

**Village of Millbrook Planning Board
Resolution
Application for Preliminary Subdivision Plat Approval
for
Bennett College Redevelopment**

November 18, 2010

Motion by:

Charles Colomello

Second by:

Joseph Stull

WHEREAS, on July 25, 2006, an application was made to the Planning Board of the Village of Millbrook by Blumenthal Brickman Associates for, among other things, preliminary subdivision plat approval for the property commonly known as the Bennett College Campus in the Village of Millbrook; and,

WHEREAS, the owner of the subject property is Bennett Acquisitions LLC and the application was submitted by Blumenthal Brickman Associates (the "Applicant") as contract vendee; and,

WHEREAS, the subject property contains approximately 27.6 acres of land and consists of 31 separate parcels, designated on the tax map of the Village of Millbrook as set forth on **Exhibit A** attached hereto and made a part hereof; and,

WHEREAS, the proposed subdivision would subdivide the subject property into 91 residential lots and 11 lots comprising buffer, open space, and right of way parcels for the purpose of constructing 82 duplex units and 9 single-family homes pursuant to a Conservation Density Development ("CDD"); and,

WHEREAS, the subject property is located within the Bennett Campus Development (“BCD”) as delineated on the Zoning Map of the Village of Millbrook; and,

WHEREAS, the application consists of the following drawings, prepared by TRC Engineers, Inc., dated May 4, 2007 and revised July 21, 2008:

<u>Drawing Number</u>	<u>Title</u>
C-1	Cover Sheet
C-2	Construction Notes
C-11	Site Demolition Plan – West Parcel
C-12	Site Demolition Plan – East Parcel
C-100	Preliminary Plat Plan
C-101	Site Plan – West Parcel
C-102	Site Plan – East Parcel
C-201	Grading Plan – West Parcel
C-202	Grading Plan – East Parcel
C-211	Road Profiles – West Parcel
C-212	Road Profiles – East Parcel
C-221	Typical Sections
C-301	Utility Plan – West Parcel
C-302	Utility Plan – East Parcel
C-401	Erosion Control Plan – West Parcel
C-402	Erosion Control Plan – East Parcel
C-501	Details (Sheet 1)
C-502	Details (Sheet 2)
C-503	Details (Sheet 3)
C-504	Details (Sheet 4); and,

WHEREAS, the application also includes the following plans, prepared by John P. Slaker Design Group, dated May 4, 2007 and revised July 21, 2008:

<u>Drawing Number</u>	<u>Title</u>
LP-1	Landscape Plan – West Parcel
LP-2	Landscape Plan – East Parcel
LP-3	Bennett Commons Landscape Plan; and,

WHEREAS, the application also includes the following plans, prepared by Chazen Engineering, Land Surveying & Landscape Architecture Co., P.C., dated December 12, 2008 and last revised October 14, 2010:

Sheet Number

Title

S-1
S-2

Preliminary Subdivision Plat
Preliminary Subdivision Plat; and,

WHEREAS, the subject property is located within the Bennett Campus Development (BCD) zoning district, which district was established by the Board of Trustees of the Village of Millbrook through the adoption of Local Law No. 1 of the year 2005; and,

WHEREAS, the proposed development is pursuant to the approval of a Conservation Density Development (CDD) as a special permit use within the BCD zoning district; and,

WHEREAS, the application submitted by Blumenthal Brickman Associates sought the following approvals from the Planning Board: subdivision plat approval, site plan approval, and special permit approval for the CDD; and,

WHEREAS, in connection with its review of the foregoing applications, the Planning Board acted as Lead Agency for the environmental review of the proposal under the State Environmental Quality Review Act (SEQRA); and,

WHEREAS, in its role as Lead Agency, the Planning Board determined that the proposal was a Type I Action under SEQRA and conducted a coordinated review; and,

WHEREAS, as part of that coordinated review, the Planning Board reviewed substantial amounts of information submitted by the applicant as well as by opponents of the project; and,

WHEREAS, the Planning Board carefully evaluated all of the information submitted to it and determined to issue a Negative Declaration; and,

WHEREAS, on November 12, 2008, the Planning Board issued its Negative Declaration, together with a detailed explanation of the basis for its determination; and,

WHEREAS, also on November 12, 2008, the Planning Board, after duly noticed public hearings conducted on January 4, 2007, February 15, 2007, March 8, 2007, and October 29,

2008, adopted resolutions granting special use permit approval for a Conservation Density Development and preliminary site plan approval for the proposed project; and,

WHEREAS, also at the Planning Board meeting on November 12, 2008, the Planning Board considered an additional resolution granting preliminary subdivision plat approval for the proposed project; and,

WHEREAS, based upon a memorandum dated November 12, 2008 from David Clouser of David Clouser & Associates, Village Engineer, the Planning Board determined that there were several issues that needed to be addressed before preliminary subdivision plat approval could be granted, and, accordingly, granted sketch plan approval only at that time; and,

WHEREAS, in accordance with § 201-15(E) of the Village of Millbrook Code, the Planning Board conducted a field trip to the site on November 16, 2009; and,

WHEREAS, the Planning Board members are familiar with the site and the proposed project; and,

WHEREAS, on October 13, 2010, the applicant submitted its request for preliminary subdivision plat approval based upon the four duly noticed public hearings and the plans which were the subject of the site plan and special permit approvals granted by the Planning Board on November 12, 2008; and,

WHEREAS, the plans submitted by the applicant on October 13, 2010 were identical to those which were the subject of the prior approvals, with the addition of a preliminary subdivision plat compliant with the requirements of the Millbrook Subdivision Regulations; and,

WHEREAS, the October 13, 2010 submission by the applicant addressed the issues raised by David Clouser in his November 12, 2008 memorandum to the Planning Board, which

issues were associated with the relaxation of certain technical standards contained in the Millbrook Subdivision Regulations; and,

WHEREAS, § 201-8 of the Millbrook Code states as follows:

“Where compliance with these Subdivision Regulations would cause unusual hardship, extraordinary difficulties or be inappropriate because of exceptional and unique conditions, the minimum requirements of these Regulations may be modified by the Planning Board to mitigate the hardship, provided that the public interest is protected and that the development is in keeping with the general spirit and intent of these Regulations, Chapter 230, Zoning, Site Plan Regulations, and Village Comprehensive Plan, as adopted or as may be adopted. The Planning Board shall attach such conditions to the modifications as are, in its judgment, necessary to secure the objectives of the requirements so modified.” and,

WHEREAS, the adoption by the Board of Trustees of the BCD zoning district and the CDD special permit, as set forth in detail in § 230-13 of the Village of Millbrook Zoning Code, establishes the “exceptional and unique conditions” to enable the Planning Board to relax certain technical standards precisely in order to promote the goals and objectives of the BCD district and the CDD special permit, including elements of a Traditional Neighborhood Development (TND) and overall design flexibility that enhances the efficiency and use of the land and natural resources without compromising the health and safety of Village residents; and,

WHEREAS, the first modification of technical standards is associated with the right-of-way width and Mr. Clouser, in his November 12, 2008 memorandum to the Planning Board stated in connection with this request as follows:

“§201-31 (B) (3) provides that dead-end residential streets should have a minimum right-of-way of 50 feet. Additionally, §201-31 (A) (10) provides that the circular turnaround of a permanent dead-end street should have a minimum radius of 50 feet. The current proposal specifies a 40’ wide street right-of-way for the entire development and a 33’ radius at the permanent turnaround for the cul-de-sac near the end of Chapel Road East. These reduced street right-of-way widths that are being proposed in this development are typical of a Traditional Neighborhood Design which

promotes minimum street widths. The Board may wish to consider the modifying the Village street right-of-way width standards for these proposed private roads to allow flexibility in the CDD design. Based on the roadway design submitted, we do not believe that the modification of this street standard will compromise public health or safety"; and,

WHEREAS, the Planning Board finds that the modifications of the street standards are both consistent with TND and will not compromise public health or safety; and,

WHEREAS, the Planning Board further finds that the reduction in diameters of the cul-de-sacs minimizes impervious surface coverage and that the lengths to the end of these cul-de-sacs have been reduced to no more than 300 feet from the available turnaround areas provided in the form of the eyebrow roadway layout for fire vehicles; and,

WHEREAS, the second proposed modification of technical standards is associated with intersection design standards, and this request was discussed in Mr. Clouser's November 12, 2008 memo as follows:

"The Board may wish to consider the following modifications to the Village street standards for the proposed private roads to allow for flexibility in the development's proposed CDD design.

a. §201-31 (D) (1) states that streets shall be laid out to intersect as nearly as possible to right angles and the intersecting street shall remain approximately perpendicular to the intersected street for 100 feet. This horizontal alignment requirement is not met at the intersections of Route 44 and Chapel Road West, and Bennett Commons and Chapel Road East; and

b. §201-31 (D) (4) states that an approach to an intersection must have a leveling distance of 60 feet before the intersection where the slope is no greater than 1.5%. This grade requirement is not met in the most recent plan submittal.

Our office has reviewed the proposed roadway intersection design for this development with due consideration for traffic safety. We have also reviewed emergency vehicle access compatibility with this proposed design and find that suitable access is provided, especially considering the 25 mph speed limit for these minor roadways. It is our opinion that traffic safety will not be compromised by the modification of these intersection design standards and will result in less disturbance to the land and natural

resources which would occur if these stricter grade limitations were imposed.”; and,

WHEREAS, the Planning Board has carefully reviewed the proposed subdivision plat and agrees with the determinations made by Mr. Clouser and finds that traffic safety will not be compromised and that the proposal will result in less disturbance to the land and natural resources; and,

WHEREAS, the third modification sought by the applicant is associated with dead-end street length, in connection with Mr. Clouser stated as follows in his November 12, 2008 memo:

“The Board may wish to consider modifying the Village street standards §201-31 (10) (i.e., permanent dead-end streets shall be limited in length to 1,000 feet) recognizing that the Site Plans indicate that Chapel Road East is approximately 1,300 feet in length. This modification of the length allowed for a dead-end, private street provides for the flexibility in the CDD design, as prescribed in the BCD section of the Zoning Code, and is reasonable considering access alternatives available to the land's development and its property boundary configuration. Based on the roadway design submitted, we do not believe that the modification of this street standard will compromise public health or safety”; and,

WHEREAS, the Planning Board finds that the modification of this standard will not compromise public health or safety and is appropriate with respect to the flexibility in the CDD design, as prescribed in the Zoning Code with respect to the BCD; and,

WHEREAS, the fourth modification requested by the applicant is associated with the number of dwelling units located on dead-end streets; and,

WHEREAS, in his memo of November 12, 2008, Mr. Clouser stated as follows with respect to this request:

“The Board may wish to discuss modifying the Village Code requirement which states that no more than 5 dwelling units can be situated on a dead-end road. § 201-31(A) (2) (b). The existing property configuration does not allow for connectivity of Chapel Road East, nor does the Traditional Neighborhood Design concept that is preferred in the CDD suggest neighborhoods being traversed by collector-type roadways. Based on the

roadway design submitted, we do not believe that the modification of this street standard will compromise public health or safety"; and,

WHEREAS, the Planning Board finds that the cul-de-sac, as proposed, is appropriate in the CDD and will not compromise public health or safety; and,

WHEREAS, the fifth modification requested by the applicant is associated with parking, and that request was addressed in Mr. Clouser's November 12, 2008 memo as follows:

"Zoning Code §230-16(J)(2) requires that reasonable and appropriate off-street parking be provided for structures on land uses, and allows determination of the number of spaces required by the Planning Board for uses that do not fall within the listed use categories in this section of the Code. Parking requirements for the residences are met by the proposed plan, but the additional parking necessary for the Chapel/Park/Pool area do not appear to fit precisely within the use categories. If this use was classified as a center of public amusement, then the requirement would be one parking space for each 100 ft. of floor space used for public amusement. In this regard, our office recommends that the Board consider revising the parking requirement in this instance to 1 space per 200 square feet of floor space due to the nature of the proposed development, which promotes pedestrian traffic to the chapel/pool area and in accordance with parking recommendations in the American Planning Association's publication entitled "Off-Street Parking Requirements." With regard to parking requirements for the pool, we recommend one parking space for each 100 ft. of pool water surface area, based on the expected primary use by the development's residents. The total parking requirements for this amenity using the above parking space criteria would be a total of 31 spaces for the development's amenities. 33 parking spaces are provided by the proposed development's design. Accordingly, we believe that the design as submitted provides adequate parking for these amenities." and,

WHEREAS, the Planning Board finds that the 33 parking spaces provided on the plans are adequate and appropriate for the proposed amenities; and,

WHEREAS, the final modifications requested by the applicant deal with sidewalk width and street width; and,

WHEREAS, those issues were discussed by Mr. Clouser in his November 12, 2008 memorandum as follows:

“As the Board discussed at a previous workshop meeting, the pedestrian and traffic circulation system for the development must meet future residents’ needs and also provide safe access for emergency and service vehicles. These minimum requirements must be considered along with the Traditional Neighborhood Design intent to reduce street widths as much as possible while still remaining functional. With regards to the development's sidewalks, we recommend that the sidewalk width be revised to 5 feet compared to the 4 feet width as is shown in the present development plans. This increased width, although requiring additional impervious surface, will provide for the minimum width considered usable for pedestrians walking side-by-side. Our office acknowledges that the particular design of this development meets ADA accessibility standards (due to driveway turnaround areas space no greater than 200 feet). Our recommendation reflects anticipated pedestrian use patterns rather than just ADA requirements being met. The Board may wish to consider this recommendation and provide guidance to the Applicant for preparation of final plans and details. With regard to the development's roadway width, the Board meets to consider whether parking along one side of the street is desired. The most recently submitted development plans proposed a street width of 24 feet, which evidently was a width requested by the Village Fire Department. If no parking is allowed along the street, then a street width of 20 feet would be acceptable for these minor roadways and would deter increased vehicle speeds. If parking on one side of the street is allowed, then a minimum of 27 feet should be provided. We would suggest that the Board accept the presently proposed 24 feet wide street width as a preliminary plan proposal, with some expectation that the street design may change prior to final plan approval. The Board should come to some conclusion on this matter as soon as practicable in conjunction with discussing this issue further with the Fire Department.” and,

WHEREAS, the Planning Board has looked at this issue carefully and has determined that the sidewalks should be 5 feet in width, rather than the 4 feet in width requested by the applicant; and,

WHEREAS, as part of its examination of this issue, the Planning Board has requested, and the applicant has provided, sufficient information to demonstrate that, even with the increased sidewalk width, there will still be sufficient room on every lot to accommodate two cars being parked in the driveway without interfering with the sidewalk; and,

WHEREAS, with respect to road width, the plans, as currently drafted, provide for a roadway width of 24 feet and the applicant has requested a narrower road width for several reasons, including a reduction in impervious surface and the inherent traffic calming effect that the narrower road width would provide; and,

WHEREAS, the Planning Board understands these issues but remains concerned about accessibility for emergency vehicles to all points of the site; and,

WHEREAS, based upon this concern, the Planning Board finds that the preliminary plat should be approved with a roadway width of 24 feet, subject to a potential reduction in width at the time of final subdivision plat approval, based upon further discussions with the emergency service providers; and,

WHEREAS, the preliminary subdivision plat submitted by the applicant indicates that small portions of lots 36 and 40 currently include an existing road right of way, owned by the Village of Millbrook, and providing a turnaround area at the end of Bennett Common Way; and,

WHEREAS, the configuration of lots 36 and 40 as currently shown is dependent upon the abandonment of the encroaching portions of the right of way; and,

WHEREAS, the Planning Board is aware of a letter dated September 9, 2009 from the then Mayor, Andrew J. Ciferri, to Allan Rappleyea, Jr., Esq., in which letter the then Mayor states: "The Village of Millbrook Board of Trustees has no intention of abandoning this property in order for these lots to legally exist. As you stated in your communication, this section of the road is necessary for a suitable turnaround"; and,

WHEREAS, the Planning Board recognizes that this letter does not reflect any formal action taken by the Board of Trustees with respect to the abandonment of any portion of the right

of way and that there is no record of this matter having been discussed by the Board of Trustees as reflected by the published minutes of the Board of Trustees; and,

WHEREAS, in the event the project is approved and constructed as shown on the plans, the turnaround which encroaches into lots 36 and 40 will no longer be necessary; and,

WHEREAS, prior to securing final subdivision plat approval, the applicant must either secure the abandonment of the right of way by the Board of Trustees or, in the alternative, revise the layout of lots 36 and 40 as necessary to exclude any right of way to be retained by the Village; and,

WHEREAS, the Planning Board has carefully considered all of the comments raised by the public and other interested agencies, organizations, and officials, including those presented at numerous meetings of the Board as well as those submitted separately in writing;

NOW, THEREFORE, BE IT RESOLVED, that the foregoing WHEREAS clauses are hereby incorporated herein by reference and are fully adopted as part of this approval; and,

BE IT FURTHER RESOLVED, that the application for preliminary subdivision plat approval is hereby granted; and,

BE IT FURTHER RESOLVED, that, pursuant to § 201-8 of the Millbrook Code, finds that the proposed development of the Bennett College Campus in accordance with the BCD and CDD zoning requirements establishes sufficient exceptional and unique conditions to permit the requested modifications, as described above, and the Planning Board finds that such modifications will protect the public interest and that the development is in keeping with the general spirit and intent of the Subdivision Regulations, Chapter 230, Zoning, Site Plan Regulations, and the Village Comprehensive Plan, and in particular the goals and objectives of the BCD and CDD; and,

BE IT FURTHER RESOLVED, that this preliminary subdivision plat approval shall expire in 6 months if no application for final subdivision plat approval is submitted, unless an extension of this time period is requested by the applicant prior to the expiration of this preliminary subdivision plat approval; and,

BE IT FURTHER RESOLVED, that the following conditions must be satisfied prior to the submission of a final subdivision plat:

1. Proof that the Village Board of Trustees has abandoned the necessary right of way to permit the current configuration of lots 36 and 40 or, in the alternative, a revised subdivision plat excluding any Village owned right of way;
2. Necessary revisions to the plat to delineate all sidewalks with a width of 5 feet;
3. Roadway width shall remain at 24 feet unless applicant provides written documentation from the fire department consenting to a narrower road width;
4. Compliance with the items set forth in David Clouser's memorandum dated November 12, 2008 with respect to additional information required prior to final plan approval as set forth in said memo under item IV(1)(a)-(g);
5. **INSERT OTHER CONDITIONS**

Vote on Resolution:

Member Charles Colomello	<u>Aye</u>
Member Joseph Forte	<u>Aye</u>
Member Dr. Thomas Murray	<u>Absent</u>
Member Joe W. Still	<u>Aye</u>
Chair Linda Roberts	<u>Aye</u>

Compilation of Vote:

Ayes	<u>4</u>
Noes:	<u>0</u>
Absences:	<u>1</u>
Abstentions:	<u>-</u>

Resolution Declared:

Adopted: ✓
Defeated:

Resolution Certified and Filed:

Linda M Roberts
Planning Board Chair

11/18/00
Date

EXHIBIT A

1. 135801 6764-01-283780-0000
2. 135801 6764-01-289736-0000
3. 135801 6764-01-311740-0000
4. 135801 6764-01-311741-0000
5. 135801 6764-01-311742-0000
6. 135801 6764-01-311743-0000
7. 135801 6764-01-311744-0000
8. 135801 6764-01-311745-0000
9. 135801 6764-01-312740-0000
10. 135801 6764-01-312741-0000
11. 135801 6764-01-312742-0000
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26. 135801 6764-01-313749-0000
27. 135801 6764-01-346799-0000
28. 135801 6764-01-352784-0000
29. 135801 6764-01-353764-0000
30. 135801 6764-01-383842-0000
31. 135801 6764-01-387757-0000