**PLANNING BOARD DECEMBER MEETING MINUTES**

**MEMBERS:** Harold Fabinsky, Chairman

Nicholas Baich

Henry Heppner

Julia Mombrea

Philip Murray

Karen Byrne, Alternate

**EXCUSED:** Joseph Liberti, is on a leave of absence.

David Kaczor

Steven Bremer, Supervising Code Enforcement Officer

**OTHERS PRESENT:** Gene Majchrzak, Supervisor Elect & Senior Councilman

Remy C. Orffeo, Acting Planning Coordinator

Thomas Ostrander, Assistant Town Municipal Engineer

John Bailey, Deputy Town Attorney

Rose Messina, Planning Board Secretary

The Chairman announced exit procedures in the event of a fire alarm and called the Planning Board meeting to order at 7:00 P.M. in the Orchard Park Community Activity Center. He stated that if anyone appearing before the Board has a family, financial or business relationship with any member of the Board, it is incumbent upon that person to make it known under State law and the Town Code of Ethics.

Ms. Byrne, the Alternate member, will be voting in the absence of Mr. Liberti.

Upon a motion duly made and seconded, the reading of the July through November 2021 Planning Board Meeting minutes was unanimously waived as each Board Member had previously received a copy.

Mr. Baich made a motion, seconded by Mr. Heppner to accept the July through November 2021 meeting minutes as presented: July 8; August 12; September 9; October 14; November 9.

THE VOTE ON THE MOTION BEING:

FABINSKY AYE

BAICH AYE

HEPPNER AYE

MOMBREA AYE

MURRAY AYE

BYRNE AYE

THE **VOTE** ON THE **MOTION BEING UNANIMOUS**, THE **MOTION IS PASSED**.

**ADMINISTRATIVE ITEM**:

The Chairman called for a Board member to make a SEQR motion for P.B. File #20-18, Ellicott Development, “Holland Patio Homes”.

Mr. Baich made a **MOTION**, second by Mr. Fabinsky for the Planning Board to **SEEK LEAD AGENCY STATUS**. For this project.

THE VOTE ON THE MOTION BEING:

FABINSKY AYE

BAICH AYE

HEPPNER AYE

MOMBREA AYE

MURRAY AYE

BYRNE AYE

THE **VOTE** ON THE **MOTION BEING UNANIMOUS**, THE **MOTION IS PASSED**.

**REGULAR BUSINESS:**

1. P.B. File #09-2021, V/L Sterling Park, 235 Windward Road, located on the west side of Windward Road, Zoned I-1. Orchard Park Veterinary Medical Center is requesting a Planning Board recommendation to Town Board for Site Plan Approval and a Building Permit to develop a 34,000-sq. ft. Veterinary Clinic Building and a 1,250-accessory Maintenance Building with associated site improvements. Conservation Board approved Landscape Plan on 09/27/2021. (SBL#152.19-1-29.111)

**APPEARANCE:** Mr. Jason Utzig, C & S Engineers

Ms. Allison Raffaele, Administer of the Veterinarian Hospital

Mr. Utzig stated that the Petitioner wishes to construct a 34,575-sq.ft. Building, a 1,250-sq.ft. Maintenance Garage, 188-parking spaces, and move their current facility to this 11.5 +/- acre site. He presented the proposed Site Plan, and explained the project to the Board, noting that parking will be located on the Northeast, and South-side of the site. He briefly discussed the Stormwater Management proposed for the site and, also, noted that the Conservation Board had granted approval of the submitted Landscaping Plan. In addition, all necessary Erie County approvals for this project have been received. The Town of Orchard Park Engineering Department granted their approval on 12/08/21 for the Site Development Plans.

Mr. Orffeo stated that he spoke to Building Inspector Stephen Bremer, who reports that this project is Code Compliant.

Mr. Heppner established with the Administrator of the Veterinarian Hospital, Ms. Raffaele that they plan to sell their current location and relocate to the new building on Windward Road.

Mr. Ostrander, Assistant Town Municipal Engineer, told the members that the there are no issues with this project.

Chairman Fabinsky discussed the need for expanding and constructing the new building with Ms. Raffaele, and he asked if the new location will eliminate the problems they have at their current site.

Ms. Raffael stated that they are limited at the current site and cannot expand any further. The new building will accommodate their customer and employee parking needs and eliminate the limited space issues they have with the volume of patients they can attend to.

The Chair stated that the town valued having this widely used service available in our community.

Mr. Baich confirmed that this will be a one-story building, and that there are currently 206-employees at the Orchard Park Veterinary Medical Center.

Ms. Mombrea established that the facility sees approximately 200-patients per day, and that the maintenance building will store equipment, such as tractors, and weed whackers for upkeep of the site.

Mr. Heppner made a **MOTION**, seconded by Ms. Byrne to **RECOMMEND** that the Town Board **APPROVE** the presented **SITE PLAN** and **AUTHORIZE** a, **BUILDING PERMIT**, to construct a 34,000 +/- sq. ft. Veterinary Clinic Building and a 1,250 +/- Accessory Maintenance Building per the plan received on 11/16/2021, based on the following conditions and stipulations:

1. All public notices have been filed.

2. This is an Unlisted SEQR Action, based on the Short EAF submitted on 9/17/2021, and a Negative Declaration is made.

3. The site lighting is limited to those fixtures and poles indicated on the approved Site Plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.

4. No outside storage or display is permitted.

5. A Landscape Plan, received 9/17/2021, meets all Green Space regulations with 70.2% Green Space. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the $181,685 Landscaping Estimate Value shall be deposited with the Town Clerk. ($90,842.50) Conservation Board approval was granted on 9/7/2021.

6. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.

7. Town Engineering Approval was granted on 12/8/2021.

THE VOTE ON THE MOTION BEING:

FABINSKY AYE

BAICH AYE

HEPPNER AYE

KACZOR AYE

MOMBREA AYE

MURRAY AYE

BYRNE AYE

THE **VOTE** ON THE **MOTION BEING UNANIMOUS**, THE **MOTION IS PASSED**.

2.P.B. File #05-2021, 3330 Orchard Park Road, V/L located on the West side of Orchard Park Road South of Rte. 20, across from the Hammocks, Zoned B-2. (SBL#152.16-6-3 & 152.16-6-2). Petitioner is requesting Planning Board review of its SEQR determination for the project previously identified as a Type 1 action.

**APPEARANCE:** Mr. Chris Wood, Carmina – Wood – Morris

Mr. Sean Hopkins, Hopkins Sorgi & McCarthy Mr. Joseph Giannini, Project Manager, InSite Real Estate, LLC

Mr. Giannini stated that he was not present for the meeting where the Board determined the project as a “Type 1 SEQR Action”. He is here this evening, to understand the process, and the SEQR classification assigned to this project. He gave a brief history of the submissions that have been sent to the Town and other agencies for review, and noted that revisions were made to the plans as requested. They have, also, submitted a Wetlands Delineation, and a Traffic Impact Study (TIS) along with other requested documentation, and would like to have a better understanding of what is needed.

The Chairman stated that that the Board saw key issues and determined that this is a Type 1 SEQR Action. It is understood that this project is not specifically included in those examples listed as Type 1 Actions but noted that an Agency can make its own determination based on criteria it considers significant

Mr. Hopkins discussed a “Type 1 Action” versus an “Unlisted Action” with the Board. He would like the members to reconsider and change their determination to an “Unlisted Action”. He explained his thoughts regarding their determination further, and acknowledging that the Board has the authority to hire outside consultants to review the submitted studies, even when the determination is for an “Unlisted Action”.

Acting Planning Coordinator Remy Orffeo stated that the Boards’ SEQR determination is based on the concerns for the hundreds of potential environmentally unfriendly trucks hauling “fill” into the site.  He does not feel this will happen, but he also feels that the “Type 1 Action” is stronger than the “Unlisted Action”, and is needed in this project. He cannot envision moving forward with this project and not focusing, with due diligence, on both the substance being trucked-in, and the potential change created to the area. He further stated that he did not want to slow down the project and have this action added to the Town’s “Type 1 Action” list. He explained further that the Applicant, coming in for the additional review, has slowed down the project. His goal as the Planning Coordinator is always to have the best interest for the Town. He does not disagree with Mr. Hopkins, but he feels the “Type 1” gives the Board more strength. On the surface he feels this is a good project for the Town. His best recommendation is for the Town to have it as a Type 1 Action.

Chairman Fabinsky noted that the “Type 1 Action” decision guarantees the level of diligent review the Board may want. In agreeing with Mr. Orffeo, he also described already heavy traffic backup at the adjacent 5-way intersection during peak hours and poor driving conditions. He asked for Board discussion.

Deputy Town Attorney John Bailey stated that he also agrees with Mr. Orffeo.

Mr. Murray began to ask a question of Mr. Hopkins, however, Mr. Hopkins interjected the following: *“I think I can get this done real quick. I have heard Remy’s’ comments and I appreciate his effort to work with us. Given it is going to be the same review process, any objection that we had to the classification, let’s get over that. We will treat it the same; call it a “Type 1”. We want to work with you to move this project forward.”*

Mr. Giannini stated that he had not known that the fill material would be a concern. He feels this should not be an issue, as they have their own standards to insure that they are covered as far as in liability. Typically, they find a project where construction is taking place and have the fill that would be taken to a landfill, trucked to their site instead. They have parameters set in their Geo-Techno reports for the fill requirements, and also for the environmental concerns.

The Chairman stated that he is especially concerned for traffic during construction with trucks commuting back and forth compounding the back-up traffic that already exists at this location. He feels it is important to guarantee safety.

Mr. Giannini stated that the TIS, in their submitted package, covers the traffic impact. He is more than willing to review the TIS with the Board.

Mr. Heppner explained and described his concern for potential flood waters for this Type 1 SEQR Action, in the bridge area located on Lake Avenue.

Ms. Mombrea stated concerns for the fill and water problems reported by other towns afterwards. She feels this property needs a heightened review.

Mr. Wood stated that the fill will be placed at the back of the site and then tested by the Federal Emergency Management Agency (FEMA). FEMA has a criteria for the soil that must be met. This is in addition to what is normally practiced when you place fill at a site.

The Chairman confirmed that the soil will be tested by FEMA.

**SEQR Determination**

Mr. Fabinsky made a **MOTION**, seconded by Mr. Heppner, to **RECOMMEND** that the Planning Board maintain the declaration of this project as a **TYPE 1 SEQR ACTION.**

ON THE QUESTION**:**

Mr. Heppner stated that he feels this is a great project for Orchard Park.

THE VOTE ON THE MOTION BEING:

FABINSKY AYE

BAICH AYE

HEPPNER AYE

MOMBREA AYE

MURRAY AYE

BYRNE AYE

THE **VOTE** ON THE **MOTION BEING UNANIMOUS**, THE **MOTION IS PASSED**.

Mr. Wood discussed moving forward with the project and when it would be best for him to return.

He is advised to contact Acting Planning Coordinator, Mr. Orffeo.

3. P.B. File # 41-2021, 3856 Southwestern Boulevard, located west of Abbot Road with entrance and exit on the south side of Sheldon Road, Zoned B-2. (SBL # 161.09-4-9.1). First Alert Medical Pendant LLC is seeking permission for an Outside Display to operate a drive through COVID 19 testing site.

**APPEARANCE:** Mr. Josh Klein, Owner, First Alert Medical Pendant LLC

Mr. Tim Krieger, Owner, First Alert Medical Pendant LLC

The Applicants explained their request to have a temporary, outside, Drive-Through COVID rapid testing site. They told the members that they are capable of reporting the results to a client within approximately 20-minutes, by phone, or email. Customers will use Sheldon Road for ingress and egress into the site, minimizing the traffic on Abbott Road and Southwestern Boulevard.

The Boards’ questions established the following:

⦁ Appointments are not required, however, pre-registering is available on-line, or by phone for the test. Two varieties of tests are offered, and these were explained to the Board. (Antigen based testing and molecular testing.) If approved, they will be one of the few that offer this type of test in the Orchard Park area.

⦁ Their first site opened in February, 2020. They currently have 4-other locations, including West Seneca, North Tonawanda, Lockport, and Syracuse, New York.

⦁ Licensing is acquired from the NYS Department of Health, for a Clinical Lab license, which is for “out of the office laboratories”. The medical staff meet required levels, and are trained through a course to swab efficiently and obtain good quality samples. No license is needed for this.

⦁ This is a fairly quick process and they manage approximately 100-people per day. Results are e-mailed or called-in to a customer within 15 to 20-minutes. E-mail is always sent as a record of the test result. There is no need to wait at the testing site for the results, as they like to keep the traffic flowing.

⦁ They are open from 8:00 AM, through 7:00 PM, 7-days per week.

⦁ It was established that the site has ample lighting during the evening hours.

⦁ Signs encourage individuals to stay in their vehicles.

Ms. Mombrea made a **MOTION**, seconded by Ms. Byrne, to **GRANT** an Outside Display Permit, for “a drive-through COVID testing site”, based on the following:

1. All public notices have been filed.

2. This is a Type II SEQR action and therefore no SEQR determination is required.

3. The submitted letter of intent and location plan indicate there will be; 20ft x 8ft “work shanty”.

4. All signage must be approved by the Building Inspector.

5. If any issues or complaints arise, the Building Inspector is to submit a report to the Planning Board detailing the complaint.

6. The Outside Display will be from 12/10/2021 through 12/31/2022.

THE VOTE ON THE MOTION BEING:

FABINSKY AYE

BAICH AYE

HEPPNER AYE

MOMBREA AYE

MURRAY AYE

BYRNE AYE

THE **VOTE** ON THE **MOTION BEING UNANIMOUS**, THE **MOTION IS PASSED**.

**CONCEPT REVIEW**

1. P.B. File #20-21, Alliance Homes, proposed 5-Lot Subdivision”, located on the south side of Seufert Road, Zoned A-1. (SBL# 197.00-4-2.11) Pre-Application Findings were made on August 12, 2021. (Informational Purposes – No Action will be taken.)

APPEARANCE: Mr. Andy Romanowski, Alliance Homes

Mr. Sean Hopkins, Attorney, Hopkins, Sorgi, McCarthy

Mr. Chris Wood, Carmina ⦁ Wood ⦁ Morris

Mr. Bill Burke, Alliance Homes

The Chairman commented on the Applicants’ appearance for a “Concept Review”, regarding the proposed 5-Lot Subdivision. He noted that a public hearing that had taken place on November 9, 2021, and a number of questions and comments were voiced, by the residents in attendance that needed to be addressed.

An updated Site Plan for the proposed subdivision was distributed to the members for their review.

Mr. Hopkins explained that the proposed project, meets all Town Ordinances.

Mr. Romanowski told the members that they met with the residents and had a “meeting of the minds” regarding this project. He concluded that the project has been redesigned to their satisfaction.

Mr. Burke will provide the Town with a summary letter from both utility companies in January, 2022.

The Chairman stated he finds the changes are impressive, and each Board member thanked Mr. Romanowski for his reaching out to the residents and addressing their concerns.

Acting Planning Coordinator stated that this project is scheduled for a Public Hearing at the January 13th, 2022 meeting.

There being no further business, the Chairman adjourned the meeting at 8:03 P.M.

DATED: 12/22/2021

REVIEWED: 12/31/2021

Respectfully submitted,

Rosemary Messina

Planning Board Secretary

Harold Fabinsky

Planning Board Chairman