage at the North entrance notifying delivery companies that all deliveries must be made at the South entrance.
 - (d) Certificates of Occupancy shall not be issued for any portion of the Project until all Project infrastructure is completed for such portion.
 - (e) Each involved emergency service provider shall confirm acceptance of the emergency access procedure prior to the issuance of a Certificate of Occupancy.
 - (f) The Applicant must obtain and comply with all applicable and required federal, state, and local permits and approvals, including, but not limited to, permits from the U.S. Army Corps. of Engineers, the New York State Department of Environmental Conservation, the New York State Department of State, the New York State Office of General Services, the Orleans County Health Department, and the Town of Kendall.
 - (g) The effective date of the approval of the Final Planned Development Plan shall be the effective date of Local Law No. 2 of 2012.
2. Local Law No. 2 of 2012, attached hereto as **Exhibit 2**, is adopted in its entirety, and the official map of the Town shall be amended to reflect the rezoning.
3. Local Law No. 2 of 2012 shall be effective upon its filing with the Secretary of State pursuant to the Municipal Home Rule Law.
4. Special Counsel for the Town shall notify the County Planning Board of the final decision and publish any notices required under SEQRA.
5. This Resolution shall be effective immediately upon its adoption.

Supervisor Gaesser called for a roll call vote, with the following results:

Councilman Pritchard	aye
Councilman Joseph	aye
Councilman Schuth	aye
Councilwoman Szozda	aye
Supervisor Gaesser	aye

Supervisor Gaesser declared the motion carried.

Supervisor Gaesser thanked Attorney Malcomb and Attorney Spitzer for their outstanding work and professionalism.

Supervisor Gaesser reminded the Board that work on this is not complete. Water and emergency services will continue to be addressed, and Code Enforcement will now have much work as other agencies become involved.

Supervisor Gaesser thanked the developer and its engineer for the patience and co-operation as five revisions were done, Code Enforcement for its extraordinary efforts, the Town Clerk for her additional workload the past months, the Engineer for the Town, and the excellent job accomplished by the Planning Board.

The workshop on December 4th is cancelled.

With no further business coming before this Board, Councilman Pritchard motioned for adjournment, seconded by Councilman Schuth; all ayes. Meeting adjourned at 7:55 p.m.

Respectfully Submitted,

Amy K. Richardson
Kendall Town Clerk