

The Planning Board held a meeting at 6:30 PM local time **Thursday, January 27, 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.
Kelly Aken
Jim Burton
Terry Tydings
Bob Kanauer

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

PRESENT REMOTELY: Doug Sangster, Town Planner

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.
 - Mr. Sangster explained that since the Board last met the Applicant has not submitted any new materials. Staff has been discussing with the Applicant some potential changes.

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

2. BME Associates, 10 Lift Bridge Lane East, Fairport NY 14450, on behalf of Highland Builders, 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 Site Plan and Subdivision approval for the proposed 17 lot subdivision with associated site improvements on ±48.08 acres located at 2735 and 2745 Penfield Road, Fairport NY. The properties are now or formerly owned by Joseph DiPrima and Highland Builders and zoned Rural Agricultural (RA-2). Application # 21P-0024, SBL #141.01-1-18.21, #141.01-1-18.22

- Mr. Sangster explained that since the Board last met Staff has drafted a Negative Declaration and Part 2 & Part 3 EAF for this application for the Board’s review. He explained that as we are coming to the close of this application and everything has been received that the Board needs to make a SEQRA determination.
- Since the last meeting the Applicant has also submitted revised plans including an aerial rendition of the site plan. At this point, Staff is working with them on small technical comments and is comfortable if the Board is interested in moving forward.
- Board member Burton recommended that the Board accept the determination of Negative Declaration and approve the EAF.

The Board voted and accepted the determination of **NEGATIVE DECLARATION** and **APPROVED the EAF**.

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

- Board member Burton asked that the Board have an opportunity to review the revisions.

The Board voted to **CONTINUED TABLING** the application to give the Board an opportunity to review the revisions.

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

3. 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.
- Mr. Sangster explained that since the last meeting the Applicant has responded to the Tabling Resolution as well as providing an open space plan. While Staff appreciates the open space plan provided, the concerns regarding public versus private space remain. According to the map, the majority of the open space are areas that are dedicated exclusively for the use of the residents of the development and not for the general public. The Applicant is not inviting the general public to use these areas.
 - When the mixed-use re-zoning was going through, and the mixed-use committee was meeting, in exchange for a lot of the density that was going to be allowed within the mixed-use district, there were certain aspects of community betterment that were expected in exchange for the ability to build something that is much more dense than would have been allowed under the previous zoning.
 - There was concern with this application, with the fact that the open spaces were feeling a bit like a gated community in some respects. The park spaces that are being provided are not being provided for residents of the area, they are being provided for residents of this development.
 - The Applicant has responded and provided a letter with their responses, clarifying that they are providing more than enough open space per the guidelines within Table 6.1.5 of the MUD Manual. However, their statement that they are neither inviting nor prohibiting public access to the property it essentially means they won't be installing signs on the edge of the property saying no trespassing. In that way, it is quasi-open to the public.
 - This may be something that the Board wants to figure out with them if there are areas that could or should be more publicly accessible or open for public use as part of this community development. The development is relatively large in scale, even for the MUD, so having an area where not only residents can come but having areas where folks in neighboring developments or East Penfield would be able to have access to some form of park land or open space.
 - Chairman Hetzke stated that one thing he'd like to see in the Tabling Resolution is a request to provide some examples of similar developments with the public / private use situation. It seems like a laissez-faire attitude right now, so he'd like to see if there are other MUD that have a similar structure to this that the Board might be able to see as examples for the purpose of comparison.

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			Aye	
Burton			Aye	
Kanauer	X		Aye	
Tydings		X	Aye	
				The motion was carried.

4. McMahon LaRue Associates P.C., 822 Holt Rd, Webster, NY 14580, on behalf of Eric Geoca, Geoca Homes, LLC, requests under Chapter 250 Article XI-11.2 and Article XII-12.2 of the Code of the Town of Penfield for Preliminary and Final Subdivision & Site Plan approval for a proposed two-lot subdivision with associated site improvements on ±36.833 acres located at 35 Apollonia Lane, Fairport, NY 14450. The properties are now or formerly owned by Arnold DiPietro and zoned Rural Agricultural (RA-2). Application # 21P-0033, SBL #126.01-1-52.

- Mr. Sangster explained that since the last meeting, Staff met with Greg McMahon to discuss the stormwater improvements and facility. In previous plan renditions, they showed a stormwater facility that was split between two lots and there weren't engineering calculations to support the design or give an understanding of whether this is going to support just the two lots or the two lots and any future lots that may be built as part of the subdivision. There is still land to be subdivided and developed based on the preliminary subdivision they did in 2000.
- In addition, Staff has had discussions with Mr. DiPietro, the owner of the house at the end of the cul-de-sac and the remaining lands, about moving the pond exclusively on that property so that it will be more easily serviceable. Mr. DiPietro was amenable to the idea of moving the pond to his property where he would maintain it as a private pond, though the Town will have an inspection easement over it.
- The Applicant will be providing engineering calculations to support the design of the pond and at this point Staff is comfortable working through the rest of the stormwater design during the pre-mylar phase.
- Regarding the road, which was discussed previously, Staff has worked with Mr. DiPietro to come to an agreement that when the final two lots at the front of the development are finished and potentially these two lots, the road improvements will happen after those homes are built. The Town is still holding money in the form of a Letter of Credit to ensure those improvements are made.
- Al LaRue stated that they have provided all the calculations along with all the reports to Mark Valentine. He doesn't see that any of the issues from an engineering standpoint are outstanding. The Applicant thinks they are ready.
- Mr. O'Connor added that he has reviewed the Engineer's Report and he just has some minor technical issues, but the design is there, and it is meeting what the Town is looking for.

The Board voted and **CONTINUED TABLED** the application for subdivision and site plan approval pending the reparation of a draft approval resolution for Board review.

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

5. APD Engineering & Architecture, 615 Fishers Run, Victor, NY 14564, on behalf of Fairlane Dr LLC, requests an informal discussion before the Board with plans for a Taco Bell restaurant with drive-thru and associated site improvements on ±1.9 acres at 1800 Empire Blvd. The property is now or formerly owned by E.C. Barton & Company and zoned GB (General Business). Application #22P-0001, SBL #093.15-1-57.

- Mr. Sangster explained that Staff has drafted a Sketch Letter for the Board to review, based on the comments at the 01/13/22 Public Hearing.
- The major concerns outlined in the letter include:
 - snow storage and the division of the two lots.
 - five variances required include parking, setbacks and lot coverage for both buildings.
 - historical parking information for existing Taco Bells to ensure the proposed spaces are adequate.
 - a shared parking agreement will be required if that is proposed in P/F phase; another point of concern was that at the 1/13/22 PH the Applicant stated that they were interested in submitting two applications -separating out each of the actions – treating Home Outlet and Taco Bell as two separate applications. It is Staff’s recommendation that they submit one application because the two actions are so intricately linked together, the design and even the variances are so reliant on each other that it really is more one application than two.
 - finally, providing a summary of updates and changes to the project they propose when they submit for PF.
- Board member Burton stated that he doesn’t see why the Board cannot handle the two applications separately. The Board doesn’t know what their plans are for the other property and how that could be impacted. He feels they could stand on their own merit as two separate applications. Combining the two applications might be burdensome to the Applicant to force them to shove the other project with this when it might not be germane.
- Mr. O’Connor explained that the Applicant is doing modifications to the second plan with pavement, etc. but the Engineering Department has concerns with stormwater and the fact that currently there is no stormwater or water quality aspects to this property.

Staff is considering it the re-development of a site where there are certain regulations that they need to provide since currently there is nothing there. This site drains to the Irondequoit Bay which is an impaired waterway, a DEC 303(d) because of pollutants. Staff was trying to maybe have the Board suggest that they should provide some sort of water quality – not detention, a pond or underground storage – but some sort of water quality so that the runoff from these parking lots enters a mechanical system like the size of a manhole that separates out the trash, solids, etc. that could be vacuumed out on a yearly maintenance plan. The concern is that with the separate applications, they may try to avoid this topic altogether. The Engineering Dept feels this is an opportunity to provide some betterment for stormwater on this site.

- Board member Burton suggested that they recommend the Applicant provide a water quality study and suggest that they provide a separator.
- Chairman Hetzke added that it shouldn't be limited to stormwater management but should include any other discipline that could potentially be better from a holistic approach and separate it out. If the Applicant wants to do them separate, why not let them. However, if it's going to be separate, let's make sure all these things are taken care of so it's not an opportunity to avoid dealing with any of these issues.
- Chairman Hetzke added that he'd like to remove the paragraph concerning support of the application. He doesn't want to say anything to encourage or discourage them from coming in with an application.
- Mr. O'Connor added that Staff also has concerns with the circulation patterns of the vehicles. Chairman Hetzke agreed that it is a difficult site.
- Board member Burton stated that the Board asked for historical parking data. He also said that the Applicant took the time to explain to the Board that their operational program is changing. He continued, far be it for the Board to tell him how his demographic is going to work and how many people are going to come through.
- Chairman Hetzke added that there are concerns with the queuing aisle and backing up into the traffic pattern. How are they going to manage the traffic? The different scenarios all need to be addressed.

Following the public hearing and work session, the Planning Board offers the following comments and concerns for your consideration.

1. Please address in writing and in revision of the plans, the following concerns of the Board as expressed in the public hearing and work session:
 - i. It was noted during the public hearing and the subsequent work session that the development will require significant area variances for parking, setback, and lot coverage for both buildings on the proposed lot.
 - a. A variance for parking will be required for both properties. During the public hearing, the Board requested historical parking information for the existing Taco Bell for reference. The Applicants should indicate how the parking layout satisfies each development's individual parking needs. If parking is intended to be shared between the developments, a shared parking agreement will be required.
 - b. A variance for lot coverage will be required for both properties.

- c. The Board is concerned that the interior vehicular circulation is complicated and confusing. Specifically, the drive-thru queue lane bifurcating the central drive aisle creates narrow access lanes on either side with high risk of conflict with vehicles entering from opposite directions and with vehicles exiting parking spaces. Additionally, separating the queue line from the primary drive-thru will create congestion as the merge point for cars coming from Creek Street compete with cars coming from Empire Blvd.
- ii. Show locations for snow storage. If snow storage for Taco Bell will be on the Home Outlet lot, a formal agreement between the two owners will be required.
- 2. Provide a complete set of stamped engineered site plans that meet the requirements of the Town for a preliminary/final subdivision and site plan application.
- 3. Provide any additional correspondence from the NYS DOT and MCDOT regarding the proposed curb-cuts on Empire Blvd (NYS-404) and Creek Street (CR-22).
- 4. Stormwater quality measures should be incorporated into the re-development project. There is very little treatment within this area, the lot coverage for both proposed properties are substantial, and this area discharges to Irondequoit Bay, an impaired waterway.
- 5. Provide a new letter of intent with a summary of updates and identify any changes to the project.

Provide written responses to all comments from the Town and the Board. In addition, written responses to the Factors for Consideration for Subdivision and Site Plan Approval found in Chapter 250, Articles XI-11.3 and XII-12.3 of the Code of the Town of Penfield shall be submitted. A reference template will be provided with the Preliminary/Final Subdivision and Site Plan Application Guide.

Given the comments stated above, the Board would accept a new application for preliminary/final site plan.

The Board voted to amend the Sketch Letter and send to the Applicant.

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

III. ACTION ITEMS:

IV. HELD ITEM:

V. NEW BUSINESS:

I. 3090 Atlantic Avenue, Resub – Administrative Resubdivision

- Mr. Sangster explained that back in 2020 the Board looked at a 5-lot subdivision at 3090 Atlantic Avenue and ultimately approved that subdivision. There are three lots with frontage on Jackson Road, a flag-lot, and the original homestead lot.
- The homestead lot was recently purchased, and the owners are interested in purchasing the adjoining lot (R-1), Lot 2 of the subdivision. They are now interested in merging those two lots together. They are not interested in building a home on that second lot they just want to have a nice large backyard.
- Staff has no concerns with the action.
- The Board had no concerns.

The Board voted and **APPROVED** the application for re-subdivision.

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

There being no further business before the Board, the meeting was adjourned at 7:05 PM.

These minutes were adopted by the Planning Board on Thursday February 10, 2022.

FILED
 PENFIELD, N.Y.
 2022 FEB 11 AM 10:12
 AMY M. STERLITZ
 TOWN CLERK