

PLANNING BOARD MAY, 2024, MEETING MINUTES

MEMBERS: Harold Fabinsky, Chairman
Nicholas Baich
Dr. Gregory Bennett
Henry Heppner
David Kaczor
Alex Long
David Mellerski, Alternate
Philip Murray

OTHERS PRESENT: Remy C. Orffeo, Acting Planning Coordinator
Thomas Ostrander, Assistant Town Municipal Engineer
Thomas Minor, Supervising Code Enforcement Officer
John Bailey, Deputy Town Attorney
Rosemary 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.

Chairman Fabinsky stated that the March and April 2024 meeting minutes are not available at this time. He also stated that Mr. Baich has excused himself from Item #7, and that the Alternate member, Mr. Mellerski, will vote in this matter.

OLD BUSINESS:

- 1. P.B. File #17-24, 3009 Union Road, parking lot of Dollar General Store, south east corner of Michael and Union Roads, Zoned B-2. Keystone Novelties is requesting Planning Board approval for an Outdoor Tent Display to sell fireworks, 6/21/2024 through 7/05/2024. (SBL#152.12-2-7)

ATTENDANCE: No one was present.

The Board tabled their review of this item.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
LONG	AYE
MURRAY	AYE

THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION TO TABLE IS PASSED.

- 2. P.B. File #08-2024, 3847 Southwestern Boulevard, located on the south east corner of Southwestern Boulevard and Abbott Road, Zoned B-2. Bills' Babes, is requesting a two-year renewal for an Outdoor Display Permit for an Art/Craft Show in the Prohibition Restaurant parking lot. Tabled at April Meeting. (SBL# 161.00-5-18).

APPEARANCE: Megan, representing Bills' Babes

Megan explained to the members that everything is the same except for the location of the tent. She requests that the permit be granted and renewed for two-years.

Chairman Fabinsky stated that he was very impressed with their event, noting that he found it to be well organized.

Mr. Baich made a **MOTION**, seconded by Mr. Kaczor to **GRANT** an Outside Display Permit, for Christina Newman to operate an exhibit & sale on **August 04, 2024**, at "Prohibition 2020", per the location plan received on 3/09/2024, and the following conditions and stipulations are to apply:

1. All public notices have been filed.
2. This is an unlisted SEQR Action and no SEQR determination is required.
3. There will be no additional outside lighting for the display or temporary structure.
4. There will be no banners or additional signage for this facility.
5. No more than 25 Participants, each located in a ten-foot section in front of the Building may display their goods for sale on August 4th, from 12:00 PM to 5:00 PM.
6. A renewal for a second year, 2025, is based on the discretion of the Building Inspector.
7. If any issues or complaints arise, the Building Inspector is to submit a report to the Planning Board detailing the complaint.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
LONG	AYE
MURRAY	AYE

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

3. P.B. File #11-2024, Tops Plaza, 3201 Southwestern Boulevard, "Bobs' Furniture", located in former Stein Mart store, Zoned B-2. Planning Board to review proposed signage. (SB#152.16-7-1.11)

APPEARANCE: The Applicant requested to be placed on the June 6, 2024 Agenda.

The Board members voted unanimously to **TABLE** this item.

4. P.B. File #04-2024, Ellicott Development, 4297 & 4309 Abbott Road, located on the south east corner of Abbott & Big Tree Roads, Route 20A, across from "Danny's South", Zoned B-2. Proposed "Crosby's", Fueling Facility and Convenience Store. (SBL#'s 172.05-1-1.1, 172.05-1-36.2) An Area Variance was granted on 1/16/24. Planning Board to adopt a resolution to seek Lead Agency Status for a Coordinated Environmental Review of the project.

APPEARANCE: Mr. Sean Hopkins, Attorney
Mr. Jeremy Wassel, Ellicott Development

The Chair invited the members' to ask the Petitioners questions they may have regarding this project.

Thomas Ostrander, Assistant Town Municipal Engineer, discussed the NYS Dot response to their request to put in a curb cut on Route 20A (Big Tree Road).

Mr. Wassel discussed both the turning lane and curb-cut, noting that the NYS DOT has approved the Petitioners' request.

Mr. Ostrander asked to have the NYS DOT written approval provided to the Town Engineering Department.

Mr. Kaczor established that there will also be a curb cut on Abbott Road.

Mr. Hopkins stated that a Traffic Impact Study was performed, and that a copy is included in their Site Plan submission and request for the Special Use Permit.

Acting Planning Coordinator Orffeo confirmed with Mr. Hopkins that they would be placed on the Planning Board June agenda.

Mr. Kaczor made a **MOTION** seconded by Dr. Bennett, that the Planning Board declare themselves the **LEAD AGENCY** for this project.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
LONG	AYE
MURRAY	AYE

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

- 5. P.B. File #02-2024, 200 Sterling Drive, located in the Sterling Park Industrial Center on the north side of Milestrip Road, south of Red Tail Drive, Zoned I-1. Community Healthcare Trust is requesting Site Plan Approval and a Building Permit to expand parking. (SBL#152.19-1-23)

APPEARANCE: Mr. Chris Wood, Carmina – Wood Designs

The Board members did not have questions for the Petitioner.

Mr. Ostrander stated that the project has Town Engineering approval.

Mr. Orffeo confirmed that there will be 32-additional parking spaces created.

Mr. Heppner made a **MOTION**, seconded by Mr. Baich, that the Town Board **APPROVE** the presented Site Plan and **AUTHORIZE** a Building Permit, to construct a parking lot expansion for a net increase of 32-spaces to accommodate the current, and future tenant, per the plan received on 3/28/2024, 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 3/24/2024, 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. The Landscape Plan, received 2/16/2024, was approved with the Total Green Space meeting the Town requirement of 20%. In accordance with Section 144-44(c)(1)(a)(2) a Certified Check amounting to 50% of the \$27,775 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$13,887.50) Conservation Board approval was granted on 3/05/2024.
- 6. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
- 7. The Applicant is to provide the Town of Orchard Park Assessor with an “independent” appraisal for the completed project by a Certified Commercial Appraiser.
- 8. Engineering Approval was granted on 5/09/2024.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
LONG	AYE
MURRAY	AYE

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

- 6. P.B. File #20-2023, 4038 California Road, “Maple Grove Apartments”, located on the west side of California Road, south of Ellis Road, Zoned R-4. Planning Board to adopt a resolution to seek Lead Agency Status for a Coordinated Environmental Review of the project to construct an Apartment Complex consisting of 54-Units. (SBL#161.03-1-41)

APPEARANCE: Mr. Sean Hopkins, Attorney
 Mr. Andrew Romanowski, Petitioner/Developer
 Mr. Arron Romanowski, Alliance Homes

The Chair noted this is primarily an administrative action, as the Board is *declaring* itself Lead Agency, as there were no responses to the mail-out. He also noted that Mr. Kaczor had previously commented that he would like to see the project moved back from the roadway, and in response, the Petitioner has moved the nearest building 195-feet away from the road.

The Chairman stated that he appreciates this revision.

Mr. Ostrander commented that he has no comments at this time.

Dr. Bennett made a **MOTION**, seconded by Mr. Kaczor, that the Planning Board declare themselves the LEAD AGENCY for this project’s SEQR Action.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
LONG	AYE
MURRAY	AYE

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

7. P.B. File #15-2024, 3740, Wayland Brewing Company, located at the Northwest corner of North Buffalo and Webster Roads, Zoned B-3. Petitioner is requesting an Outside Display Permit for live music on Thursday early evenings, and Sunday afternoons, and for other occasions, such as Festivals or Special Events. The music will not be amplified. Note: Adjourned at April Planning Board meeting. (SBL#161.08-3-34.1)

Mr. Baich recused himself from this review.

APPEARANCE: Mr. Ryan Cam, Attorney
Ms. Caryn Dujanovich, Owner

The Petitioner explained that, Wayland Brewery had hosted several live bands in their courtyard, and the neighbors found it disruptive. At this point, they would like to find a solution to allow live “acoustic” performances in their courtyard. Mr. Cam explained that the performances would be limited in both the time they would be allowed and also the nature of the performances. It is his client’s intention to provide background music, not “concerts”. They are requesting microphones, as in an outdoor setting, some performers will not perform without them. They will limit the times they have performances, however, it is difficult to give exact dates due to the nature of scheduling these events.

The Chair clarified with Mr. Cam that the proposed dates and times might not have performances, however, performances would not be permitted outside of those times. The Chair inquired about microphones. Mr. Cam explained that the intention of the microphones was to allow the proper balance of voice to instrument mix, not to create a loud volume of music.

Building Inspector, Tom Minor, noted that similar events at other businesses have not sought Planning Board Approval and he believes the complaints were related to loud “rock and roll” type performances. The Chair asked for his recommendation. It is Mr. Minor’s opinion that if the Petitioner can stay within the parameters that the Board can agree with, they should be approved.

Dr. Bennett inquired about having talent perform indoors. Ms. Dujanovich stated that the indoor venue is booked pretty consistently during the summer and so they would not be able to utilize it for this. Mr. Cam stated that the intent is to keep the music to the level that it would not interrupt conversation. Dr. Bennett stated his opinion that the best way to accomplish this would be to not allow microphones. Mr. Cam stated that it was nearly impossible to book talent without microphones.

Mr. Long is not opposed. He feels that it was unlikely for the music to be too loud, as that would not be in keeping with the nature of the courtyard. He also noted that music is currently played through speakers, and he feels live music would not be more disruptive.

Mr. Kaczor appreciates that the Petitioner admitted to mistakes. He stated that the Board wants every business in Orchard Park to be successful, however, they also want to be respectful to neighbors. He is not opposed to music, however he feels that the Petitioner must hold the talent to task to make sure they do not

increase the volume of music too much. He also feels the Petitioner should be closely monitored by the Building Inspector.

Mr. Heppner agreed with Mr. Kaczor that he appreciates the Petitioner admitting to making mistakes. He also appreciates that the Petitioner is willing to be flexible to find a solution in keeping with the character of the neighborhood.

Mr. Mellerski stated that he feels he can support this permit, provided the amplification is kept to a reasonable level.

Mr. Murray noted that this restaurant abuts a residential area, so the needs of the residents and the business must both be considered. Mr. Cam stated that their immediate neighbors, with the exception of one, were businesses, and they have good relationships with those neighbors. With regard to the one residential neighbor, they are hoping to accommodate them by limiting themselves to the parameters proposed in terms of time limits and limits to the type of music played.

Mr. Kaczor suggests that the Applicant pay attention to the potential of music to “bounce off” surfaces, and locate performers to limit that effect stating that they may have to try different spots to find the best location.

The Petitioner was in agreement.

The Chair inquired about the potential for music inside, and how often their venue is booked.

The Petitioner stated that it is difficult to predict music events open to the public. Perhaps in their off season it may be possible inside. The Chair established that the Petitioner is requesting music be allowed no earlier than noon, and no later than 9:30 P.M. on Sundays, and no later than 10:30 P.M. on Fridays and Saturdays.

The Chair noted that the Building Inspector will monitor the noise levels closely.

Mr. Kaczor made a **MOTION**, second by Mr. Long to **GRANT** an Outside Display Permit, for live Acoustic Music at 3740 North Buffalo Road, based on the location plan received 3/28/2024 and the following conditions and stipulations are to apply:

1. All public notices have been filed.
2. This is a Type II SEQR action and therefore no SEQR determination is required.
3. There will be no additional outside lighting for the events.
4. There will be no banners or additional signage for this facility.
5. Security and sanitation facilities shall be provided by the Petitioner.
6. Granted for 1 year, from April 14th, through September 30th 2024, based on the following:
 - a. Music and performers will not be amplified.
 - b. Start date, May 14th, 2024 through September 30, 2024. (Spring/Summer months on Thursday early evenings, Sunday afternoons, and for other occasions, such as Festivals, or Special Event circumstances, in the back Outdoor Courtyard, locations identified as #1 and #2 on sketch plan.
 - c. The hours of operation are to be no earlier than noon and no later than 9:30 P.M. on Sundays and no later than 10:30 P.M. on Fridays and Saturdays.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	RECUSED
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
LONG	AYE
MELLERSKI	AYE
MURRAY	AYE

THE **VOTE ON THE MOTION BEING SEVEN (7) in FAVOR** and **ONE (1) RECUSAL**, THE **MOTION IS PASSED**.

8. P.B. File#19-2024, Birdsong “Part 2” Subdivision, proposed traditional subdivision, consisting of 51-Single Family Building Lots, Zoned R-1. Applicant is requesting Planning Board to make PreApplication Findings. (This is not a CMO.)

APPEARANCE: Mr. David Capretto – Forbes Capretto Homes
Mr. Sean Hopkins – Attorney

The Chair explained that this was largely an administrative action.

Mr. Orffeo clarified that Part 2 is not a CMO. Mr. Hopkins further explained that this had previously been proposed as a CMO, however, the plan changed, and the CMO is now being proposed for Part 5, and this portion is being presented as a traditional subdivision with 51-lots.

Mr. inquired about traffic on Rock Dove Lane during construction. The Petitioner stated that there would be temporary access through Transit Road and they had spoken to contractors to insure they drive carefully and slowly. The Petitioner stated that the road is strong enough to support heavy equipment.

Mr. Bennett made a **MOTION**, Seconded by Mr. Kaczor that the Pre-Application Findings are made based on the submitted Survey received 4/12/2024 and the Applicant has detailed:

- The total acreage is 75.3 +/- acres.
 - The desired zoning classification is R2 Zone.
 - The number of possible stages of completion is one.
 - The applicant's position with respect to title is “Owner”
1. All public notices have been filed.
 2. The zoning will remain as is.
 3. Access to surrounding properties is through Rock Dove Lane.
 4. Recreation fees will be provided in accordance with Section 144-70E of the Town Code and shall be paid, or provided, prior to the Final Plat Plan Public Hearing.
 5. Subdivision Development fees, per Section 144-70D of the Town Code, shall be paid prior to the Preliminary Plat Plan Public Hearing.
 6. Public Hearing fees shall be paid prior to the Preliminary Plat Plan Public Hearing.
 7. The Applicant has completed and submitted the Long EAF, for this Unlisted SEQR Action.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
LONG	AYE
MURRAY	AYE

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

- 9. P.B. File #01-2024, 4956 & 4968 Chestnut Ridge Road, V/L north westerly corner of New Armor Duels and Chestnut Ridge Roads, Zoned B-2. Miranda Holdings, Inc. is requesting a “Special Exception Use Permit” to operate a Drive-through Service Facility for a proposed “Tim Hortons”. Town Board referred to Planning Board on 3/6/2024. (SBL#’s 172.20-1-17 & 172.20-1-16)

Mr. Heppner made a **MOTION**, seconded by Dr. Bennett, to recommend to the Town Board to **DENY** the request for a Special Exception Use Permit, as follows:

Regarding Miranda Holdings, Inc. the Planning Board recommends to **DENY** the request for a “Special Exception Use Permit” to operate a Drive-Through Service Facility for a Tim Hortons at 4956 & 4968 Chestnut Ridge Road, V/L north westerly corner of New Armor Duels and Chestnut Ridge Roads, Zoned B-2, based on the following:

WHEREAS, pursuant to Town of Orchard Park Zoning Ordinance (“Ordinance”) certain uses within the Town of Orchard Park (“Town”) are considered special uses (“Special Use”) and are permitted subject to issuance of a Special Permit by the Town Board and upon recommendation by the Planning Board; and

WHEREAS, pursuant to the Ordinance, a Special Use is a use which, because of its unique characteristics, requires additional consideration in each case by the Planning and Town Boards before it may be permitted; and

WHEREAS, Miranda Holdings, Inc. (“Miranda”) proposes a development at 4956 and 4968 Chestnut Ridge Road, SBL Nos. 172.20-1-17 & 172.20-1-16, respectively, (“Project Site”) consisting of a Tim Horton’s drive-in service facility and 1,232 gsf speculative retail space (“Project”); and

WHEREAS, the Project Site is zoned B-2 Commercial where a “drive-in service facility” is considered a Special Use under Ordinance Attachment 8, Schedule of Use Controls, B-2 Commercial, and the Project requires, in addition to other approvals, issuance of a Special Permit from the Town Board; and

WHEREAS, by letter dated January 31, 2024, Miranda submitted a Special Permit application to the Town; and

WHEREAS, on March 6, 2024, the Town Board referred Miranda’s request for a Special Permit to the Planning Board; and

WHEREAS, the Planning Board considered Miranda’s request for a Special Permit on March 14, 2024; and

NOW THEREFORE BE IT RESOLVED, having duly considered Miranda’s request for a Special Permit and all Planning Board Members having thoroughly reviewed and considered Miranda’s application materials and related documents, the Planning Board renders its recommendation as follows:

- 1. The Planning Board recommends the Town Board disapprove Miranda’s request for a Special Permit to authorize a drive-in service facility.

2. Under the criteria set forth in Ordinance § 144-43(C) (1-11), the Planning Board's reasons for recommending disapproval are as follows:

(1) The relation of the proposed project to the long range or Comprehensive Plan of development of the Town.

Planning Board Response:

The Town of Orchard Park Comprehensive Plan ("Comprehensive Plan") sets forth numerous goals and other objectives relevant to the Project. The goal to Preserve Community Character (Comprehensive Plan p. D1) offers the following objectives and considerations to meet this important goal:

- Maintain the integrity of the Town's residential neighborhoods by using all available means to preserve the quality of residential life in all sectors of Orchard Park. The cumulative effects of environmental, aesthetic, safety, and related issues must be foremost in the decision-making process of future development proposals.
- Preserve and protect important historic, cultural, and educational resources.
- Insure that new development is compatible with the character of adjacent existing development. Consider design overlay districts where appropriate.
- Carefully manage growth by implementing an appropriate balance between residential, commercial, and industrial development and open space preservation.
- Where appropriate, promote the reuse and rehabilitation of existing buildings before building new ones.
- Encourage the filling of existing developments before permitting development of new lands in the Town.
- Use traditional town planning techniques that support public interaction and a sense of community.

Introducing a Drive-in Service Facility as part of the project undermines the carefully crafted community character, nurtured through meticulous planning decisions and municipal initiatives. Situated within the Town's Architectural Overlay District ("AOD"), established in alignment with the Comprehensive Plan, the Project Site holds a pivotal position at the Southern Gateway to the Village of Orchard Park ("Village"). The Project Site is surrounded by a burgeoning network of sidewalks and pedestrian-friendly infrastructure, and its neighbors the Orchard Park Country Club, as well as an ice cream shop, a neighborhood pharmacy, and a brewery and bourbon bar —distinctive to our Town. These neighboring businesses not only serve as unique features but also offer outdoor seating or gathering spaces, fostering a sense of community. By championing local, homegrown establishments that beckon residents and visitors alike, we preserve and enrich the small-town ambiance of our commercial district, harmonizing with the ethos of the adjacent Village.

Additionally, the unique street layout, where Ellicott Road diverges from the intersection of Chestnut Ridge Road and Armor Duells Road, presents a chance for a secondary commercial hub and neighborhood. This would complement the Village center, where numerous local eateries and commercial spots line the street. In contrast, the project's Drive-in Service Facility lacks the authentic character suitable for this area.

Moreover, a sidewalk runs along the west side of Chestnut Ridge Road where the Project Site is situated. It stretches from the extensive interconnected residential neighborhood off Breezewood Drive, south of the project, all the way into the Village. This sidewalk serves as a crucial pedestrian pathway in both the Town and Village, facilitating access for residents to commercial and recreational areas. Enhancing pedestrian accessibility and neighborhoods aligns closely with the Comprehensive Plan's central policies (Comprehensive Plan pp. E2, D1). However, the project's focus on serving drivers for a quick cup of coffee undermines these objectives. It neglects pedestrians, reducing the sidewalk to a mere inconvenience to be hurried past.

The Town's Economic Development Committee echoed similar sentiments in its letter to the Planning Board dated October 30, 2018 regarding the proposed Site Plan for the project, stating that the project fails to foster positive, sustainable economic growth in the Town. This contradicts the Applicant's claims that the project aligns with the goals of the 2016-2021 Strategic Plan for the Town, overseen and implemented in part by the Town Economic Development Committee. The Strategic Plan outlines policies and actions aimed at strengthening Orchard Park's identity and maximizing real estate assets (Strategic Plan pp. 6-4 to 6-8). However, the proposed Drive-in Service Facility fails to cultivate a sense of community and pride in Orchard Park's local character and spirit. It also fails to ensure compatibility among adjacent, unique uses, thereby undermining the objectives of both the Strategic Plan and Comprehensive Plan to preserve and enhance the community's distinctive character.

Furthermore, a Drive-in Service Facility at the Project Site contradicts the Town's Comprehensive Plan goal of establishing a safe and efficient transportation network, which includes bicyclists and pedestrians (Comprehensive Plan p. D2). The project undermines this goal by diminishing walkability and connectivity among Town and Village destinations. Despite the project's location at the corner of New Armor Duells Road and Chestnut Ridge Road, it lacks a secondary access point onto New Armor Duells Road. Consequently, all traffic—including left-out, right-out, and incoming traffic—enters via a 74' wide driveway on Chestnut Ridge Road, approximately 160' from the corner. In May 2023, the New York State Department of Transportation announced significant improvements to this section of Chestnut Ridge Road to enhance pedestrian accommodations, which the proposed Drive-in Service Facility impedes by providing access via a single point. While the Comprehensive Plan also encourages new commercial enterprises, it emphasizes maintaining convenient access to commercial corridors (Comprehensive Plan p. D4). The Drive-in Service Facility discourages walkability and convenient access for pedestrians.

Overall, the project fails to meaningfully advance a central tenet of the Comprehensive Plan—balancing growth with preserving the high quality of life in the Town. As stated in the Comprehensive Plan:

“Since the Zoning Commission of the mid-1980s until the present, the elected Town Board and all the appointed boards and committees have been well aware of the pressures of growth. They have also been actively engaged in developing creative ways to preserve the charm, attractiveness, desirability, and the high quality of life in Orchard Park for which people have and continue to come to the community” (Comprehensive Plan p. A7).

The goal to “Maintain the Existing High Quality of Life in the Community” is guided by a key principle to “promote controlled and orderly development, incorporating public involvement in the planning process” (Comprehensive Plan p.D3). Historically, public involvement has been incorporated in the planning process for the Project. In 2014, the Town received a petition in opposition to the Project totaling more than 200 signatures. The Town also received written opposition from the owner and operator of the local insurance company across the street from the Project Site at 4955 Chestnut Ridge Road, the owner of 5056 Chestnut Ridge road at the corner of Breezewood Drive and Chestnut

Ridge Road, as well as other residents. The Planning Board, in considering the Comprehensive Plan, Strategic Plan and public input, expresses grave concerns over a commercial enterprise that prioritizes automobile access over pedestrian accommodations at a premier corner of the Town and Gateway to the Village. The proposed Drive-in Service Facility does not promote orderly development.

(2) The need for the proposed project at the present time.

Planning Board Response:

Other similar establishments already serve the area and Town, the closest being a Tim Horton's with a Drive-in Service Facility located 1.7 miles away off state Route 20A—a 3 minute drive from the Project Site. Another Tim Horton's (without a Drive-in) is located 1.2 miles due north on Chestnut Ridge Road. While Miranda's location may be financially viable, the Planning Board finds no actual need for a Drive-in Service Facility that fails to address specific requirements in the Town's Comprehensive Plan or Strategic Plan.

- (3) The compatibility of the proposed project with adjoining land uses and with other proposed development, having particular reference to its probable effect on the value of other land and to the adequacy of features intended to promote public safety and the general purposes of this chapter.

Planning Board Response:

Although the value of land may rise, the project introduces discordant elements to the area and lacks compatibility with adjoining land uses, which predominantly focus on maintaining and enhancing community character and serving the public through a variety of transportation modes.

- (4) The orderly flow of traffic or effect on normal traffic patterns and satisfactory methods of ingress and egress.

Planning Board Response:

The Drive-in Service Facility, with its single access point, will disrupt existing and planned pedestrian amenities, promoting vehicle-centric activity in an area that should prioritize pedestrian-friendly commercial uses, particularly south of the Village.

- (5) The design and suitable location of parking facilities.

Planning Board Response:

While the Applicant asserts sufficient queuing for the drive-in service facility, the unknown surrounding the future retail tenant complicates the evaluation of parking adequacy for the entire project. Additionally, the single access point to parking facilities conflicts with pedestrian accommodations, undermining community character. Should the drive-in service facility experience high traffic, customers may resort to parking and entering the establishment, potentially exacerbating existing parking concerns. Although the Applicant argues that a majority of customers will use the Drive-in Service Facility, this underscores the need for a thorough evaluation of the potential impacts of the Drive-in Service Facility on the pedestrian experience and community character.

- (6) The use of landscaping for screening purposes.

Planning Board Response:

While the Landscape Plan was approved by the Town Conservation Board on June 4, 2019 indicating no immediate concerns about screening, the Planning Board remains mindful of broader issues, such as compatibility with pedestrian access and vehicular circulation. Despite the approved landscaping, the Board maintains reservations regarding the overall impact of the Drive-in Service Facility on the surrounding community character.

- (7) The intelligent design of free areas for recreational use.

Planning Board Response:

While the item is not applicable, the Board observes the absence of an outdoor seating area to offset the drive-in service facility. This reinforces the project's focus on quick, drive-in, drive-

out transactions, rather than fostering a community oriented space where patrons can gather or pause between recreational or commercial destinations.

- (8) The nearness and impact on schools and other public utilities.

Planning Board Response:

With regards to schools and public utilities, the Project is anticipated to have minimal impact. However, the Board remains focused on preserving community character and ensuring safe pedestrian access.

- (9) The health and safety of the residents or workers on adjacent properties and in the general neighborhood.

Planning Board Response:

The Project does not contribute to the health and safety of residents. The auto centric nature of the development, which is decidedly designed for quick trips, exacerbates pedestrian conflicts and diminishes walkability, posing risks to public health, safety, and community welfare.

- (10) Lot areas, type of construction, fire hazards, offensive odors, smoke, fumes, noise and light.

Planning Board Response:

The operation of a drive-in service facility may contribute to offensive odors, smoke, fumes, noise, and light. Queuing vehicles emitting fumes, noise, and light not only create a nuisance for nearby residents but also pose safety risks by increasing pedestrian conflicts and traffic congestion. Furthermore, the cumulative effects of these disturbances detract from the overall quality of life and undermine efforts to preserve the community's character and well-being. While the lot area meets physical requirements, it poses access constraints, exacerbating concerns related to pedestrian safety and vehicular circulation.

- (11) Other pertinent requirements of this chapter.

Planning Board Response:

The Project Site occupies a prominent corner of the Town and serves as the Southern Gateway to the Village. As one of the final B2 Zoned properties before the southern area transitions to residential zoning, its significance cannot be overstated. Situated within the South Buffalo Street/Ellicott Road AOD as per Ordinance § 144-75, the Project Site's development profoundly impacts the community fabric. Nearly every resident traveling by car, bike, or foot to the Village from the southern portion of the Town will pass by this corner. A generic Drive-in Service Facility, easily replicated elsewhere, does not align with the vision outlined in the Comprehensive Plan, Strategic Plan, or the existing character of the Town. Preserving the Town's unique, small-town character necessitates a more thoughtful approach to development in this vital planning area.

ON THE QUESTION:

Deputy Town Attorney John Bailey recommends the motion be amended to include the letter drawn up by our Attorney, Corey Auerbach. Attorney Auerbach stated this shows the reasoning in the motion.

Mr. Kaczor made a **MOTION**, seconded by Mr. Heppner to **AMEND** the motion to include Mr. Auerbachs' document.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
LONG	AYE
MURRAY	AYE

THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION TO DENY IS PASSED.

NEW BUSINESS:

1. P.B. File #13-2024, V/L, Bruce Drive, located east of Scherff Road, on the south side of Bruce Drive. Proposed One-Lot Subdivision, 1.19 +/- Acres of Vacant Land. Applicant is requesting Planning Board to make PreApplication Findings. (SBL#185.03-3-9.2)

APPEARANCE: Mr. Dean & Michelle Delo, Petitioners
Mr. Jordan Schneider, President, Corinthian Homes LLC

Mr. Schneider explained the project to the Board, noting that the Delos are seeking subdivision approval for a one Building Lot, spilt from Lot #18, as indicated on the submitted Plat Plan.

Acting Planning Coordinator Orffeo affirmed that the criteria meets the updated Town Code.

Mr. Ostrander will speak to the Petitioners and advise them if they require additional information for his review.

Mr. Kaczor made a **MOTION**, seconded by Mr. Heppner that the following **PRE-APPLICATION FINDINGS** are made based on the submitted Survey received 3/19/2024 and the Applicant has detailed:

- The total acreage is 1.19 +/- acres.
 - The desired zoning classification is R1 Zone.
 - The number of possible stages of completion is one (1).
 - The applicant's position with respect to title is "Owner"
1. All public notices have been filed.
 2. The zoning will remain as is.
 3. Access to surrounding properties is through Bruce Drive.
 4. Recreation fees will be provided in accordance with Section 144-70E of the Town Code and shall be paid, or provided, prior to the Final Plat Plan Public Hearing.
 5. Subdivision Development fees, per Section 144-70D of the Town Code, shall be paid prior to the Preliminary Plat Plan Public Hearing.
 6. Public Hearing fees shall be paid prior to the Preliminary Plat Plan Public Hearing.
 7. The Applicant has completed and submitted the Short EAF, for this Unlisted SEQR Action.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
LONG	AYE
MURRAY	AYE

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

A MOTION IS MADE, BY MR. HEPPNER, AND SECONDED BY MR. KACZOR, TO SET A PRELIMINARY PLAT PLAN PUBLIC HEARING WHEN THE CHAIRMAN DEEMS IT APPROPRIATE.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
LONG	AYE
MURRAY	AYE

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

CONCEPT REVIEW – (No action will be taken)

1. P.B. File #14-2024, 3310 Southwestern, north side of Southwestern Boulevard, west of the “Five Corners” Zoned B-1. Mr. Brian Gilbride to present proposed plans to expand parking lot for a “Goldfish Swim” club. (Auto parts store previously located here.) (SBL#152.16-6-1.112)

APPEARANCE: Mr. Chris Wood, Carina-Wood Designs

Mr. Wood stated that he is representing the “Goldfish” swim school. They would like to expand the parking lot of the former “Auto Zone Parts” store previously located here.

The Members’ questions established the following:

- The parking expansion is located on the northwest side of the existing building.
- This is a two-phase project. At the completion of the two-phases there will be a total of 52-parking spaces.

There being no further business, the Chairman adjourned the meeting at 8:20 P.M.

DATED: 7/03/2024

REVIEWED:

Respectfully submitted,
Rose Messina,
Recording Secretary

Harold Fabinsky, Planning Board Chairman