

The Planning Board held a meeting at 6:30 PM local time **Thursday, June 9, 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
Bob Kanauer
Terry Tydings

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

ABSENT: Catherine DuBreck, Junior Planner

II. APPROVAL OF MINUTES:

The Board voted and **APPROVED** the draft meeting minutes for May 26, 2022.

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

PUBLIC HEARING APPLICATION:

1. Bohler Engineering MA, LLC, 70 Linden Oaks, Rochester, NY 14625, on behalf of Kerry Ventures Fairport Nine Mile Point Road LLC, requests under Chapter 250, Article XII-11.2, Article XII-12.2, and Article XII-13.2 of the Code of the Town of Penfield for Preliminary and Final Subdivision, Site Plan, and Conditional Use Permit Approval for the proposed construction of a ±5,600 sf Chick-fil-A restaurant building with drive through and associated site improvements on ±5.1 acres located at 2130 Fairport Nine Mile Point Road and 2195 Penfield Road. The properties are now or formerly owned by Kerry Ventures Fairport Nine Mile Point Road LLC, and zoned General Business (GB). Application #22P-0015, SBL #140.01-2-4.1 and 140.01-2-6.998.

In attendance: Timothy Freitag, Bohler Engineering
Amy Dake, SRF Associates
Clint Mattson, Chick-fil-A Inc.

- Mr. Freitag presented the application for subdivision, site plan and conditional use permit, a redevelopment project at 2130 Fairport Nine Mile Point Road.
- Mr. Freitag explained that the site is located southeast of the intersection of Fairport Nine Mile Point Road and Penfield Road. This location was formerly known as the Cornerstone Restaurant & Café. The aerial shown on the screen showed where the $\pm 6,000$ sf restaurant used to be. Just to the north was another $\pm 4,000$ sf contractor storage building. These two structures have since been demolished but there are still some parking lot pavement, lighting, and other site features that are proposed to be removed as part of this project.
- Mr. Freitag explained that on the east side of the site there is a shared access drive that interconnects all the parcels. As part of a recently approved project to the south, known as Burger King, the Applicant will be connecting those uses to the existing shared access drive that will be improved and maintained as part of this project.
- The Applicant is proposing to demolish the existing features that remain. The site is in the General Business Zoning District (GB), with a permitted use subject to site plan review and conditional use permit. They have also identified the need for an area variance for their drive-thru canopy.
- Mr. Freitag shared the colored site plan on the screen and described the project in more detail. They are proposing a $\pm 5,600$ sf quick service restaurant located along the site frontage. They have a dual lane, isolated drive-thru, meaning it is located around the perimeter of the site. This is a technique used to isolate the drive-thru activity from the dine-in parking activity, separating the two flows of traffic on the site. Pedestrian safety is critical in the design of this site plan.
- Mr. Freitag explained that two drive-thru lanes will be used for meal order as well as meal delivery. Chick-fil-A has recently modified their meal delivery option. It is no longer the typical drive-thru window. It is now a sliding door which allows meal fulfillment in two lanes, not just one. Team members can take the meal and service the second lane of the drive-thru using the door, rather than just through a traditional window. This provides a greater efficiency in the drive-thru pick up area.
- Mr. Freitag explained that over the drive-thru there are canopies. These will be similar to the canopies used at the recently opened store in Irondequoit, NY. The slim, sleek, nine-inch, dark metal bronze fascia, canopies will be situated over the meal fulfillment area at the drive-thru door, as well as at the order point where orders will be placed at the menu boards. The operation of the drive-thru also allows team members to be in the lane with tablets to expedite the order taking process.
- Mr. Freitag explained that around the two drive-thru lanes there is a bypass lane for three-quarters the length of the drive-thru. Due to the unique shape of the lot, the drive-thru has a few bends. This bypass lane is always recommended when room allows in case there is a stall of traffic and there is a need to exit vehicles. Here it was also important to add extra width because of the numerous turns. The bypass lane merges into the other two lanes as it approaches the window/door. The result is only two lanes of meal fulfillment, not three.
- Mr. Freitag explained that on-site, the rest of the parking field is shielded from Fairport Nine Mile Point Road in the back, the eastern portion of the site. Patrons can park and walk

into the building without having to cross the drive-thru traffic. There are crosswalks leading into the building from the parking lot and there will be an outdoor dining area in front of the building.

- Mr. Freitag explained there is a lot line adjustment as part of the project. The Cornerstone Restaurant lot is basically a box where the proposed building, drive-thru and a portion of the parking along the front of the store is. That lot was just not big enough to service this proposed drive-thru and the parking needed for the restaurant, so they are proposing a lot line adjustment for the two parcels that are part of this application.
- The lot line adjustment would allow for 81 parking spaces within lot 1 to meet code for the proposed restaurant. They are proposing additional, overflow parking, off site, as shared parking for the facility and the rest of the remaining parcel that they will maintain under the landlord's control.
- Mr. Freitag explained that the drive-thru stack has the capacity for 50 vehicles within the two lanes, plus the bypass lane.
- Mr. Freitag explained that as part of the application they have submitted a set of colored building elevations to show what the building is proposed to look like. It is a two-tone building façade. They have dressed up the western elevation, which is actually the back of the building, because the parking lot is on the east side and the west side of the building is facing the road. They have dressed up the back of the building to include additional windows so that it presents much like a front façade, given that is the side of building that will be facing the road.
- Mr. Freitag explained that inside the building they are proposing 78 indoor seats plus approximately six patio table outside for dine-in guests.
- Mr. Freitag explained that utilities are pretty straight forward. There was a building there in the past that was serviced by public utilities. Their intent is to re-use what utilities they can, improving the utility infrastructure as needed. They are also proposing stormwater improvements to bring the existing on-site stormwater features up to current standards but also mitigate any additional impervious surfaces as part of this project.
- The drive-thru in the front yard will be shielded by a black aluminum fence similar to the one around the patio. There will also be a shrub row in front of that fence to shield some of the headlights from the drive-thru since that is a sensitive item in the front yard.
- The canopy over the order point extends a little further into the front yard and side yard setbacks so they will need a variance for that canopy.
- Mr. Freitag stated that they have been working with town staff to pull together the application that was submitted on April 28, 2022. They also attended a PRC meeting to talk through preliminary concerns and questions to refine the plans that were presented at this meeting. They have submitted revised plans based on a round of PRC comments from June 3, 2022. He acknowledged that they still have items they need to work through, and they are looking forward to working through additional comments from the Board.

Board Questions:

- Board member Burton stated that it won't be a surprise that the biggest issues with this application will be traffic and parking. He referenced the Zoning Analysis Table provided by the Applicant and stated that the proposed number of parking spaces is 81; but it adds up to 193. He asked for clarification on the number of spaces and why they need 193

- spaces. He also asked how “the remainder of the spaces” are under control of the landlord.
- Mr. Freitag responded, explaining that the Zoning Table summarizes what is proposed on the Lot 1 and that is where the lot line adjustment comes in. Since 81 spaces are proposed on Lot 1, there will be additional parking off-site to come to the total number of 193.
 - Lot 1 will be leased by Chick-fil-A and then there will be shared parking and access agreements with the landlord for the balance of the parking spaces. That is why the landlord would still have control of those spaces. Are 180 spaces truly necessary? He doesn't think so.
 - This was a topic that was brought up in the PRC meeting. Chick-fil-A is going to talk to the landlord to see what they can remove from the application; if they can increase the greenspace and eliminate some of the parking. Ideally, the Applicant would like to be around 100-110 parking spaces to meet the Chick-fil-A requirements.
 - Board member Burton stated that the plan indicates an interior occupancy of 74 and Mr. Freitag mentioned 78 in the presentation; the desired number is 100-110. He asked how many employees are in the building at any given time.
 - Mr. Freitag explained that the parking breakdown was provided on the plan, and it includes 1.5 spaces per 2-person legal occupancy plus 1 for each employee. The 94-person occupancy plus 10 employees to require the 81 parking spaces.
 - Board member Burton asked if it is common for the interior seating to be full during peak hours or is most of the business drive-thru. Mr. Freitag responded that it fluctuates. In this area the drive-thru is approximately 60% of the business and the rest would be dine-in. That number fluctuates per location, per store.
 - Board member Burton asked if the Applicant could share with the Board what types of traffic calming measures Chick-fil-A has used in the past to overcome problems with overflow of traffic (i.e., Greece location).
 - Mr. Freitag responded that the biggest innovation came out of covid. When covid happened, the dining rooms were closed, and it was drive-thru only. That's where the drive-thru door came into light. They found that replacing the drive-thru window with a door allows them to serve two lanes rather than one at the drive-thru exit. That increased the speed of service and the stacking in the drive-thru because they can get vehicles through, not stacking out onto the road. Chick-fil-A also has team members in the drive-thru with tablets taking orders as well as directing vehicles to move forward to curb the stacking. Those are ways they expedite service in the drive-thru.
 - Board member Burton stated that in the Town of Penfield there continues to be struggles with staffing for restaurants. He asked how Chick-fil-A expects to address the staffing shortage that is in the hospitality industry and what assurance would the town have that they would have adequate staffing in place. Mr. Freitag responded, stating that he would take that comment back to Chick-fil-A and get a response from someone who handles the hiring to further address that. He continued, in his experience, Chick-fil-A has such a great leadership program that they haven't struggled to find team members, because people want to work there.
 - Board member Burton wanted to comment on the Executive Summary in the Traffic Study. He read “the report indicates that a significant portion of the proposed volume comes from the existing traffic on Penfield Road and Fairport Nine Mile Point Road”. Board member Burton wanted to point out that there are vacant commercial stores in the immediate vicinity of this location right now, and we are just starting to see more people

physically going to brick and mortar stores and other establishments, so the traffic from a study that might have been done two months ago might not be indicative of where we are in the immediate future.

- Board member Burton referred to item #4 in the Executive Summary “traffic exiting the Penfield Road driveway turning left onto Penfield Road may experience long delays greater than two minutes during peak times”. He asked if there have been any considerations for right-out, to change that intersection. If there are going to be 110 parking spaces coming from that location plus the Burger King, and given that Route 250 is busy, and assuming the access road gets paved and people become aware of that, is that something that should be considered.
- Ms. Dake, SRF responded, saying that she doesn’t like the idea of restricting a driveway because what you’re seeing is a peak hour condition where we have long delays, when there is a lot of traffic on Penfield Road. Other times of the day, that driveway will operate just fine, and you’ll be able to make a left turn out with no problem. She stated that she doesn’t want to force the traffic to go to another driveway just because there is a potential problem during one peak time period. Once they go there, people will learn that they can go to another driveway.
- Ms. Dake went on to say that traffic coming from the existing traffic on the highways is referred to as “pass-by traffic” or traffic on Routes 250 and 441 that are on those roadways now and they may choose to stop into Chick-fil-A to pick up dinner. They are expecting almost half of the traffic to come from pass-by trips, or trips that are already on Penfield Road and Fairport Nine Mile Point Road, that are going somewhere else now that are going to stop into Chick-fil-A.
- Board member Burton referred to item #3 in the Executive Summary “there is more than sufficient onsite storage for the projected vehicle queues under typical conditions”. He asked Ms. Dake to comment on that because of the disparity between peak traffic and typical conditions is significant.
- Ms. Dake responded, stating that typical conditions are peak hour conditions on a daily basis once the store gets into its normal operation conditions. This does not include the first couple of weeks after opening because when Chick-fil-A first opens they experience a greater influx of traffic than once things settle down and they get into a normal routine. Chick-fil-A plans for the first couple of weeks after they open to manage traffic. That is not what they are ultimately designing for because that is not the typical condition. They are looking for typical conditions after the store has been open a month or so.
- Board member Burton asked if Ms. Dake would be willing to issue an addendum to clarify that fact for the public record. Ms. Dake responded, yes.
- Board member Burton stated that another comment that came from the PRC memo was asking if there was consideration for land banking some of the parking spaces. Mr. Freitag responded that they will provide a response to that comment.
- Chairman Hetzke asked if the Applicant could explain the drive-thru door concept. Mr. Freitag referred to the rendering on the screen, stating that there is a window where during low volume, they can hand the meal out the window. But during high volume, that door opens completely so the employee can walk in and out of the restaurant. It’s face to face interaction – they can hand the meal to the car in the first lane; then they get the next meal and walk it (around the back of the car in the first lane) to the car in the second lane. There is a three-foot pedestrian area for team members between the lanes.

- Chairman Hetzke asked how many stores this has been used in. Mr. Freitag responded that this rolled out in 2020-21 and all projects moving forward have utilized this method. Mr. Freitag added that Chick-fil-A also has their own safety review committee where it took months to get this approved to make sure their team members are safe servicing both lanes.
- Chairman Hetzke asked if there was an increase in incidents where drivers aren't paying attention and hit the team member. Mr. Freitag responded that there have been none that he is aware of, but he will take that back to Chick-fil-A and ask for more information. He added that the team members will be trained in the safest manner, according to the Chick-fil-A safety committee. Ms. Dake clarified that the team members are never walking in front of the cars, they are walking behind them.
- Chairman Hetzke asked what the busiest times of day are typically. Ms. Dake responded, mid-day, lunch time and dinner time. Chairman Hetzke asked if they serve breakfast. Ms. Dake responded yes.
- Chairman Hetzke asked what the hours of operation are. Mr. Freitag responded, 6:30 AM to 10 PM. He added that breakfast has not been a big sell in WNY.
- Chairman Hetzke asked if there was a late night drive-thru. Mr. Freitag responded that 10 PM is the close time. The operator has the option to close the dining room at 9 PM but keep the drive-thru open until 10 PM, but that is very rare.
- Chairman Hetzke asked what the percentage of the business is drive-thru nationally. Mr. Freitag responded it is typically in the $\pm 60\%$ but it varies (i.e., Covid).
- Chairman Hetzke asked that they explain the by-pass lane. Mr. Freitag responded that there are two ordering lanes. The third lane could be used (i.e., during grand opening) but generally it will be a by-pass lane.
- Chairman Hetzke asked what the Applicant considers the front of the building. Mr. Freitag responded that the front of the building is the east side, facing the parking lot, where the entrance to the dining room is.
- Chairman Hetzke asked what the greenspace coverage is. Mr. Freitag responded 64%.
- Chairman Hetzke asked if they could describe any potential screening, buffering for the neighbors to the east. Mr. Freitag explained that per the existing aerial shot, the existing road will get pushed over to the east but there is an existing pond right there that will remain. Their plan is to bring that stormwater basin up to current standards and then the existing vegetation from that pond to those neighbors will be maintained.
- Chairman Hetzke asked if the Applicant would be willing to consider additional plantings. Mr. Freitag responded that they can look into more buffering when they are designing that new stormwater basin.
- Chairman Hetzke wanted clarification on the new roadway on the east side – that it currently has bends and curves, but it is proposed to straighten out as it heads south with a 90 degree turn to the west where the current road is, essentially making navigation easier in that area. Mr. Freitag responded yes, the 90 degree turn is a good traffic calming measure as well.
- Chairman Hetzke asked who is maintaining that road as it is in terrible condition currently. Mr. Freitag responded that he would follow up on that depending on how the shared access agreements are written.
- Chairman Hetzke asked about the (50%) pass-by traffic – do they anticipate the other 50% being “destination” type customers and what geographic area is it anticipated to be drawn

from. Ms. Dake responded that given the three established locations in Greece, Henrietta and Irondequoit, and based on the study area (Routes 250 and 441) they looked at a radius, but she really couldn't speak to how far the customers might come from. She referenced Figure 6 in the TIS – 35% coming from the east, 15% from the north (Rte. 250), 25% from the west (Rte. 441), and 25% from the south (Fairport).

- Chairman Hetzke asked what demographic Chick-fil-A uses to place restaurants. Ms. Dake responded, saying that she doesn't think it is so much based on demographics as it is the traffic volumes on the roadways. They are looking to locate stores on high volume roadways so they can draw the pass-by traffic. That's why they chose this intersection because Routes 250 and 441 are already high-volume roadways.
- Board member Burton asked about the drive-thru doorway – does Chick-fil-A track the minutes and seconds from the time that a customer places their order to the time it is delivered, and they pull away. If so, is there a statistic on the improvement in that service time with this new delivery method. Mr. Freitag responded, saying that he could ask that question and see if there is any data that they could provide. In his experience it fluctuates depending on staffing, operations, team member experience, etc. There will be more experienced staff (20-25 people from other stores) here during the grand opening.
- Board member Aken stated that she was at the Henrietta location the evening before around 5:30 pm for dine-in, and she was surprised that there were only ± 15 people there. Her question is regarding the number of parking spaces, stating that it seems like a very large number, so are they sure that they need that many? What is the drop off between the grand opening numbers and the typical? Mr. Freitag responded that it fluctuates a lot based on the location and time of day. He acknowledged that that was a light crowd she saw. He explained that Henrietta and Irondequoit are both a part of a shopping center, so they have ± 70 parking spaces on site, but they also have overflow flexibility. Here they don't have that shopping center, overflow factor so they are trying to create that with the number of spaces they are requesting.
- Board member Kanauer asked about the variances. Mr. Freitag responded by referring to the screen, pointing to the order point canopy. The canopy is close to the northern property line which is considered a side yard. A side yard setback is 20ft and this is just under 9ft. The canopy is also close to Fairport Nine Mile Point Road. The setback from the road is 80 ft and the canopy is just under 72 ft. Thus, the two variances needed.
- Board member Kanauer asked if the queuing has a 50-car capacity and does that include the by-pass lane. Mr. Freitag responded that that only includes the two full operating lanes.
- Board member Kanauer asked if they anticipate any queuing to extend past the drive-thru lane. Mr. Freitag responded that beyond the grand opening, no they are comfortable with the 50.
- Board member Kanauer asked about the parking spaces along the north boundary – what is the walking path from there to the building or would those be more for employee parking. Mr. Freitag responded that they were talking internally about designating those spaces for the team members, leaving prime parking for the guests. Also, further to the east, there is an existing sidewalk which connects to Penfield Road in the right-of-way. They are proposing to connect and continue that sidewalk, provide a crosswalk across the shared access drive and take it all the way to the store. Guests can use that sidewalk.
- Board member Kanauer asked how deliveries will be handled. Mr. Freitag responded that deliveries are typically night-drops during off hours.

- Board member Tydings asked if they expect 25 cars in each of the two lanes. Mr. Freitag responded, yes.
- Board member Tydings asked if the size of this location is similar to any of the others in Monroe County. Mr. Freitag responded that this location is bigger.
- Board member Burton asked how they might limit the backup alarms on the vehicles that are proposed to be coming at night. Mr. Freitag responded that they designed this site as a pull-through, so there is no loading dock that the trucks would back up to. They should be able to make the deliveries without ever having to put the vehicle in reverse. The way they will enforce that is by educating the drivers. These are Chick-fil-A drivers who coordinate directly with Chick-fil-A so that would be on the Chick-fil-A operator who manages the store to make sure that is the way the deliveries are set up.
- Board member Burton asked if they would be ok making that a condition of approval. Mr. Freitag responded yes. He added that if any of the neighbors ever had a problem should talk to the operator because they would take the feedback and resolve the problem.

Public Comments:

1. Alison Teeter, 136 Shirewood Drive (she also submitted an email)
 - Ms. Teeter objects to the proposal for the Chick-il-A with concerns regarding the history and bias of the Chick-fil-A organization. She added that the Cathy family has a history of discrimination against the LGBTQ+ population.
 - She feels there is an opportunity for Penfield to stand up for all members of the Penfield community. She believes there is an obligation to think about others and how to stop discrimination – in this case by saying no to a company with a history of discriminating.
 - She added that she understands from the Chairman’s earlier comments, that the Planning Board has a limited role in this conversation so she asked which governmental organization this should be directed to if not the Planning Board.
 - Chairman Hetzke responded that the Planning Board looks at subdivision and site plan approval. His reaction to her question was: just as there are laws protecting equal housing rights, etc., a Board such as this one cannot turn down a certain type of housing. There is no authority in Penfield or any other municipality for that matter, that could do that. So, if you had a large group of people that was against a certain housing development, legally there is not a way to prevent that because of fair housing laws. The Planning Board is limited in their prevue...they can’t take beliefs or biases into account. He was unsure if the Town Board can do that either. With things like this, probably the best way would be to not patronize that business.
 - Ms. Teeter appreciated his comments, but she finds it disappointing because one of her social media posts said, “hate should have no home in Penfield” and if the people running the Planning Board and the Town of Penfield can’t get behind that idea, that is exceedingly disappointing in her view. She appreciated the opportunity to come and share her views with the Board.
2. Lewis Hosenfeld, 2080 Harris Road
 - Mr. Hosenfeld voiced concerns about approving yet another fast-food restaurant. He doesn’t feel Penfield needs another fast-food restaurant. He has concerns about the shortage of staffing and the current empty buildings in the area.

- Mr. Hosenfeld had concerns with safety – including cars making a left hand turn onto Penfield Road from the access road and the team members crossing the lanes to deliver food in the drive-thru.
3. Stephanie Kalin, 153 Valley Green Drive
- Ms. Kalin asked that the Board elaborate on the process for welcoming a new business to town. Other than evaluating parking and traffic flow, what other oversight is there for the residents to say I don't want this in my town.”
 - Board member Burton responded, stating that on the town website, there are the regulations that the town is subject to, many of which are driven by NYS or Federal regulations. There are projects that come before the Planning Board that they might not want in the community, but we live in a country where you can come before the Board and share your thoughts and beliefs and others in the audience may not agree with you, but you have that right.
4. Jeff Smith, 6 South Village Trail (electronic)
- Mr. Smith wanted to confirm that there are no change / stop lights, etc. proposed on Routes 250 or 441 for this project, and that the Traffic Study supports this.
 - Chairman Hetzke responded that there are no additional stop lights proposed for this project, and the Board and Staff are in the process of reviewing the traffic analysis that was submitted.
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- Mr. Freitag asked if the Board was intending to declare lead agency for SEQRA and would now be the time to do that. Mr. Sangster responded and said this application is considered and Unlisted Action, therefore the Board could declare lead agency, though we usually handle it as an uncoordinated review. The Zoning Board will handle their own SEQRA review.

Board Deliberation:

- Board member Kanauer asked about the Conditional Use Permit. Mr. Sangster responded that the Applicant needs that because it is a restaurant. Within the General Business district restaurants are a conditionally permitted use.
- Board member Burton suggested that the Board engage the Town Consultants:
 - Barton Loguidice for the parking and traffic concerns of the Board and the Public
 - Chris Lopez, PLAN Architecture for the building architecture
- Board member Burton requested that the written responses from the Applicant regarding the number of parking spaces be addressed as well.
- Chairman Hetzke asked if there were any ways to dress up the building a little bit. Mr. Freitag responded that they could take a look at that.

The Board voted and **TABLED** the application for Subdivision, Site Plan and conditional Use Permit approval pending further review of the recent submissions.

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

III. **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 last meeting, Staff has provided a Determination based on the Authorized Official, looking at what counts as non-residential space and whether open space or public space can count as a non-residential use.
- Mr. Sangster stated that the Determination was provided to the Applicant, and the Applicant has requested additional time to review the document and respond to it.
- The Applicant asked that their application be tabled tonight.

The Board voted and **CONTINUED TABLED** the application for Subdivision & Site Plan approval pending a response from the Applicant regarding the Determination of the Authorized Official (*MUD Open-Public Spaces as Permitted Uses*).

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

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.

- Mr. Sangster explained that Staff is going through a final review of a draft Negative Declaration which will be provided to the Board for review.

The Board voted and **CONTINUED TABLED** the application for Subdivision and Site Plan approval pending the completion of the SEQRA Determination and Draft Approval Resolution.

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Aye	
Aken		X	Aye	
Burton			Aye	
Kanauer	X		Aye	
Tydings			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 has a draft Negative Declaration that they are finalizing. Once Staff has completed their review of the drafts, they will be provided to the Board for review.

The Board voted and **CONTINUED TABLED** the application for subdivision and site plan approval pending the completion of the SEQRA Determination and Draft Approval Resolution.

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

4. Nixon Peabody LLP, 1300 Clinton Square, Rochester, NY 14604, on behalf of Bell Atlantic Mobile Systems, LLC d/b/a Verizon Wireless, requests under Chapter 250, Article XII-12.2, and Article XIII-13.2 of the Code of the Town of Penfield for Preliminary and Final Site Plan approval and a Conditional Use Permit for the proposed construction and operation of a 124' wireless telecommunications facility (plus 4' lightning rod) and associated site improvements on the 880 sf leased parcel of the ±2.88 acres at 1838 Penfield Road. The property is now or formerly owned by Penfield Fire District and zoned Four Corners (FC). Application #22P-0012, SBL #139.06-2-49.1.

- Mr. Sangster explained that Staff is in receipt of a (draft) memo from Bergmann Associates, the consultant hired on retainer for a visual impact analysis. Staff is still reviewing the memo. The memo was provided to the Board in the drop.
- Chairman Hetzke asked if we are still waiting on the report from the other consultant. Mr. Sangster responded yes; we are still waiting. Staff has reached out but has not heard back, but Staff is hoping to receive that shortly.
- Board member Kanauer stated that after reviewing the preliminary report (Bergmann) he was wondering if as part of the scope of the review we asked for alternative structures of the tower. Mr. Sangster responded that that was something that could be requested.
- Board member Kanauer commented that the consultant referred to “properties that are on the national register” and then listed the Penfield Road Historic District. Board member Kanauer believes it is the Penfield Four Corners Historic District that is impacted - not just Penfield Road but also Five Mile Line Road.
- Mr. Sangster clarified that there are two separate historic districts. District 2 is a cluster of properties on Penfield Road starting with the Penfield Baptist Church and reaching up to just before Peachtree. There is a separate historic district that runs Five Mile Line Road from the Penfield-Perinton town line up to 1932 Five Mile Line Road, just north of Whalen Road. They are two separate districts that will both be visually impacted. The Board members asked that this fact be clarified in the Consultant’s final report.
- Chairman Hetzke stated that he would like to ask the Applicant what the absolute lowest height is that would be feasible. Mr. Sangster responded that they could ask, but it may also be a part of the technical analysis being completed by the other consultant.
- John Mancuso, the Board’s Attorney, explained that before tabling the application, the Board needed to acknowledge the extension of the FCC Shot Clock. At the time of the last meeting, work was being done to retain consultants – one for the Planning Board and one for the Zoning Board of Appeals, relating to the valuation of the methodology for RF coverage data. That study is still in process. The preliminary report was

delivered to the Applicant for review. Based on the feedback from tonight, it will likely be supplemented so there will be a couple of deliverables to get back to this Board. In light of the outstanding issues, Mr. Mancuso has spoken with the Applicant’s counsel, and they have agreed to extend the FCC Shot Clock to August 12, 2022, which will be the day after the Planning Board’s August meeting.

The Board voted and approved the extension of the Shot Clock to August 12, 2022.

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

The Board voted and **CONTINUED TABLED** the application for Site Plan approval and Conditional Use Permit pending the results of the third part review.

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

5. T.Y. Lin International Engineering & Architecture, P.C., 255 East Avenue, Rochester, NY 14604, on behalf of McDonald’s USA, LLC, requests under Chapter 250, Article XII-12.2 of the Code of the Town of Penfield for Preliminary and Final Site Plan for the proposed construction of an additional drive-thru menu board adjacent to the existing drive-thru location, a small building addition, and associated site improvements on ±1.12 acres located at 1850 Empire Blvd. The property is now or formerly owned by McDonald’s USA, LLC, and zoned General Business (GB). Application #22P-0014, SBL #93.02-1-23.2.

- Board member Burton recused himself from this application.
- Mr. Sangster stated that Staff has been in communication with the Applicant and revised plans and responses to comments were received this afternoon. Staff has not had time to review those responses, but they have been uploaded as part of the drop.
- The Applicant understands that the Board and Staff will need time to review the revisions.

The Board voted and **CONTINUED TABLED** the application for site plan approval pending the review of the recent submission of revised plans and responses to comments.

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

IV. ACTION ITEMS: (Administrative)

V. HELD ITEM:

VI. NEW BUSINESS:

There being no further business before the Board, the meeting was adjourned at **8:15 PM.**

These minutes were adopted by the Planning Board on Thursday, June 23, 2022.

FILED
PENFIELD, N.Y.
2022 JUN 24 AM 10: 18
AMY M. STEKLOF
TOWN CLERK