

PLANNING BOARD OCTOBER MEETING MINUTES

- MEMBERS:** Harold Fabinsky, Chairman
Henry Heppner
Nicholas Baich
Julia Mombrea
Philip Murray
- EXCUSED:** Joseph Liberti, is on a leave of absence.
David Kaczor
Karen Byrne, Alternate
- OTHERS PRESENT:** Remy C. Orffeo, Acting Planning Coordinator
Steven Bremer, Supervising Code Enforcement Officer
Kenneth W. Kostowniak, Principal Engineer Assistant
John Bailey, Deputy Town Attorney
Rose Messina, Planning Board Secretary

The Chairman announced exit procedures in the event of a fire alarm and called the Planning Board meeting to order at 7:00 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 July, August and September meeting minutes were not available to be voted on.

REGULAR BUSINESS:

1. P.B. File #05-2021, 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. (SBL#152.16-6-3 & 152.16-6-2) Planning Board to Seek Lead Agency Status for a coordinated review of a Type 1 SEQR Action for the proposed development of a Commercial Project.

APPEARANCE: Christopher Wood, Engineer – Carmina • Wood • Morris Architects

Mr. Wood stated that the Petitioner is requesting the Planning Board to seek Lead Agency Status for a grocery store proposed for this site. He briefly explained the project, and noted that a setback Variance was granted by the Zoning Board of Appeals at their meeting. He told the members that in the future, the Petitioner will ask the Planning Board to waive the Towns' parking space requirement. He feels they are able to "bank" land for future parking spaces, if they are ever needed.

Mr. Baich questioned the waiving of the parking requirement. Mr. Wood explained that the Petitioner does not feel they need the required parking spaces, and they wish to limit the development and impact on the site.

Mr. Heppner inquired, about the submitted Traffic Study, and questions the radius/range used, along with the plan to "bank" the land at this site.

Mr. Wood stated that the Southwestern Boulevard/Milestrip Road, and the Milestrip Road/North Buffalo Road intersections were used for the Traffic Study. He also stated they received correspondence from FEMA for a previous, unused plan at this site. These will be reviewed with the Town Engineering Department.

Mr. Murray inquired if an Environmental Impact Study (EIS) was performed and why this item is classified as a *Type 1 SEQR Action*, and not an "Unlisted Action".

Mr. Orffeo stated that the Petitioner requested this classification, and he, too, recommends it to be a *Type 1 SEQR Action*, as there are traffic and environmental issues to address. Mr. Orffeo stated that the EIS will be addressed, after the Lead Agency Status is established.

Chairman Fabinsky stated he feels an EIS would be beneficial.

Mr. Murray inquired about the soil at this site.

Mr. Wood stated that he is unable to answer Mr. Murray's questions at this time.

Mr. Orffeo noted that land had been "banked" at the "Denny's" site to allow greenspace to be maintained. Denny's did not need the extra parking, so it was held in reserve.

Mr. Fabinsky made a **MOTION**, seconded by Mr. Baich regarding Planning Board File #05-2021, I move to recommend to that the Planning Board seek Lead Agency Status for this Type 1 SEQR Action requesting to develop a Grocery Store in this B-2 Zone.

THE VOTE ON THE MOTION BEING:

BAICH	AYE
HEPPNER	AYE
MOMBREA	AYE
MURRAY	AYE
FABINSKY	AYE

THE VOTE BEING UNANIMOUS THE MOTION IS PASSED.

2. P.B. File #18-2021, Quaker Crossing Outparcel, located at the western end of parking area between Regal Cinema & Red Robin Restaurant, Zoned B-1. (SBL#152.17-1-13.14) Gerald Buchheit is seeking Planning Board recommendation to Town Board for Site Plan Approval and a Building Permit, to construct a 31,070-sq. ft. Retail Building. Conservation Board approved Landscape Plan on 10/5/2021.

APPEARANCE: Gerald Buchheit, Petitioner/Developer/Owner
Carly Calorico, Representing Quaker Crossing

Chairman Fabinsky inquired if there were any changes to the Site Plan since the last time the Board had seen the plan.

Mr. Buchheit affirmed that there were no changes made to the submitted Site Plan.

Mr. Baich inquired if the tenants had been identified.

Mr. Buchheit stated he cannot divulge the tenants until leases are signed. He told the Board that they are all quality tenants.

Ms. Mombrea established that there will be approximately 3 to 4 tenants.

Chairman Fabinsky inquired as to whether, if the Cinema increases its seating capacity by removing the larger seats, will they need more parking; if so, what happens then?

Mr. Buchheit explained that the Cinema has a Binding Agreement regarding this aspect, and this will not happen.

Mr. Baich made a **MOTION**, seconded by Mr. Heppner Regarding Planning Board File #18-21, I move to recommend that the Town Board **APPROVE** the presented Site Plan and **AUTHORIZE** a Building Permit, to construct a 31,070-sq. ft. Retail Building, per the plan received on 9/29/21, 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 submitted on 8/18/21, and a **Negative** declaration is made.
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. An updated Landscape Plan, received 8/23/21, meets all Green Space regulations. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$9,350 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$4,675) Conservation Board approval was granted on 10/05/2021.
6. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
7. This approval is conditioned on the following:
 1. Add on the Site Plan a table of the required and supplied parking spaces for the site as well as appropriate approval history of parking spaces approvals. Parking spaces shall meet or exceed Town Code requirements for all building capacities. Variances granted before have proved appropriate for this site.
 2. Include Water Domestic Service and Fire Protection connections for the proposed building. Verify the connection pipe system is correct, provide details and clarification of existing supply system on the Site Plan.

THE VOTE ON THE MOTION BEING:

BAICH	AYE
HEPPNER	AYE
MOMBREA	AYE
MURRAY	AYE
FABINSKY	AYE

THE VOTE BEING UNANIMOUS, THE MOTION IS PASSED.

3. P.B. File #37-2021, Alliance Homes, proposed 23-Lot Single-Family Subdivision, located on V/L, north side of Milestrip Road, west of Baker Road, Zoned R2. (SBL#153.17-1-8) Petitioner is seeking Planning Board Pre-Application Findings.

APPEARANCE: Christopher Wood, Engineer – Carmina • Wood • Morris Architects
Bill Burke – Alliance Homes

Mr. Burke distributed a map depicting the location of the proposed 23-Lot Subdivision.

Mr. Wood briefly explained the project, stating that the site is approximately 47-acres. The development of the subdivision will encompass approximately 21-acres. A new public road will be constructed to connect the site to allow access onto Milestrip Road in two places, and loop through the site. There will be no lots with frontage facing Milestrip Road. There are wetlands at this site, however their layout is such that there will not be an impact on the One-Hundred Year Flood Plain, or Smoke’s Creek.

Mr. Baich inquired as to their intent for future development of the vacant land.

Mr. Wood told the Board that, at the moment, they have no plans to develop it further, due to Smokes Creek.

It was established that the Storm Water Management be located on the West side of the property, with the water discharged towards Smokes Creek.

Mr. Baich inquired as to the size of the homes and lots.

Mr. Wood stated that the lot size is 20,000-sq. ft., and according to zoning requirements, the smallest home built will be about 2,500-sq. ft. The homes will be a mixture of one and two-story residences.

Mr. Heppner made a **MOTION**, seconded by Ms. Mombrea, Regarding Planning Board Subdivision File #37-2021, the following Pre-Application Findings are made based on the submitted Sketch Plan received 9/17/2021 and the Applicant has detailed:

- The total acreage is 47.2 +/- 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"
1. All public notices have been filed.
 2. The zoning will remain as is.
 3. Access to surrounding properties is through Milestrip Road.
 4. 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.
 5. Subdivision Development fees, per Section 144-70D of the Town Code, shall be paid prior to the Preliminary Plat Plan Public Hearing.
 6. Public Hearing fees shall be paid prior to the Preliminary Plat Plan Public Hearing.
 7. One (1) Street Tree per the Conservation Board's Street Tree Plan shall be provided for each lot per Section 120-3F of the Town Code.
 8. The applicant has completed and submitted the Short EAF, Part 1 for this Unlisted SEQR Action.

THE VOTE ON THE MOTION BEING:

BAICH	AYE
HEPPNER	AYE
MOMBREA	AYE
MURRAY	AYE
FABINSKI	AYE

THE VOTE BEING UNANIMOUS, THE MOTION IS PASSED.

4. P.B. File #38-2021, Michael Development, proposed 12-Lot Single-Family Subdivision, located at the dead-end of Woodhaven Road, Zoned R2. (SBL#'s 162.05-2-22 & -23) Petitioner is seeking Planning Board Pre-Application Findings.

APPEARANCE: Christopher Wood, Engineer – Carmina • Wood • Morris Architects

Mr. Wood explained the project for a proposed 12-Lot Subdivision, stating it will be an extension of Woodhaven Drive, connecting to Diller Drive. He stated the topography of the site slopes from South to North, and to the West. Therefore, the detention basin would be located in the Northwest corner, discharging into a ditch. There is currently a sewer here, however, a new storm water drainage system will be constructed.

Ms. Mombrea established that the site is currently used as a fill site eliminating a drop-off area. The applicant received a permit to use the fill to prepare the site for this project.

Chairman Fabinsky established that “clean” fill was used. It was, also, established that Engineering had met with the Petitioner and conducted inspections at this site.

Mr. Murray asked several questions about the quality of the fill as a base for foundations.

Mr. Wood stated that the fill was compacted as it was filled. He also stated that he believes Engineering will ask for soil borings along the centerline on the street.

It was established that this project would be completed in one phase.

Ms. Mombrea made a **MOTION**, seconded by Mr. Heppner, regarding Planning Board Subdivision File #38-2021, the following Pre-Application Findings are made based on the submitted Sketch Plan received 9/17/2021 and the applicant has detailed:

- The total acreage is 9 +/- 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”
1. All public notices have been filed.
 2. The zoning will remain as is.
 3. Access to surrounding properties is through Woodhaven Road and Diller Drive.
 4. 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.
 5. Subdivision Development fees, per Section 144-70D of the Town Code, shall be paid prior to the Preliminary Plat Plan Public Hearing.
 6. Public Hearing fees shall be paid prior to the Preliminary Plat Plan Public Hearing.
 7. One (1) Street Tree per the Conservation Board's Street Tree Plan shall be provided for each lot per Section 120-3F of the Town Code.
 8. The applicant has completed and submitted the Short EAF, Part 1 for this Unlisted SEQR Action.

THE VOTE ON THE MOTION BEING:

BAICH	AYE
HEPPNER	AYE
MOMBREA	AYE
MURRAY	AYE
FABINSKI	AYE

THE VOTE BEING UNANIMOUS THE MOTION IS PASSED.

- 5. P.B. File #14-2021, V/L Sterling Park, 235 Windward Road, located on the west side of Windward Road Zoned I-1. Calspan Development and Construction is requesting Planning Board recommendation to Town Board for Site Plan Approval and a Building Permit to develop a two-phase project to construct two-medical buildings. Conservation Board approved Landscape Plan on 9/07/2021. (SBL#152.14-5-1)

APPEARANCE: Mr. Christopher Wood, Engineer, Carmina • Wood • Morris Architects
 Mr. Steve Federico, Executive Vice President, Calspan
 Ms. Stephanie Henry, Architect

Mr. Wood explained the proposed project to the members, noting it has two-phases; Phase 1 is the construction of a 1-story, 18,000-sq. ft. Medical Building. Phase 2 is the construction of a 16,000-sq. ft. Medical Building. The site is approximately 5.6-acres, and they are developing approximately 2.5-acres of the site. In addition a large detention basin will be constructed on a portion of the site. It was learned that the Town Ordinance requires 117-parking spaces. Mr. Wood stated that they plan to construct a total of 120-parking spaces. All remaining parking spaces will be completed in Phase 2 of the project. The Conservation Board approved their submitted Landscaping Plan. Mr. Frederico reviewed and discussed the Building Elevations with the members.

Mr. Heppner inquired if this project would interfere with the other planned projects in the area.

Mr. Wood did not feel this project will impact any of the planned projects taking place in the future here.

Ms. Mombrea established that the “Ross Eye Institute” is the occupant of the proposed two buildings.

It was established that during Phase 1 of the development, 91-parking spaces will be constructed to service the first building, with the remaining 29-spaces constructed during Phase 2.

Chairman Fabinsky inquired about Internal Green Space, and Mr. Wood stated that the project has a total of 17% Internal Greenspace. He described where it will be located, and noted that it exceeds the Town Ordinance of 10% Internal Greenspace. It was also learned that several remaining Engineering issues were resolved, with this project and it has received Engineering Approval.

Mr. Baich commended the project.

Chairman Fabinsky inquired as to the visibility of the project, and asked about the signage planned for the site.

Mr. Wood stated that this project will be very visible, and he did not believe the monument signage at the end of the driveway nor the signage on the building were non-compliant.

Mr. Heppner feels this is a good project.

Mr. Murray inquired as to the medical specialties the occupants would provide.

Mr. Wood clarified that “*Ophthalmology*” was planned for the Phase 1 Building, and the Phase 2 Building’s use has not yet been determined.

Mr. Baich made a **MOTION**, seconded by Mr. Heppner, Regarding Planning Board File #14-21, I move to recommend that the Town Board **APPROVE** the presented Site Plan and **AUTHORIZE** a Building Permit, to construct a two-Phase project, first a 18,156 sq. ft. medical Building, and second 15,950 sq. ft., per the plan received on 9/28/2021, 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 submitted on 7/30/21, and a **Negative** Declaration is made.
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. A Landscape Plan, received 8/31/2021, meets all Green Space regulations with 57.9% Green Space. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$45,045 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$22,522.50) Conservation Board approval was granted on 9/07/2021.
6. All future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
7. This approval in *conditioned* upon submission of a minor amendment of drawing C-302.

THE **VOTE ON THE MOTION** BEING:

BAICH	AYE
HEPPNER	AYE
MOMBREA	AYE
MURRAY	AYE
FABINSKY	AYE

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

Concept Review:

1. P.B. File #29-21, West Herr, 3531 & 3551 Southwestern Boulevard. Discussion of proposed storage lot expansion.

APPEARANCE: Mr. Andrew Gow – Vice President - Nussbaumer & Clarke Inc.
Mr. James Mulka – Facilities Director - West Herr Automotive Group

Mr. Gow briefly explained the proposed parking lot expansion to the members. He acknowledged that wetlands would need to be addressed in order for this project to move forward. They consulted with Earth Dimensions (EDI) to perform a Wetlands Delineation. He stated they also met with the NYS DEC a year and a half ago, and were given the advice to remove most of the parking in the lower area of the site. Mr. Gow stated that they removed as much parking as possible, but there still is a significant wetland impact. At another meeting with the NYS DEC it was express that they were happier with their revised, improved plan, but the NYS DEC needs an impact determination on SEQR to move forward. He stated they do not wish to develop full Site Plans if approval is not feasible.

Mr. Baich established that the revised plan was reduced from 1,500-parking spaces to 1,000-parking spaces.

Chairman Fabinsky stated his concern about the visual impact of this project. It was, also, established that the Petitioner would be seeking *mitigation* within the Town itself, rather than solely at this site. Mr. Gow stated that the plan cannot be advanced until they receive a SEQR determination.

Mr. Orffeo stated he requires to have Attorney John Baily’s input, as it is unusual to not have a Site Plan before a SEQR determination is made.

Mr. Heppner inquired with regards to visual impact. He would like to know how close to Webster Road this project is, and will there be access from Webster Road.

Mr. Gow stated there would be no visual impact from Webster Road as there are hundreds of feet and woods to screen the project from the Webster Road residents.

Mr. Orffeo asked Attorney John Bailey if a Long SEQR form should be submitted, as the Petitioner submitted a Short EAF.

Attorney John Baily stated he did not feel comfortable making that determination.

Mr. Gow stated they would be willing to submit a Long EAF.

Mr. Fabinsky made a **MOTION**, seconded by Mr. Heppner, that if Counsel approved, the Petitioner can enter into discussions with Town Engineering on this project.

THE VOTE ON THE MOTION BEING:

BAICH	AYE
HEPPNER	AYE
MOMBREA	AYE
MURRAY	AYE
FABINSKI	AYE

THE VOTE BEING UNANIMOUS THE MOTION IS PASSED.

There being no further business, the Acting Chairman adjourned the meeting at 7:53.

DATED: 10/27/2021
REVIEWED: 11/16/2021

Respectfully submitted,
Anna Worang-Zizzi
Planning Board Secretary

Harold Fabinsky
Planning Board Chairman