

with regard to SBL# 184.00-4-13.121, Holy Face Ministry, 6131 Newton Road, located on the south side of Newton Road, Zoned A-1, that the Town Board APPROVE the Site Plan for a 2,300 sq. ft. addition to the existing chapel building located on the property at 6131 Newton Road ("Project Site") along with all related improvements depicted on the engineered plans prepared by Nussbaumer & Clarke, Inc. based on the following findings and conditions:

1. All public notices have been filed.
2. The project was referred to the Erie County Department of Environment and Planning ("ECDEP") on December 15, 2021 pursuant to NYS General Municipal Law Section 239-m since Newton Road is an Erie County Highway.
3. On February 6, 2024, the ECDEP issued a reply stating as follows: "No Recommendation; proposed action has been reviewed and determined to be of local concern."
4. Upon review of the Site Plan and associated documents, including the Short Environmental Assessment Form prepared pursuant to the State Environmental Quality Review Act ("SEQR"), the Planning Board recommends that the Town Board classify the project ("action") as a Type 2 Action pursuant 6 NYCRR 617.5(c)(9) of the SEQR Regulations stating that "construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a Use Variance and consistent with Local Land Use Controls, but not Radio Communication or Microwave Transmission Facilities" is a Type 2 Action.
5. On November 8, 2021, the Erie County Department of Health issued a letter approving the on-site Septic System for the project.
6. A letter with attachment prepared by Robert Pidanick of Nussbaumer & Clarke, Inc. dated January 8, 2024 provides detailed information supporting the professional opinion of the project engineering firm in support of its opinion that the installation of the on-site Stormwater Management System complying with the applicable Stormwater Standards as described in detail in the letter ensures the project will not result in any potentially significant adverse drainage impacts.
7. On March 1, 2022, the Erie County Department of Public Works issued a letter stating as follows: "This Department has received plans and drainage calculations for site modifications at Holy Face Chapel Church located at 6131 Newton Road (CR-110) in the Town of Orchard Park, and find them to be acceptable."
8. The Site Lighting is limited to those fixtures and poles indicated on the Approved Engineered Plans. Light fixtures shall have flat lenses, and all lighting is to be directed downward and toward the site.
9. Specific findings relating to Section 144-44 of the Orchard Park Zoning Code:

1. All buildings are an integral part of the development and have convenient access to and from adjacent uses and roadways.
 2. Individual buildings are related to each other in design, mass, materials, placement, and connections providing a visually and physically integrated development.
 3. All buildings are arranged to avoid undue exposure to concentrated loading or parking facilities.
 4. All buildings are arranged to be accessible to emergency vehicles.
10. No outside storage or display is permitted.
 11. An updated/redated Landscape Plan including demonstrated compliance with all Green Space regulations was submitted and Conservation Board approval was granted on February 6, 2024.
 12. To the extent that relief may be necessary from set-back or required yard pursuant to the Town of Orchard Park Zoning Code and its Area and Bulk Regulations by virtue of the project approved by this Motion, the Planning Board recommends, pursuant to Section 144-61 of the Zoning Code, that the Town Board approve this project, and specifically the construction of the addition to the existing structure so long as the said addition is otherwise in conformance with the provisions of the Town Code set forth above.
 13. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
 14. Town Engineering Department Approval was granted on January 11, 2024.

A RESOLUTION IN SUPPORT OF ALL LAW ENFORCEMENT OFFICERS

WHEREAS, the men and women of our nation's law enforcement agencies wear their uniforms with honor, dedication, and integrity as they protect and defend the communities they serve; and

WHEREAS, there are approximately 800,000* law enforcement officers serving communities across the nation including the men and women law enforcement officers across New York State and in Orchard Park, New York; and

WHEREAS, since the first recorded line of duty death occurred in 1786, more than 23,000* officers have made the ultimate sacrifice while protecting the communities they swore to protect; and

WHEREAS, the uniforms which were worn and earned with hard work, commitment and pride by these officers, have in recent times become targets by those who seek to attack, injure, or kill law enforcement officers simply because of their profession and their commitment to duty; and

WHEREAS, the Town Board of Orchard Park stands with the families of the fallen, and the officers currently protecting our Town, County, State and all officers throughout the United States; and

WHEREAS, we the Town Board of Orchard Park support the men and women in law enforcement who stand every day as our guardians of peace and order, ready to protect our homes and businesses, the weak and oppressed and our very freedom.

NOW, THEREFORE be it

RESOLVED, that the Town Board of Orchard Park officially supports, respects, and honors the commitment and sacrifice made by all law enforcement officers.

* Per National Law Enforcement Officers Memorial Fund

**Town of Orchard Park
Recreation, Parks, and Forestry Department**

4520 California Rd
Orchard Park NY 14127

leake@orchardparkny.org (716) 662-6450 ext.1

3/6/24

To: Town Board

From: Ed Leak

Director of Recreation

Item 1: Appt. to the staff of the Town of Orchard Park Recreation Department PT for 2024 effective 3/7/24
Rebecca Roe \$20.00 Special Programs Supervisor *

Recreation Director: Ed Leak

Assistant Recreation Director: Kristin Santillo



TOWN OF ORCHARD PARK
Recreation, Parks, and Forestry Department
4520 California Road Orchard Park, New York 14127-2609
(716) 662-6450 Fax: (716) 209-0210
E-Mail: oprec@orchardparkny.org
Website: www.oprec.org



WHEREAS, the Town of Orchard Park did receive and opened bids on February 22nd, 2024 for Orchard Meadows Tennis Court resurfacing.

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby award the resurfacing bid to Arrey LLC/dba Signature Sport Surfaces, 879 Whitehaven Road #107, Grand Island, NY 14072 that being the lowest responsible bidder thereof, as recommended by the Town Parks Director.

FURTHER be it

RESOLVED, that adequate dollars are available in the 2024 Parks Department Budget.

RESOLVED, that the Town Board will hereby accept the results of the auction conducted by Auctions International to sell surplus town equipment, and be it further

RESOLVED, that the Town Board does hereby authorize the Highway Superintendent to approve the sale of the surplus equipment.

Resolution: No Wind Farms in Orchard Park

Whereas, the community of Orchard Park values its natural beauty, tranquility, and quality of life; and

Whereas, wind farms, while a source of renewable energy, can have significant environmental and visual impacts; and

Whereas, the construction and operation of industrial wind turbines may disrupt local ecosystems, wildlife habitats, and scenic landscapes; and

Whereas, the noise, shadow flicker, and potential health effects associated with wind turbines can negatively impact residents' well-being; and

Whereas, the economic benefits of wind farms must be carefully weighed against their potential drawbacks; and

Whereas, Orchard Park residents have expressed concerns about the potential installation of wind farms in our community;

Therefore, be it resolved that the Town of Orchard Park opposes the establishment of wind farms within its boundaries; and

Be it further resolved that the Town of Orchard Park will actively engage with relevant authorities, community members, and environmental experts to explore alternative renewable energy solutions that align with our community's values and minimize adverse effects.

Adopted this day, Wednesday March 6, 2024, by the Town Council of Orchard Park.

WHEREAS, the Orchard Park Town Board, at its March 6, 2024 meeting passed a resolution opposing the establishment of Wind Farms within its boundaries; and

WHEREAS, the Orchard Park Town Board wishes that the opposition to wind Farms becomes codified in the Town Code.

NOW, THEREFORE be it

RESOLVED, that the Orchard Park Town Board schedules a Public Hearing regarding adopting an addition to the Orchard Park Town Code on April 17, 2024 at 7:00PM at the Town Municipal Center; and be it further

RESOLVED, that the Town Clerk is hereby directed to publish due notice thereof.



TOWN OF ORCHARD PARK

MEMORANDUM

S.4295 SOUTH BUFFALO STREET
ORCHARD PARK, NEW YORK 14127
(716) 662-6432, ext. 2202

DATE: 3/5/2024

TO: Town Clerk, Remy Orffeo
Jenifer Brady
Building Inspector Tom Minor

FROM: Rosemary Messina, Planning Secretary

SUBJECT: March 6, 2024 - TB Agenda new items for referral

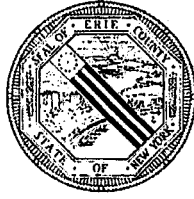
NEW BUSINESS:

Please refer the following to the Planning & Conservation Boards, for their review and recommendation of the following request:

1. 4956 & 4968 Chestnut Ridge Road, V/L north westerly corner of New Armor Duels and Chestnut Ridge Roads, Zoned B-2. Miranda Holdings, Inc. is requesting a "Special Exception Use Permit" to operate a Drive-through Service Facility. (SBL#'s 172.20-1-17 & 172.20-1-16)
2. 200 Sterling Drive, located in the Sterling Park Industrial Center on the north side of Milestrip Road, south of Red Tail Drive, Zoned I-1. Community Healthcare Trust is requesting Site Plan Approval and a Building Permit to expand parking. (SBL#152.19-1-23)
3. 4297 & 4309 Abbott Road, located on the east side of Abbott Road, south of Big Tree Road, Route 20A, across from "Danny's South" restaurant, Zoned B-2. Ellicott Development is requesting Site Plan Approval and a Building Permit to construct a proposed Convenience Store and Fueling Facility. (SBL#'s 172.05-1-1.1, 172.05-1-36.2)

BUILDING DEPARTMENT COPY: Please review above and indicate if any Zoning corrections are needed.

Reviewed by: _____ Date: _____



COUNTY OF ERIE

GALE R. BURSTEIN, MD. MPH
COMMISSIONER OF HEALTH

February 15, 2024

SENT TO: CITY, TOWN & VILLAGE CLERKS
CLERK OF THE COUNTY
LEGISLATURE
COUNTY EXECUTIVE

Attached hereto please find a copy of the proposed Erie County Sanitary Code, Article XXIII, Permitting, Inspection and Enforcement of Retail Tobacco Product Businesses, Retail Vapor Product Businesses and Retail Smoking Paraphernalia Businesses. This proposed new article is hereby being filed pursuant to the Erie County Administrative Code, Section 5.05(b).

A Public Hearing relative to the proposed new article will be held on March 19, 2024 at 3:00 P.M immediately preceding an Erie county Board of Health meeting in the 4th Floor Conference Room at 110 Franklin St., Buffalo, NY 14202.

Very truly yours,

Robert Free
Chairman
Erie County Board of Health

Article XXIII

Permitting, Inspection and Enforcement of Retail Tobacco Product Businesses, Retail Vapor Product Businesses and Retail Smoking Paraphernalia Businesses

General Provisions

Section

1.1 **Introduction.** There exists within the County of Erie businesses that are retail merchants of tobacco, vapor products and smoking paraphernalia. These businesses are required to follow all laws, codes and regulations within New York State, including but not limited to NYS Public Health Law Articles 13-E (Regulation of Smoking and Vaping in Certain Public Areas) and Article 13-F (Regulation of Tobacco Products, Herbal Cigarettes and Smoking Paraphernalia; Distribution to Minors). Through years of inspections it has been determined that these businesses need to be regulated at the local level to ensure compliance. Therefore, the establishment of a permit and local code is needed to keep these harmful products out of the hands of individuals under 21 years of age and to eliminate the sale of all prohibited products to the residents and visitors of Erie County.

1.2 **Purposes.** It is hereby declared that the purpose of this Article is to protect, preserve and promote the health and well-being of the people by minimizing and/or eliminating the exposure to second hand smoke, minimizing and or eliminating the sale of tobacco and vapor products and smoking paraphernalia to those under 21 years of age and minimizing and/or eliminating the sale of prohibited tobacco and vapor products.

1.3 **Title.** This article shall be known and cited as the Erie County Sanitary Code Article XXIII.

1.4 **Application and Scope.**

(a) **Application.** The requirements of this article shall:

(1) When adopted by the appropriate local authority, apply within Erie County.

(2) Apply to all Retail Tobacco Product Businesses (including any wholesale activities taking place within the same building), Retail Vapor Product Businesses and/or Smoking Paraphernalia Businesses.

(3) The Erie County Commissioner of Health may direct enforcement of this article on any Retail Tobacco Product Business, Retail Vapor Product Business and/or Smoking Paraphernalia Business that poses a danger or hazard to public health and safety.

(b) Scope.

(1) It is intended that the application of the provisions of this Article be consistent with the provisions of all Federal, State and local laws, codes, rules and regulations: provided, however, that where the provisions of this Article are more restrictive, they shall govern, and where the provisions of such applicable Federal, State, or local laws, codes, rules and regulations are more restrictive, they shall govern.

(2) If any provisions of this Article are held invalid, such invalidity shall not affect other provisions which shall be given effect without the invalid provision.

1.5 Definitions

(a) ADULT ONLY ESTABLISHMENT means a retail business where the operator ensures or has a reasonable basis to believe (by checking the identification) that no person under the age of 21 years old is permitted entrance.

(b) APPLICANT means a person seeking a Tobacco, Vapor or Smoking Paraphernalia Retail Permit.

(c) DEPARTMENT means the Erie County Department of Health (ECDOH).

(d) ELECTRONIC CIGARETTE or E-CIGARETTE means an electronic device that delivers vapor which is inhaled by an individual user, and shall include any refill, cartridge and any other component of such device.

(e) LEGAL AGE means a person that is 21 years of age or older.

(f) PERSON means an individual, firm, company, corporation, partnership, sole proprietor, limited partnership or association.

(g) PROHIBITED PRODUCT means any tobacco or vapor product defined in Federal regulations, New York State Public Health Law Article 13-F or any local law or code as prohibited for sale.

(h) RENEWED RETAIL TOBACCO PRODUCT BUSINESS PERMIT means a Retail Tobacco Product Business Permit issued to an Applicant for the same location at which the Applicant possessed a valid Retail Tobacco Product Business Permit during the previous year.

(i) RENEWED SMOKING PARAPHERNALIA PRODUCT BUSINESS means a Retail Smoking Paraphernalia Business Permit issued to an Applicant for the same location at which the Applicant possessed a valid Retail Smoking Paraphernalia Business Permit during the previous year.

(j) RENEWED RETAIL VAPOR PRODUCT BUSINESS PERMIT means a Retail Vapor Product Business Permit issued to an Applicant for the same location at which the Applicant possessed a valid Retail Vapor Product Business Permit during the previous year.

(k) RETAIL SMOKING PARAPHERNALIA BUSINESS means a sole proprietorship, Limited Liability Company, corporation, partnership or other enterprise in which the primary activity is the retail sale any pipe, hookah, rolling papers, electronic cigarette, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco, nicotine or cannabis.

(l) RETAIL TOBACCO PRODUCT BUSINESS means a sole proprietorship, limited liability company, corporation, partnership or other enterprise in which the primary activity is the retail sale of tobacco products and accessories, and in which the sale of other products is merely incidental.

(m) RETAIL VAPOR PRODUCT BUSINESS means a sole proprietorship, limited liability company, corporation, partnership or other enterprise in which the primary activity is the retail sale of vapor products and accessories, and in which the sale of other products is merely incidental.

(n) SCHOOL means any public or private school (pre-school, nursery school, elementary school or secondary school) as defined by New York State Education Department and/or New York State Public Health Law Article 13-F and/or New York State Public Health Law Article 13-E

(o) SCHOOL GROUNDS mean any building, structure, and surrounding outdoor grounds contained within a public or private pre-school, nursery school, elementary school or secondary school's legally defined property boundaries as registered in a County Clerk's office, and any vehicles used to transport children or school personnel.

(p) SMOKING means the burning of a lighted cigarette, cigar, pipe or any other matter or substance which contains tobacco or cannabis as defined in section 222.00 of the penal law, or cannabinoid hemp as defined in section three of the cannabis law.

(q) SMOKING PARAPHERNALIA means any pipe, hookah, rolling papers, electronic cigarette, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco, nicotine or cannabis.

(r) SMOKING PARAPHERNALIA RETAILER means a person possessing a Retail Smoking Paraphernalia Permit from the Department to sell Smoking Paraphernalia.

(s) TOBACCO BUSINESS means a sole proprietorship, limited liability company, corporation, partnership or other enterprise in which the primary activity is the sale, manufacture or promotion of tobacco, tobacco products and accessories, either wholesale or retail, and in which the sale, manufacture or promotion of other products is merely incidental.

(t) TOBACCO PRODUCT means one or more cigarettes or cigars, bidis, chewing tobacco, powdered tobacco, nicotine water or any other tobacco products.

(u) TOBACCO PRODUCT RETAILER means a person possessing a Retail Tobacco Permit from the Department to sell Tobacco Products.

(v) VAPING means the use of an electronic cigarette.

(w) VAPOR PRODUCT means any non-combustible liquid or gel, regardless of the presence of nicotine therein, that is manufactured into a finished product for use in an electronic cigarette, including any device that contains such non-combustible liquid or gel.

(x) VAPOR PRODUCT RETAILER means a person possessing a Retail Vapor Product Permit from the Department to sell Vapor Products.

1.6 Inspection

(1) The Erie County Commissioner of Health or their designated representative may without hindrance or fee, make inspections to determine compliance with the provisions of this Article and NYS Public Health Law Article 13-E and/or Article 13-F.

(2) For purpose of making such inspections, the Department is hereby authorized to enter, examine and survey all retail/wholesale areas of the business, all storage areas of the business and any office areas of the business. Except for emergencies, or where authorized by other law such inspections shall be made during the operating hours of the business.

(3) The owner and/or the operator shall give the Erie County Commissioner of Health or their designated representative access to the retail areas, storage areas and/or office areas of the business, or parts thereof for the purpose of such an inspection.

2.0 Retail Tobacco Product Business, Vapor Product Businesses and Smoking Paraphernalia Business: Permit to Operate

(a) No person shall operate a Retail Tobacco Product Business, Retail Vapor Product Business and/or Retail Smoking Paraphernalia Business or cause or allow the same to be operated, without a permit from the Department.

(b) Application for a permit shall be made on a form specified by the Department, by the person to the Department at least 30 business days prior to initial operation, the expiration of an existing permit or upon any change in name, ownership or person.

(c) The Department shall issue a permit if the Retail Tobacco Product Business, Retail Vapor Product Business and/or Retail Smoking Paraphernalia Business conforms or will conform at the time of operation to the requirements of this Article and will not present a danger to the health and safety of the employees and the general public. An applicant's past history of compliance or non-compliance will be a consideration in evaluating the previously mentioned criteria.

(d) A permit may be denied, revoked or suspended by the Department if the Retail Tobacco Product Business, Retail Vapor Product Business and/or Retail Smoking Paraphernalia Business is maintained or operated in violation of the New York State Public Health Law, this Article or other applicable laws, rules or codes. Before denial, suspension or revocation of a permit or after receipt of a notice of violation, the person shall have the right to an office conference to appeal the decision to the Department, except when a public health hazard exists, a permit may be temporarily suspended pending a hearing. A permit will also be revoked upon request of the person or upon abandonment of the operation. Following the revocation, an application shall be filed for a new permit and a satisfactory inspection be performed before resumption of operation.

(e) A permit for a Retail Tobacco Product Business, Retail Vapor Product Business and/or Retail Smoking Paraphernalia Business shall be issued for a period of not more than one (1) year from the date of issuance. A permit shall not be transferrable or assignable and shall expire upon a change of the person of the Retail Tobacco Product Business, Retail Vapor Product Business and/or Retail Smoking Paraphernalia Business or upon the date specified by the Department.

(f) The permit requires that at least one employee be currently certified as taken the NYS Tobacco Sales Training Program administered by a New York State Department Of Health approved entity during all operating hours. Proof of certification MUST be kept on site or with the certified individual and must be presented to the Department when

requested. Failure to have a certified individual present during operating hours will result in immediate closure of the establishment until such time a certified individual is available and present at the establishment. Noncompliance will be considered a violation of this Article.

(g) The Department shall be allowed entry, as specified in Section 1.6 of this Article, for the purpose of inspection.

(h) The permit issued for the operation of a Retail Tobacco Product Business, Retail Vapor Product Business and/or Retail Smoking Paraphernalia Business shall be posted in a conspicuous place in public view.

(i) The Department may establish procedures for the exchange of information with other State and local governmental agencies having responsibilities for making health and safety inspections of buildings, including Retail Tobacco Product Business, Retail Vapor Product Business and/or Retail Smoking Paraphernalia Business as defined in this Article, and/or Federal, State, County or Local Law enforcement agencies and may utilize the information provided by any such agency in making a determination regarding the issuance, denial or revocation of a permit required by this article.

2.1 Retail Tobacco Product Business, Retail Vapor Product Businesses and Retail Smoking Paraphernalia Business: Permit Fee

(a) A fee, established by the Erie County Legislature, per permit year shall be submitted with the application/re-application for any Retail Tobacco Product Business, Retail Vapor Product Businesses and/or Retail Smoking Paraphernalia Business. A permit fee shall be required for each business type.

3.0 Enforcement

(a) Permits and Placarding

(1) The Department shall order any facility operating without a permit as required in Section 2.0 to close, and remain closed until a valid permit for operation of the business is obtained.

(2) The enforcement procedures delineated in the NYS Public Health Law, the Erie County Sanitary Code or otherwise provided by law shall be used as applicable. Where a public health hazard, as determined by the Commissioner of Health, is found, the Retail Tobacco Product Business, Retail Vapor Product Business and/or Retail Smoking Paraphernalia Business shall be placarded to prohibit operation until the public health hazard is corrected, in order to protect

public health and safety. When a placard is used, it shall be conspicuously posted at each entrance of the Retail Tobacco Product Business, Retail Vapor Product Business and/or Retail Smoking Paraphernalia Business. The placard shall state the authority for its placement and indicate that concealment, mutilation, alteration or removal of it by any person without permission of the Department shall constitute a violation of the Erie County Sanitary Code and NYS Public Health Law.

(3) As soon as possible, but no more than 15 business days after placarding the Retail Tobacco Product Business, Retail Vapor Product Business and/or Retail Smoking Paraphernalia Business, the person shall be provided with an opportunity to be heard and present evidence that continued operation of the business does not constitute a danger to the public.

(4) The Department shall inspect the Retail Tobacco Product Business, Retail Vapor Product Business and/or Retail Smoking Paraphernalia Business within two business days of the notification that the hazard has been eliminated. The placards will be removed after the Department verifies that the hazard has been eliminated.

(5) For serious, repeated or persistent violations of the requirements of this Article, or for interference with the Commissioner of Health or their designated representative in the performance of their duties, the permit may be revoked after notice and an opportunity for a hearing has been provided.

(b) Public Health Hazards

For purposes of this Article, any of the following are public health hazards which require immediate correction or remedial action and which require the Department to order immediate correction or to immediately institute action as provided in Section 3.0 (a) of this article.

- (1) the offering for sale and/or sale of any prohibited product
- (2) the sale of any age restricted product to an individual under the age of 21 years
- (3) the denial of access for inspection according to Section 1.6 of this article
- (4) the failure to provide proof of a valid registration/license/permit from any required Federal, State or Local Agency

(5) any other condition the Commissioner of Health deems a public health hazard

(c) Violations

(1) Evidence of a violation of this Article discovered during such inspection shall not be used against the violator in either a criminal or civil proceeding except under the following conditions:

(i) Written notice of said violation shall be left with or mailed to the business and/or person responsible for correction of such violation or in the alternative, such notice shall be posted in a conspicuous place upon the structures, equipment, exterior property, premises or parts thereof where the violation is discovered.

(d) Fines and Surcharge

(1) Fines

(i) In addition to any other applicable penalty provided for by law, the Commissioner of Health may impose a civil penalty for a violation of this article in an amount not to exceed that set forth in NYS Public Health Law Article 13-E and /or Article 13-F, or as stated in the Erie County Sanitary Code. The fine for offering or selling a prohibited flavored vapor product, first offense, shall be no less than \$100 for each product offered or sold, a second and subsequent offense shall have a fine of not less than \$250-\$1000 for each product offered or sold.

(2) Surcharge

(i) The Department will assess, in addition to the NYS surcharge, a surcharge of \$200 for every violation, to be used to conduct inspections or provide education on this Article and NYS Public Health Law Articles 13-E and 13-F.