

Public Hearing

“To Amend a Portion of the Town of Geneva Zoning Map. Changing a portion of the R-2 Residence District to R-1 Residence District, a portion of the west side of Carter Road.” Proposed Local Law XX-2009

Geneva Town Board
3750 County Road #6
Geneva, NY 14456
August 11, 2009

PRESENT: Supervisor Mary E. Luckern
Councilman Anthony Capozzi
Councilman Richard Larsen
Councilman Edward Smaldone
Councilman Michael Vassello
ABSENT: Attorney for the Town: Jeff Graff

Recording Secretary: Lorrie S. Naegele, Geneva Town Clerk

Others Present: David Achilles, Highway Superintendent; Charlie Bracko, Water & Sewer Superintendent; Howard Meaker, Election Custodian; Pat Mahoney, Planning Board Member; Mike Guyon, MRB Engineer; William McAdoo, Code Enforcement Officer; Helen Garlick, Tax Collector/ Deputy Town Clerk; John Russo, Zoning Board Chairman; Thirty residents and No Reporter for the Finger Lakes Times.

1) CALL TO ORDER PUBLIC HEARING: Proof of Notice having been furnished, the Public Hearing regarding a Proposed Local Law. “To Amend a Portion of the Town of Geneva Zoning Map. Changing a portion of the R-2 Residence District to R-1 Residence District, a portion of the west side of Carter Road” was called to order at 7:05 p.m. by Supervisor Luckern.

2.) PUBLIC COMMENTS:

- 1) John Russo, Carter Road: Spoke in favor of the rezoning. John read from a document (REFER TO ADDENDUM # 1)
- 2) Eliza Heaton, Heaton & Venuti: Eliza spoke on behalf of Conifer Realty and she had two objections. 1. The lack of notice given to the property owners about the rezoning. 2. Objected to the rezoning of Carter Road.
- 3) Melissa Nault, Rosewood Drive: Spoke in favor of the rezoning. She read from a document (REFER TO ADDENDUM # 2)
- 4) Stephen E. Hall, Attorney for DC3, LLC: Spoke against the rezoning. He read from a document (REFER TO ADDENDUM # 3)
- 5) Todd Powers, Wadsorth St. Todd asked, “The lots on Rosewood Dr. that have not been built on yet do not meet the zoning, so could they be sold or built on without a variance?” Supervisor Luckern stated that they would have to get a variance from the Zoning Board if they wanted to build there; That is if the rezoning goes into effect.

3.) WRITTEN COMMENTS: The Town Board was served with a “Protest Against Amendment of the Zoning Map of the Town of Geneva to Change a Portion of the R-2 Residence District to R-1 Residence District. (REFER TO ADDENDUM # 4)

4.) CLOSE PUBLIC HEARING: After all persons desiring to be heard, and having been heard, the Public Hearing was terminated. Supervisor Luckern closed the public hearing for the Proposed Local Law “To Amend a Portion of the Town of Geneva Zoning Map. Changing a portion of the R-2 Residence District, to R-1 Residence District a portion of the west side of Carter Road.”

Time was 7:25 p.m.

RESPECTFULLY SUBMITTED,

ADDENDUM # 1

Public Hearing Rezone Carter Road, August 11, 2009

Town of Geneva Public Hearing, August 11, 2009

Good Evening Board Members, my name is John Russo and I live at 254 Carter Road.

As you are all aware, I am the person that initiated the petition for the rezoning of a portion of Carter Road. Contrary to what has been stated at previous meetings, and also to a Fingerlakes Times reporter, I did not initiate the rezoning because I'm against low income housing, or low income people. There are a host of reasons, (which I will not get into tonight) why I was and still am against the Conifer project however, the statement that I am against low income housing or people is simply not true.

My Great Grandfather purchased the property at 247 Carter Road sometime around 1905. He passed the house down to my Grandfather, and my Aunt presently lives in the original home. All but two of my grandfather's 11 children made their homes on Carter Road.

On the West side of Carter Road opposite of my family's resident, was the Ferraro farm. Both the East and West side of Carter Road was used strictly for farming until the late fifties, early sixties. At that time my grandfather started giving lots to his children and they built single family homes on the East side of the road. From that time, single family homes starting springing up on the West side of the road. And until the Conifer project was approved, there were no multi family houses on the portion of Carter Road that we are requesting be rezoned.

At some point after zoning was established, in the early 70's, a portion of Carter Road was rezoned to R2. It was a very well kept secret in that none of my family who have lived on Carter Road their entire life knew it was rezoned. In fact not even the Town Code Enforcement Officer knew that the property behind my home was zoned R2. In a conversation I had with the Code Enforcement officer around 2005, at which Councilman Capozzi was present, Mr. McAdoo stated to me that the property was zoned Agricultural.

Over the past few years, the residents have seen a vast increase in traffic due to the development on Carter Road. The middle school, the Rosewood development, the boys and girls club, and very soon the Woodlands at Northside will start renting out apartments. Carter Road cannot handle more traffic. In addition to the traffic concerns, we have residents on Carter Road who have had and continue to have a flooding problem. Some homes that never before experienced flooding now do so from the various developments that have occurred. If Carter Road is going to continue to be developed, then let it be with single family homes.

I urge this board to support the rezoning of the portion of Carter Road requested by my petition.

Thank You

ADDENDUM#2

Public Hearing Rezone Carter Road, August 11, 2009

Melissa Nault

565 Rosewood Drive
Geneva, NY 14456
nynaults@verizon.net

September 18, 2009

Mary Luckern, Supervisor
Town of Geneva
3750 County Road 6
Geneva, NY 14456

Dear Ms. Luckern,

I am here tonight to voice my support of the proposed rezoning of the west side of Carter Road.

My husband and I built a home on Rosewood Drive eight years ago. At the time, Carter Road was a more rural area, populated by single-family homes. Had we known the potential for development, we would have chosen to build elsewhere. The same can be said for most, if not all, of our neighbors.

Over the past 5 years, several new high-density developments have been built in Geneva. Lyceum Heights has added 64 independent-living senior units, and they have received approval for 15 additional units. High Acres at Seneca Lake is moving forward with a high-end community for senior citizens that will include 80 independent-living apartments, 12 independent-living cottages and 41 enriched-living units. Carter Road is currently seeing the development of the Woodlands at Northside, which has been approved for 96 units but could expand to a total of 315 units in the future. Clearly, we do not need any more apartments in Geneva.

Numerous, significant changes have occurred on Carter Road in that same five year period. Geneva Middle School is now adjacent to the high school. The school district placed its bus garage off of Gambee Road. Rosewood Drive has developed to near capacity. The Boys and Girls Club has just been developed and will open this fall. As I stated before, The Woodlands at Northside is building the first 96 apartments and could expand to 315 units in the future. Traffic on Carter Road is suffering from these developments, and to add additional multi-family housing would completely overload an already burdened roadway. As the parent of two school aged children, I have significant concerns about further development and traffic increases on Carter Road. The town does not need more high density development in this location.

The last full, independent traffic study on Carter Road was conducted in July 2003 as part of the Castlebrook Draft EIS. This study was conducted before the middle school was in existence, before the bus garage was relocated to Gambee Road, before the Community Center was developed and before the Woodlands project began. Carter Road cannot support another high-density housing development and the accompanying increase in traffic.

Mr. Wilber, a member of the planning board, once questioned the need for high-density development. Mr. Wilber felt "we should take in the feelings of the community, not the developers, whether this density is needed." I am here to voice my family's opinion that we do not need additional high-density development on Carter Road.

Again, I am asking that you vote to rezone the west side of Carter Road.

Sincerely,
Melissa Nault

ADDENDUM #3

Public Hearing Rezone Carter Road, August 11, 2009

Good evening Supervisor Luckern and members of the Town Board.

I am Stephen E. Hall, attorney for DC3, LLC, owner of tax parcel number 90.00-1-56.113, one of the tax parcels encompassed by the proposed zoning change from R-2 Residence District to R-1 Residence District.

My client objects to the proposed rezoning of its property, on grounds including the fact the proposal comprises impermissible spot zoning, and is invalid.

This conclusion is clearly borne out in two respects: First, this zoning change is not in accordance with, and is in fact flatly contradictory to, the Town of Geneva's Comprehensive Plan; secondly, this proposed change is utterly inconsistent with the history of zoning and land use in the area.

Recently, in or about mid 2006, The Town of Geneva issued a Comprehensive Plan Update. On page III-1, the plan update indicated that based upon a community survey, focus groups and public meetings, residential uses within the Town had been identified as one of the ten key issues or overriding themes that would need to be addressed in the Comprehensive Plan as the Town moved into the future. The plan also noted on page II-2, a general pattern evident in the Town whereby the areas surrounding the City of Geneva, within which my client's property is located, are most heavily developed and populated.

On page III-6 of the update, it states there to be an increasing demand for housing that is tied to the core areas of Town, and the Plan on pages III-5 and III-6 goes on to identify two specific housing options, in terms of location, size, cost and density, to be important in retaining residents in the community throughout their lives.

First, the update stated that "Of all housing needs identified, the lack of housing for the large senior population in the Town of Geneva is among the greatest. The survey and focus group support adding housing stock that would cater to the senior population. From assisted living to small lot single story homes, housing that allows the senior population to remain in Geneva in appropriate living quarters is a priority".

Secondly, the plan went on to note a need for townhome and condominium housing, indicating that "having low maintenance, affordable housing is critical to continue to support a variety of demographic segments. These types of dwellings allow the younger population to be able to afford their first home and have time to balance a new career or relationship, and can also cater to the senior population who do not necessarily want a yard or driveway to maintain".

The update then goes on to provide on IV-5 that "to accommodate a variety of housing options, a new residential category is created called "community residential".

Although the precise area of this community residential designation, as shown on figure 8 to the update, is not delineated via metes and bounds, it is clear from figure 8 that the majority, if not the entirety, of my client's subject tax parcel, is included within this community residential designation.

IV-6 of the update provided for a high anticipated density within this community residential area, specifically 1/3 to 1/8 acre lots, translating to 14,520 to 5,445 square feet; VI-5 noted that the intent is to provide small lot patio homes, townhomes and other housing options that can tie in with community services and are linked with an internal network of pedestrian accommodations.

The update very specifically identified the area comprising my client's land as being one of two in the Town appropriate for the community residential designation, within this area described as being in close proximity to the Geneva Central School District facilities, as well as surrounding commercial uses, and as such being particularly attractive to young families, given convenience to the schools.

The plan went on to note in pages IV 6 and 7 that “by placing the higher density residential areas adjacent to the core development area and to community services, it promotes neighborhood development, minimizes the need for expanding infrastructure, provides the opportunity for a walk-able community, and provides a customer base for the area businesses”.

This proposed zoning change is entirely inconsistent with and undercuts this key segment of the Plan and its goals, by rezoning an area within the community residential area with R-2 zoning, and thus with 15,000 square foot lot requirements, to R-1 zoning with 33,000 square foot lot requirements, eliminating the area from the higher density applications specifically contemplated by the Plan.

It should also be noted that by virtue of such zoning modification from R-2 to R-1, condominiums have also been effectively removed from this area as a housing alternative, as under Section 165-28.2 of the Zoning Code, residential condominiums may only be placed within an R-1 zone in a special use corridor in the R-1 zone adjacent to the Geneva Country Club.

Secondly, and even more significantly, the impermissibility of this proposed change as spot zoning is demonstrated by the fact the proposed amendment is utterly inconsistent with the historical and existing pattern of development in the area. Our calculations show that of the forty-four tax parcels other than that of my client which are encompassed by the new proposed R-1 area, thirty-five, or eighty percent, are currently not in compliance with the 33,000 square foot area requirement under R-1 zoning. A cursory review of a map and the simple process of elimination, makes clear that the in the guise of rezoning of a larger area, ultimately what is being achieved is impermissible spot zoning of my client’s property so as to prevent, after the fact, its development and use in accordance with the existing surrounding and historical R-2 uses, and which R-2 use, now to be removed, is not only in compliance with, but would achieve one of the central tenets of the Town’s Comprehensive Plan. It is also a matter of record that in the course of submission of its plans and environmental impact statement for the proposed Castlebrook Development, that my client was in fact urged to increase the number of townhomes, condominiums and apartments within its development, while decreasing the number of residential homes.

We also note that the Town has other alternatives; for instance, two of what are perhaps the more problematic development options not permitted within R-1 zoning, manufactured home parks and convalescent homes, are in R-2 zoning contingent on procuring of a special use permit from the Zoning Board of Appeals; that Board of course has the power to determine whether any such use of the premises is incompatible with other permitted uses in the vicinity and district in which the subject property is situated.


DC3, LLC protests this proposed amendment, and as the owner of twenty percent or more of the area of land included within such area, also hereby submits its duly signed and acknowledged protest to the Town Board, with the effect under Section 165-77 of the Zoning Ordinance that such amendment shall not be passed except by the favorable vote of at least four members of the Town Board.

ADDENDUM #4
Public Hearing Rezone Carter Road, August 11,

**PROTEST AGAINST AMENDMENT OF THE ZONING MAP OF
THE TOWN OF GENEVA TO CHANGE A PORTION
OF THE R-2 RESIDENCE DISTRICT TO R-1 RESIDENCE DISTRICT**

Pursuant to Section 165-77 of the Zoning Code of the Town of Geneva, DC3, LLC, as the owner of twenty percent or more of the area of land included in the proposed Amendment attached hereto, hereby protests the same.

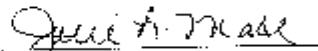
DC3, LLC

By: 
Dominick Caroselli, Member

STATE OF NEW YORK
COUNTY OF Montgomery ss:

On the 11th day of August, in the year 2009, before me, the undersigned, personally appeared DOMINICK CAROSELLI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/har/their capacity(ies), and that by his/hes/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

JULIE L. MASI
Notary Public - State of New York
No. 011146205688
Qualified in Montgomery County
My Commission Expires May 11, 2013


Notary Public

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