



TOWN OF PENFIELD

3100 Atlantic Avenue, Penfield, NY 14526-9798

PENFIELD TOWN BOARD MEETING AGENDA

Wednesday, May 2, 2012 7:30PM

Supervisor R. Anthony La Fountain, presiding

- I Call to Order - Pledge of Allegiance - Roll Call
- II Public Hearing – Issuance of a Special Permit to Allow a Grocery Store at 1830 Penfield Road, Located in the Four Corners (FC) Zoning District
- III Communications and Announcements
- IV Public Participation
- V Additions and Deletions to Agenda
- VI Approval of Minutes – April 4, 2012
- VII Petitions
- VIII Resolutions by Function
 - Law and Finance
 - #12T-110 2012 Budget Transfers – Copiers and Printers
 - #12T-111 Authorizing the Town Supervisor to Execute Documents Necessary to Release Portions of a Sanitary Sewer Easement Filed under Liber 9877, Page 568 within the Camden Park Subdivision Section II
 - #12T-112 Authorizing the Town Supervisor to Execute Documents Necessary to Release the Remaining Portion of a Sanitary Sewer Easement Filed Under Liber 9802, Page 516 within the Camden Park Subdivision Section II
 - #12T-113 Home Depot USA, INC #1247 Tax Certiorari Settlement
 - #12T-114 NOCO Energy Corp. (a/k/a NOCO Motor Fuels, INC.), Tax Certiorari Settlement
 - #12T-115 Authorize the Town Comptroller and Safety Coordinator to Attend the PERMA Annual Meeting
 - #12T-116 Authorize the Town Supervisor to Sign the Insurance Consultant Agreement with Municipal Insurance Consultants Inc.
 - #12T-117 Authorize the Supervisor to Sign Contract with the New York State Department of Agriculture for the Use of Office Space
 - #12T-118 Authorizing Sale of Town Owned Property at 1463 Empire Blvd. to Upstate Brownfield Partners LLC
 - #12T-119 Setting a Public Hearing for a Special Permit to Allow a Mathematics Learning Center at 1802 Penfield Road, Located in the Four Corners (FC) Zoning District

- #12T-120 Approval of Issuance of a Special Permit to Allow a Sports Apparel Shop at 2118 Five Mile Line Road**
- #12T-121 Approval of an Incentive Zoning Application and Preliminary & Final Subdivision and Site Plan to Permit the Construction of Six (6) Duplex Units and Subdivision of the Existing Residence at 2014 Five Mile Line Road**
- #12T-122 Setting a Public Hearing for a Special Permit and Preliminary and Final Resubdivision and Site Plan Approval and an Environmental Protection Overlay Permit to Allow the Development of a 358 Unit Apartment Complex and Accessory 3,500 Square Foot Clubhouse and Pool on 26.62 Acres at 1420 and 1440 Empire Blvd.**

Public Works – None

Public Safety

- #12T-123 Authorization for Supervisor to Sign Contracts for Town Rabies Clinic on June 2, 2012**

Community Services

- #12T-124 Appointments to Parks Comprehensive Master Plan Update Committee**
- #12T-125 Authorization for Supervisor to Sign Recreation Contracts**

- IX Old Business**
- X New Business**
- XI Public Participation**
- XII Adjournment**

PENFIELD TOWN BOARD RESOLUTION NO. _____ DATE: May 2, 2012

BY: Cm Moore Law and Finance _____ COMMITTEE

Name: Authorize the Supervisor to sign contract with the New York State Department of Agriculture for the use of Office Space

WHEREAS, the Town of Penfield plans to enter into an Agreement with the NYS Department of Agriculture to provide office space to the NYS Department of Agriculture for the Plum Pox Virus Eradication Program;

NOW BE IT RESOLVED, that the Supervisor is authorized to sign the contract for the agreement of the terms with the NYS Department of Agriculture located at 1618 Jackson Road.

Moved: _____

Seconded: _____

Vote:

Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____

PENFIELD TOWN BOARD RESOLUTION NO. ____

DATE May 2, 2012

BY Councilman Moore

Law & Finance COMMITTEE

NAME Setting a Public Hearing for a Special Permit to Allow a Mathematics Learning
Center at 1802 Penfield Road – SBL# 139.06-1-27.1 – Aline Nguyen - Mathnasium

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Special Permit pursuant to Article III-3-97 of the Code to allow a mathematics learning center at 1802 Penfield Road, located in the Four Corners (FC) zoning district;

NOW, THEREFORE, BE IT

RESOLVED, that the Penfield Town Board is best suited to act as “lead agency” within the meaning of the State Environmental Quality Review Act (SEQRA) and thus does hereby designate itself as “lead agency” pursuant to SEQRA; and be it further

RESOLVED, that the subject application is determined to be a Type II action pursuant to the State Environmental Quality Review Act (SEQRA); and be it further

RESOLVED, that the Town Board of the said Town of Penfield shall hold a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on June 6, 2012 at 7:30 PM on said date, to consider the said application and to hear all persons interested on the question of the issuance of a Special Permit to allow a mathematics learning center at 1802 Penfield Road, in the Four Corners (FC) zoning district; and be it further

RESOLVED, that a copy of this Resolution, certified by the Town Clerk, shall be published at least once in the official newspaper of the Town, the first publication thereof to be not less than ten (10) nor more than twenty (20) days before the date set for said hearing as aforesaid. A copy of this Resolution shall be posted on the official signboard of the Town as prescribed by Law.

Moved: _____

Seconded: _____

Vote: Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____

PENFIELD TOWN BOARD RESOLUTION NO. ____

DATE May 2, 2012

BY Councilman Moore

Law & Finance COMMITTEE

NAME Setting a Public Hearing for a Special Permit and Preliminary and Final Resubdivision and Site Plan Approval and an Environmental Protection Overlay Permit to Allow the Development of a 358 Unit Apartment Complex and Accessory 3,500 Square Foot Clubhouse and Pool on 26. 62 Acres at 1420 and 1440 Empire Blvd. – SBL#s 108.06-1-008.1 and 108.06-1-008.2 -Rochester Waterfront Properties, LLC and Upstate Brownfield Partners LLC

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Special Permit, Preliminary and Final Resubdivision and Site Plan Approval and an Environmental Protection Overlay Permit pursuant to Articles III-3-10, III-3-94 and IX-9-2 of the Code to allow a 358 unit apartment complex and an accessory 3,500 square foot clubhouse and pool, on 26. 62 acres, at 1420 and 1440 Empire Blvd., located in the LaSalle's Landing Development (LLD) zoning district;

NOW, THEREFORE, BE IT

RESOLVED, that the subject application is determined to be a Type I action pursuant to Section 617.4 of the State Environmental Quality Review Act (SEQRA); and be it further

RESOLVED, that the Town Board of the said Town of Penfield shall hold a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on June 6, 2012, at 7:30 PM on said date, to consider said application and to hear all persons interested on the question of the issuance of a Special Permit, Preliminary and Final Resubdivision and Site Plan Approval and an Environmental Protection Overlay Permit pursuant to Articles III-3-10, III-3-94 and IX-9-2 of the Code to allow a 358 unit apartment complex and an accessory 3,500 square foot clubhouse and pool, on 26. 62 acres, at 1420 and 1440 Empire Blvd., in the LaSalle's Landing Development (LLD) zoning district; and be it further

RESOLVED, that a copy of this Resolution, certified by the Town Clerk, shall be published at least once in the official newspaper of the town, the first publication thereof to be not less than ten (10) nor more than twenty (20) days before the date set for said hearing as aforesaid. A copy of this Resolution shall be posted on the official signboard of the town as prescribed by Law.

Moved: _____

Seconded: _____

Vote: Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____

PENFIELD TOWN BOARD RESOLUTION NO. _____

DATE May 2, 2012

BY Councilman Moore

Law & Finance COMMITTEE

NAME Authorizing the Town Supervisor to execute documents necessary to Release portions of a Sanitary Sewer Easement filed under Liber 9877, Page 568 within the Camden Park Subdivision Sections II.

WHEREAS; the Town of Penfield currently has Right of Easement, conferred under an easement document filed at Liber 9877, Page 568, and

WHEREAS; a portion of this easement was previously released pursuant to Town Board approval of 11T-189, filed at Liber 11038, Page 245, and

WHEREAS; the Penfield Town Board now desires to release the remaining portion of said easement as more specifically described on Schedule A, attached hereto and made a part hereof.

THEREFORE BE IT RESOLVED, that the Town Supervisor be, and hereby is authorized to execute the necessary document(s) which will release the remaining portion of the Sanitary Sewer Easement Filed under Liber 9877, Page 568 and as more specifically described on the attached schedules and maps attached hereto, made a part hereof.

BE IT FURTHER RESOLVED, that this resolution and appropriate documents for said easement release be filed in the office of the Monroe County Clerk.

Moved: _____

Seconded: _____

Vote: Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____

PENFIELD TOWN BOARD RESOLUTION NO. _____

DATE May 2, 2012

BY Councilman Moore

Law & Finance COMMITTEE

NAME Authorizing the Town Supervisor to execute documents necessary to Release the remaining portion of a Sanitary Sewer Easement filed under Liber 9802, Page 516 within the Camden Park Subdivision Sections II.

WHEREAS; the Town of Penfield currently has Right of Easement conferred under an easement document filed at Liber 9802, Page 516., and

WHEREAS; a portion of this easement was previously released pursuant to Town Board approval of 11T-189, filed at Liber 11038, Page 240, and

WHEREAS; the Penfield Town Board now desires to release the remaining portion of said easement as more specifically described on Schedule A, attached hereto and made a part hereof.

THEREFORE BE IT RESOLVED, that the Town Supervisor be, and hereby is authorized to execute the necessary document(s) which will release the remaining portion of the Sanitary Sewer Easement Filed under Liber 9802, Page 516 and as more specifically described on the attached schedules and maps attached hereto, made a part hereof.

BE IT FURTHER RESOLVED, that this resolution and appropriate documents for said easement release be filed in the office of the Monroe County Clerk.

Moved: _____

Seconded: _____

Vote: Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____

Penfield Town Board Resolution No. _____

Date: 05/02/2012

BY: Councilmen Moore

Law & Finance Committee

NAME: HOME DEPOT USA, INC #1247 Tax Certiorari Settlement

WHEREAS, HOME DEPOT USA, INC #1247 heretofore commenced proceedings against the Assessor and the Board of Assessment Review and other respondents for a review of the Assessment for the years 2009/2010; 2010/2011 and 2011/2012; for the premises located at 750 and 760 Panorama Trail (Tax map number: 138.08-1-41.1 & 138.08-1-46.1); located within the Town of Penfield, and

WHEREAS, after negotiations between the Attorney for the Town and the Attorneys for the Petitioner, a tentative agreement has been reached between parties on the terms of a proposed settlement subject to the approval of the Town Board and to the approval of the Supreme Court of the State of New York, which terms of settlement are set forth in the stipulation on file in the Office of the Town Assessor, and

WHEREAS, upon due consideration of all facts and circumstances, the Town Board finds that the proposed settlement is fair and reasonable and should be approved.

THEREFORE, BE IT RESOLVED, that the proposed settlement of the Tax Certiorari proceedings brought by HOME DEPOT USA, INC #1247. For the years 2009/2010; 2010/2011 and 2011/2012; be and hereby are approved.

BE IT FURTHER RESOLVED, that the Attorney representing the Town be and hereby is directed to make application to the Supreme Court of the State of New York for approval of such settlement and that upon obtaining such approval, the Assessor of the Town of Penfield be and he hereby is directed to make the necessary adjustments in the Assessment Rolls for the Town of Penfield to reflect the terms of such settlement.

Moved:

Seconded:

Vote: Kohl	_____
LaFountain	_____
Metzler	_____
Moore	_____
Quinn	_____

Penfield Town Board Resolution No. _____

Date: 05/02/2012

BY: Councilmen Moore

Law & Finance Committee

NAME: NOCO ENERGY CORP. (a/k/a NOCO MOTOR FUELS, INC.), Tax Certiorari Settlement

WHEREAS, NOCO ENERGY CORP. (a/k/a NOCO MOTOR FUELS, INC.), heretofore commenced proceedings against the Assessor and the Board of Assessment Review and other respondents for a review of the Assessment for the years 2004/2005, 2005/2006, 2006/2007, 2007/2008, 2008/2009, 2009/2010, 2010/2011 and 2011/2012 for the premises located at 2487 Browncroft Boulevard, (Tax Map Number 123.07-1-42); located within the Town of Penfield, and

WHEREAS, after negotiations between the Attorney for the Town and the Attorneys for the Petitioner, a tentative agreement has been reached between all parties on the terms of a proposed settlement subject to the approval of the Town Board and to the approval of the Supreme Court of the State of New York, which terms of settlement are set forth in the stipulations on file in the Office of the Town Assessor, and

WHEREAS, upon due consideration of all facts and circumstances, the Town Board finds that the proposed compromise and settlement is fair and reasonable and should be approved.

THEREFORE, BE IT RESOLVED, that the proposed settlement of the Tax Certiorari proceedings brought by NOCO ENERGY CORP. (a/k/a NOCO MOTOR FUELS, INC.) for the years 2004/2005, 2005/2006, 2006/2007, 2007/2008, 2008/2009, 2009/2010, 2010/2011 and 2011/2012 be and hereby are approved.

BE IT FURTHER RESOLVED, that the Attorney representing the Town be and hereby is directed to make application to the Supreme Court of the State of New York for approval of such settlement and that upon obtaining such approval, the Assessor of the Town of Penfield be and he hereby is directed to make the necessary adjustments in the Assessment Rolls for the Town of Penfield to reflect the terms of such settlement.

Moved:

Seconded:

Vote: Kohl	_____
LaFountain	_____
Metzler	_____
Moore	_____
Quinn	_____

PENFIELD TOWN BOARD RESOLUTION NO. ____ DATE May 2, 2012

BY LINDA KOHL COMMUNITY SERVICES COMMITTEE

NAME Appointments to Parks Comprehensive Master Plan Update Committee

WHEREAS, the Town has a need to update the 2007 Five Year Recreation and Parks Comprehensive Master plan;

NOW, THEREBY BE IT RESOLVED, that the following have agreed to serve and are hereby appointed to the Recreation and Parks Comprehensive Master Plan Update Committee:

Rob Quinn – Town Councilman
Linda Kohl – Town Councilwoman
Chris Bilow – Recreation Director
Linanne Conroy – Assistant Recreation Director
Bob Garbeck – Parks Department

Tom Cummins, 83 Henderson Drive, Penfield
Laura Bourcy, 8 Parham Drive, Penfield
Heidi Rasmussen Rothfuss, 1865 Gloria Drive, Penfield
Bob Brumbaugh, 1565 Jackson Road, Penfield
Ed Doyle, 1638 Penfield Road, Penfield
Wayne Smith, 80 Wheelock Road, Penfield

Moved:

Seconded:

Vote: Kohl _____
LaFountain _____
Metzler _____
Moore _____
Quinn _____

PENFIELD TOWN BOARD RESOLUTION NO. _____

DATE May 2, 2012

BY Councilman Moore

Law & Finance Committee

NAME Approval of Issuance of a Special Permit to Allow a Sports Apparel Shop at 2118

Five Mile Line Road – SBL# 139.06-4-2 – Mary Kay Cummings

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Special Permit, pursuant to Article III-3-97 of the Code to allow a sports apparel shop at 2118 Five Mile Line Road, located in the Four Corners (FC) zoning district; and

WHEREAS, the Town Board of the said Town of Penfield held a public hearing at the Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on April 18, 2012 at 7:30 PM on said date, to consider the application and hear all persons interested on the question of the issuance of a Special Permit to allow a sports apparel shop at 2118 Five Mile Line Road, in the Four Corners (FC) zoning district and the public hearing was closed.

NOW, THEREFORE, BE IT

RESOLVED, that the applicant's request for a SPECIAL PERMIT to allow a sports apparel shop at 2118 Five Mile Line Road is hereby GRANTED subject to the following conditions:

1. The applicant shall obtain a SPECIAL PERMIT from the Town Clerk and pay the appropriate fee. The SPECIAL PERMIT is non-transferable. Any subsequent owner or operator shall be required to apply for and obtain a SPECIAL PERMIT from the Town Board to operate a business at this location.
2. The applicant shall comply with the occupancy requirements that have been established by the Penfield Fire Marshal in accordance with the New York State Building Code and obtain any/all necessary permits.
3. The applicant shall ensure that all refuse is properly stored in an enclosed area to be approved by the Director of Developmental Services.
4. The site has no on-site parking to serve it. The applicant shall ensure that this business has adequate off-site parking available to it at all times and does not adversely impact parking facilities owned by adjacent property owners. The Board will require that this business (and the other on-site businesses) continue to maintain the contract with Hawkins Development Corp. and any future owner of that property to accommodate off-site parking facilities. In addition, the

applicant's employees shall be required to park their vehicles on a daily basis at the public parking facilities on Five Mile Line Road to allow for adequate parking for clientele to the rear of this property in the private parking lot owned by Hawkins Development Corp. and its successors. Failure to do so will result in revocation of the special permits allowing them to operate.

5. The applicant shall comply with all of the requirements of the Sign Ordinance for this site.
6. This operation shall comply with all Federal, State, County and Town Codes.
7. Failure to comply with the conditions set forth hereinabove may result in the revocation of this Special Permit pursuant to the requirements of the Zoning Ordinance.

AND BE IT FURTHER

RESOLVED, that the applicant's proposal is classified as a Type II action pursuant to the requirements of the State Environmental Quality Review Act (SEQRA).

The Town Board, in granting the Special Permit, does so based on its following findings:

1. The applicant proposes to lease approximately 320 square feet at 2118 Five Mile Line Road to operate a sports apparel business.
2. The applicant will be responsible for properly storing all refuse in an enclosed area which will be approved by the Director of Developmental Services.
3. The site has no on-site parking to accommodate this or any other business operating from it. The property owner has contracted with the Hawkins Development Corp. to provide parking for all of the businesses at this location. The Board will require that this business (and the other on-site businesses) continue to maintain the contract with Hawkins Development Corp. and future property owner of that property to accommodate off-site parking facilities. In addition, the applicant's employees shall be required to park their vehicles on a daily basis at the public parking facilities on Five Mile Line Road to allow for adequate parking for clientele to the rear of this property in the private parking lot owned by Hawkins Development Corp. and its successors. Failure to do so will result in revocation of the special permits allowing them to operate.
4. The applicant has stated that she will comply with the sign requirements for the subject property and obtain the necessary sign permit.
5. This retail use will provide a needed service to the residents of Penfield and is a use consistent with the goals of the Four Corners Plan.

Moved: _____

Seconded: _____

Vote: Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____

PENFIELD TOWN BOARD RESOLUTION NO. _____

DATE May 2, 2012

BY Councilman Moore

Law & Finance COMMITTEE

NAME: Approval of an Incentive Zoning application and Preliminary & Final Subdivision and Site

Plan to Permit the Construction of Six (6) Duplex Units and Subdivision of the Existing Residence at

2014 Five Mile Line Road - The Property is owned by Erie Canal Associates LLC and is zoned R-1-

15. SBL# 124.18-1-52 - Village Square Subdivision

WHEREAS, the Town Board received an application for Incentive Zoning on February 24, 2011 to permit the construction of six duplex units and the subdivision of the existing residence at 2014 Five Mile Line Road on lands totaling 3.4 ± acres; and

WHEREAS, the Penfield Town Board acting as “lead agency” within the meaning of the State Environmental Quality Review Act (SEQRA) has classified this proposal as a Type I action as the proposed driveway serving the proposal is situated in the Five Mile Line Historic Preservation District and the Town Board hereby determines that this action will not result in a significant adverse environmental impact as no other construction activity will take place with in said historic district; and

WHEREAS, the Town Board approved resolution number 11T-086 thereby setting a public information meeting on March 16, 2011 to consider the conceptual plan and to hear all persons interested on the question of the possible construction of six (6) duplex units and subdivision of the existing single family residence at 2014 Five Mile Line Road; and

WHEREAS, on May 18, 2011, in Resolution No. 11T-142 the Town Board adopted of a Findings Report for the Incentive Zoning Application for the proposed six (6) duplex units and the subdivision of the existing residence at 2014 Five Mile Line Road on lands totaling 3.4 ± acres; and

WHEREAS, the Town Board of the said Town of Penfield held a public hearing at the Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on April 11, 2012, at 7:30 PM on said date, to consider the application and hear all persons interested on the question of the issuance of Incentive Zoning Approval and Preliminary and Final Subdivision and Site Plan Approval to allow six (6) duplex units and the subdivision of the existing residence at 2014 Five Mile Line Road on lands totaling 3.4 ± acres, and the public hearing was closed and decision was reserved; and

WHEREAS, the Town Board received input from the Conservation Board within a report dated April 5, 2011 and the from the Planning Board within a memo dated March 10, 2011; and

WHEREAS, the Town Board determined that the proposal will create an appropriate transition between the Atria Senior Care Facility to the north, the single detached residences to the south, and the Penfield High School lands to the east of the site; and

WHEREAS, on February 2, 2011, the Town Board adopted the Town of Penfield 2010 Comprehensive Plan, which was the subject of a Generic Environmental Impact Statement Review; and

WHEREAS, following the environmental review, the Town Board acting as Lead Agency, prepared and adopted a Findings Statement, certifying that the Comprehensive Plan identified the potential impacts associated with its adoption, balanced all issues and found that the potential impacts associated with the Plan's adoption were mitigated to the maximum extent practicable; and

WHEREAS, additional density in this area of Penfield was discussed in the Draft and Final EIS and the Findings Statement, establishing thresholds for additional development within this general area of Penfield; and

WHEREAS, the application for the Village Square subdivision has been reviewed by the Town Board and determined to be within the thresholds of additional density discussed, availability of infrastructure can support such increase in density; and

NOW, THEREFORE, BE IT RESOLVED that the subject application for Incentive Zoning, Preliminary and Final Subdivision and Site Plan approval, be and the same are hereby APPROVED subject to the following conditions:

1. Compliance with or agreements reached on all of the requirements that may be raised by the Project Review Committee including, but not limited to those raised in its memo dated March 18, 2011. The applicant shall obtain the signature of the Town Engineer on the final site plan which shall indicate compliance with this requirement.
2. Compliance with or agreements reached on the recommendations of the Penfield Planning Board memo dated March 10, 2011. The applicant shall obtain the signature of the Planning Department Head on the final site plan which shall indicate compliance with this requirement.
3. Compliance with or agreements reached on the recommendations of the Penfield Conservation Board's report dated April 5, 2011. The applicant shall obtain the signature of the Planning Department Head on the final site plan which shall indicate compliance with this requirement.
4. The signature blocks shall be provided on the subdivision plat and site plan as required by Section 1.1 of the *Town of Penfield Development Regulations and Specifications*, with the exception that the Planning Board Chairperson's signature block shall be replaced with the Town Supervisor's signature.
5. Compliance with all requirements of the Town of Penfield Design and Construction Specifications, revised April 14, 2010.
6. The amenities warranted by this Incentive Zoning application have been determined by the Town Board and shall be furnished as follows:

- Submission of \$3,500 per each unit proposed above the permitted six (6) units, including the existing residence, that being seven (7) units totaling \$24,500. The \$3,500 may be submitted in equal installments upon request for a building permit for each of the structures;
- The replacement of 25 feet of 8” corrugated metal pipe (CMP) at High School Drive at Five Mile Line Road to resolve an existing drainage concern in close proximity to the project area;
- The installation of 90+/- feet of 12” High Density Polyethylene (HDPE) pipe to address drainage issues at the Atria Senior Living Facility located north of the project;
- Over sizing the proposed detention facility to address drainage concerns expressed by residents adjacent to the site;
- Clean the swale on the high school property adjacent to the site.

The furnishing of such amenities described above in paragraph a. shall be provided and/or secured by a Letter of Credit and/or agreement which shall be acceptable in form and substance to the Town of Penfield and the Town Attorney, and shall be executed prior to obtaining the signature of the Town Supervisor on the final plans.

7. The Town Board has granted a waiver for the development of sidewalks on the site from the Town Sidewalk Policy. The developer requested the waiver based on his concern that the installation of sidewalks would encourage high school students to transverse the property on a daily basis during the school year resulting in the loss of quiet enjoyment of the property. The applicant also noted that the six (6) duplex units are served by a private drive on a dead end with no through access. The owners can safely utilize the private drive for pedestrian purposes based on the low intensity of traffic movement through the site. The private drive will be maintained by the proposed homeowners association and will be safe for pedestrian use by its residents throughout the year.
8. Limits of disturbance as identified on the final site plan shall be strictly enforced throughout site and building construction at the direction of the Town Engineer. Further, the limits of disturbance shall be shown on the site, grading, utility and landscaping plans. Areas to be preserved as noted on the site plan are to be protected by an above ground orange construction fence per the approval of the Town Engineer and shall be installed prior to any disturbance. Protection measures shall continue until the site is stabilized or the issuance of a Notice of Termination for the development has been issued. The Town Engineer may grant adjustments to the designated tree preservation areas to allow for the removal of a tree designated for retention. The owner or developer will need to demonstrate that there are special conditions that could not have been anticipated at the time the plan was submitted that create unreasonable hardships or practical difficulties that affect sight distance, drainage, utilities, or tree health viability. The Town Engineer may also defer such adjustments to the Town Board, in the event that proposed adjustments may impact the approved buffer of the approved project. The Town Engineer may require additional conditions deemed necessary in the course of construction to fulfill the intent of this Board’s original preservation plan, including additional plantings, particularly in the area of the proposed storm water management facility.

9. The final site plan shall contain proper notations regarding the possible presence of field tile on the site. In the event field tile is encountered, it shall be removed in its entirety or otherwise secured at the direction of the Town Engineer. Under no circumstances shall the field tile be permitted to exist in close proximity to foundations. The Building Inspector may require some home foundations to be constructed with both interior and exterior footer drains to minimize the impacts associated with high ground water levels. All of the proposed duplex units shall have their gutters and sump pumps connected to the storm sewer system.
10. All site work is to be in compliance with the standards of Chapter 29 – Article V of the Code.
11. Compliance with all requirements of any Federal, State, County or local agency having jurisdiction in the development of this site.
12. The final grading plan shall contain a full schedule of erosion control implementation, temporary and permanent seeding details, topsoil stockpile areas and other applicable measures deemed appropriate and acceptable to the Town Engineer. The Town Board will not permit the screening or sale of topsoil from this site at any time.
13. The finished ground level adjacent to each building foundation wall shall be graded in such a manner as to provide positive drainage away from the structure and shall be subject to the approval of the Town Engineer and Building Inspector.
14. Furnishing the Town with a letter of credit in an amount to be approved by the Town Engineer. Said letter of credit shall insure that: (1) all public improvements and such other items as may be deemed necessary are constructed in accordance with the approved plan and the standards and specifications of the Town of Penfield; and (2) that the above described Incentive Zoning amenity payment(s) should be paid in accordance with the terms and conditions of this resolution.
15. Submission of all easements, petitions and covenants to implement the approved plan. Said documents shall be submitted in the Town's format and accompanied by the required filing fees prior to obtaining the signature of the Planning Department Head on the final site plan. This shall include an inspection easement for all storm water management facilities.
16. Any and all costs related to the relocation of utilities necessitated by this project shall be borne by the individual and/or the utility company requesting the relocation. All new utilities serving this project shall be installed underground.
17. All sanitary sewer connections are to be approved by the Superintendent of Sewers, the Town Engineer and the Monroe County Health Department.
18. The storm water treatment pond shall be owned and maintained by the proposed homeowners association and an inspection easement to the Town shall be granted.

19. Construction is to begin within one (1) year from the date of this resolution.
20. The approved subdivision plat must be properly recorded in the Monroe County Clerk's Office prior to the issuance of a building permit.
21. The applicant must consult with the local office of the U.S. Postal Service to determine an appropriate location and time frame for mailbox rack installation.
22. Compliance with the Penfield Town Board's policy of payment of a Recreation Fee per lot at the time a building permit is issued. Said fee shall be determined by Town Board Resolution.
23. THIS RESOLUTION OF APPROVAL WITH CONDITIONS SHALL BE PRINTED IN ITS ENTIRETY AND CONTAINED ON AT LEAST ONE SHEET WITHIN THE SITE PLAN SET.
24. Compliance with all of the requirements of the Planning Department Head regarding this matter.

AND BE IT FURTHER RESOLVED, that the applicant, upon submission of plans for signatures, shall also submit a written summary of compliance with the above stated conditions to the Planning Department.

The Board bases its decision to APPROVE and its determination of environmental non-significance on the following findings:

Subdivision Approval: Factors for Consideration

1. Character of the land, including topography and watercourses. – *Stormwater runoff has been accommodated to the satisfaction of the Town Engineer. The Board is satisfied with the overall layout of the project.*
2. Conformity to the Official Zoning Map and in harmony with the current Master Plan of the Town. – *This project is consistent with the Town of Penfield Comprehensive Plan 2010 and is compliant with the requirements of Local Law No. 2 of 1995, adopted by the Penfield Town Board on January 15, 2003, addressing Incentive Zoning procedures.*
3. Current Development Regulations and Specifications – *The applicant shall comply with all current requirements. See condition No. 5, above.*
4. Street layout and design – *The Board has reviewed the proposed street layout and design. The road design complies with the Town's Design Criteria for distance and design of a private drive.*
5. Street Names – *Street names will be reviewed and found acceptable by Monroe County 911 and the Penfield Fire Marshal.*

6. Arrangement of lots. – *The lot and building arrangement is acceptable to the Town Board in that the lots are similar in size to the single family lots surrounding the site and the duplex units are designed in such a manner as to complement the single family residences on those surrounding lots..*
7. Drainage improvements – *Drainage improvements have been designed to both mitigate the project's impacts on area drainage and to resolve historically poor drainage issues on the subject property and those properties adjacent to it. A pond will be installed and the design reflects input from the Town Engineer. The pond will be owned and maintained by the proposed homeowner's association upon completion of the project.*
8. Utility, sidewalk, pedestrian access and conservation easements. – *Pedestrian patterns have been considered and will utilize the proposed dead end private drive within the project site to provide access to all areas of the development and to Five Mile Line Road for its residents.*
9. Parks, open spaces and natural features, including ownership, use and maintenance of such lands. – *The project will not preserve any open space other than the proposed storm water management facility.*
10. Density Calculation – *The density calculation results in a density of 2.6 units per acre. The overall density is comparable to an R-1-20 or lower density, which encompasses a substantial portion of western Penfield and provides a transition from the more heavily developed, higher density senior facility to the north and the Penfield High School to the east of the project site.*
11. Special benefited districts required including, but not limited to, lighting sewer, water, ponds, parks, or other improvements. – *The only specially benefitted district formation required for this project will be to the Consolidated Lighting District. The site is currently within the Consolidated Sewer District.*
12. On-site sewage disposal systems will require the approval of the Monroe County Health Department. Proposed lot geometry must conform to the Monroe County Health Department's criteria as well as the Ordinance. – *The site will be serviced by sanitary sewers. No on-site sewage disposal systems (septic systems) are proposed.*
13. Documents required for dedication of public improvements. – *Sanitary and storm sewers are proposed to be dedicated to the Town and extension of the water system will be dedicated to the Monroe County Water Authority. The preparation of petitions and ultimate dedication of the facilities to each agency will be required.*

Site Plan Approval: Factors for Consideration

1. Adequacy and arrangement of pedestrian traffic access and circulation, vehicular traffic, parking, walkway structures, control of intersections with vehicular traffic, pedestrian convenience, and appropriate provisions for handicapped persons. – *The Board has reviewed all aspects of this factor and finds that the approved development, as currently designed satisfies this factor for consideration. Pedestrian access is proposed via the proposed dead*

end private drive. The project's private drive complies with the Town's Design Criteria for residential development.

2. Location, arrangement, size, architectural feature and design of buildings, lighting and signs. As much as possible, consideration should be given to noise sources, privacy and outdoor waste disposal locations. – *The applicable factors have been found to be acceptable by the Board.*
3. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between these and adjoining properties. Site plans should also show existing stands of trees on site. – *The Board has had discussions and finds that the approved project provides a reasonable balance between the proposal and the existing homes in the area. Buffering will include the clustering of structures and road placement in areas with little to no mature vegetation as well as the preservation of existing vegetation, where practical and effective and the installation of additional landscaping to provide additional buffer to adjacent residential properties...*
4. In the case of an apartment house or multiple dwelling, the adequacy of usable open space for playgrounds and informal recreation. –*This project does not involve apartments or multiple family dwellings.*
5. Adequacy of storm water, sanitary waste disposal, and public water facilities. – *The Board has reviewed the applicant's Engineering Report and has received input from the Town Engineer and other Staff regarding the adequacy of these facilities.*
6. Protection of adjacent properties and the general public against noises, glare, and unsightliness, or other objectionable features. – *As this project will be a single family duplex development adjacent to existing single family homes, no significant negative impacts have been presented. Buffering and setbacks were considered in the review of this project.*
7. The effect of the proposed development on environmentally sensitive areas such as but not limited to: wetlands, floodplains, woodlands, steep slopes and watercourses. – *There are no environmentally sensitive areas on this site.*
8. Compliance with this Ordinance, Master Plan, Design and Construction Specifications, SEQRA, Irondequoit Bay Plan (IBP), Local Waterfront Revitalization Program (LWRP) and any others. – *Of those documents, plans, laws, acts and reports listed, the following are applicable:*
 - a. Ordinance – *The Town Board, under Local Law No. 2 of 2003 is empowered to modify the Town's Zoning Ordinance through the Incentive Zoning application process. All applicable Ordinance sections are complied with and the Town Board has superseded the Ordinance through the use of Incentive Zoning, for density, setbacks, lot area, among others, as more fully explained in the Findings Report dated May 18, 2011.*
 - b. Master Plan – *The Town Board has determined that this project, as proposed and herein approved, is consistent with the Town of Penfield Comprehensive Plan 2010.*
 - c. Design and Construction Specifications – *See Condition No. 5, above.*
 - d. SEQRA– *The environmental review of this action is consistent with SEQRA.*

- e. The Irondequoit Bay Plan (IBP) and Local Waterfront Revitalization Program (LWRP) are not applicable as the project is not located near Irondequoit Bay.*
9. Provisions for adequate drainage away from walls or structures. – *See Conditions Nos. 9 and 13, above.*
 10. Maintenance agreements, easements and other required legal documentation shall be approved by the Town Attorney. – *See Condition No. 15, above.*
 11. The impact of the proposed use on adjacent land uses. – *As this project will be a duplex single family development adjacent to existing single family homes, no significant negative impacts have been presented for the adjacent land uses. Buffering and setbacks were considered in the review of this project.*
 12. The Town Board finds that a proper case exists for requiring the developer to show on the plat a park or parks suitably located for playgrounds or other recreational purposes; but that a suitable park or parks of adequate size cannot be located in any such plat or is otherwise not practical. Therefore, a recreation fee, in lieu of construction of a park within a subdivision, shall be assessed on each lot in an amount established by the Town Board and same shall be paid prior to the issuance of a building permit and said requirement for the payment of the recreation fee shall be noted on the plat.

AND BE IT FURTHER RESOLVED, that Section 276 of the Town Law states that “Conditional Approval of the final plat shall expire within one hundred eighty (180) days after the date of the resolution granting conditional approval unless such requirements have been certified as complete”.

AND BE IT FURTHER RESOLVED, that this section also states that “The Town Board may extend the time in which a conditionally approved plat in final form must be submitted for signature if in its opinion such intention is warranted by the particular circumstances thereof, not to exceed two additional periods of ninety (90) days each”.

The Board bases its findings and decision to APPROVE this application on the following:

1. Submissions, written and electronic, as well as oral testimony of the applicant and the public.
2. Town Board Resolution No. 11T-142 wherein the Town Board adopted a Findings Report for the Incentive Zoning Application on May 18, 2011.
3. Historic Resources Survey for the Town of Penfield (Spurgeon C. King, September, 1991)
4. Input from other agencies, including but not limited to:
 - a. Penfield Project Review Committee comments dated March 18, 2011.
 - b. Penfield Planning Board comments dated March 10, 2011.
 - c. Penfield Conservation Board report dated April 5, 2011.
 - d. Monroe County Department of Planning and Development 239-m Review PN12-19ZS dated April 3, 2012.

Moved: _____

Seconded: _____

Vote: Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____

PENFIELD TOWN BOARD RESOLUTION NO. _____ DATE: May 2, 2012

BY: Andy Moore _____ Law and Finance _____ COMMITTEE

NAME: Authorize the Town Comptroller and Safety Coordinator to attend the PERMA annual meeting.

Whereas, the Town Comptroller is on the Board of Directors for the workers compensation carrier, Pubic Employers Risk Management Association, and

Whereas, the PERMA Board Meeting will be held on May 23rd , 2012 at Bolton Landing, New York and is paid fully for mileage and hotel expenses by PERMA, and

Whereas, the PERMA annual conference will be held on May 24th , 2012 at Bolton Landing, New York and is paid fully for mileage and hotel expenses by PERMA, and

Be It Resolved, that the Town Comptroller attend the PERMA Board Meeting and PERMA annual conference at no cost to the Town of Penfield, and

Be It Further Resolved that the Safety Coordinator attend the PERMA annual conference at not cost to the Town of Penfield.

MOVED: _____

SECONDED: _____

VOTE:	Kohl	_____
	LaFountain	_____
	Metzler	_____
	Moore	_____
	Quinn	_____

PENFIELD TOWN BOARD RESOLUTION NO. _____ DATE: May 2, 2012

BY: Andy Moore _____ Law and Finance _____ COMMITTEE

NAME: Authorize the Town Supervisor to sign the insurance consultant agreement with Municipal Insurance Consultants Incorporated

Whereas, every three years the Town of Penfield seeks proposals for the General Liability insurance, and

Whereas, these proposals in the past have saved the Town of Penfield thousands of dollars in insurance cost over the years, and

Whereas, it is expected that the Town of Penfield will probably receive at least six to eight insurance proposals for 2013-2014,

Now Be It Resolved, that the Town Supervisor is authorized to sign the insurance Agreement with the Municipal Insurance Consultants Incorporated effective from June 1, 2012 to May 31, 2013 to put together the insurance specifications and to award the insurance coverage after review and approval by the Town Board. This agreement allows the Town to receive competitive quotes for our insurance needs for the 2013-2014 insurance needs for the general liability insurance. Funds for these service are included in the 2012 Adopted Budgets.

MOVED: _____

SECONDED: _____

VOTE:	Kohl	_____
	LaFountain	_____
	Metzler	_____
	Moore	_____
	Quinn	_____

PENFIELD TOWN BOARD RESOLUTION NO. _____

DATE May 2, 2012

BY Councilman Moore

Law & Finance COMMITTEE

NAME Authorizing Sale of Town Owned Property at 1463 Empire Blvd. to Upstate

Brownfield Partners LLC – SBL# 108.06-1-007.1

WHEREAS, The Town Board has determined that the Town owned property at 1463 Empire Blvd., consisting of 1.67 +/- acres is surplus and not required for Town activities; and

WHEREAS, the Town of Penfield has had an appraisal prepared by Midland Appraisal Associates to determine a fair market value for said property, that being \$8,000; and

WHEREAS, the adjacent property owner, Upstate Brownfield Partners, LLC has offered to purchase said property for \$8000; and

WHEREAS, the Penfield Town Board is best suited to act as “lead agency” within the meaning of the State Environmental Quality Review Act (SEQRA) and thus does hereby designate itself as “lead agency” pursuant to SEQRA; and be it further

RESOLVED, that the subject action is determined to be an Unlisted action pursuant to the State Environmental Quality Review Act (SEQRA) and the Town Board has determined that the sale of the subject property will not create an adverse impact to the environment;

NOW, THEREFORE, BE IT

RESOLVED, that the Supervisor is hereby authorized to sign a Counter Purchase and Sale Contract to the Purchase and Sale Contract submitted by Upstate Brownfield Partners, LLC for the sale of property at 1463 Empire Blvd. in the amount of \$8,000 and subject to all requirements as prescribed by the Town Attorney.

Moved: _____

Seconded: _____

Vote: Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____

PENFIELD TOWN BOARD RESOLUTION NO. _____ DATE May 1, 2012

BY Cm Quinn _____ Public Safety _____ COMMITTEE

NAME Authorization for Supervisor to Sign Contracts for Town Rabies Clinic on June 2, 2012.

BE IT RESOLVED, that the Town Board authorizes the Town Supervisor to sign the following contracts for Penfield Rabies Clinic on Saturday, June 2, 2012, 10:00 AM - 12:00 PM:

Margaret C. Zarouba D.V.M, Fairport Animal Hospital, 117 N. Main Street, Fairport, NY 14450 for Veterinarian Services for a fee of \$150.00.

Stacy Crippen, LVT, Fairport Animal Hospital, 117 N. Main Street, Fairport, NY 14450, for Veterinarian Technician Services for a fee of \$75.00.

Moved: _____

Seconded: _____

Vote:	Kohl	_____
	LaFountain	_____
	Metzler	_____
	Moore	_____
	Quinn	_____

BY: Andy Moore

Law and Finance COMMITTEE

NAME: 2012 Budget Transfers- Copiers and printers

WHEREAS, during 2012, the Eastern Copy Inc., completed an inventory of the Town of Penfield printers, and

WHEREAS, during 2012, the Eastern Copy Inc. has recommended to purchase equipment for the Town which will allow for more efficient use of the equipment with more users on a machine, and allow for updated printers, and

WHEREAS, the Town Board desires to have an up to date budget in relation to current income and expenditures,

NOW BE IT RESOLVED, that the following 2012 Budget Transfer be approved for the General Funds as follows:

General Fund Appropriations:	From	To
Descriptions	Amount	Amount
Postage Account	\$4,000	
01-1670-0004-4047		
Assessor Automobile	\$2,200	
01-1355-0002-2100		
Contingency Account	\$15,000	
01-1990-0004-4040		
Copier		\$21,200
01-1670-0002-2001		
Total	\$21,200	\$21,200

Moved: _____

Seconded: _____

Vote: Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____

PENFIELD TOWN BOARD RESOLUTION NO. 12T _____ DATE 05/02/12

BY LINDA KOHL _____ COMMUNITY SERVICES COMMITTEE

NAME AUTHORIZATION FOR SUPERVISOR TO SIGN RECREATION CONTRACTS

BE IT RESOLVED, that the Town Board authorizes the Town Supervisor to sign the following recreation contracts:

Dorothy Brenneis, 28 Woodside Dr., Penfield, NY 14526, Instructor for Spring Into the Children's Garden, 05/25/12 – 06/08/12, and Summertime is Garden Time, 07/03/12 – 08/21/12, for the fee of 70% of program revenues after all expenses have been deducted. Vouchers to be submitted 06/06/12 and 08/15/12.

John Kowiak, 33 Charisma Drive, Rochester, NY 14606, guest speaker for Thursday lecture series "Amazing Plants in your Back Yard for a fee of \$35. Voucher to be submitted on 5/16/12.

Moved: _____

Seconded: _____

Vote:

Kohl _____

LaFountain _____

Metzler _____

Moore _____

Quinn _____