

The Planning Board held a meeting at 6:30 PM local time **Thursday, February 24, 2022**, in the Town Hall Auditorium to discuss, in a meeting available to the public, tabled matters and other business that was before it.

**I. CALL TO ORDER:**

PRESENT: Allyn Hetzke, Jr.  
Jim Burton  
Terry Tydings  
Bob Kanauer

ABSENT: Kelly Aken

ALSO PRESENT: Doug Sangster, Town Planner  
Michael O'Connor, Assistant Town Engineer  
Catherine DuBreck, Junior Planner  
Lori Gray, Board Secretary  
Peter Weishaar, Planning Board Attorney

**II. TABLED APPLICATIONS:**

1. BME Associates, 10 Lift Bridge Lane East, Fairport, NY 14450, on behalf of Pathstone Development Corporation, requests under Chapter 250 Article XII-12.2 and Article XI-11.2 of the Code of the Town of Penfield for Preliminary and Final Subdivision & Site Plan approval for a Mixed-Use Facility including 136 residential apartments in two proposed buildings, ±38,470 sf of non-residential space including a daycare facility and a ±4,800 sf commercial building, all with associated site improvements on the existing ±10.653 acre property located at 1801 and 1787 Fairport Nine Mile Point Road. The property is now or formerly owned by WRM Holdings III, LLC and William Wickham, and zoned Mixed-Use District (MUD). Application #21P-0020, SBL #125.01-1-3.111, 125.01-1-33.11.

- Staff has had conversations with the Applicant who is working on revised materials but there is nothing new to share at this time.

The Board took **NO ACTION** on the application as there was nothing for the Board to review.

2. Costich Engineers, 217 Lake Ave., Rochester, NY 14608, on behalf of Atlantic 250 LLC, requests under Chapter 250 Article XII-12.2 and Article XI-11.2 of the Code of the Town of Penfield for Preliminary and Final Subdivision & Site Plan approval for phase 1 of a mixed-use development project including townhomes, apartments, a community center, commercial retail, and office spaces with associated site improvements on ±73 acres located at 1600,1611,1615,1643,1657 Fairport Nine Mile Point Road, 1255 Penfield

Center Road, and 3278 Atlantic Ave. The properties are now or formerly owned by Atlantic 250 LLC and zoned Mixed-Use District (MUD). Application # 21P-0029, SBL #110.03-01-04.215, #110.03-1-4.212, #110.03-1-4.205, #110.03-1-25.2, #110.03-01-25.1, #110.03-1-4.206, #110.03-1-24.

### Board Discussion

- Mr. Sangster explained that since the last meeting, Staff met with the Applicant at a PRC meeting where there were discussions regarding open space. Just prior to the last meeting the Applicant provided a map highlighting the open space areas on the property, as well as a table of the open space areas in the development overall and only in Phase 1. He explained that looking at the information provided, they are generally in keeping with or exceeding the recommendations put forth in the MUD manual, Table 6.1.5, providing a fair amount of open space within Zones A & B. According to their data, Phase 1 is very heavy on the open space compared to future phases.
- Mr. Sangster stated that another discussion point was how they are going to provide this open space and keep it open for the public. In discussions with the Applicant, they are open to the idea of doing agreements in the form of an easement or something fileable with the County Clerk to memorialize the public open space areas as being dedicated to the public, as well as the maintenance responsibilities of these open space areas (i.e., Property Maintenance Agreement). This is an agreement the Town commonly requires of commercial developments.
- Chairman Hetzke stated that essentially the open space here is an allowance of public access and not necessarily actively seeking public access. Mr. Sangster responded that yes, it is more passive.
- Mr. Sangster stated that a future PRC comment will be to revise the open space map, as the areas with buildings in them should not be shaded green. Mr. O'Connor said that they asked for clarification on this because they show it shaded but they thought the buildings themselves weren't included in the calculations. The Table is accurate because the buildings are not included in the calculations.
- Chairman Hetzke asked for clarification on the percentages on the Table. Mr. Sangster responded that the 38.44% is the percentage including the buildings.
- Board member Burton requested that the Applicant make the open space map clearer to read.

### Roadway Width

- Mr. Sangster explained that another item that was provided was a fire apparatus map showing a decrease in roadway width throughout the development. This will reduce the impervious space and provide narrower roads. The roads outlined in blue will be reduced from 26ft. to 20ft. wide. And the areas in purple will remain 26ft. The intention was to leave at least one face on any building greater than 30ft. in height and access around hydrants at the 26ft. width for fire vehicle access and ladder trucks. The Town

Fire Marshal is comfortable with the proposed road widths as currently shown but will reserve comment on future phases.

- Chairman Hetzke asked if Staff is good with this solution and Mr. Sangster responded they are. Chairman Hetzke asked if the extra five feet could be used as a bike lane. Mr. O'Connor responded that potentially they could, but Staff would rather have the green space. Board member Tydings stated he'd rather have the green space.
- Mr. Sangster added that the multi-use trail can be used for recreational cyclists. He stated that they are proposing bike lanes coming in off Route 250 and Atlantic Avenue and running down what will be the publicly dedicated road. Maybe the Board would like the Applicant to extend the bike lanes along the main east-west arterial leading up to the "mushroom" shaped park and reducing the lanes as you get more into the neighborhood streets.
- Board member Burton asked if the primary roadways will be dedicated. Mr. Sangster responded that the only portion of roadway proposed to be dedicated is the road coming north off Atlantic Avenue, running up to the Community Center and heading east to Route 250.
- Chairman Hetzke mentioned possibly scooters and golf carts. Board member Burton asked if scooters are licensed motor vehicles and permitted on roadways.
- Chairman Hetzke added that he doesn't think it is necessary on the side roads and maybe not the main arterials (north/south and east/west) but it is definitely something that should be considered with that extra five feet of space, maybe calling it an "alternative transportation lane."
- Mr. O'Connor stated that that is what they currently have on those two streets. On the "L" shape, the Applicant shows the dedicated bike lane.

#### Entryway Monuments

- Chairman Hetzke asked for the Board's opinions on monuments at the entryways at Atlantic Avenue and Route 250.
- Board member Burton pointed out that according to the MUD manual, the only monuments allowed are at the entrance of the development. He also added that he thinks it is a wonderful idea, and why wouldn't the developer want to announce to the world that they are there.
- Mr. Sangster explained that one of Chris Lopez's recommendations was possibly putting a small commercial building on the frontage too, which indicates that the development is more residential because all you can see from the road is the townhomes and apartments and not the commercial aspects. Mr. Sangster explained that Mr. Lopez showed one at each entrance which could be used as a focal point to play off the design of the development.
- Chairman Hetzke asked if Mr. Lopez was referring to the northwest corner at Atlantic Avenue. Mr. Sangster responded that Mr. Lopez showed a commercial building at each entrance, but Mr. Sangster didn't know if the Atlantic Avenue side works as well with the proximity to the townhomes; but in a drawing Mr. Lopez provided to the Board as part of his review, he showed a small commercial building at the southeast corner

coming off of Route 250 that could serve as a focal point, play off the architectural design of the development and introduce this a development that is more than just a residential neighborhood. Having the focus on Route 250 and Atlantic Avenue, two heavily trafficked roads, could get early commercial in as they work to get commercial tenants within the development itself.

- Board member Kanauer asked if the intent for the signage is to also identify what businesses are in the development. Board member Tydings said he didn't think that would look good.
- Board member Burton added that a menu board gets a little messy at the entrance.
- Chairman Hetzke stated that when you go into a town, at the entry to the town you don't necessarily have a list of all the businesses that are in that town. If a café is in the center of the development and you have an address, people will put that address in their phone. If they have to park and get out of their car to find a location, it might make sense to have a menu board.
- Board member Kanauer stated that he saw a mixed-use development in South Carolina where the businesses were not identified at the main entrance but within the development there was a small map, a directory that showed all the buildings in the development and then listed what was in the buildings.
- Mr. Sangster responded that the Applicant hasn't shown anything quite like that, though they did provide an internal way-finding system that was more like decorative street signs.
- Chairman Hetzke responded that the Board should be open to those kinds of ideas, but he didn't think they would be necessary here. It might be a case where the Applicant comes back in five years after things are established and they want to put something up, a kiosk or something.
- Mr. Sangster stated that certainly in future phases there will be more mixed-use so maybe they come back for that then.
- Board member Burton stated that if they come back later, they would be going to the Zoning Board of Appeals (ZBA).
- Chairman Hetzke responded that it could be a slight change to the site plan though so they would be before the Planning Board. Mr. Sangster added that it would likely be reviewed as part of a site plan application for a future phase.
- Mr. Sangster explained (looking at the map provided by Mr. Lopez) that his idea was to have a focal point because without it you could drive by and not know there was anything more than residential because you won't see the commercial or vertical mixed-use from the road.
- Chairman Hetzke stated that he is fine with the recommendation to have the commercial buildings in the corners, but he doesn't know how strongly he feels about definitely wanting a commercial building there. So, if the Applicant is totally against that, then how does the Board feel about forcing that issue.

- Board member Burton responded that it should be at the Applicant's discretion. He added that there is nothing in the Town's regulations that would obligate them to do that, it's a recommendation.
- Board member Tydings stated that he could go either way, but let's see what the Applicant thinks.
- Board member Kanauer stated that he too thinks the Board should wait to see what the Applicant comes up with.
- Chairman Hetzke stated that he definitely wants some sort of entry monument.
- Mr. Sangster added that it would provide more commercial in the Zone A area which is where the MUD manual suggests is the most heavily commercial area.
- Board member Burton stated that as the zone continues to creep northward, these are prime corners, prime real estate.

### Architecture

- Chairman Hetzke asked how the Board feels about the architecture they have proposed.
- Mr. Sangster explained that Mr. Lopez, the Town Architecture Consultant was generally supportive of the architecture. In the developments he has reviewed for the Board, he has pushed heavily to incorporate the historic nature of Penfield (i.e., barns). Board member Burton added that that is what he should be doing as that is what our regulations say.
- Mr. Sangster explained that Mr. Lopez's comments regarding the building design for the vertical mixed-use was very positive. However, some of the residential buildings he felt were "semi-compliant" in that some of the designs lack the connection to Penfield's history. With a lot of the residential buildings, the materials being used have some of that historic feel – board & batten and stone as opposed to some neo-classical suburban design. Mr. Lopez feels that more can be done to make the residential buildings, especially the townhomes look a little bit more historic than the architecture proposed.
- Board members Tydings and Kanauer both want to look at Mr. Lopez's review letter compared to the proposed plans. Board member Kanauer stated that he felt the proposed brick buildings were what would be found in the four-corners area.
- Board member Burton stated that it might be easier to modify some of the façades on the commercial buildings to try and tie in the old barn-type structures that are in or near the mixed-use zone.
- Mr. Sangster stated that their commercial designs were the most successful of their architecture here because they have that turn of the century, downtown, main street feel. Mr. Burton responded that he doesn't think every housing style has to look like it would fit in an 1826 environment. If you look at all the residential buildings and how they flow from street to street and housing style to housing style, he feels the architect did a brilliant job.
- Chairman Hetzke agreed with that. He also agreed with Board member Kanauer's comment about changing up materials so it's not just different colors of siding, but a

mix of brick, stone, siding, etc., to create a feeling that the same person didn't build all of the buildings at the same time. The idea is that it looks like an organically grown community.

- Board member Burton stated that as the Board continues reviewing the MUD applications, they will develop a better sense of the intent of the MUD Manual and it will become a clearer picture. He also stated that he feels Mr. Lopez is also developing a better sense of what the intent of the MUD Manual is and how we might help those applications better tie in with the intent.
- Mr. Sangster referenced the MUD Manual, pages 74-75, the architectural references – a collection of some images that focus on residential examples.  
Board member Burton responded that these images are not representative of the historic nature of the Town of Penfield. These images were really telling the backstory of what the MUD Committee considered in the development of the language of the manual and certainly should not be used as an architectural guide for what the Board holds applicants to.
- Chairman Hetzke added that he felt it was meant to be a springboard on how to think about something. It doesn't mean the Board is looking for houses that look just like those images. It was meant to encourage a variety of looks.
- Mr. Sangster added that in the review memo, Mr. Lopez references a few publications that the Board could suggest that the Applicant look at to pull inspiration for architectural design.
- Board member Burton responded that at this point he doesn't feel the need to tell the Applicant that they need to reconsider their architectural design. There might be some subtle ways to pull in the historic nature of our community, but he doesn't feel they need to start over.
- Board member Tydings suggested that the Board wait and see what the Applicant comes up with after reviewing Mr. Lopez's memo.
- Chairman Hetzke stated that out of everything that the Board has seen so far, this development is most like what the Board is looking for. He added that the Board needs to be sure there is a mix of materials, so that it isn't just different color siding.

#### Multi-Use Trail

- Chairman Hetzke stated that they need to come to some conclusion on the multi-use trail. He asked Mr. Weishaar if he had done any research on the subject. Mr. Weishaar responded that there is a Town Sidewalk Policy, and the Town Board is the only body who can waive that requirement.
- Chairman Hetzke said, let's say it's not waived, and the Applicant builds the "sidewalks," but they happen to be in those locations. Mr. Weishaar responded that that is probably a departure from the sidewalk requirement because they are not in the right-of-way. Mr. Weishaar would like to get some feedback from PRC, Eric Tait, DPW, and Mark Valentine, Town Engineer.
- Mr. Sangster explained that the Town Sidewalk Policy outlines that the sidewalks are to be placed along the frontages of the property, generally adjacent to the right-of-way,

and with a seven-foot sidewalk easement on the frontages. This policy was enacted by the Town Board, so only they have the ability to waive that. Whether the Town Board considers what is proposed in this circumstance enough to qualify them for the waiver regarding that policy, is something the Town Board will have to make the determination on.

- Board member Tydings asked if the Applicant has asked for the sidewalk waiver. Mr. Sangster responded no, not yet; they are waiting on this Board's feedback. They are interested to see if the multi-use trail would satisfy that requirement in some way or if it doesn't, if it can be waived. Can consideration be given to what they are proposing?
- Mr. Weishaar clarified that he doesn't feel it is up to the Planning Board to make that determination.
- Board member Tydings stated that he doesn't really like the proposal. He thinks they should keep the sidewalks.
- Board member Burton stated that if the Applicant is proposing to maintain it, and it will be ten feet wide, asphalt, and they agree to the easement, what doesn't Board Member Tydings like about it? Board member Tydings responded that he doesn't think it will look good. He would rather have 5ft concrete rather than 10ft asphalt.
- Board member Kanauer would like to see if it is for people on foot or bikes, definitely a wider walkway but he's not crazy about it being asphalt material.
- Mr. Sangster explained that that is something that comes from the MUD Manual. The Board has had other groups look at doing stone-dust as opposed to asphalt. The Town asserts that the asphalt is easier to maintain and snow removal than another form of material.
- Board member Burton responded that he is pretty sure that the Federal Access Board has issued a bulletin saying that stone-dust trails do not meet the requirements for an exterior accessible route.
- Chairman Hetzke stated that his only concern with asphalt is how well it is maintained. If it is maintained very nicely, he is ok with it.
- Board member Burton encouraged the Board to come to his office, park in the alley between the parking garage and the office building and look at the stamped pavement that was put down in the fall. It looks like brick pavers. It is stamped asphalt and it is very well done. It has a polymer coating on it. This is more expensive than concrete pavement especially if any of it must be replaced.
- Board member Kanauer stated that he agrees with Chairman Hetzke, the maintenance is key. If it is maintained, it can look nice.
- Chairman Hetzke asked what Staff thinks about concrete versus asphalt. Mr. O'Connor stated that he thinks something will be lost if the Board pushes the Applicant toward concrete, as the price will be astronomically high. Asphalt will be cheaper. Stamped asphalt? Maybe there is some middle ground where the Board gets the look they want but if they push for the concrete, you'll get a narrower path. Or they might even say that they will just put the sidewalk in the right-of-way instead of the multi-use trail.

- Board member Burton stated that two people walking on a five-foot concrete sidewalk is a challenge. If you're talking about other forms of transportation in opposing directions, you need the extra width. Mr. O'Connor agreed with him.
- Mr. O'Connor explained that as far as maintenance goes, you have to maintain anything. The town sets aside money to maintain concrete sidewalks on an annual basis. Both concrete and asphalt have to be replaced from time to time.
- Chairman Hetzke stated that around the northwestern and the western sides of the proposed development it doesn't need to be stamped or whatever...it's out in almost like a nature preserve. Board member Burton added that the Sidewalk Policy wouldn't address those areas anyway. The Route 250 and Atlantic Avenue frontages are the areas of concern. Chairman Hetzke just wanted to be clear for the Applicant's sake.
- Mr. Weishaar asked if sidewalks are in or out of the right-of-way under the Town Sidewalk Policy. Mr. O'Connor responded that technically the Town wants them in the right-of-way. But logistically if there are conflicts with utility poles, etc., there may be a combination of both in and out of the right-of-way and that is where the easement comes into play.
- Mr. Weishaar continued, if they are allowed to use the path, then we would want an easement as well as a property maintenance agreement.
- Board member Burton stated that what Mr. DiTucci was talking about was being willing to put them entirely on his property but granting an easement to the Town. He would be responsible to maintain them, but the Town could still plow them. Mr. O'Connor added that the Town would be looking or them to plow the trail as well.
- Chairman Hetzke pointed out that the multi-use trail is located right in front of all the townhomes and the areas he wants for his development, so it behooves him to plow them. He also clarified that the sidewalks, instead of being right on the main roads, they are set into the property more and maybe those are the stamped asphalt. Then the rest of the trail could be the regular asphalt.
- Board member Kanauer mentioned Penfield Center Road (to the north) and asked if it is the Town's intention that a sidewalk go out that far? Mr. Sangster responded that based on feedback received during the two sketch plans, the neighbors on Penfield Center Road were very vocal about not wanting sidewalks. The Town would still take the easement and waiver fee for that stretch so there is the ability in the future to install sidewalks.
- Mr. Weishaar stated that the town would want a stub of some sort going up to any future sidewalk on Route 250 or Atlantic Ave. Mr. Sangster responded that part of the problem is that the developer doesn't own the corner property.
- Mr. O'Connor added that as part of the PRC comments, Staff has asked the Applicant to provide stubs on Route 250 so that anyone walking along Route 250 could gain access to the development on the west side of the pond. There are challenges on the east side of the pond, so the west side is better.
- Chairman Hetzke added that there should probably be another stub at the other pond in the northeast corner of the proposed development.



### Lighting

- Chairman Hetzke stated that there has been discussion on lighting along the multi-use trail. He added that he doesn't think there needs to be lighting along the back side of the trail. He would be good with landscape lighting (i.e. trees) along the trail. The plans are only showing some lighting on poles.
- Board Member Burton read part of the lighting section from the MUD Manual (5.1.10) "*interior public space lighting should complement the surrounding streetscape and architecture and be incorporated into surrounding design elements. Sidewalks, walkways, and pedestrian gathering spaces within mixed-use developments should be lit for safety and aesthetics.*" They would need a waiver from the Board if they didn't want to illuminate all of those walkways and public spaces.
- Mr. O'Connor asked if the Board meant the whole path or just the portion along Route 250 and Atlantic Ave. Board member Burton clarified that the MUD Manual states specifically *interior spaces in the MUD*.
- Chairman Hetzke asked about the multi-use trail, up around the back side.
- Board member Burton asked if the Applicant used light bollards that were low level illumination and they were placed every 20 feet, is that reasonable?
- Chairman Hetzke responded that it would provide enough light and still not be like a shopping mall parking lot.
- Mr. O'Connor asked if the Board meant the whole path or just the portion along Route 250 and Atlantic Ave.
- Chairman Hetzke responded that there is a case to be made to having the trail lit all the way around. It would be nice for residents to be able to walk around it, even after dark.
- Board member Burton stated that if the Applicant complies with the internal lighting requirements, there is a case to be made for the Applicant providing low level lighting along the perimeter multi-modal trail as well. Chairman Hetzke asked what would be considered "*internal to the development*" – anything within the property lines?
- Mr. O'Connor stated that his opinion would be anything internal from the townhomes on the edge. Mr. Sangster stated that he thought it would be anything inside the sidewalks in the right-of-way. Mr. Sangster continued, he feels the trail should be lit especially along the residential part, because that is where people will be walking.

### Stormwater

- Chairman Hetzke asked if Staff was working with the Applicant on stormwater. Mr. O'Connor responded that Staff has reviewed the plans and most of the comments are technical in nature. The plan meets the intent and removing some of the pavement will help improve the water quality aspect of the project.

### Refuse

- Chairman Hetzke asked about garbage – will there be totes outside the buildings? Mr. O'Connor responded, saying we should ask that question.

Parking

- Chairman Hetzke stated that the parking seems to make sense – there is enough and it’s within close proximity to where it needs to be.

The Board voted and **CONTINUED TABLED** the application for subdivision and site plan approval pending review of the recent submissions.

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Aye	
Aken			Absent	
Burton			Aye	
Kanauer	X		Aye	
Tydings		X	Aye	
				The motion was carried.

3. SWBR, 387 East Main Street, Suite 500, Rochester, NY 14604, on behalf of Penfield Heights, LLC, requests under Chapter 250 Article XII-12.2 and Article XI-11.2 of the Code of the Town of Penfield for Preliminary and Final Subdivision & Site Plan approval for a mixed-use development project including townhouses, apartments, a common house, commercial, retail and office spaces with associated site improvements on ±6.6 acres located at 1820 & 1810 Fairport Nine Mile Point Road. The properties are now or formerly owned by Penfield Heights, LLC and Sebastian & Concetta Curatolo and zoned Mixed-Use District (MUD). Application #22P-0003, SBL #s 125.01-1-25.1, 125.01-1-25.2.

- Mr. Sangster explained that Staff received responses to PRC comments, Tabling Resolution, etc. this afternoon therefore Staff is just beginning their review.
- Mr. Sangster stated that the Applicant did not submit a lighting plan with this recent revision. They said they are working on it, specifically around Buildings A, F, and the trail around the pond area.
- Board member Burton stated that this application was originally before the Board and was denied, so how did the application go from denial to preliminary/final, skipping the sketch plan phase. Mr. Sangster responded that there was a comfort level that was afforded the application due to the fact they came to several PRC meetings as well as having come to the Planning Board as an informal work session item where they shared some of the changes they were proposing.
- Board member Burton stated that the PRC has become somewhat problematic in that the Applicants go to the PRC and get direction from Town Officials and then if the Planning Board raises a question about something that they feel was resolved by the discussion with the PRC, they bring it up and say “wait, we talked to the Town about this...” He stated that he doesn’t recall the Board voting to allow the previous sketch plan application that was approved to serve as the precursor to a new site plan application or Penfield Heights.
- Mr. Weishaar stated that he thought the Applicant came before the Board and asked if the proposed application was sufficiently changed to meet that standard for coming in

with a new application. He added that Board member Burton may not have been present at that meeting.

### Architecture

- Mr. Sangster asked if the Board wanted to have some discussion on the architectural changes that were made. Board member Burton responded no, because the Board asked them specifically to give the Board verification of materials, building heights, roof areas, and there has not yet been a response.
- Chairman Hetzke stated that based on the Applicant's rendering, they are moving toward the direction we want them to go. He would like to see more than just a Google sketch of what they are proposing.
- Board member Burton added that the package has been sent to Chris Lopez, the Town Landscape Consultant, so we should wait for that review to be complete.
- Chairman Hetzke asked about the building height issue, where it is and what it is, the area which exceeds the 55' height doesn't bother him.
- Board member Kanauer stated that because the buildings start at a lower elevation, he was looking more toward using the Route 250 elevation and going up from there. Because that is where the visual impact is going to be, on Route 250.
- Board member Tydings stated that as long as it meets the requirements, he is fine.
- Mr. Weishaar responded that the code requirement is that they measure it from the grade. He added that it seems that that is one of the requirements that is a mandatory minimum/maximum. He read from the Manual: "*maximum building height, 4-stories or 55-feet*". If they are going to exceed that, then they need a variance.
- Board member Burton stated that he asked the question, because this may not be the only time someone comes and asks the Board for a little wiggle room on one of these "mandatory" provisions. So, the question is, is the Planning Board authorized to issue a waiver? Let's assume we are, we need to know what we are willing to grant – 5%, 5-foot – we need to draw a line in the sand.
- Chairman Hetzke didn't agree with "the line in the sand" – this is a particular situation because of the topography coming off of Route 250, and how much it drops. That is the statement piece architecturally when you pull into the development. The Applicant is making the argument that it is greeting you as you come in – creating an impact and drawing you in. The topography is the deciding factor here.
- Board member Burton stated that either way, the Manual states 55-feet and establishes where it is measured from (measured from grade), if we are going to grant a waiver or recommend a waiver, the Planning Board will be asked what they are recommending. And maybe this is an extenuating circumstance. Even with this unusual circumstance, would you grant them 20 feet? Probably not. Maybe you grant them six feet. Or what is the percentage?
- Chairman Hetzke asked if the roof pitch could be considered. Board member Burton responded that they could have done that very easily. They could have lowered the pitch on the core buildings and then the peak at this particular face gable was at 55 feet. There are ways that the Applicant could have complied.
- Mr. Weishaar stated that there are several issues like that.
- Board member Kanauer asked if there was a Fire Marshal issue with that height. Board member Burton responded no.

- Chairman Hetzke stated that this development is in between the Arbors and Pathstone projects in terms of structures. Arbors being a number of individual, smaller structures and Pathstone is two giant buildings. This is kind of in between.

#### Commercial Space

- Chairman Hetzke stressed that the Applicant should figure out a way to get another 3% of commercial space, to get up above the 20%. Board member Burton responded that he believes that the Board conveyed that to them at the Public Hearing on February 10, 2022. Chairman Hetzke agreed but added that it wasn't included in the Tabling Resolution.
- Board member Burton stated that there is another issue with the phrasing in the Manual. Mr. Weishaar commented that this is clearer. It is also called out in the Code and is cross-referenced to the Table 6.1 in the Manual.
- Board member Burton asked that Mr. Weishaar give the Planning Board a memo to that effect.

#### Open Space

- Board member Burton brought up the subject of public open space and access by tenants, residents, and the public at large. The Board gave them some direction on defining what their plan is for those common area amenities.
- Mr. Sangster responded that the Applicant addressed that issue in their response.
- Board member Burton stated that if every MUD has a community center and it becomes a revenue generator for the developer, what happens when it is no longer available to the tenants and residents because it is continually being rented to outside parties are they really meeting what was intended?
- Board member Tydings asked if the Planning Board can dictate that to the developer.
- Chairman Hetzke responded that if someone rents in the development with the thought that this an option, and it is never available, that person may move.
- Board member Burton stated that the MUD is supposed to be a cohesive little village, kind of like a PUD without the schools, etc.
- Mr. Weishaar stated that what he was hearing was that the Board wanted the uses to be cohesive – resulting in a truly mixed-use and not just multiple uses.
- Chairman Hetzke suggested that maybe it is a percentage of time that it needs to be reserved for residents.
- Mr. Weishaar suggested that the Board ask the Applicant how they are going to meet the intent of the MUD that the uses be synergistic.
- Mr. Sangster stated that he didn't think it was a case where they would be renting out the community center. Previous discussions with the previous application they went back and forth between "it will be exclusively for the residents" and "it will be available for membership." They were trying to utilize the Community Center for multiple aspects, non-residential as well as a private amenity space designed for the residents.
- Board member Burton pointed out that the Board has other applications before it that have multiple recreational facilities so one of the questions is, are they permitted to reserve one or more of those exclusively for the people who pay to live and work in the community or do they have to allow the public to come and overtake it.

- Chairman Hetzke stated he is leaning more toward it is okay for someone to come in and have a development that has a number of different uses and have amenities for people who live in the development.
- Board member Burton agreed with him 100%. What he would like is for someone to clarify that for the Board so that as they advance these MUD projects, they can check that off the list and know that what the Applicant is proposing is appropriate.

The Board voted and **CONTINUED TABLED** the application for subdivision and site plan approval pending review of the recent submissions.

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Aye	
Aken			Absent	
Burton	X		Aye	
Kanauer		X	Aye	
Tydings			Aye	
				The motion was carried.

### III. **HELD ITEM:**

1. Application #20P-0008 - 85 Sovran Drive, US Ceiling Corp  
Preliminary/Final Site Plan and Subdivision for an office/warehouse building
  - Mr. Sangster explained that since May 2020, the Board has had 85 Sovran Drive as a Held Application. The Applicant asked that it be Held as they were pausing the engineering work due to the Pandemic.
  - Staff has been contacted by multiple real estate agents saying the property is now listed for sale. It appears the project is not moving forward.
  - Chairman Hetzke stated that a letter should be sent to determine what the Applicant is planning to do with the project.

The Board voted and instructed Staff to issue a letter to the Applicant.

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Aye	
Aken			Absent	
Burton			Abstain	
Kanauer		X	Aye	
Tydings	X		Aye	
				The motion was carried.

AMY M. STERLOF  
TOWN CLERK

2022 MAR 25 AM 9:32

FILED  
PENFIELD, N.Y.

There being no further business before the Board, the meeting was adjourned at 8:30 PM.

These minutes were adopted by the Planning Board on Thursday, March 24, 2022.