**PLANNING BOARD FEBRUARY MEETING MINUTES**

**MEMBERS:** Harold Fabinsky, Chairman

 Nicholas Baich

 Henry Heppner

 David Kaczor

 Julia Mombrea,

 Philip Murray

 Karen Byrne, Alternate

**EXCUSED:** Joseph Liberti, is on a leave of absence.

**OTHERS PRESENT:** Remy C. Orffeo, Acting Planning Coordinator

 Steven Bremer, Supervising Code Enforcement Officer

 Thomas Ostrander, Assistant Town Municipal Engineer

 John Bailey, Deputy Town Attorney

 Rose Messina, Planning Board Secretary

The Chair announced exit procedures in the event of a fire alarm and called the Planning Board meeting to order at 7:04 P.M. in the Orchard Park Community Activity Center. He stated that if anyone appearing before the Board has a family, financial or business relationship with any member of the Board, it is incumbent upon that person to make it known under State law and the Town Code of Ethics.

The Chair noted that this evening we do not have a full Board. Therefore, our Alternate, Ms. Byrne will be a voting member.

Upon a motion duly made and seconded, the reading of the January Planning Board Meeting minutes was unanimously waived as each Board Member had previously received a copy.

Mr. Heppner made a motion, seconded by Mr. Baich to accept the January 14, 2021 meeting minutes as presented.

THE **VOTE** ON THE **MOTION** BEING:

FABINSKY

 BAICH

 HEPPNER

 KACZOR

 MOMBREA

 MURRAY

 BYRNE

THE **VOTE** BEING **UNANIMOUS,** THE **MOTION** IS **PASSED**.

1. P.B. File #04-21, Jack Kuebler, 3892 Southwestern Boulevard, Zoned B-2. Requesting Planning Board approval for Chivetta’s Chicken Barbeque “Outside Display”.

 APPEARANCE: Mr. Peter Chiavetta, Petitioner

 Mr. Chiavetta stated that his take-out chicken barbeque is the same proposal that Mr. Kuebler had presented last year. He gave details on the chicken barbeque operation, noting that the barbeques are not planned in advance. He is aware that the Board mentioned they had concerns such as the “Dual Usage” with the shed business, and the stacking of vehicles for the barbeque. He stated that he has been on the site during the “pop-up” events and has not seen issues involving stacking/queuing onto Southwestern Boulevard.

Chairman Fabinsky stated that he, and several members, have expressed their concerns about traffic on this busy roadway. The stacking issues were witnessed by him, and several Board members.

Mr. Chiavetta asked if there is any way he can put the Boards’ concerns at ease.

The Chairman stated that any approval will be based on there being no traffic constrictions created by queuing, a flag man, or any other offshoots of that sort. He discussed the flagman that is used during the event and told Mr. Chiavetta that the flagman cannot be located in the R.O.W. He further stated that if the Board moves ahead with an approval, the Police Department will monitor the activity here, and if there is a problem, the Police will deal with it.

Mr. Baich reported that he observed orange traffic safety cones placed in the roadway at this site.

Mr. Chiavetta responded that he was unaware of the traffic cones being in the road, and would make sure this does not occur. He explained that the cones are used to alert people to the location of the ingress and egress accesses for the barbeque.

Mr. Heppner stated that last year he was opposed to this project. He discussed it further with Mr. Kuebler, and over time, he became a proponent. He further stated that he supports the request by Mr. Chiavetta.

Mr. Heppner suggests that two flagmen should be stationed at both the ingress and egress access ways to control vehicle traffic, as this is a busy road. One flagman should be present to allow vehicles only to exit right, and not left, out of the site while trying to cross Southwestern Boulevard with the busy 55-mile-per-hour, four-lane traffic, of this road. The other flagman can help with vehicles entering the site.

Ms. Byrne, also, feels that, for safety reasons, vehicles should not be allowed to exit left from the site onto Southwestern Boulevard.

Mr. Chiavetta stated that the flagman is necessary to minimize the people that do not read the signs directing them to the entranceway. He does not want people entering the egress access. This is a concern he has, but they have ways of dealing with it, and he explained that they can re-route people at the site if necessary.

Mr. Kaczor established that the barbeque is operated as a “pop-up” event, and it is not planned in advance. Depending on what Mr. Chiavetta has booked each month, a barbeque may occur five to six times in a year at this site. The barbeques will not take place during football games at the Stadium, as it is not profitable for the Chiavetta’s to compete with “tailgating activities”.

Mr. Kaczor feels that, based on where this is located, there are too many elements that must be considered to make it workable. He feels controlling the traffic with a “no left turn” when exiting the site would help greatly, but he does not feel it can be easily enforced. He discussed other concerns he had with Mr. Chiavetta. Originally, the project approval for this site was for the outdoor marketing of sheds displayed here, and now it has become a “Dual Use” request. Mr. Kaczor, also, expressed his disappointment with the owner of the property, portraying that he planned to have future development at this site with the construction of a structure for a “pool business”. This has yet to come to fruition.

Mr. Chiavetta commented that he has been at each pop-up barbeque (approximately 15) that took place here, and he has never seen or heard of issues with the severity that are being reported by the members.

Mr. Kaczor stated that this is no reflection on the Chiavetta’s operation. He, personally, does not feel this high-volume traffic area is the location for take-out barbeques.

Mr. Baich stated that he feels traffic safety is an issue here.

Ms. Mombrea verified that the approval would be for one-year, the Applicant is to notify the Police Department that they are having the event so they can send someone to monitor the location, and that the money raised here is to fund a scholarship.

Mr. Heppner made a **MOTION**, seconded by Ms. Byrne to **GRANT** an Outside Display for “Pop-Up” Take-Out Chicken Barbeques, per the plan submitted on 1/14/21, with the following stipulations:

1. All public notices have been filed.

2. The Take-Out “Pop-Up” Barbeques are to operate various dates between 4/01/2021 to 11/30/2021.

3. The Applicant previously submitted a Short EAF on 5/18/2020.

4. A report from the Public Safety Committee was received on 5/05/2020 indicting no issue with this project, however, the Police Department will monitor the activity.

5. There will be no additional outside lighting for the display or temporary structure.

6. There will be no banners or additional signage for this event, unless approved by the Building Inspector.

7. A Flagman will be placed at the exit to direct traffic to turn right, and not left, onto Southwestern Boulevard.

8. The Police Department will be notified at least 1-week in advance of the event so they can monitor the event.

 THE **VOTE** ON THE **MOTION** BEING:

 FABINSKY NAY

 BAICH NAY

 HEPPNER AYE

 KACZOR NAY

 MOMBREA, AYE

 MURRAY NAY

 BYRNE AYE

 THE **VOTE** BEING **FOUR (4) AGAINST**, AND **(3) THREE IN FAVOR**, THE **MOTION TO** **GRANT** IS **NOT PASSED.**

2. P.B. File #01-21, “Haas”, proposed One-Lot Subdivision, Vacant Land, 7793 Michael Road located on the South side of Michael Road, west of Transit Road, Zoned R-2. Applicant is requesting Planning Board Pre-Application Findings. (SBL#153.12-3-11.1

 APPEARANCE: Mrs. Brenda Frank, Petitioner

 Mrs. Frank told the Board that she is representing the estate of her Father, and would like to have the existing residence split from the property for a family member to reside in. The lot will be approximately

200’ x 237’ in size. The remaining land will eventually be split between Ms. Frank and her sister. Their intention is to have the property remain in the family.

 Ms. Mombrea established that the size of the lot to be split-off is 1.24-acres. Ms. Frank stated that their cousin is buying the existing home and will reside here.

Mr. Kaczor stated that there is a possibility in the future that the remaining land will be sold.

Mr. Heppner complimented Ms. Frank on keeping the green space for the foreseeable future.

Mr. Ostrander discussed information regarding the septic system that will be needed.

Mr. Kaczor made a **MOTION**, seconded by Mr. Baich, that the following Pre-Application Findings are made based on the submitted Sketch Plan received 1/04/2021 and the applicant has detailed:

* The total acreage is 1.24 +/- acres.
* The desired zoning classification is R-2.
* The number of possible stages of completion is one (1).
* The applicant's position with respect to title is “Owner” Contract to sell.
1. The zoning will remain as is.
2. Access to surrounding properties is through Michael Road.

3. Recreation fees will be provided in accordance with Section 144-70E of the Town Code and shall be paid, or provided, prior to the Final Plat Plan Public Hearing.

1. Subdivision Development fees, per Section 144-70D of the Town Code, shall be paid prior to the Preliminary Plat Plan Public Hearing.
2. Public Hearing fees shall be paid prior to the Preliminary Plat Plan Public Hearing.
3. One (1) Street Tree per the Conservation Board's Street Tree Plan shall be provided for each lotper Section 120-3F of the Town Code.
4. The applicant shall complete and submit the Short EAF, Part 1 for this Unlisted SEQR Action.

THE **VOTE** ON THE **MOTION** BEING:

FABINSKY AYE

BAICH AYE

HEPPNER AYE

KACZOR AYE

MOMBREA, AYE

MURRAY AYE

BYRNE AYE

THE **VOTE** BEING **UNANIMOUS,** THE **MOTION** IS **PASSED**.

3. P.B. File #03-21, “Reserve Road” Two-Lot Subdivision, Vacant Land, located on the South side of Reserve Road, east of Westgate Road, Zoned R-3. Applicant is requesting Planning Board Pre-Application Findings. (SBL#’s 153.06-1-5, -6, -7, -8)

APPEARANCE: Mr. Gary Barone, Petitioner

Mr. Barone discussed his proposed two-lot subdivision with the Board members. After consideration of the expenses involved in developing this property Mr. Barone withdrew his request.

4. P.B. File #11-20, 4182 South Taylor Road, located on the west side of South Taylor, south of Route 20A, Zoned I-1. Ryan Johnson is requesting Planning Board recommendation to the Town Board for Site Plan Approval and a Building Permit to construct an Office/Storage Facility. (SBL#161.19-2-5.2) Town Board recommended to Planning & Conservations Boards on 3/18/2020.

 APPEARANCE: Victor O’Brian, C & S Engineers

 Ryan Johnson, Owner/Petitioner

 Mr. O’Brian explained the project to the members noting that they propose to construct two (2) commercial storage buildings; one will be 8,550-sq.ft., and the other 5,625-sq.ft. They will potentially have 14-rental units available, specifically, for the storage of industrial equipment. They are also requesting a reduction in the number of parking spaces required by the Town Code, as they feel 24-parking spaces are not needed for this low volume business. They would like the Board to grant a waiver to construct 20-parking spaces.

 Mr. O’Brian further explained that there will be one egress/ingress into the site on South Taylor Road. All Engineering comments have been resolved, and the Conservation Board approved the submitted Landscape Plan on November 3, 2020. He indicated on the Site Plan where a drainage swale is located and discussed the drainage easement agreement between this property and 4196 South Taylor Road. He further noted that the existing structures on the property will be demolished and removed.

 Chairman Fabinsky discussed his concerns regarding the future of the property. If we do move forward, he e would like to He H would add a stipulation with regard to the reduced parking, as the reduction may not necessarily be appropriate if the use of the property changes. He would want the parking reduction to revert back to the Town requirement.

 Mr. Kaczor discussed the Green Space requirement. It was established that the proposed project exceeds the Code Requirement of 20% Green Space. Mr. Kaczor does not want to see the parking spaces used for material requirements and then the number of parking spaces become non-sufficient in meeting the requirements of the property. He would like the Building Inspector to check this on a regular basis.

 Mr. Johnson stated that he would have no problem with these stipulations.

 Ms. Mombrea discussed the appearance of the units and the nearby neighbor’s view. Mr. Johnson stated that there will be some aesthetic appeal to the front of the site and where neighbors are located.

 Mr. Heppner established that there will be no vehicular storage at the site, including work vehicles.

 Ms. Mombrea made a **MOTION**, seconded by Mr. Fabinsky, that the Town Board **GRANT** Site Plan Approval and issue a Building Permit to construct two Storage Facility Buildings, (8,550 SF & 5625 SF) per the plans received on 1/11/21, based on the following conditions and stipulations:

1. All public notices have been filed.

2. This is an Unlisted SEQR Action, based on the Short EAF Part 1, and a Negative Declaration is recommended.

3. The Site Lighting is limited to those fixtures and poles indicated on the approved Site Plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.

4. No outside storage or display is permitted.

5. The Revised Landscape Plan, received 11/10/20, meets all Green Space regulations with 30.11% Green Space. In accordance with Section 144-44(c) (1) (a)(2), a Certified Check amounting to 50% of the $9,850 Landscaping Estimate Value shall be deposited with the Town Clerk ($4,925). Conservation Board approval was granted on 11/3/20.

6. Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.

7. The two (2) required drainage easements between 4182 South Taylor Road and 4196 South Taylor Road shall be filed with the Erie County Clerk’s Office prior to the Building Inspector issuing a Certificate of Occupancy (CO).

8. The parking space requirement of 24-spaces is waived. The 20-spaces shown on the Site Plan is accepted.

9. Town Engineering Approval was granted on 2/11/21.

10. The Parking space waiver is dependent upon the continuation of the Code Use.

THE **VOTE** ON THE **MOTION** BEING:

FABINSKY AYE

BAICH AYE

HEPPNER AYE

KACZOR AYE

MOMBREA, AYE

MURRAY NAY

BYRNE AYE

THE **VOTE** BEING **SIX (6) AYES** AND **ONE (1) NAY**, THE **MOTION** IS **PASSED**.

5. P.B. File #36-19, Benderson Development, 3340 – 3350 Southwestern Boulevard (“The Commons/Creek side Plaza”) Zoned B-1. Request to construct a stand-alone 1,910 sq. ft. “Mighty Taco” Restaurant with a Drive-thru, with associated site, utility and drainage improvements. (SBL#152.16-6-1.2) NOTE: Town Board granted a Special Exception Use Permit on 3/18/2020; Zoning Board of Appeals granted a Variance to allow parking spaces within 50-feet of the street line on 2/18/2020; Conservation Board granted Landscaping Plan approval on 1/7/2020.

 The Chairman noted that Ms. Mombrea will be Abstaining in this case due to a business relationship with the Petitioner.

 APPEARANCE: Mr. James Boglioli

 The Chairman stated that there are several items that have been brought to the attention of the Board by our Town Building Inspector. Based on this information we are inclined to table our review until these issues are resolved. Chairman Fabinsky asked Building Inspector Bremer to speak on these items.

 Building Inspector Bremer explained that Benderson Development owns a Plaza on Union Road that is in a dilapidated state. He has asked Benderson Development to demolish the buildings and clean-up the site several times. Benderson Development has not addressed this situation with a response, or action.

Mr. Fabinsky made a **MOTION**, seconded by Mr. Heppner to **TABLE** this case pending resolution of the Building Departments’ concerns of the Benderson Development Plaza located on Union Road.

ON THE QUESTION:

The Petitioner’s representative discussed the Planning Board resolution to table this item with Town

Attorney John Bailey. He questions if this project can be tabled for the code violations at another location.

Mr. Kaczor stated that the Board just became aware of the Code Violations at the Union Road property, and he needs additional time to review this issue and its implications. He feels it is a benefit to the Board and the Petitioner to have time to look at what the situation is.

The Petitioner’s representative did not feel the project should be tabled.

THE **VOTE** ON THE **MOTION** BEING:

FABINSKY AYE

BAICH AYE

HEPPNER AYE

KACZOR AYE

MOMBREA, RECUSED

MURRAY AYE

BYRNE AYE

THE **VOTE** BEING **SIX (6) IN FAVOR** AND **ONE (1) RECUSAL** THE **MOTION TO TABLE** IS **PASSED**.

6. P.B. File #08-2020, Orchard Heights, 5200 Chestnut Ridge Road, Zoned R-3, with SR designation. Applicant is seeking Planning Board approval for Phase 2 of this project. Planning Board to review Site Plan submission and dumpster location.

 APPEARANCE: Mr. Chris Wood, Carmina ⦁ Wood ⦁ Morris

 Mr. Sean Hopkins, Hopkins, Sorgi & McCarthy, Project Counsel

 Mr. Hopkins stated that they are seeking Site Plan Approval for this project. He gave a brief summary of Phase 2, noting that the dumpster location remains unresolved. He distributed a signed petition from the tenants of the Orchard Heights facility indicating that they do not want the dumpsters moved, as this will place a burden on the staff. He also submitted a revised plan indicating another location for the dumpsters not far from where they were initially.

Chairman Fabinsky stated that this is not a public hearing, but, because of the public interest, he would like Mr. Hopkins to position his easel facing those in attendance and the Board, so we can all see the updated plan. He further commented that the dumpsters now appear to be even closer to the residential property.

Mr. Hopkins stated that the dumpsters must be placed where it is operationally good for the facility.

The neighbor’s in attendance voiced their displeasure with the dumpster’s proposed location and reported the negative impacts they experience on a daily basis from the dumpster operation at this facility.

The residents were invited to come forward to view the updated plan.

Mr. Wood explained the Site Plan and dumpster location to those reviewing the plan.

The Petitioners’ representatives told the Board that they are trying to find a balance for the residents and the facility.

Board comments:

Mr. Murray asked Mr. Hopkins to summarize what they are proposing in the updated plan, for the record;

 Mr. Hopkins explained and indicated on the Site Plan that five to six-years ago there was only one dumpster location. The engineer, at that time, inadvertently removed the dumpster location on the plan that had always been there for the facility. He feels it is debatable if every dumpster was always shown on a Site Plan in 1990. Mr. Hopkins stated that the residents have voiced their concerns for this particular location. The Hamister group went back and re-located the dumpster several hundred feet away from the residential property line where the dumpsters were located. This location serves the operational needs for the facility, and is in close proximity to the kitchens. He further stated that the dumpsters will be enclosed, and have screening around them. The facility needs the dumpsters to satisfy its day-to-day operations, and at the same time, they are trying to address the concerns of the residents.

Ms. Byrne inquired if the dumpsters were emptied more than once a day. It was established that they were emptied several times a day.

 Mr. Kaczor feels that no matter where you locate the dumpsters in the facility, the neighbors are going to hear noise from the diesel engine refuse trucks, back-up motion alarms, and hydraulic lifts emptying the containers. He further feels that it must be taken into consideration that the facility was there prior to the residential community.

Mr. Baich noted that the Board members received a copy of a petition tonight signed by the tenants of the facility in support of the revised dumpster location.

Mr. Hopkins explained that this petition and letter from Dan Hamister, of The Hamister Group, is in recognition that the more time the staff devotes to the garbage issue, the less time they have for the care of the facilities’ patients.

Acting Planning Coordinator Remy Orffeo told Mr. Hopkins that this material was received late today and Planning did not have the chance to review the contents of the submission; nor, did we get to review it with Building Inspector Steve Bremer, or Assistant Town Municipal Engineer Thomas Ostrander.

Mr. Hopkins affirmed that he understood this.

Further comments were made by the residents in attendance reflecting their discontentment with the process and length of time to resolve their issues.

Mr. Hopkins noted that the updated plan is a substantial change compared to where the dumpster location was before.

Chairman Fabinsky stated that he does not understand why the original approved dumpster site is not adequate, and why it has to be moved.

Mr. Hopkins explained that the dumpster location is not adequate in size. The dumpsters here were never meant to be for the whole facility. The new location is at a closer proximity to a major portion of the facility, and at the same time they are trying to have it placed as far away as they can from the residents.

Chairman Fabinsky asked if the dumpster location can be expanded to have more dumpsters placed here.

Mr. Hopkins stated that perhaps it could be done, but that location is further away from the facility.

After further discussion, Chairman Fabinsky asked Mr. Ostrander to comment on the options and advise if he feels the second dumpster location is needed.

Mr. Ostrander stated that the second location is closer to the facility for the employees to walk to the dumpster location. He does not know if the second location is needed as he is unfamiliar with their facility. He further stated that they have been using the existing location behind the residents’ homes all along.

It was noted that there was another concrete pad at the site for the location of dumpsters that had never been used.

Chairman Fabinsky stated he would like to canvass the Board. The question is, “If we are ready to move forward, or do we need more information or a better understanding?”

Mr. Murray, “*Who wants to poise a solution? I think we have been here in this discussion, I don’t know how many times”.*

Mr. Heppner, *“I am just thinking out loud for a second. Regardless of their location, the number of dumpsters that exist here are insufficient for the size of the facility. So it seems that the solution is to either have more pick-ups, with more empting of those dumpsters, that currently exist, or to have more dumpsters so that fewer pick-ups need to occur. Neither are tremendously satisfactory for either party, as you will have the trucks along with the noise either 500-ft. further away more often, that is still audible, or 200-ft. further away fewer times. You have to weigh the options. I think I know what my choice would be if I were a resident; I would not impose that on anyone else. Based on my prospective, I am prepared to move ahead.” He further commented that he would be interested to have an on-site walk of the property to gain the prospective of what is going on*.

Ms. Byrne, “*I am not ready to move ahead”.*

Mr. Kaczor, “*I agree with Mr. Heppner on a number of things. I think it is going to be hard to have a resolution that is going to be satisfactory to the people in this room, the developer, and the facility itself. There are certain needs respective to the facility and, obviously, there are certain issues that are going to impact the residents. I still believe that no matter where you put it, you are still going to have an issue with sound with trucks coming in, no matter what. The question is, “How can the impact be mitigated?” Those are the things we have to take and look at, because we can’t just look at dumpster placement, because there might have to be specific provisions made for anything that is done, with a guarantee from the developer or for that matter the owner of the property. There has to be a change as to the frequency of garbage pickup, all those kinds of issues. As you remember, we just did that the last time. We had talked about a change in the style of the dumpster itself, so that it did not make as much noise. I am not sure if that was done, or not. We also talked about fencing; what type of fencing are we talking about? Is there something more that a developer can do to mitigate the sound? I am not sure. So as far as being ready to act now, I guess I have to say I am still here trying to look to see what we need, if we need to put anything, what the more important things are. These are the stipulations that we are going to require to try at least to partially satisfy the residents and also the needs of the facility. This is basically a senior citizens center.”*

Mr. Baich, “*I would tend to think that the contractors of Orchard Heights are making an effort to work with the citizens of the Town. Everyone has to “give and take” in order for the project to move along and for the homeowners to be satisfied. As Mr. Kaczor stated, “There is going to be noise no matter what”. I have a dumpster in my neighborhood, as well. Admittedly, I am not right next to it, but I still do hear it, and there is going to be the noise…”*

Ms. Mombrea, *stated that, “I am very sympathetic to the residents that listen to that noise multiple times a day, on a daily basis. I understand that the facility needs to have access to the dumpsters”. She is curious to know what other sites were considered for the dumpster location and why those sites were rejected.”*

Mr. Hopkins responded that the goal was to locate the dumpsters away from the residential property line, and keep it close to the facility. They are trying to balance all the needs.

The Chairman *stated that at this point the petitioner has come in with a series of proposals, but the proposals still leave open the issue of “is maximum mitigation” being put into place? Can other steps be put in place to reduce the intrusiveness into the neighborhood? He is uncomfortable moving ahead based on just looking at a drawing. He would like to take a closer look at the site and at the neighborhood. He would like to see a proposal put together with our Engineering and Building Departments, and possibly our Conservation Board, in terms of mitigation options to reduce the intrusiveness of the sound. It will be there, but it may be contained by other options. His is not willing to move ahead purely on a diagram. He wants to get out and be there and take a look when the trucks come through, and hear what the neighbors hear, and have input from our engineering and landscaping people to see what we can find as a solution, to not please everyone, but to minimize adverse impact on all concerned. At this point* *we have taken a lot of time with this, but I think those are the steps that I would want to see.”*

Mr. Wood and Mr. Hopkins explained that they feel the dumpster location and the proposed Phase 2 of the project are separate issues. They ask that the Board table the dumpster location discussion, and move forward with the Site Plan approval request.

Chairman Fabinsky consulted Deputy Town Attorney John Bailey, Acting Planning Coordinator Remy Orffeo, and Assistant Town Municipal Engineer Thomas Ostrander with regard to this request. It was noted that the project’s Site Plan has received Town Engineering approval. It was agreed that the dumpster location and the Site Plan are two separate issues. He pointed out that the Planning Board has a responsibility to respond to the application and make a recommendation to the Town Board. Planning does not have the authority to make a decision. Therefore, he feels the Board should move forward on the request for the Site Plan Approval with a Stipulation regarding the dumpster’s location. The Board would like to see a plan that solves, or minimizes all concerns, or no Certificate of Occupancy (CO) will be issued.

Mr. Hopkins agrees with this decision.

Mr. Heppner made a **MOTION**, seconded by Mr. Fabinsky, to recommend that the Town Board **GRANT** Site Plan Approval for Phase 2 of this project per the plan received on 11/06/2020, based on the following conditions and stipulations:

1. All public notices have been filed.

2. This is an Unlisted SEQR Action, based on the Short EAF Part 1 and a Negative Declaration is recommended.

3. The Site Lighting is limited to those fixtures and poles indicated on the approved Site Plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.

4. No outside storage or display is permitted.

5. The Landscape Plan, received 6/5/2020, meets all Green Space regulations with 60% Green Space. In accordance with Section 144-44(c) (1) (a) (2), a Certified Check amounting to 50% of the $16,125 Landscaping Estimate Value shall be deposited with the Town Clerk ($8,062.50). Conservation Board approval was granted on 07/07/2020.

6. Town Engineering Approval was granted on 2/8/21 on the Site Plan dated 11/6/20.

7. A Certificate of Occupancy (CO) will be withheld until resolution and determination of dumpster location is reached.

On the question:

Deputy Town Attorney John Bailey discussed Stipulation #7 with Mr. Heppner.

Acting Planning Coordinator Orffeo clarified the motion further with Mr. Heppner.

THE **VOTE** ON THE **MOTION** BEING:

FABINSKY AYE

BAICH AYE

HEPPNER AYE

KACZOR AYE

MOMBREA, AYE

MURRAY AYE

BYRNE AYE

THE **VOTE** BEING **UNANIMOUS,** THE **MOTION** IS **PASSED WITH A STIPULATION.**

 **CONCEPT REVIEW**:

1. P.B. File #29-2020, V/L Lake Avenue, located on the south side of Lake Avenue, between #6007 & 5971 Lake Avenue, Zoned I-1. Paul Reamsnyder, Owner, is requesting to construct a 40-ft. x 60-ft. Warehouse Building for his company “Spectrum Landscape Services”. (SBL#152.15-1-16)

 APPEARANCE: Mr. Paul Reamsnyder, Petitioner

 Mr. Reamsnyder presented and discussed his plans to construct a warehouse building for his landscape company, “Spectrum Landscape Services”.

 Ms. Byrne, stated that she is knowledgeable regarding the property here, as the Erie County Water Authority owns the water tank. She discussed her concerns regarding a 48-inch utility transmission main, and asks that Mr. Reamsnyder be aware of its existence when placing his building on the lot.

 Mr. Reamsnyder stated that he is aware of the Erie County Water Authority transmission line, and his building will be placed back on the property so that it does not interfere with it.

 Chairman Fabinsky established that Mr. Reamsnyder will contact his neighbors regarding his proposed project, and do whatever he can to make the site comfortable and disturbance free for the residents.

 Mr. Kaczor stated his concerns for the neighbors and what this business could potentially do to the established homes here. He bases this opinion on what he has seen at another Orchard Park landscape business, bordered by nearby residential homes. Various items and equipment are left outside that do not aesthetically contribute to the character of the neighborhood. Mr. Kaczor would like to know:

 ⦁ How Mr. Reamsnyder would be different,

 ⦁ How would he mitigate it,

 ⦁ What type of equipment will he be bringing to the site that the neighbors will have to “put-up with”.

 Mr. Reamsnyder noted that he does not have heavy-duty equipment. He has newer pick-up trucks (7), 4-pieces of equipment, and 6-trailers. Items such as mulch will be kept in a container. He feels he may use fencing, trees, or hedges for buffering the neighbors from the site. He will not be storing plantings or trees here. Mr. Reamsnyder feels he runs a first-class operation and is very professional. He expects that from his employees, also.

 Mr. Baich established that Mr. Reamsnyder has been in business since 2001, and he has 7-employees. He further established that snow plowing is a part of his business. The snow plow trucks and equipment are kept at the employees’ home.

 Mr. Orffeo told Mr. Reamsnyder that he had comments and questions from neighbors. He will provide Mr. Reamsnyder with copies of the emails that note their concerns so he can address their issues personally.

 Mr. Reamsnyder plans to maintain the over 800-ft. deep wooded lot at the back of the property and keep it green space. He also intends on creating an entrance that blends into the character of the neighborhood on Lake Avenue, with the view of the business filtered out.

 Mr. Heppner would like to see additional drawings and he feels this is a good project.

 Chairman Fabinsky stated that there are several things the members would like you to look into. Please return with answers to the items the members discussed and with more details.

2. P.B. File #05-21, 3330 Orchard Park Road, V/L located on the west side of Orchard Park Road, south of Rte. 20, across from the Hammocks, Zoned B-2. Joseph Gianni to discuss proposed commercial project for this property. (SBL#152.16-6-3 & 152.16-6-2)

 APPEARANCE: Mr. Eric Peterson, Associate of Joseph Gianni, representing “In Site Real Estate”

 Mr. Chris Wood, Carmina ⦁ Wood ⦁ Morris, Architects

 Mr. Wood stated they are proposing to construct a 20,000 sq. ft. +/- grocery store upon this 6.6+/-acre site. Approximately four-acres will be developed, and the remainder will be green space. At this time they are not allowed to disclose the name of the store. He further noted that; the access driveway on Orchard Park Road will line-up with the Tops’ Plaza driveway; a Traffic Impact Study (TIS) is underway for the proposed project; and fill will be needed for portions of the property.

 Mr. Kaczor confirmed that Mr. Wood is aware that this property is located in the Architectural Overlay District (AOD), and what they present this evening may have changes, and not look like this at all. He, also, asked Mr. Wood to keep in mind that this property is also located at a significant entranceway into the Town of Orchard Park.

 Mr. Wood explained the proposed project further to the members using the Site Plan map, indicating that the property along Orchard Park Road is significantly higher than the rest of the property.

 Chairman Fabinsky discussed the traffic back-ups that occur here, pointing out that this needs to be thoroughly addressed, as it is fairly dangerous. He also told Mr. Wood that the backups include traffic from Milestrip Road to Southwestern Boulevard.

 Mr. Wood stated that they will work with the NYS DOT regarding the traffic and timing issues with the traffic lights.

 Mr. Kaczor stated that there have been other projects proposed for this site. He asked Mr. Wood if he had worked with FEMA for any of the properties past proposals, as he feels the property is very low and the creek is “right there”.

 Mr. Wood noted that a shopping center project and a senior housing facility were proposed in the past. Also, a study was prepared and approved by FEMA, and the Zoning Board of Appeals granted Variances for the project.

 Mr. Kaczor is interested the time line of these two projects so he can review not only what the issues were, but the questions that were raised, and the answers provided.

 Chairman Fabinsky inquired as to where the 100 and 500-year Flood Plain levels were on the map and Mr. Wood pointed out the 100-year Flood Plain. He told the Board that the 500-year Flood Plain is not

 shown on the map and that it will be included in the new study to be submitted.

 Mr. Heppner stated that he lives in this area and knows of the water issues here. He reported that an old bridge is under water at the site. He feels this is a well thought out project, and that it will be welcomed by the residents.

 The Chairman and the other members of the Board agree with Mr. Heppner.

 Mr. Baich stated he feels this is a challenging piece of property.

There being no further business, the Acting Chairman adjourned the meeting at 9:25 P.M.

DATED: 3/29/21

REVIEWED: 3/20/21

 Respectfully submitted,

 Rosemary M. Messina

 Planning Board Secretary

Harold Fabinsky

Planning Board Chairman