

Memo

To: Town Board Members
From: James B. Callahan, Director of Community Development
CC: Town Attorney, Town Clerk, Town Engineer, Senior Code Enforcement Officer, Planning Board Members, Chamber of Commerce
Date: 9/20/2012
Re: September 26, 2012 Town Board Meeting Agenda

Following is a review/analysis of the items listed on the September 26, 2012 Town Board Meeting Agenda:

FORMAL AGENDA ITEMS:

1. CIMATO ENTERPRISES, WOODLAND HILLS SUBDIVISION.

Location: South side of Greiner Road, east of Harris Hill Road.

Description/History: Project site has been the subject of the consideration of a Major Subdivision request within the Residential Single Family zoning district.

Proposal: Applicant is requesting a Clearing, Filling and Grading Permit as well as an Excavation Permit to allow for the excavation of a proposed stormwater detention area that is planned in connection with the development of a proposed 77 lot Major Subdivision. The excavated fill is intended to be utilized for grading a proposed right of way in connection with the proposed Major Subdivision.

Master Plan: Area identified within a residential classification.

Reason for Town Board Action: In association with the Local Clearing, Filling, and Grading and Excavations Laws, the Town Board has final authority for the consideration of issuing permits in relationship with applications under both Laws.

Issues: The project site in question has previously been and is currently the subject of a Major Subdivision review. While the project has previously received a Negative Declaration under SEQR and Concept Plan approval, the project has not received nor been the subject of an official Development Plan review and approval. Additionally, the property, while currently planned for a 77-lot major subdivision, is not currently within a sanitary sewer district. It is important to note that as per the Local Clearing, Filling and Grading Law (Section 79-6(G)), the following provision is stated: "Any site that is proposed for development **may not** be cleared until development plan approval has been granted by the Town Board and a building permit has been obtained from the Building Department." Additionally, as per the Local Subdivision of Land Law (Section 193-15(E)(3)) the following provision is stated: "No construction activity shall commence without first obtaining development plan approval from the Planning Board and the appropriate regulatory agency and departmental permits." The proposed action would require the Town Board permit construction activity in association with a Major Subdivision proposal not serviced by a sanitary sewer district and without Development Plan approval having first been obtained.

2. **DAMON & MOREY, 5817 TRANSIT ROAD.**

Location: East side of Transit Road, north of Highland Farms Drive.

Description/History: Existing vacant land consisting of 4.33 acres in the Major Arterial Zone.

Proposal: Applicant is proposing to develop an automotive collision shop with an automotives sales component.

Master Plan: Area identified in a commercial classification.

Reason for Town Board Action: Per the Zoning Law, the Town Board has final authority via a Special Exception Use Permit or Temporary Conditional Permit to allow for automotive uses in a commercial zone.

Issues: The Planning Board failed to forward a recommendation for this use at this location. The Planning Board determined that a collision shop was not an allowed use in the Major Arterial Zone (Collision Shops are only specifically identified as an allowed use in the Industrial Business Park Zone) and the proposed use was not an appropriate land use at this particular location. No action under SEQRA has been taken on the matter and if the project is to be considered for approval then a full SEQRA review must be completed and a determination made prior to taking a final action on the approval. Should the Town Board follow the Planning Board action and deny the request, the procedure is complete.