



November 13, 2020

Town Board  
Town of Penfield  
3100 Atlantic Avenue  
Penfield, NY 14526

**Re: 2146 Fairport Nine Mile Point Road  
T.A. #140.01-2-71**

**2735**

Dear Board Members:

On behalf of Northwood Real Estate Ventures LLC, applicant for the above-referenced property, we submit the enclosed application to the Town Board requesting final site plan approval for the proposed development, utilizing Incentive Zoning for the bulk lot standards, and conditional use permit for the proposed restaurant use. We request to appear at the next available Town Board public hearing, and we enclose four (4) sets of the following application materials:

- Letter of Intent:
  - Includes Site Plan Approval Standards Factors for Consideration
  - Includes Conditional Use Approval Standards Factors for Consideration
- Site Plans
- Engineer's Report (3 copies)
- Application Fees:
  - \$1,225 (\$175/1,000 GFA) Application
  - \$100 Advertising Fee
  - \$10 Sign Posting Fee
- Short EAF
- Electronic pdf copy of application materials (emailed)

The proposal is for final site plan approval for the proposed development of the property with a ±3,500 SF Burger King fast food restaurant with drive-thru, along with a ±3,500 single-story general office building and the associated site improvements. The property at 2146 Fairport Nine Mile Point Road is located within the Business Non-Retail (BN-R) zoning district. The Burger King restaurant will be located on the NYS Route 250 frontage, with the office building located to the eastern portion of the site. The plan is consistent with the sketch plan reviewed with the Town Board at your October 28, 2020 workshop session.

Access will utilize the existing entrance onto NYS Route 250, which also serves the development to the south of the site. The main access drive provides access to the Burger King parking area, drive-thru lanes, and parking area for the office building. The site plan layout provides for future access to the two tax parcels to the north in conformance with the Town's LUAMP requirements.

Utilities will be extended from existing water and sanitary mains on site. A MCWA watermain extends into the site from NYS Route 250, which is able to serve both buildings. Sanitary sewer will involve extending the dedicated sewer from an existing manhole to the north of the project site, which will provide for sanitary lateral connections from both buildings.

Stormwater will be conveyed to a pond to be constructed on the property to the north of the site. Through discussions with Town Engineering staff, a regional pond approach is proposed. The existing pond will be expanded to be able to serve this new development, along with future development of the property to the north of this project, and also serve the existing properties that currently drain to it. The expanded pond will provide the necessary water quantity and water quality controls for stormwater runoff.

The proposed site plan is a modification from the previously approved development of two buildings, a ±4,500 SF retail building, and a ±4,500 SF general office building. The property received Incentive Zoning and Site Plan approval from the Town Board on December 19, 2018 (TB Resolution #18T-214). Parking was approved at 54 spaces total for both buildings and the greenspace was approved at 26.8%.

The current site plan proposal provides a reduction from the 9,000 SF of building previously approved. A total of 40 parking spaces are provided, which reflects the reduction in building square footage and also the fast food/drive-thru use. Fast food restaurants are typically not a large parking generator. Green space is proposed at 30.4 %, an increase from the previously approved site plans. As discussed at the October 28 workshop session, parking has been provided based upon the practical need of the tenants. We request the approval of the 40 parking spaces under the Incentive Zoning of the property.

The front setback, from the Rt. 250 right-of-way, is 74' to the front of the restaurant. Side setbacks of 20' are provided meeting the BN-R standards. The office building to the rear of the site is located to provide 77' from the rear of the building to the eastern property line. This maintains the required buffer to the residential district to the east and is consistent with the previously approved plans. As with the original site plan approval, any specific uses for this general building will be subject to the Conditional Use Permit Process, if required by the BN-R zoning ordinance.

As required, we submit the following responses to the Factors of Consideration for site plan approval standards and conditional use permit approval standards:

**1. Site Plan Approval Standards in Chapter 250, Article XII-12.3: Factors for Consideration.**

- a. Adequacy and arrangement of pedestrian traffic access and circulation, vehicular traffic, parking, walkway structures, control of intersections with vehicular traffic, pedestrian convenience, and appropriate provisions for handicapped persons.

**Response: The layout for the proposed Burger King restaurant and general office building has been developed to accommodate the drive-thru lanes and access for the restaurant, while also maintaining the overall access to Route 250 and connection to the south. Access is also being provided for future extension to the properties to the north. This traffic circulation plan is in conformance with the Town's LUAMP recommendations. That also provides access to the proposed office building with parking area to accommodate its use. Accessible spaces have been provided at both buildings with accessible routes to both buildings, and additional sidewalks/crosswalks are proposed to accommodate pedestrian traffic around the site and to connect to the neighboring development.**

- b. Location, arrangement, size, architectural feature and design of buildings, lighting and signs. As much as possible, consideration should be given to noise sources, privacy and outdoor waste disposal locations.

**Response: Consideration of noise sources, privacy, and outdoor waste has been taken into account with the preparation of the modified site plans. The uses are consistent with other neighboring businesses and reflect similar businesses to the neighboring development to the south. Buffer is maintained to the residential district to the east with parking, traffic, and dumpster locations, all located in front of the office building away from the residential neighborhood to the east.**

- c. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between these and adjoining properties. Site plans should also show existing stands of trees on site.

**Response: The site plan intends to minimize encroachment into the existing wooded area along the eastern property line. The clearing limits are consistent with the previously approved plans. Additionally, we are proposing new trees to be planted along the eastern buffer area to help enhance the buffering provided by the existing wooded area.**

- d. In the case of an apartment house or multiple dwelling, the adequacy of usable open space for playgrounds and informal recreation.

**Response: Not applicable. The proposed uses of restaurant and office building are consistent with the surrounding development.**

- e. Adequacy of storm water, sanitary waste disposal, and public water facilities.

**Response: Water will be provided by connecting to the MCWA watermain on site. Sanitary sewer will be extended from dedicated sewer main north of the site. Stormwater will be conveyed to the proposed stormwater management facility and bio-retention area to provide the necessary water quality and quantity requirements.**

- f. Protection of adjacent properties and the general public against noises, glare, and unsightliness, or other objectionable features.

**It is not anticipated that the proposed development will generate noises, glare, or unsightliness, or anything out of context with the surrounding uses. Care was taken to maintain existing buffer to the residential zoned district to the east with additional tree plantings to enhance the existing buffer.**

- g. The effect of the proposed development on environmentally sensitive areas such as but not limited to wetlands, floodplains, woodlands, steep slopes, and watercourses.

**Response: The proposed disturbance for the development is consistent with the previous approved site plans. The site does not contain any Town EPODs for wetland, floodplain, steep slopes or watercourses.**

- h. Compliance with this Ordinance, Master Plan, Design and Construction Specifications, SEQRA, IBP, LWRP and any others.

**Response: The project has been designed in accordance with the Town's Business Non-Retail zoning district, and Design and Construction Standards. The application includes an Engineer's Report prepared in support of the project. The project previously received site plan approvals utilizing Incentive Zoning. The new development looks to modify the previously approved development.**

- i. Provisions for adequate drainage away from walls or structures.

**Response: The proposed grading and stormwater management design outlines how drainage will be handled with post-construction conditions. The proposed grading of the lot will utilize the overall stormwater management plan and conveys drainage away from structures.**

- j. Maintenance agreements, easements and other required legal documentation shall be approved by the Town Attorney.

**Response: These documents will be provided by the Town as necessary at the appropriate time.**

- k. The impact of the proposed use on adjacent land uses.

**Response: The proposed development will not affect adjoining land uses as the project is designed in accordance with the BN-R district uses and guidelines. Many of the adjacent land uses includes restaurants along with commercial and/or retail uses, which will not be impacted by the addition of the proposed fast food restaurant and office building.**

- l. The Planning Board finds that a proper case exists for requiring the developer to show on the plat a park or parks suitably located for playgrounds or other recreational purposes; and that a suitable park or parks of adequate size cannot be located in any such plat or is otherwise not practical. Therefore, a recreation fee, in lieu of construction of a park within a subdivision, shall be assessed on each lot in an amount established by the Town Board and same shall be paid prior to the issuance of a building permit and said requirement for the payment of the recreation fee shall be noted on the plat.

**Response: N/A as the project is a restaurant and office/commercial use, and thus a recreation fee should not be assessed. The project does not put a demand on Town recreation facilities as would warrant under General Municipal Law the assessment of a recreation fee.**

**2. Conditional Use Approval Standards in Chapter 250, Article XIII-13.3: Factors for Consideration.**

- a. The Planning Board finds that the project is in harmony with the general purpose and intent of this ordinance and the BN-R zoning district.

**The proposed development and modification to the originally approved site plans meets the purpose of the BN-R purpose. The Town Code describes the BN-R district as an area to provide various non-retail, service-oriented uses. The general office building proposed meets this description and is also consistent with the neighboring uses. The proposed fast-food restaurant use requires the Conditional Use Permit within the BN-R district, but is also not out of context with the neighboring fast food and fast casual restaurants of the Route 250 corridor.**

- b. The Planning Board finds that the project is not detrimental to adjacent properties because of its:
- i. Means of ingress and egress.

**Response: The project will utilize existing access points onto NYS Route 250. There is an existing access point already on site that is utilized by the overall development to the south also. Additionally, the access drive that extends into the site will continue to connect to the development to the south and provide a second point of connection to NYS Route 250, at a signalized intersection.**

- ii. Adequacy of parking facilities.

**Response: Adequate parking is provided for both the office building and the proposed Burger King restaurant. A total of 40 parking spaces are proposed, which are to be shared by both uses. This has been deemed acceptable by the Burger King operator as**

**an acceptable amount of parking based on their operational demand at other Burger King locations.**

- iii. Potential impact to both present and future uses.

**Response: The proposed development will not negatively impact either present or future uses. The uses are similar to existing neighboring uses in the area and will not deter from future development on the vacant property north of the project site.**

- iv. Compatibility with the general area in which it is to be located.

**Response: The proposed development is compatible with the general area that it is located. The restaurant is use consistent with the neighboring uses immediately adjacent and also within the general area. There are similar restaurant uses and professional office buildings within the immediate vicinity of the project.**

- v. Type and amount of signage.

**Response: The Burger King restaurant will have a pylon sign at the building and additional building mounted signage, along with site signage for wayfinding for the drive-thru. The office building is expected to have signage consistent with other general office buildings in the area.**

- vi. Potential noise level.

**Response: The noise levels generated by the Burger King restaurant and the office building will not be out of context with the neighboring restaurant and office uses, and will not be out of context with the uses along NYS Route 250 in the general area of the project. It is located in an area with other similar uses.**

- vii. Clear sight distance.

**Response: No change to the site distance provided by the existing access point onto NYS Route 250.**

- viii. Existing or proposed buffering.

**Response: The existing wooded area along the eastern boundary will be maintained to provide the required buffer distance to the residential zoned district. Additional tree plantings are proposed along the rear of the office building in order to enhance the existing buffer. The proposed buffer is consistent with the previous approved site plans also. The proposed restaurant use will be ±350' from the residential zoning district to the east.**

- ix. Proposed generation of noxious odors.

**Response: Noxious odors will not be produced by the proposed uses. The office building is not a use that produces odors, and the proposed Burger King restaurant will be equipped with typical filtering devices in compliance with the Building Code to remove odors from the restaurant exhausts.**

- x. Exterior lighting.

**Response: The site plans propose light poles to provide necessary illumination of the parking and driveway areas. In addition to that, the Burger King restaurant will be**



**equipped with typical building lighting and illuminated signage (to be a separate application to the Town).**

- xi. Proposed hours of operation.

**Response: The hours of operation of either the Burger King restaurant or office building will not be out of context with the neighboring uses, and the hours of operation for businesses and other fast food restaurants in the area.**

- c. The Planning Board finds this project not detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use or detrimental or injurious to the property and improvements in the neighborhood, or to the general welfare of the Town.

**The proposed development is consistent with neighboring uses and not out of context with area. It will not be detrimental to the health, safety, or general welfare of the community.**

We look forward to reviewing the application at the Town Board's next available meeting and request that the Town Board advertise for the required public hearing.

If you require any additional information, or if there are any questions, please contact our office.

Sincerely,  
BME ASSOCIATES



Michael Bogojevski, P.E.

/MB

Encl.

- c: Matt Lester; Northwood Real Estate Ventures LLC

# Short Environmental Assessment Form

## Part 1 - Project Information

### Instructions for Completing

**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

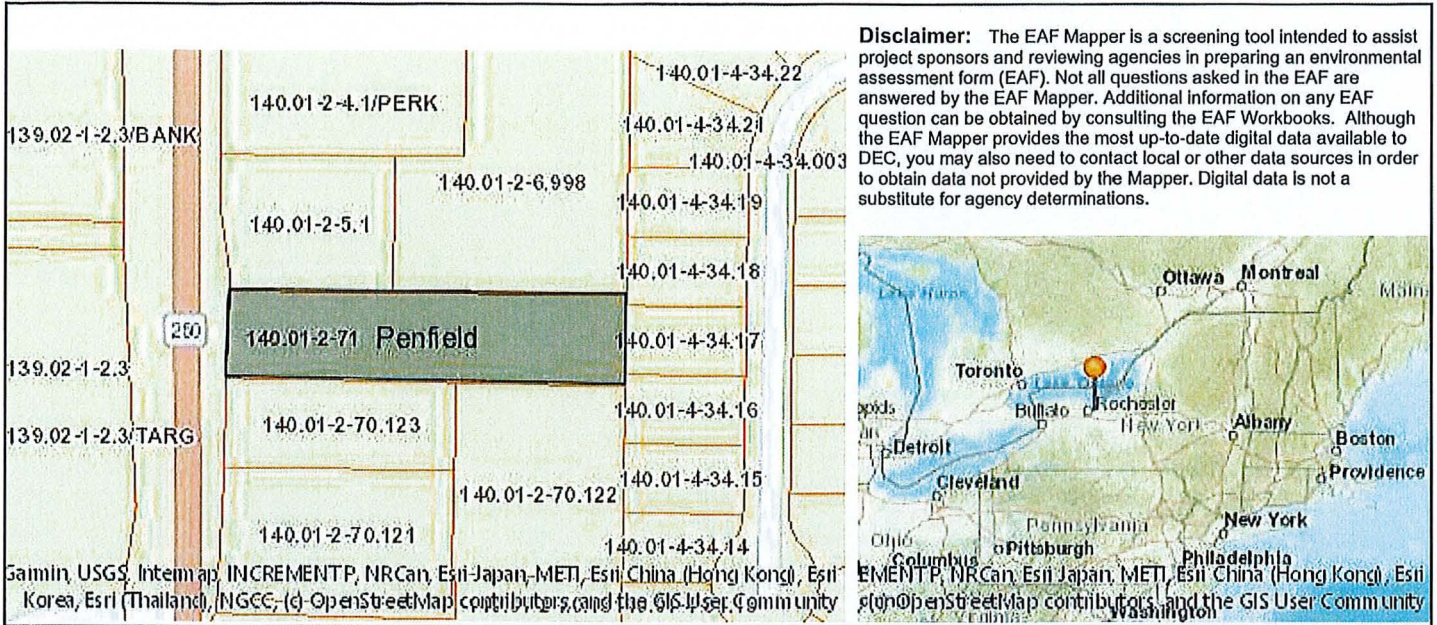
<b>Part 1 – Project and Sponsor Information</b>			
Name of Action or Project: 2146 Fairport Nine Mile Point Road			
Project Location (describe, and attach a location map): 2146 Fairport Nine Mile Point Road			
Brief Description of Proposed Action: Proposed +/-3,500 SF Burger King restaurant and +/-3,500 SF commercial building. Proposed site improvements will include the parking and access area to be constructed, the necessary utility connections, and the proposed storm water management area with bioretention area to be constructed.			
Name of Applicant or Sponsor: Northwood Real Estate Ventures LLC		Telephone: 585-454-4500 E-Mail: mlester@callberbrokerage.com	
Address: 45 Hendrix Road			
City/PO: West Henrietta		State: NY	Zip Code: 14586
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: Penfield TB - Site Plan, Incentive zoning, conditional use permit MCWA - Water; MCDOH - Sanitary			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action? <span style="float: right;">_____ 1.35 acres</span>			
b. Total acreage to be physically disturbed? <span style="float: right;">_____ 1.35 acres</span>			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? <span style="float: right;">_____ 1.35 acres</span>			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other(Specify): Retail			
<input type="checkbox"/> Parkland			

	NO	YES	N/A
5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	<input checked="" type="checkbox"/>
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	<input checked="" type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	<input checked="" type="checkbox"/>
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: <u>Will meet requirements.</u>	NO	YES	<input checked="" type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	<input checked="" type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	<input checked="" type="checkbox"/>
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO	YES	<input checked="" type="checkbox"/>
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ The project is within the EAF mapper vicinity of a class C stream, south east of the site. The project is not in the direct vicinity of the stream.	NO	YES	<input checked="" type="checkbox"/>



14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If Yes, briefly describe:  Stormwater will be conveyed to a new stormwater management facility. The facility will be an expansion of an existing pond and will act as a regional pond for this project and adjacent properties currently draining to the existing pond.		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: Proposed stormwater management facility and bioretention area for quantity and quality controls of stormwater runoff.	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>  Applicant/sponsor/name: <u>BME Associates (Michael Bogojevski P.E.)</u> Date: <u>11/13/20</u> Signature: <u><i>Michael Bogojevski</i></u> Title: <u>Project Engineer</u>		





Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

