

The Planning Board held a meeting at 6:30 PM local time **Thursday, June 23, 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: Kelly Aken
Jim Burton
Bob Kanauer
Terry Tydings

ALSO PRESENT: Mark Valentine, Town Engineer
Michael O'Connor, Assistant Town Engineer
Lori Gray, Board Secretary
Peter Weishaar, Planning Board Attorney

ABSENT: Allyn Hetzke, Jr., Chairman
Doug Sangster, Town Planner
Catherine DuBreck, Junior Planner

II. APPROVAL OF MINUTES:

The Board voted and **APPROVED** the draft meeting minutes for June 9, 2022.

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Absent	
Aken			Aye	
Burton			Aye	
Kanauer		X	Aye	
Tydings	X		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. Valentine explained that no additional materials have been received from the Applicant. We are still waiting on their response to the Board’s determination regarding residential and non-residential uses.

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*).

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Absent	
Aken	X		Aye	
Burton			Aye	
Kanauer		X	Aye	
Tydings			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. Valentine explained that updated responses have been received from the Applicant since the last meeting. Updated plans were received on June 17, 2022.
- Mr. Valentine explained that the drop inventory also contained the draft SEQRA Determination – a Negative Declaration for the Board’s consideration as well as a Draft Approval Resolution.
- Board member Burton stated that with the SEQRA Determination, it has come to our attention that there are some numerical errors in the document that need to be reviewed and corrected. Mr. Valentine responded that Staff pulled numbers from the original application which have likely changed as the project has evolved. He added that the Staff would confer with the Applicant and make sure those numbers are solidified.
- Board member Burton stated that the Board is prepared to approve the SEQRA Determination for that application pending the corrections and resubmittal to the Board for its final review.
- Mr. Valentine asked if the Board had comments on the Draft Approval Resolution.
- Mr. Weishaar stated that the Draft approval Resolution is still a work in progress. Mr. Valentine responded that Staff is still filling in the findings, but the rough template was there, standard conditions, items specific to the project, etc.
- Mr. Valentine explained that one item he wanted to present for the Board’s

consideration was that Staff is working with Barton & Loguidice, the Board's traffic consultant for these projects as well as an overall corridor study for the Town given the amount of potential traffic to be generated from these applications. The projects are looking at their own individual impacts and mitigations while the Town is looking at the entire corridor, working with the NYS DOT.

- Mr. Valentine asked the Board if there should be a “place holder” in the resolutions, as these applications are completed, that the developers will help contribute to the *overall* traffic mitigation. Some are doing it already with their applications, but should it be a standard condition moving forward? That way, any new applicant that comes in, understands from the beginning that once we get the whole plan in place, this is what needs to be done and each developer pays their proportional share of those impacts.
- Mr. Valentine explained that this can be handled as a Letter of Credit item. In subsequent phases, etc. they understand that the Town may look to have them provide some monetary contributions to those overall traffic improvements that will be needed.
- Board member Burton responded that this should probably be a standard condition for all mixed-use applications, as best as you can word it, until we get the completed Corridor Study from Barton & Loguidice. Mr. Valentine agreed that as we move forward, it will be a standard condition for all applications that they help contribute, with a proportional share based on ITE, traffic generation.
- Mr. Valentine referenced LUAMP (Land Use and Access Management Plan), down in the 250/441, Lloyd's Corners area, which is a traffic generated impact fee where rear access lanes and other things help offset their cost. This would be a similar situation.
- Board member Burton asked if it was reasonable to expect that Staff would have the Corridor Study in place and be able to estimate the financial impact of the recommended improvements in time to negotiate the Letters of Credit for the two applications currently up for approval. Mr. Valentine responded it's probably not likely. He wanted to put it out there as future phases of the developments happen, but no, there isn't a cost at this point.

- Board member Kanauer stated that the Applicant has previously stated that they were going to capture the location for EV charging stations on the plans. He wanted to be sure that we get that information.
- Board member Kanauer stated that he'd like to make a motion to approve the SEQRA Determination pending the changes. Board member Burton responded that given Chairman Hetzke's absence and corrections that need to be made, it is prudent to wait.
- Mr. Valentine stated that the Board has the SEQRA Determination as well as the Draft Approval Resolution, so if the members have any additional comments, we can work to tighten those up and have all that ready to go for the July meeting.
- Mr. Weishaar stated that the SEQRA document is closer to being ready, aside from the changes Mr. Burton mentioned. If there were comments about conditions in the Draft Approval, that you wanted to share, this is a good time. He thinks that by the next meeting, the whole thing could be approved formally.
- Board member Burton clarified that they were talking about findings of fact and not conditions of approval.

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)			Absent	
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. Valentine explained that the Applicant received approval from the ZBA for their height variance which was one of their outstanding items.
- Mr. Valentine stated that a draft Negative Declaration and draft Approval Resolution were both prepared for the Board’s consideration.
- Board member Burton asked the other members if they had a chance to go through the SEQRA Determination and all responded that they were satisfied.

The Board voted and **ADOPTED** the Parts 2 and 3 EAF and the Negative Declaration; accordingly, the submission of a Draft Environmental Impact Statement will not be required.

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

- Mr. Valentine stated that Staff is still working on the findings for the draft Approval Resolution. He also reiterated his earlier comment about the traffic mitigation on Route 250, that the Board consider adding that as a condition of approval.
- Board member Burton asked if the other members had any other conditions to add.

- Board member Tydings responded that he was good, and then asked if they are adding the traffic comment. Board member Burton responded that the traffic mitigation condition will be a “loose condition” that will tie to a Letter of Credit that will acknowledge that the Applicants may have some responsibility toward the contribution of the impact of the corridor from the mixed-use developments. Mr. Valentine added that he will be working with Counsel to craft that language.
- Board member Burton stated that he has gone through the conditions and met with Staff, and he is satisfied that the conditions are there, including the additional traffic mitigation condition that was discussed, and they adequately address the application and the information and testimony given. That Draft Approval Resolution is in the same place as the Arbors in that the findings of fact are mostly placeholders that need some numerical, etc. information to complete those findings.

The Board voted and **CONTINUED TABLED** the application for Subdivision and Site Plan approval pending the completion of the Draft Approval Resolution for the Board’s review and consideration.

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Absent	
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. Valentine explained that revised plans and a response to the Bergmann Review were received yesterday, too late for the Board to review prior to this meeting but was included in the drop for the Board’s consideration. The RF Analysis was also included in the drop. Staff is still waiting for the Zoning Board to make a determination on whether it is a viable use in the Four Corners District or not, whether they grant that special use permit.
- Board member Kanauer stated that he’d seen the comment about the ZBA considering holding a special work session. Mr. Valentine responded that he wasn’t sure if they scheduled that meeting or not as he thought they might be waiting for additional information as well.

- Mr. Weishaar stated that he didn't have any additional information, though the special meeting is still a possibility.

The Board voted and **CONTINUED TABLED** the application for Site Plan and Conditional Use Permit approval pending the determination of the Zoning Board of Appeals.

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Absent	
Aken			Aye	
Burton			Aye	
Kanauer	X		Aye	
Tydings		X	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. Valentine explained that updated plans were received from the Applicant. The plans show a turning template for the truck internally and how they would circumnavigate the site for deliveries.
- Mr. Valentine asked if the Board is comfortable with the greenspace area to the south. The turning template shows that a truck would go through a portion of that area. He asked if the Board is comfortable with it remaining striping as they do meet the greenspace requirement.
- Board member Tydings asked the other members if they are comfortable with that, and they responded yes. Mr. Valentine responded that they would leave that area striped.
- Mr. Valentine stated that the other item Staff had concerns about was the annual plantings that were notated on the site plan (in the hatched area). The concern is maintenance after the first year when they are planted. Staff recommends some sort of perennial or shrub that is lower maintenance. He added that this can be a condition that can be handled in the pre-mylar phase. The Board members all agreed.

The Board voted and **APPROVED** the adoption of a completed Short EAF pursuant to SEQRA.

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

The Board voted and **APPROVED** the application for Preliminary and Final Site Plan with conditions.

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

6. 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.

- Mr. Valentine explained that Staff is still waiting on responses to comments and revised plans from the Applicant as well as the Engineers Report and SWPPP before the project moves too far ahead in the event things need to be expanded or changed.
- Based on the last meeting, the landscape plans were sent to the Landscape Consultant, and a response was received back. The traffic study and architecturals were also sent to the Traffic Consultant and Architectural Consultant. Staff is waiting on responses to these reviews and will provide them as they are received.
- Board member Burton stated that the Board also asked the Applicant for a parking justification analysis. He isn't sure how Barton & Loguidice adequately reviews the Traffic Impact Statement without an understanding of whether or not they are reducing that large amount of surface lot. It will probably have to go back to Barton & Loguidice after they resolve how many parking spaces they really need and how many the Board is poised to accept.

- Mr. Valentine explained that one of the items of discussion they wanted to bring to the Board was the opening in the drive-thru line from the parking lot. Does that open up the potential from people to zip through the parking lot instead of going around? Staff checked with the Fire Marshal, and he didn't have any concerns with closing that entrance off and forcing people to go all the way around the outside. This also extends additional queuing. If you happen to pull into the parking lot, you can still get to that rear access. Part of this would be to remove the parking on the north end so that doesn't have to be a two-way road. There would be one junction point at the entrance into the queuing line and ultimately reduce some of the conflict points within the site and get rid of the option for people to cut through the parking lot and create issues with pedestrians.
- Mr. Valentine also stated that just like the MUD applications, this project will generate a lot of traffic and being in LUAMP (Land Use and Access Management Plan) they would be charged a traffic impact fee. They are making some adjustments and connections internally, but what does their traffic do to the overall Route 250 corridor? That fee could go into paying for improvements in other locations, turn lanes, etc.
- Board member Burton stated that since these are private roadways and the Town has had difficulty with maintenance for many years, a Property Maintenance Agreement needs to be in place that is enforceable.
- Board member Tydings asked if there was an answer on the parking. Board member Burton responded no, the Applicant said they would get back to the Board on that. Mr. Valentine added that Staff has concerns with how much parking they are looking to put in based on what they say they need, versus what they are showing on the plans. It's an excessive amount of parking for what is being proposed.
- Board member Tydings asked if it is two separate lots. Mr. Valentine responded that it is two separate parcels.
- Board member Kanauer asked if all the parking was utilized, was the retention and water quality addressed properly for that many spaces? Mr. Valentine responded that at this point we don't know; that's what they are waiting to determine when the SWPPP and Engineers Report are submitted. Without the calcs it is hard to tell.
- Board member Aken asked about the queue time and Board member Burton responded that it's not really germane for the Factors for Consideration, but he asked because the industry keeps tabs on how long it takes for somebody to get from order placing to pick up. That is tracked by minutes and seconds and there is an industry target they try to reach.
- Mr. Valentine stated that the connection they have at the traffic light at the south end (through internal roadways and between Panera and Jeremiah's) was not mentioned in the traffic consultant's report. He didn't see where that was noted anywhere but that it should be considered as a point of entry and exit.
- Board member Burton added that if they do that, there would be a number of traffic calming measures that would need to be put in place as that area is not designed for that kind of traffic flow from the north.

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

<u>MEMBER</u>	<u>MOTION</u>	<u>SECOND</u>	<u>VOTE</u>	<u>COMMENTS</u>
Hetzke (Chair)			Absent	
Aken			Aye	
Burton	X		Aye	
Kanauer			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 **7:06 PM**.

These minutes were adopted by the Planning Board on Thursday, July 14, 2022.

FILED
PENFIELD, N.Y.
2022 JUL 15 AM 9:27
AMY M. STEKLOF
TOWN CLERK