



# TOWN OF PENFIELD

3100 Atlantic Avenue, Penfield, NY 14526-9798

**PENFIELD TOWN BOARD MEETING AGENDA**  
**Wednesday March 20, 2013 7:30 PM**  
**Supervisor R. Anthony LaFountain, presiding**

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- I Call to Order - Pledge of Allegiance - Roll Call**
  - II Communications and Announcements**
  - III Public Participation**
  - IV Additions and Deletions to Agenda**
  - V Approval of Minutes – February 20, 2013**
  - VI Petitions**
  - VII Resolutions by Function**

#### **Law and Finance**

- 13T-091 Accepting the Town's Draft Local Waterfront Revitalization Program Amendment as Complete and Ready for Public Review and Authorizing its Submission to the New York State Department of State**
- 13T-092 Approval of Issuance of a Conditional Use Permit to Allow the Expansion of Rosey's Italian Café at 2135 Five Mile Line Road**
- 13T-093 Approval of Issuance of a Conditional Use Permit to Allow an Italian Café at 1830 Penfield Road**
- 13T-094 Approval of an Incentive Zoning Application and Final Subdivision and Site Plan Approval to Allow 28 Single Family Homes on 10.69 acres at 1229 Fairport Nine Mile Point Road known as Abbington Place Phases II and III.**
- 13T-095 Setting a Public Hearing for a Conditional Use Permit to Allow a Landscaping Office at 1739 Penfield Road**
- 13T-096 Setting a Public Hearing for a Conditional Use Permit to Allow a Sit-down Restaurant with Outdoor Dining at 2084 Five Mile Line Road**

#### **Public Works -None**

#### **Public Safety -None**

#### **Community Services**

- 13T-097 Authorization for Supervisor to Sign Recreation Contracts**

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

PENFIELD TOWN BOARD RESOLUTION NO. 13T-091

DATE March 20, 2013

BY Councilman Moore

Law and Finance COMMITTEE

NAME Accepting the Town's Draft Local Waterfront Revitalization Program Amendment as Complete and Ready for Public Review and Authorizing its Submission to the New York State Department of State

WHEREAS, the Town of Penfield originally adopted a Local Waterfront Revitalization Program (LWRP) on July 3, 1991, and initiated preparation of a LWRP Amendment in cooperation with the New York State Department of State in accordance with the provisions of Executive Law, Article 42; and

WHEREAS, the Draft LWRP Amendment has been prepared under the guidance of the Town and LWRP committee, with consultant planning assistance; and

WHEREAS, the Penfield Town Board, as Lead Agency, prepared an Environmental Assessment Form to identify and evaluate the potential impacts of adopting the LWRP amendment, in accordance with the requirements of the State Environmental Quality Review Act (SEQRA) and Part 617 of the implementing regulations of Article 8 of the NYS Environmental Conservation Law;

NOW, THEREFORE, BE IT RESOLVED, that the Draft LWRP Amendment for the Town of Penfield is accepted by the Penfield Town Board as complete and ready for public review and shall be submitted to the New York State Department of State for its review by State, federal, and regional agencies pursuant to the provisions of Article 42 of the NYS Executive Law.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: Kohl \_\_\_\_\_

LaFountain \_\_\_\_\_

Metz ler \_\_\_\_\_

Moore \_\_\_\_\_

Quinn \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 13T-094      DATE March 20, 2013

BY Councilman Moore      Law & Finance Committee

NAME Approval of Issuance of a Conditional Use Permit to Allow the Expansion of

Rosey's Italian Café at 2135 Five Mile Line Road – 139.10-1-3 – Richard & Roseann

Vitale

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WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Conditional Use Permit, pursuant to Article III-3-97 of the Code to allow an expansion of Rosey's Italian Café at 2135 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 March 6, 2013, at 7:30 PM on said date, to consider the application and hear all persons interested on the question of the issuance of a Conditional Use Permit to allow an expansion of Rosey's Italian Café at 2135 Five Mile Line Road, in the Four Corners (FC) zoning district and the public hearing was closed.

NOW, THEREFORE, BE IT

RESOLVED, that the applicants' request for a CONDITIONAL USE PERMIT to allow the expansion of Rosey's Italian café at 2135 Five Mile Line Road is hereby GRANTED subject to the following conditions:

1. The applicants shall obtain a CONDITIONAL USE PERMIT from the Town Clerk and pay the appropriate fee. The CONDITIONAL USE PERMIT is non-transferable. Any subsequent owner or operator shall be required to apply for and obtain a CONDITIONAL USE PERMIT from the Town Board to operate a business at this location.
2. The applicants shall be permitted to expand their originally approved occupancy of 25 seats to 49 seats based on their intent to lease the adjacent vacant space and install internal access to that proposed lease area. The applicants shall comply with the occupancy requirements that have been established by the Penfield Fire Marshal in accordance with the International Building Code and obtain any/all necessary permits.
3. The applicants have two tables with four seats at each table to provide for seasonal outdoor dining. They have requested two additional tables with four seats at each table to be placed in front of the new leased area. The Board

approves their request subject to their placement subject to the approval of the Penfield Fire Marshal.

4. The applicants shall continue to be responsible for the continuous maintenance of the dumpsters on the site that relate to their business. All dumpsters on the site shall be enclosed to the Building Inspector's satisfaction prior to the applicant's obtaining a Certificate of Compliance for the proposed leased space.
5. The applicants shall continue to ensure that they have the ability to utilize on-site parking facilities without adversely impacting other on-site businesses that depend on those facilities.
6. The applicants propose to remove the existing State Farm Insurance sign from the canopy on the building. They will be responsible for replacing the vinyl panels to be removed in such a manner that they are consistent and blend in with the existing panels.
7. This operation shall comply with all Federal, State, County and Town Codes.
8. Failure to comply with this condition of approval will result in the Board holding a public hearing pursuant to the requirements of Article XI-11-14 of the Zoning Ordinance to review the intensity of the scope of this business and making a determination as to whether it is properly scaled to the area.

AND BE IT FURTHER

RESOLVED, that the applicants' 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 Conditional Use Permit, does so based on its following findings:

1. The applicants originally obtained a Special Permit from the Town Board on December 15, 2010 to operate a 25 seat Italian café with outdoor dining on the sidewalk in front of the cafe. The Fire Marshal determined that two tables with seating for four at each table would be appropriate without compromising safe ingress and egress for the restaurant. The applicants are permitted to add two tables with seating for four at each table in the front of the new leased area to allow for four tables with dining for 16. Any intent on the applicants' part to install additional outdoor dining other than that which has been approved herein shall be reviewed and approved by the Town Board with a recommendation from the Fire Marshal.

2. The site has 29 parking spaces to accommodate this business, as well as the two other existing businesses operating from it. The use also has access to 13 on-street spaces as well as the 50 space public parking lot immediately across Five Mile Line Road. The applicants have demonstrated that those spaces have adequately supported this business, as well as the other businesses operating at this location for the last two years. The applicants shall continue to ensure that their patrons do not adversely impact the on-site parking needs of the other businesses operating from this site.
3. The applicants have successfully operated their restaurant at this location for the last two years and have maintained compliance with the requirements of the Penfield Zoning Ordinance during that time.
4. The use is consistent with the goals of the Four Corners Plan.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: Kohl \_\_\_\_\_

LaFountain \_\_\_\_\_

Metzler \_\_\_\_\_

Moore \_\_\_\_\_

Quinn \_\_\_\_\_

BY Councilman Moore

Law & Finance Committee

NAME Approval of Issuance of a Conditional Use Permit to Allow an Italian Café at  
1830 Penfield Road – SBL# 139.06-2-51 – Tom Amore

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Conditional Use Permit, pursuant to Article III-3-97 of the Code to allow an Italian café at 1830 Penfield 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 March 6, 2013, at 7:30 PM on said date, to consider the application and hear all persons interested on the question of the issuance of a Conditional Use Permit to allow an Italian café at 1830 Penfield 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 CONDITIONAL USE PERMIT to allow an Italian café at 1830 Penfield Road is hereby GRANTED subject to the following conditions:

1. The applicant shall obtain a CONDITIONAL USE PERMIT from the Town Clerk and pay the appropriate fee. The CONDITIONAL USE PERMIT is non-transferable. Any subsequent owner or operator shall be required to apply for and obtain a CONDITIONAL USE 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 International Building Code and obtain any/all necessary permits. In no case shall there be seating for more than 30 patrons at any time without approval by this Board and a recommendation from the Penfield Fire Marshal.
3. The applicant proposes to have a bar area on site which is ancillary to dining. The applicant shall apply for a liquor license from the State Liquor Authority and comply with any/all requirements set forth by that agency.
4. The applicant shall contract with an architect who shall prepare drawings identifying specific improvements to the exterior frontage of the building and a landscaping plan for the building frontage. Said drawings shall comply with the Four Corners Design Standards Manual and be reviewed and approved by the

Town Board and upon approval, the improvements shall be completed at a time to be determined by the Board during the architectural review process. Said plans shall be submitted to the Town Board for its review prior to the applicant obtaining a Certificate of Compliance from the Building Department to commence operation at this site.

5. The applicant has stated to the Board that he will be responsible for bringing the majority of products to the site himself in order to minimize delivery trucks on Penfield Road. He will have beer deliveries to the site on a periodic basis and is required to schedule all deliveries to the site during non-peak traffic periods. No deliveries shall occur between the hours of 7:00 a.m. and 9:00 a.m. or 4:00 p.m. to 6:00 p.m. Deliveries shall occur in the late morning and early afternoon hours and at no time shall any delivery truck create an adverse impact to the flow of traffic on Penfield Road.
6. The applicant shall submit a sign package for this property which shall be reviewed and approved by the Town Board. Upon receiving approval, the applicant shall obtain a Sign Permit and pay the appropriate fee.
7. The applicant shall be responsible for the continuous maintenance of the dumpsters on the site. All dumpsters and grease containment facilities on the site shall be enclosed in such a manner that they do not obstruct the upstairs tenants' ability to utilize the on-site parking facilities at any time. Dumpsters and grease containment facilities shall be enclosed prior to the issuance of a Certificate of Compliance for the proposed restaurant. All refuse collection periods shall comply with the delivery schedules set forth in condition # 5 herein above.
8. The applicant shall ensure that his business does not adversely impact other businesses that depend on the on-street parking facilities along Penfield Road. Failure to comply with this condition of approval will result in the Board holding a public hearing pursuant to the requirements of Article XI-11-14 of the Zoning Ordinance to review the intensity of the scope of this business and making a determination as to whether it is properly scaled to the area.
9. This operation shall comply with all Federal, State, County and Town Codes.

AND BE IT FURTHER

RESOLVED, that the applicants' 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 Conditional Use Permit, does so based on its following findings:

1. The applicant proposes to occupy a rental space on the first floor of the building at 1830 Penfield Road which was previously utilized as a restaurant

but has been vacant for several years. His intent is to install a family style Italian café with seating for 30 patrons and a bar area.

- 2. The site has no on-site parking spaces to accommodate this business, but there are 13 on-street spaces in front of the building as well as a 50 space public parking lot located on Five Mile Line Road north of the site. In addition the Penfield Fire District has permitted the applicant the ability to utilize parking spaces on it property provided patrons do not park in designated NO PARKING areas on the Fire Hall campus. It is anticipated that all those spaces will adequately support the businesses based on it scale, The Board is concerned that this operation may initially dominate both the on-street spaces and will periodically review the operation to ensure that it does not adversely impact other area businesses in need of those on-street parking facilities as well. The applicant is advised that he and his employees park their vehicles in the public parking lot on Five Mile Line Road and/or the parking spaces that have been allotted to him by the Penfield Fire District at all times. In no case shall employees adversely impact the on-street parking needs of the other businesses operating from this site.
- 3. The applicant has adequately addressed the Board's concerns relating to off site parking needs, dumpster and grease containment, signage, refurbishment of the front of the building, landscaping and delivery issues and is commended for his effort.
- 4. The use is consistent with the goals of the Four Corners Plan.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: Kohl \_\_\_\_\_

LaFountain \_\_\_\_\_

Metzler \_\_\_\_\_

Moore \_\_\_\_\_

Quinn \_\_\_\_\_



PENFIELD TOWN BOARD RESOLUTION NO. \_\_\_\_\_ 35V/2; 6"" DATE March 20, 2013

BY Councilman Moore Law & Finance COMMITTEE

NAME Approval of an Incentive Zoning Application and Final Subdivision and Site Plan Approval to Allow 28 Single Family Homes on 10.69 acres at 1229 Fairport Nine Mile Point Road Known as Abbington Place Phases II and III. The property is owned by Nine Nile Point Road, LLC and is zoned RA-2 - SBL# 095.01-1-51.1

WHEREAS, on May 4, 2011, the Town Board granted approval of an incentive zoning application under Local Law No. 2 of 2003, known as the Town of Penfield Incentive Zoning Law for the Abbington Place Subdivision and also granted Preliminary Overall Subdivision and Site Plan approval for a 99 lot single family residential subdivision on 49.1 acres and Final Subdivision and Site Plan Approval for 29 single family lots in Phase I of the project, subject to conditions set forth in its resolution 11T-125 of 2011; and

WHEREAS, the Town Board has received an application requesting Final Subdivision and Site Plan Approval for 11 lots in Phase II and 17 lots in Phase III of the subdivision subject to the requirements of Town Board resolution 11T-125; 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 March 6, 2013, at 7:30 PM on said date, to consider the application and hear all persons interested on the question of granting Final Subdivision and Site Plan Approval to allow 28 single family homes on 10.69 acres (11 in Phase II and 17 in Phase III), located at 1229 Fairport Nine Mile Point Road, and the public hearing was closed and decision was reserved; and

WHEREAS, the Penfield Town Board acting as "lead agency" within the meaning of the State Environmental Quality Review Act (SEQRA) had classified this proposal as an Unlisted Action prior to granting Preliminary Overall Subdivision and Site Plan Approval and Final Subdivision and Site Plan Approval for Phase I of the project and issued a Negative Declaration determining that this action will not result in a significant adverse environmental impact; and

NOW, THEREFORE, BE IT RESOLVED that the subject application for Incentive Zoning, Final Subdivision and Site Plan approval for 11 lots in Phase II and 17 lots in phase III of the development, be and the same are hereby APPROVED subject to the following conditions; and

1. The applicant shall be responsible for providing the amenities outlined in the Town Board's Findings Statement Resolution No. 10T-198 dated September 1, 2010 which identified them as follows:
  - Necessary financial support and participation in the proposed relief sewer within the Town of Webster as identified in the sewer capacity study prepared by BME Associates,

December 2003 and subsequent preliminary cost data prepared by Schultz Engineering for Visca Homes in the Town of Webster dated August 2009, both on file with the Penfield Engineering Department. The applicant shall be required to submit an amount of \$500 per lot at the time a building permit is requested and prior to its issuance.

- A sanitary sewer connection with an easement shall be provided to adjacent property located at 1271 Fairport Nine Mile Point Road. Said easement shall confer right of use to both properties at 1267 and 1271 Fairport Nine Mile Point Road to allow for the installation of two force mains that will provide service to 1267 and 1271 Fairport Nine Mile Point Road. One service shall be installed by the applicant at its expense and the other by the adjacent property owner at his expense. Said connections shall be extended to the applicant's property line to minimize future impacts to property owners where sanitary sewer installations would otherwise disrupt their properties after construction is completed within this phase of development.
  - The site has been designed to reduce the on-site flow to the Angean Drive culverts. Phases II and III will be served by the existing storm water facility that was constructed in Phase I.
  - The developer shall provide cash contribution payment of \$3,250 per each lot above the RA-2 conventional yield of the property, that being 22 lots, totaling \$71,500 for the specific purpose of designating funds to the Town's drainage fund and to the Town's highway fund to provide the Highway Department the ability to address public works projects that benefit the Town residents as deemed necessary.
2. Compliance with or agreements reached on the recommendations of the Penfield Project Review Committee's memo dated January 23, 2013 and March 6, 2013, except as otherwise provided herein. Obtaining the signature of the Town Engineer indicates compliance with this requirement.
  3. Compliance with or agreements reached on all of the engineering requirements in the Town Engineer's memo dated January 17, 2013. Obtaining the signature of the Town Engineer indicates compliance with this requirement.
  4. Compliance with the comments concerning this application from the Development Review Committee as contained in Monroe County Department of Planning's Referral # PN13-4ZS, dated January 31, 2013, except as otherwise provided herein.
  5. Compliance with all requirements of the Town of Penfield Design and Construction Specifications, revised April 14, 2010.
  7. Submission of all easements to implement the approved plan. Easements shall be submitted in the Town's format and accompanied by the required filing fees prior to obtaining the signature of the Director of Developmental Services on the final site plan.
  8. Compliance with the Town of Penfield's Street Tree Planting Policy and Sidewalk Policy.

9. The final grading plan shall contain a full schedule of erosion control implementation, temporary and permanent seeding details, topsoil stockpile areas, construction sequence, and other applicable measures deemed appropriate by the Town Engineer.
10. The finished ground level adjacent to each home 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.
11. 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 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.
12. The applicant shall remove all debris, broken limbs, and deleterious growth from proposed Phases II and III to the satisfaction of the Town Engineer. This work shall be covered in the letter of credit.
13. 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.
14. The final site plan for these phases 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 field tile be permitted to exist near home foundations.
15. The submission of all the required documents for roadway dedication, all to be in the Town's format, accompanied by the proper filing fees and acceptable to the Town Attorney, prior to obtaining the signature of the Director of Developmental Services on the final plans.
16. The dedication of land to the Town of Penfield shall be subject to the acceptance by the Penfield Town Board, for those parcels identified on the plat map. This shall take place upon completion of the final phase of development and after sediment resulting from construction activity is removed from said areas as directed by the Town Engineer and in a form acceptable to the Town Attorney.
17. A notation shall appear on the plat map "Town owned lands are intended to remain in a natural undisturbed condition and shall not be routinely Town maintained."
18. Permanent markers are to be placed at the boundary of Town owned lands and easements in locations and designs subject to the satisfaction of the Town Engineer. Said markers are to be placed after general site grading is completed and prior to the issuance of Certificate of Occupancy for each affected lot. This item shall be included in the developer's letter of credit.
19. All sanitary sewer connections are to be approved by the Town Engineer, the Town of Webster and the Monroe County Health Department. All funds for such improvements shall be covered in the letter of credit.

20. Compliance with the Town's Highway Frontage Policy which limits the number of curb cuts onto major roads in the Town; specifically that a single access to this property shall be provided from Route 250 until such time as the project is connected to an adjacent property to the east or to the south of this subdivision to provide alternate means of ingress and egress for this project.
21. The applicant shall work with the Building Inspector to establish street addresses for all proposed buildings. Any new street names must be approved by Monroe County 911 and the Town of Penfield.
22. The applicant must consult with the local office of the U.S. Postal Service to determine an appropriate location and time frame for mailbox installations.
23. A notation shall be placed on each corner lot with the subdivision stating that: "Any modification in the placement of a home from the location shown on the site plan, must be submitted in writing to the Building Inspector prior to application for a building permit for review and approval for compliance with the minimum setback requirements as set forth on the approved Site Plan."
24. No walkout basements shall be permitted without the approval of the Town Engineer. In the event that walkout basements are approved, basements that are substantially exposed shall have siding compatible with the main structure installed to within 24" of ground level in order to provide an attractive appearance from all sides.
25. The applicant shall pay a recreation fee for each proposed structure on the site at the time a building permit is issued. Said fee shall be determined by Town Board Resolution.
26. All site work is to be in compliance with the standards of Chapter 29 – Article V of the Code.
27. The applicant's site contractor had been previously issued a Commercial Top Soil Screening Permit to allow him to screen and sell topsoil from the site between the hours of 7:00 a.m. and 7:00 p.m. The Board, in an effort to minimize noise impacts has requested and the applicant and his site contractor have agreed to (1) relocate the topsoil screening operation approximately 500 feet south of its current location prior to commencement of screening in 2013 and (2) modify the approved hours so that all activities associated with the top soil screening operation shall take place between 8:00 a.m. and 5:00 p.m. Monday through Friday and from 8:00 a.m. to 1:00 p.m. on Saturdays. No such work is permitted on Sundays. All other aspects of site grading, site work and house construction shall maintain the hours permitted in the Town Design Specifications, that being from 7:00 a.m. to 7:00 p.m. Monday through Saturday. The applicant has indicated to the Board that the site contractor is expected to complete the topsoil screening at its current location by June 1, 2013. The Board hereby requires the applicant and the Town Engineer to monitor the site contractor's progress to determine if he can complete the screening process by June 1<sup>st</sup>. The applicant will be required to meet with the Town Board to address additional mitigation procedures prior to June 1<sup>st</sup> if, in the opinion of the Town Engineer compliance with that timeframe cannot be achieved.
28. Compliance with all requirements of any Federal, State, County or local agency.

29. Construction is to begin within one (1) year from the date of this resolution.
30. The approved subdivision plat must be properly filed in the Monroe County Clerk's Office prior to the issuance of a building permit.
31. The approved site plan must be properly filed in the Town Clerk's Office prior to the issuance of a building permit.
32. Compliance with all of the requirements of the Director of Developmental Services regarding this matter. Furthermore, the applicant, upon submission of plans for signatures, shall also submit a written summary of compliance with the above stated conditions to the Director of Developmental Services.
33. Upon completion of all phases of development of this project, the applicant shall be required to submit an overall final subdivision plat which combines all lands to be dedicated to the Town of Penfield. Upon obtaining the signature of the Town Supervisor, the applicant shall be required to have said subdivision plat recorded in the Monroe County Clerk's Office.

AND BE IT FURTHER RESOLVED, that 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. – *The site is well suited for development. There is no designated watercourse flowing through the property, however the applicant has modified the project layout to address the collection of storm water and reduction of volume of flow leaving the site prior to it discharging to Four Mile Creek. One of the two storm water management facilities have been constructed on the site to mitigate storm water concerns voiced by area neighbors and is properly functioning as proposed. The Town 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 2010 Comprehensive Plan which recommended higher densities for this area of Penfield.*
3. Current Development Regulations and Specifications – *The applicant shall comply with all current requirements.*
4. Street layout and design – *The Board has reviewed the proposed street layout and design. The Town Board granted a waiver from the radius design of the street layout to minimize the amount of filling to the lots adjacent to the proposed storm water management facility along Route 250, provided the requirements of the MUTCD are followed and appropriate signs are installed.*
5. Street Names – *Street names are required to be reviewed and found acceptable by Monroe County 911.*

6. Arrangement of lots. – *The lot and building arrangement remains exactly as that approved by the Town Board in its Preliminary Overall Subdivision and Site Plan Approval on May 4, 2011 in resolution 11T-125.*
7. Drainage Improvements – *Drainage improvements were installed in Phase I of the project and have significantly reduced and mitigated drainage impacts to area property owners.*
8. Utility Sidewalk and Pedestrian access and conservation easements. – *Pedestrian patterns have been considered and will utilize sidewalks both within the proposed subdivision as well as a trail to provide pedestrian accessibility for those residents residing on the proposed Whitespire Lane. Said pedestrian access will be constructed with an impervious, durable material as directed by the Town Engineer.*
9. Parks, open spaces and natural features, including ownership, use and maintenance of such lands. – *The project required the construction of two storm water management facilities that area intended to revert back to their natural states, which will be owned by the Town of Penfield and maintained through a Special Improvement District which was created at the time Phase I of this project was approved.*
10. Density Calculation – *The density calculation was established in Resolution No. 10T-198 of 2010 and approved in resolution 11T-125 of 2011 and remains the same.*
11. Special benefited districts required including, but not limited to, sidewalks and trails, lighting, sewer, storm water management facilities, parks, and other embellishments. – *a specially benefited district for the overall subdivision was created for each listed amenity as a condition of Phase I of the project.*
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 a dedicated sanitary sewer system. No on-site sewage disposal systems (septic systems) are proposed.*
13. Documents required for dedication of public improvements. – *Sanitary sewers, roadways and storm water management facilities 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 sidewalks are proposed to provide pedestrian access throughout the project. The project's roadways are designed to connect to the adjacent properties to the south and west of the site to provide for multiple means of ingress and egress as development occurs on those properties as requested and considered during the application review.*

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. – *There are few trees in the areas of proposed development. Trees will be installed as a condition of site plan approval, in compliance with the Town's Street Tree Policy. Several trees were removed to construct the existing storm water management facility adjacent to NYS Route 250; however, vegetation in that area is intended to revert to a natural, unmaintained state, allowing for new growth. Buffering included the placement of a berm along the southerly property line or preservation of existing trees along the property line at the neighbor's (Mr. Vendel) request which will be revegetated. The preservation of existing vegetation, where practical and effective, will be required.*
4. In the case of an apartment house or multiple dwelling, the adequacy of usable open space for playgrounds and informal recreation. – *Not applicable.*
5. Adequacy of storm water, sanitary waste disposal, and public water facilities. – *The storm water management facility that services these phases of development was constructed in conjunction with the development of phase I of the project and is functioning as designed.*
6. Protection of adjacent properties and the general public against noises, glare, and unsightliness, or other objectionable features. – *The Board has worked with the applicant and his site contractor to limit the number of hours per week and have established a timeframe that top soil will be screened on the site to provide a quieter environment to the existing and proposed property owners in the neighborhood.*
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 EPOD's on this site.*
8. Compliance with this Ordinance, Master Plan, Design and Construction Specifications, SEQRA, IBP, 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.*
  - b. Master Plan – *The Town Board has determined that this project, as proposed and herein approved, is consistent with the Town of Penfield 2010 Comprehensive Plan, for density and use.*

- c. Design and Construction Specifications – *As previously noted the plan complies with all requirements of the Specifications with the exception of the Town Board waiver for road radii requirements to minimize filling on the site.*
  - 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. All storm water flows to Four Mile Creek which directly flows to Lake Ontario.*
9. Provisions for adequate drainage away from walls or structures. – *the applicant is required to comply with the requirements of the Town’s Specifications and Design Criteria which requires positive drainage away from all structures.*
  10. Agreements, easements and other required legal documentation shall be approved by the Town Attorney. – *No construction will be permitted for this project until such time as all legal documentation has been reviewed and approved by the Town Attorney and appropriate staff members.*
  11. The impact of the proposed use on adjacent land uses. – *The adjacent land uses include agricultural lands surrounding the site. Those lands are also subject to development pressure based on their accessibility to sanitary sewers. It is anticipated that said properties will be similarly developed as the subject property over the next several years. The adjacent property owners to the west of the site requested that the Town Board require the developer to provide road access to their easterly property line to allow future development on their property to tie into said proposed road. The Board did so and the applicant complied. The applicant to the south of this site requested the Town Board to provide a right of way to his property along with access to a sanitary sewer for the future development of his site as well as providing sanitary access to his residence. The Board did so and the applicant complied. Finally the owner to the south requested that the Town Board require the applicant to install an earthen berm along the common property line to prevent drainage from the project from entering onto his site. At the applicant’s request, the Board did so and the applicant complied. The Town Board, in granting the neighbor’s request is doing so to the extent that the Town is honoring his request. The town assumes no liability in the event that the berm prevents storm water from positively draining from the adjacent property. The Town Board was concerned that since the Town has no drainage easement over the lands immediately east of Route 250 that there may be an adverse impact to the properties to the west of Route 250 in the event that positive drainage was not maintained east of Route 250. The applicant secured a letter from the property owner on the east side of Route 250 allowing the Town access to his property to resolve any drainage issues in emergency situations. This action resolved the Board’s issue.*
  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. *See condition #25.*



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 hearing.
2. Input from other agencies, including but not limited to:
  - a. Monroe County Department of Planning & Development Referral #PN13-4ZS, dated January 31, 2013.
  - b. Town of Webster DPW letter dated February 13, 2013.
  - c. Town Engineer memos dated January 17, 2013.
  - d. PRC memos dated January 23, 2013 and March 6, 2013.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: Kohl \_\_\_\_\_

LaFountain \_\_\_\_\_

Metzler \_\_\_\_\_

Moore \_\_\_\_\_

Quinn \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 13T-097      DATE March 20, 2013

BY Councilman Moore

Law & Finance COMMITTEE

NAME Setting a Public Hearing for a Conditional Use Permit to Allow a Landscaping

Office at 1739 Penfield Road – SBL# 139.09-2-1– 2 - Blake Miller Lawn & Landscaping

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Conditional Use Permit pursuant to Article III- 3-97 of the Code to allow a landscaping office at 1739 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 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 April 17, 2013 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 Conditional Use Permit to allow a landscaping office at 1739 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 \_\_\_\_\_

Metz      ler \_\_\_\_\_

Moore \_\_\_\_\_

Quinn \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 13T-098

DATE March 20, 2013

BY Councilman Moore

Law & Finance COMMITTEE

NAME Setting a Public Hearing for a Conditional Use Permit to Allow a Sit-down

Restaurant With Outdoor Dining at 2084 Five Mile Line Road – SBL# 139.06-2-61.1 –

Salvatore Aquino & Jennifer Henry – The 5 Mile Café

WHEREAS, an application has been received by the Penfield Town Board for the issuance of a Conditional Use Permit pursuant to Article III-3-97 of the Code to sit-down restaurant with outdoor dining at 2084 Five Mile Line 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 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 April 17, 2013 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 Conditional Use Permit to allow a sit-down restaurant with outdoor dining at 2084 Five Mile Line 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 \_\_\_\_\_

Metz        ler \_\_\_\_\_

Moore \_\_\_\_\_

Quinn \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 13T-097      DATE 3-20-13

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:

Bushido Kai Judo Club, c/o Heiko Rommelman, 240 Curtice Park, Webster, New York 14580, to supervise and provide instruction for the Bushido Kai Judo programs for youth 01/19/13 – 03/20/13 & 04/20 – 06/22/13 and adults 01/07/13 – 03/27/13 & 04/08/13 – 06/19/13 for the fee of 70% of program revenues. Voucher to be submitted on 03/20/13 & 06/05/13.

Bushido Kai Judo Club, c/o Heiko Rommelman, 240 Curtice Park, Webster, New York 14580, to supervise and provide instruction for Adult Jujitsu Self Defense, 01/15/13 - 03/26/13 & 4/8/13 – 6/19/13 for the fee of 70% of the total program revenue. Voucher to be submitted 03/20/13 & 06/05/13.

Mike Fusare, 6 Chamberlain Road, Honeoye Falls, NY 14472, Youth Volleyball, 02/02/13 - 02/23/13 and 03/16/13-04/06/13, for a fee of 75% of the total program revenue after all other program expenses are deducted. Voucher to be submitted 04/03/13

Penfield Lacrosse Booster Club, c/o Jerry Standera, Treasurer, 31 Rockbridge Lane , Penfield, NY 14526, provider of all instruction and supervision of the Penfield Recreation Instructional Youth Lacrosse Program 1/5/13 - 2/09/13, for the fee of 75% of the program revenue after all expenses have been deducted. Voucher to be submitted 3/20/13.

Art Whitfield, Wind Works Design, 251 Drumcliff Way, Rochester, NY 14612, design, maintenance of lighting and sound equipment for 2013. Voucher will be submitted on a as needed basis with an itemized invoice.

Stephen Wegman, 45 Holcroft Road, Rochester, NY 14612, Stage Manager, Penfield Players Melodrama Production, performance dates – May 3, 4, 10, 11, 17, and 18, 2013 for a total fee of \$100.00. Voucher to be submitted 4/17/13.

Celia LaPlante, 1730 Creek Street, Rochester, NY 14625, Accompanist, Penfield Players Melodrama Production, performance dates – May 3, 4, 10, 11, 17, and 18, 2013 for a total fee of \$200.00. Voucher to be submitted 4/17/13.

Dick Stacey, 87 Chappel Hill Dr, Rochester, NY 14617, to direct the Penfield Pops Band, 1/01/13-12/31/13 for a fee of \$75.00 per service. Voucher to be submitted every two months.

Scott Kropman, 1596 Qualtrough Rd. Rochester, NY 14625 Co-Director of Wrestling Program, 01/08/13 – 03/14/13, for the fee of 35% of program revenues after all expenses have been deducted. Voucher to be submitted 4/03/13.

Pat Quinlan 75 Windsorshire Dr. Rochester, NY 14624 Co-Director of Wrestling Program, 01/08/13 – 03/14/13, for the fee of 35% of program revenues after all expenses have been deducted. Voucher to be submitted 4/03/13.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: Kohl \_\_\_\_\_

LaFountain \_\_\_\_\_

Metzler \_\_\_\_\_

Moore \_\_\_\_\_

Quinn \_\_\_\_\_