

**TOWN OF NIAGARA
TOWN BOARD MEETING
7105 Lockport Road
Niagara Falls, NY 14305**

MINUTES

Tuesday, April 16, 2024

6:30 PM

PUBLIC HEARING

OPEN MEETING (Pledge, Prayer, Roll Call)

Supervisor Sylvia Virtuoso called the meeting to order with the Pledge of Allegiance. Attached is a Memorial Page of all the deceased Town residents who passed away recently.

Roll Call:

Present: Supervisor Sylvia Virtuoso, Deputy Supervisor Marc Carpenter, Councilman Mike Lee, Councilman Johnny Parks, Councilman Charles Teixeira

Absent:

Excused:

Also, present Melissa Cerrillo, Town Clerk

PRIVILEGE OF THE FLOOR (Announce changes to agenda, if any)

(§50-3 Privilege of the floor. Only members of the public sector are allowed to speak at this time and may address any agenda or non-agenda item. (3-minute limit)

Debbie Bolents of 8400 Effie Drive asked about the retention pond for Amazon. She was wondering who is responsible to make sure things are done correctly. Debbie also mentioned that she is hoping that the Town would never “opt-in” for marijuana.

Paula Wojtowicz of 1850 Tuscarora Road read a letter of invitation to the Town Board about a tour of the Cayuga Creek Floodplain Restoration project as part of the Earth Day event sponsored by Buffalo Niagara Waterkeeper. Paula was also interested in how to get information posted on the Town’s website about future events they will be holding.

Michael Tompkins of 8316 Effie Drive spoke about the flooding on Tuscarora Road and in his neighborhood. Michael mentioned that the Town should reach out to the school bus garage and inform them when the road is closed because of flooding, having the bus rerouted to avoid a tragic situation.

Christopher Wood of Carmina Wood Design and Kevin DiPirro owner of Sonic got up to speak about the outparcel facing Military road and also displayed the drawing of

the final site plan. They showed the lay out of the parking lot, the design of the landscaping and the eye catching colors of the exterior of the building.

APPROVAL OF MINUTES

Town Board Meeting of March 19, 2024

Motion to approve by Councilman Carpenter, second by Councilman Parks.

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira

Noes – none

Abstain – none

Motion carried.

PAYMENT OF BILLS

General Fund Pre-Pay vouchers [A] \$17,114.14

General Fund vouchers [A] \$98,643.67

Sewer Fund Pre-Pay vouchers [G] \$1,804.55

Sewer Fund vouchers [G] \$3,885.82

Water Fund Pre-Pay vouchers [F] \$737.89

Water Fund vouchers [F] \$89,094.91

Highway Fund Pre-Pay vouchers [DA] \$281.11

Highway Fund vouchers [DA] \$12,212.21

Fire Protection Pre-Pay vouchers [SF] \$0

Fire Protection vouchers [SF] \$112.66

Street Lighting Pre-Pay vouchers [SL] \$7,382.96

Street Lighting vouchers [SL] \$0

Trust & Agency Pre-Pay vouchers [TA] \$0

Trust & Agency vouchers [TA] \$4,664.50

Capital Projects Pre-Pay [H] \$0

Capital Projects vouchers [H] \$34,221.75

Motion to approve by Councilman Carpenter, second by Councilman Lee.

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira

Noes – none

Abstain – none

Motion carried.

AGENDA

1. Resolution to post and hire 1 water and 1 sewer seasonal employees to work for the water and sewer departments starting June 3, 2024 for a period of 12 weeks. Both positions are in the water and sewer budgets for 2024. (Beiter)

Motion to approve by Councilman Parks, second by Councilman Teixeira.

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira

Noes – none

Abstain – none

Motion carried.

2. Town Board Approval is requested to authorize the Town Supervisor, Sylvia Virtuoso to sign the letter of instruction to sell and close out the 10 shares of common stock with MetLife held by Computershare, at a value of \$659.60 (Siegmann)

Motion to approve by Councilman Carpenter, second by Councilman Parks.

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira

Noes – none

Abstain – none

Motion carried.

3. Resolution to approve the Amended and Restated Model Deferred Compensation Plan for Town of Niagara Employees incorporating all of the mandatory and optional provisions authorized by the federal “Setting Every Community Up for Retire Act,” commonly referred to as Secure 2.0, as well as changes associated with the Service Act of 2019 and the CARES Act. (Risman)

Motion to approve by Councilman Teixeira, second by Councilman Parks.

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira

Noes – none

Abstain – none

Motion carried.

4. Town Board Approval is requested to request additional \$500,000.00 in funding from the Greenway/Host Community Standing Committee for project #HCSCR-21-003, Veterans Memorial Community Park Master Plan Project. The additional funding is needed for:

Construction Overruns	\$392,732.00
Pond Pump	\$10,000.00
Relocation of retention Pond	\$65,000.00
Anticipated Engineering Fees	<u>\$32,268.00</u>
Total	\$500,000.00

any balance of funds left when project is complete will be returned to HCSC fund

Motion to approve by Councilman Carpenter, second by Councilman Parks.

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira

Noes – none

Abstain – none

Motion carried.

5. Resolution on signing an agreement with G&G grant writing services. Payment would be on a grant basis at \$110.00 per hour and would be subject to board approval. (Guiliani)

Motion to approve by Councilman Parks, second by Councilman Carpenter

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira

Noes – none
Abstain – none

Motion carried.

6. Resolution to purchase a 15 Inch drum style chipper for \$78,654.40, minus \$10,900.00 (for trade in value) for a total price of \$67,754.40 (Sirianni)

Motion to approve by Councilman Lee, second by Councilman Carpenter.

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira
Noes – none
Abstain – none

Motion carried.

7. Resolution to hire 3 part time parks employees potential starting date April 29th through Friday July 12th @\$16.50/hr., not to exceed 11 weeks for the Parks Department. To be reassessed at that time. (Sirianni)

Motion to approve by Councilman Carpenter, second by Councilman Parks.

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira
Noes – none
Abstain – none

Motion carried.

8. Resolution to approve the contract from Skylighters Fireworks in the amount of \$12,800.00 for the Independents Day Celebration on July 6, 2024. (Wallace)

Motion to approve by Councilman Teixeira, second by Councilman Parks.

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira
Noes – none
Abstain – none

Motion carried.

9. Resolution to approve the following Junkyard License Renewals:

Garlock's Auto Inc. – 2360 Maryland Avenue

Kach's Auto Service – 4800 Witmer Road

Metalico Niagara – 2133 Maple Avenue

Satarian Auto Parts – 4250 Witmer Road

Motion to approve by Councilman Lee, second by Councilman Parks.

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira
Noes – none
Abstain – none

Motion carried.

10. Resolution to approve the prepayment for the bands, catering and Nichols Audio at the conclusion of each concert event for the upcoming 2024 Music Mania Monday Concert Series. (Wallace)

Motion to approve by Councilman Teixeira, second by Councilman Parks

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira

Noes – none

Abstain – none

Motion carried.

11. Resolution granting Site Plan and Minor Subdivision approval to Broadway Group LLC and Site Plan Approval to Kelton Enterprises LLC for the proposed commercial development project at Lockport Road, SBL #132.14-1-4 (Auerbach)

Motion to approve by Councilman Parks, second by Councilman Lee

Ayes – Virtuoso, Carpenter, Lee, Parks

Noes – Teixeira

Abstain – none

Motion carried.

12. Resolution adopting a SEQRA notice of determination of non-significance, Negative Declaration made pursuant to New York State Environmental Conservation Law, Article 8 for Riccelli Northern for a portable Redi-Mix Concrete batch plant at 3214 Haseley Dr. SBL#146-01-1-6. (Auerbach)

Motion to approve by Councilman Teixeira second by Councilman Parks

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira

Noes – none

Abstain – none

Motion carried.

13. Resolution authorizing an 18 month temporary use and approving Site Plan for Riccelli Northern for a portable Redi-Mix Concrete batch plant at 3214 Haseley Dr., SBL#146.01-1-6. (Auerbach)

Motion to approve by Councilman Carpenter second by Councilman Parks

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira

Noes – none

Abstain – none

Motion carried.

14. Resolution adopting a SEQRA notice of determination of non-significance, Negative Declaration made pursuant to New York State Environmental Conservation Law, Article 8 for Sonic Restaurant at 1900 Military Road, SBL#145.20-1-15. (Auerbach)

Motion to approve by Councilman Parks second by Councilman Lee

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira

Noes – none

Abstain – none

Motion carried.

15. Resolution approving the site plan for Sonic Restaurant at 1900 Military Road, SBL#145.20-1-15. (Auerbach)

Motion to approve by Councilman Carpenter second by Councilman Parks

Ayes – Virtuoso, Carpenter, Lee, Parks, Teixeira

Noes – none

Abstain – none

Motion carried.

TABLED

COMMENTS

At this time, none of the Councilmembers had any comments to add. Supervisor Virtuoso brought to attention that May 8th is the next work session and May 21st is the Town Board Meeting, and she is looking forward to seeing everyone at the next meeting.

Motion to adjourn by Councilman Carpenter, second by Councilman Parks. All in favor.
Meeting adjourned at 7:05pm.

Respectfully submitted,

Melissa Cerrillo

Melissa Cerrillo
Town Clerk

THE MONTHLY AGENDA IS ON THE TOWN WEBSITE
www.townofniagara.com

In Memoriam

Nicholas Snow

John Beukema

Erikk Evans

Ella Carpenter

4/13/2024

Town of Niagara Officials

Town Supervisor, Board Members, Highway Superintendent, Water and Sewer Superintendent, Police Chief and Building Inspector
7105 Lockport Road
Niagara Falls, NY 14305

Dear Town Officials,

As homeowners in the Town of Niagara in the Effie Drive/Tuscarora Road area, we encourage you to attend a tour of the Cayuga Creek Floodplain Restoration project. This tour will take place as part of the Earth Day event sponsored by Buffalo Niagara Waterkeeper.

Emily Root, Buffalo Niagara Waterkeeper staff person, and project manager for the Cayuga Creek project, will conduct the tour. We understand that many Town officials have not yet seen the results of the restoration or the subsequent work being done, such as the native planting volunteer event that took place on April 6th. Over 20 volunteers participated in the event; only one volunteer was from the Town.

The tour will begin at 10am on April 20th and last for about 30 minutes. This is a great opportunity to see the trail in spring and observe the native species and plantings in this critical wetland habitat and the flood mitigation design as part of the restoration of the creek to its flood plain. Alternatively, if Town officials would like to schedule a tour on a different day, we can work with Emily to arrange a mutually agreeable date.

Sincerely,

Town Residents

*Mr DA - 1780 Tuscarora Rd
Robert J Zylka 8316 Effie Dr
S. W. - 8410 Effie Dr
Christina M. Baker 1845 Tuscarora Rd.
Paul Widger 1850 Tuscarora Road*

**TOWN OF NIAGARA
TOWN BOARD**

Resolution adopting a State Environmental Quality Review Act Notice of Determination of Non-Significance, Negative Declaration made pursuant to New York State Environmental Conservation Law, Article 8 for Sonic Restaurant at 1900 Military Road, SBL 145.20-1-15 and Approving the Site Plan for the Project

WHEREAS NF Four LLC c/o Kevin DiPirro represented by Carmina Wood Design, Christopher Wood, PE (“Applicant”) proposes construction and operation of a Sonic Restaurant (“Project”) at the 6.1 acre, LI-Light Industrial zoned 3214 Haseley, SBL 146.01-1-6 (“Property”); and

WHEREAS Applicant submitted a site plan application to the Town Board; and

WHEREAS the Town Board referred the Project to the Planning Board; and

WHEREAS, April 2, 2024, the Planning Board recommended approval of the site plan application for the Project; and

WHEREAS the Project is an action (the “Action”) subject to review under the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS the Town Board classified the Action as an unlisted action and conducted an uncoordinated review for purposes of SEQRA; and

WHEREAS the Applicant submitted a short environmental assessment form (SEAF) Part 1, and the Town Board completed Parts 2 and 3 of the SEAF, which are made a part of this Resolution; and

WHEREAS the Town Board has completed all necessary jurisdictional and procedural requirements required under New York State Law, its Town Code, SEQRA, General Municipal Law, as necessary, and all other laws and regulations; and

WHEREAS the Town Board has duly considered the Action, including all parts of the SEAF, the criteria for determining significance as set forth in 6 NYCRR § 617.7(c) of the SEQRA regulations, and such other information deemed appropriate; and

WHEREAS the Town Board has identified the relevant areas of environmental concerns, has taken a hard look at these areas, and has made a reasoned elaboration, as necessary, for the basis of its determination; and

WHEREAS the Town Board has evaluated the Project for consistency with all applicable provisions of the Zoning Code of the Town of Niagara, including Appendix B Site Plan Requirements, and has considered the Planning Board recommendation; and

NOW, THEREFORE, BE IT RESOLVED by the Town Board that:

1. The Action will not result in any large and important impacts, and, therefore, it is an action which will not have a significant adverse impact on the environment. Accordingly, the Town Board hereby issues this negative declaration of environmental non-significance for the reasons stated herein and in the attached SEAF Parts 1, 2, and 3.
2. The Town Clerk shall file a copy of the negative declaration in the file for the Action.
3. The Town Clerk shall prepare and file the negative declaration with all required New York State, County, and local agencies.
4. This Resolution shall take effect immediately.

BE IT FURTHER RESOLVED that the Town Board approves the Applicant's Site Plan application subject to the following conditions:

1. Compliance with all Water & Sewer, Engineering and Highway Department comments.

The questions of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Council Member Michael Lee
Council Member Charles Teixeira
Council Member Johnny Parks
Deputy Supervisor Marc M. Carpenter
Supervisor Sylvia Virtuoso

YES/NO
YES/NO
YES/NO
YES/NO
YES/NO

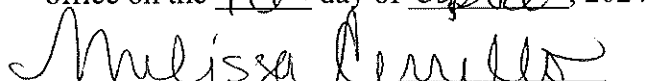
April 16, 2024

Town of Niagara Town Board



Supervisor Sylvia Virtuoso

This Resolution was filed in the Town Clerk's office on the 16th day of April, 2024



Melissa Cerrillo, Town of Niagara Town Clerk

**TOWN OF NIAGARA
TOWN BOARD**

Resolution Adopting a State Environmental Quality Review Act Notice of Determination of Non-Significance, Negative Declaration made pursuant to New York State Environmental Conservation Law, Article 8 for Riccelli Northern for a Portable Redi-Mix Concrete Batch Plant at 3214 Haseley, SBL 146.01-1-6; Authorizing an 18-month Temporary Use and Approving the Site Plan for the Project

WHEREAS Riccelli Northern represented by Carmina Wood Design, Christopher Wood, PE (“Applicant”) proposes construction and operation of a portable redi-mix concrete batch plant and associated accessories including a portable office, materials bins, and generator (“Project”) at the 6.1 acre, LI-Light Industrial zoned 3214 Haseley, SBL 146.01-1-6 (“Property”); and

WHEREAS Applicant submitted a site plan application to the Town Board; and

WHEREAS the Town Board referred the Project to the Planning Board; and

WHEREAS, April 2, 2024, the Planning Board recommended approval of the site plan application for the Project; and

WHEREAS a full statement of the Project was referred by the Town Board to the Niagara County Planning Board pursuant to General Municipal Law § 239-m; and

WHEREAS the Project was reviewed by the Niagara County Planning Board at its meeting on March 18, 2024, wherein the Niagara County Planning Board unanimously recommended approval of the Project; and

WHEREAS the Project is an action (the “Action”) subject to review under the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS the Town Board classified the Action as an unlisted action and conducted an uncoordinated review for purposes of SEQRA; and

WHEREAS the Applicant submitted a short environmental assessment form (SEAF) Part 1, and the Town Board completed Parts 2 and 3 of the SEAF, which are made a part of this Resolution; and

WHEREAS the Town Board has completed all necessary jurisdictional and procedural requirements required under New York State Law, its Town Code, SEQRA, General Municipal Law, and all other laws and regulations; and

WHEREAS the Town Board has duly considered the Action, including all parts of the SEAF, the criteria for determining significance as set forth in 6 NYCRR § 617.7(c) of the SEQRA regulations, and such other information deemed appropriate; and

WHEREAS the Town Board has identified the relevant areas of environmental concerns, has taken a hard look at these areas, and has made a reasoned elaboration, as necessary, for the basis of its determination; and

WHEREAS the Town Board has evaluated the Project for consistency with all applicable provisions of the Zoning Code of the Town of Niagara, including Appendix B Site Plan Requirements, and has considered the Planning Board recommendation,; and

NOW, THEREFORE, BE IT RESOLVED by the Town Board that:

1. The Action will not result in any large and important impacts, and, therefore, it is an action which will not have a significant adverse impact on the environment. Accordingly, the Town Board hereby issues this negative declaration of environmental non-significance for the reasons stated herein and in the attached SEAF Parts 1, 2, and 3.
2. The Town Clerk shall file a copy of the negative declaration in the file for the Action.
3. The Town Clerk shall prepare and file the negative declaration with all required New York State, County, and local agencies.
4. This Resolution shall take effect immediately.

BE IT FURTHER RESOLVED that the Town Board authorizes an 18-month Temporary Use and approves the Applicant's Site Plan application subject to the following conditions:

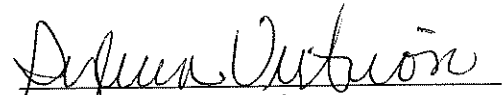
1. Facility shall be decommissioned in accordance with the filed Decommissioning Plan.
2. Upon decommissioning, Applicant shall submit a Cornell Road Condition Report stamped by a NYS licensed engineer documenting the pre-construction and post-construction condition of Haseley Drive and any damage shall be repaired to the satisfaction of the Town Highway Superintendent.

The questions of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

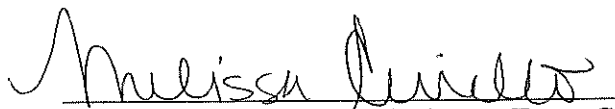
Council Member Michael Lee	YES/NO
Council Member Charles Teixeira	YES/NO
Council Member Johnny Parks	YES/NO
Deputy Supervisor Marc M. Carpenter	YES/NO
Supervisor Sylvia Virtuoso	YES/NO

April 16, 2024

Town of Niagara Town Board


Supervisor Sylvia Virtuoso

This Resolution was filed in the Town Clerk's office on the 16th day of April, 2024


Melissa Cerrillo, Town of Niagara Town Clerk

Town of Niagara Town Board
Resolution Granting Site Plan and Minor Subdivision Approval
to Broadway Group LLC and Site Plan Approval to Kelton Enterprises LLC
for the proposed commercial development project
at Lockport Road, SBL 132.14-1-4

WHEREAS, on April 13, 2023, Applicant Broadway Group LLC, submitted a site plan application for the construction of a Dollar General on a 1.722-acre portion of a 14.70 acre parcel at Lockport Road, SBL 132.14-1-4, zoned B-1 (“Site”); and

WHEREAS, on July 18, 2023, the Broadway Group LLC and Kelton Enterprises LLC (the “Applicants”) submitted a minor subdivision application package (the “Subdivision Application”) to the Town of Niagara Town Board (the “Town Board”) to subdivide the Site into four separate lots to facilitate the proposed commercial development, including: (1) a 1.722-acre lot for the development of a Dollar General; (2) a 2.682-acre lot for the development of a Tim Horton’s; (3) a 6.293-acre lot to remain vacant for potential future development; and (4) a 3.50-acre lot for the existing telecommunications use (“Project”); and

WHEREAS, on August 21, 2023, Applicants submitted additional traffic information for the Project;

WHEREAS, on August 21, 2023 Applicant Kelton Enterprises submitted a site plan application package for construction of a Tim Horton’s on the Site, which was reviewed jointly with Applicant Broadway Group’s site plan application (collectively, “Site Plan Applications”); and

WHEREAS, on August 21, 2023, pursuant to General Municipal Law § 239-m, the Niagara County Planning Board recommended approval of the Project; and

WHEREAS, the Town Board declared itself Lead Agency for the purposes of the State Environmental Quality Review Act (“SEQRA”) and classified the action, inclusive of the Project’s subdivision, Site Plan Applications, area variance requirements, and all site work and construction, as Type I and conducted a coordinated environmental review; and

WHEREAS, on September 20, 2023, Applicant Broadway Group submitted a revised site plan application and an area variance application; and

WHEREAS, on October 3, 2023, the Planning Board recommended a Negative Declaration pursuant to SEQRA for the Project, and it recommended approval of the Subdivision Application; and

WHEREAS, on November 1, 2023, Applicant Kelton Enterprises submitted a revised site plan and stormwater pollution prevention plan; and

WHEREAS, on January 23, 2024, Applicants submitted additional materials regarding the

sanitary sewer system and driveway for the Project; and

WHEREAS, on March 19, 2024, the Town Board issued a Negative Declaration pursuant to SEQRA for the Project; and

WHEREAS, on April 2, 2024, the Planning Board reviewed the Project and all submitted materials and recommended approval of the Site Plan Applications; and

WHEREAS, on April 9, 2024, the Town Zoning Board of Appeals approved the area variance to authorize proposed parking for the Dollar General part of the Project as depicted on the site plan; and

WHEREAS, a thorough analysis of the Site Plan Applications and materials demonstrates consistency with the site plan standards in the Zoning Code of the Town of Niagara (“Zoning Code”) Chapter 245, Appendix B; and

WHEREAS, a thorough analysis of the Subdivision Application and materials demonstrates consistency with the standards of the Code of the Town of Niagara (“Code”), Chapter 135.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN BOARD OF THE TOWN OF NIAGARA AS FOLLOWS:

SUBDIVISION APPLICATION

Section 1. The Subdivision Application is classified as a minor subdivision pursuant to Code § 135- 131(B)(2) as Applicants propose the division of a single lot into four lots, on existing streets serviced by existing municipal facilities along Lockport Road and Tuscarora Road.

Section 2. The Project now requires a minor subdivision approval from the Town Board, with a recommendation from the Planning Board, based on the Code standards found in Code § 135-140 and 135-141. Based upon a thorough review and examination of the Project and the Subdivision Application materials, the Town Board makes the following findings with respect to the criteria for minor subdivision:

§ 135-140 General Standards.

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.**

The lots can be used safely for building purposes, including construction of a Dollar General and Tim Horton’s on their respective lots, without danger to health or peril from fire, flood, or other menace.

- B. Conformity of Official Map and Master Plan. Subdivisions shall conform to the**

Official Map of the Town and shall be in harmony with the Comprehensive Master Plan.

Based on the Town Board's review of the Subdivision Application and materials, the proposed lots are suitable for the Project uses as approved, and the vacant lot is a suitable separate lot for future prospective development that will not impair Project related improvements. Thus, the Subdivision Application conforms with the Town's Official Map as well as the Comprehensive Plan

- C. Specifications for required improvements. All required improvements shall be constructed or installed to conform to the Town specifications, which may be obtained from the Town Building Department.**

Applicants propose to construct all improvements to conform to the Town's specifications. Based upon the Town Board's review of the Subdivision Application materials, the proposed lots and their respective uses are sufficient to accommodate the Project as approved and without impairment from the division of the original 14.70-acre Site. Accordingly, the Subdivision Application provides for conformity with Town Specifications.

- D. Stormwater management. Subdivisions that are subject to the requirements of Article XIV of Chapter 245, Zoning, of the Town Code, shall comply with the performance and design criteria and standards set forth in such article, in order to minimize stormwater runoff pollution, flooding, and erosion.**

As detailed in Subdivision Application, Applicants prepared a SWPPP for the Project, which is or will be approved consistent with the Project Approval. The SWPPP will comply with the performance and design criteria and standards set forth in the Zoning Code and the New York State Stormwater Management Design Manual. The Town Board reviewed the Lots as proposed in the Subdivision Application and finds that Project related improvements will not be impaired by the Subdivision Application.

§ 135-141 Lots.

- A. Lots to be buildable. The lot arrangement shall be such that, in constructing a building in compliance with the Zoning Law, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots should not be of such depth as to encourage the later creation of a second building lot at the front or rear.**

As shown on the survey and legal description of the lots as submitted in support of the Subdivision Application, the subdivision would not impact the constructability of the Project. The Town Board has considered the lots as proposed and has not identified foreseeable difficulties for reasons of topography or other natural conditions upon the lots.

- B. Side lines. All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot**

plan.

The side lines of the lots as described in the survey and legal description submitted by the Applicant in support of the Subdivision Application are at right angles to straight streets and the Town Board finds that such layout as proposed provides a desirable lot plan.

- C. Corner lots. In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site.**

As depicted in the survey and legal description submitted in support of the Subdivision Application, the lots as proposed create a corner lot that is larger than the interior lots and each lot provides a desirable building site that provides for proper setbacks from each street.

- D. Driveway access. Driveway grades between the street and the setback line shall not exceed 10%.**

The Project as approved features access drives with grades between the street and setback line that do not exceed 10%, and the Subdivision Application does not impact those Project related improvements. Accordingly, the Subdivision Application provides for sufficient driveway access to the lots.

- E. Access from private streets. Access from private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations.**

The lots as proposed in the Subdivision Application are not accessed from private streets.

- F. Monuments and lot corner markers. Permanent monuments meeting specifications approved by the Town Engineer as to size, type and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Town Engineer may require, and their location shall be shown on the final subdivision plat.**

Applicants have confirmed that, to the extent necessary, Applicants shall install such monuments as required by the Town Engineer.

Section 3. Based upon the Town Board's review of the Subdivision Application, the Project is consistent with the minor subdivision standards set forth in the Code, and further the Planning Board recommended approval of the Subdivision Application pursuant to Code § 135-132.

Section 4. Since the Subdivision Application is consistent with the minor subdivision standards set forth in the Code, the Town Board hereby approves the Subdivision Application subject to the conditions in Section 8.

SITE PLAN APPLICATIONS

Section 5. The Project requires site plan approval from the Town Board, with a recommendation

from the Planning Board, based on the Code standards found in Zoning Code Chapter 245, Appendix B, B3. Based upon a thorough review and examination of the Project and the Site Plan Applications materials, the Town Board makes the following findings with respect to the criteria for the Site Plan Applications associated with the Project:

A. Zoning compliance and compatibility with the Master Plan.

The Project is consistent with the Master Plan and development patterns in this portion of the Town, which are favoring a mix of commercial and light industrial development tied into the Airport and U.S. Air Force Reserve Station.

B. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs; adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.

As depicted in the Site Plan Applications materials, the Project is adequately designed for traffic flow through the integrated parking areas and driveways for the Site. Further, the submitted traffic studies conclude with a reasonable degree of engineering certainty that the Project is not anticipated to generate additional volume of traffic that could cause negative impacts on the surrounding streets.

C. Location, arrangement, appearance and sufficiency of off-street parking and loading.

For Tim Horton's, pursuant to Zoning Code § 245-38(b)(8), the required parking calculation of 1 space per 4 seats plus 1 space per 2 employees is $(25 \text{ seats} / 4 \text{ seats}) + (6 \text{ employees} / 2 \text{ employees})$ yields a total of 9 required parking spaces. The Project includes 29 parking spaces, which is well above the minimum number of parking spaces required.

For Dollar General, as a retail and services use under Zoning Code § 245-38(b)(1), the required parking calculation of 1 space per 140 SF of gross floor area is $(10,640 \text{ SF} / 140 \text{ SF})$, which yields a total of 76 required parking spaces. The Project includes 35 parking spaces, and therefore, a variance has been requested. However, the Project is not anticipated to create a need for more than the proposed 35 parking spaces, and the Town Zoning Board granted an area variance under this provision of the Zoning Code authorizing the parking as depicted on the site plan.

All parking spaces and setback requirements are met, in accordance with Zoning Code §§ 245-37(g) and 245-37(c), respectively.

D. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

The Project includes site improvements such as sidewalks, sidewalk and curb ramps, and an accessible ramp connected by an accessible aisle in the proposed Dollar General parking

lot. The Project parking lots include handicapped parking complete with handicapped pavement markings, signs, and ramps.

- E. Adequacy of stormwater and drainage facilities; adequacy of water supply and sewage disposal facilities. If a stormwater pollution prevention plan (SWPPP) was submitted with the site plan, the Planning Board shall not recommend approval of the site plan unless such site plan and SWPPP comply with the performance and design criteria and standards set forth in Article XIV of Chapter 245, Zoning, of the Town Code.**

The Project has been designed to maximize the use of the Site and related existing municipal services, utilities, and infrastructure. Applicants prepared a SWPPP, in compliance with the Town Code, which provides detailed information regarding stormwater management, water supply and sewage disposal.

- F. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.**

The Project includes various landscaping buffers surrounding the proposed parking lots of the respective uses, especially between the Dollar General parking lot and Lockport Road. Additionally, the Tim Horton's includes a tree lined buffer between its parking lot and Tuscarora and Lockport Roads, including additional shrubbery at the southeast corner of the Site.

- G. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.**

The Project has sufficient means of emergency access and hydrants for the proposed uses.

- H. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.**

Specific to the proposed Dollar General, special attention has been paid to areas with susceptibility to flooding and/or erosion through the Project's inclusion of a pocket pond on site. The Tim Horton's includes a stormwater management pond and bioretention area. Additional considerations have been integrated into the Project's design according to the Erosion Control Plans, submitted as part of the Application materials.

- I. Overall impact on the neighborhood, including compatibility of design considerations.**

The Project, in both use and scale, will be a good fit for the neighborhood, including forthcoming developments in the area. As a result of the physical and operational design of the Project, it is not expected to interfere with the development, use, and enjoyment of the adjacent property.

Section 6. Based upon the Town Board's review of the Project, it has determined that it is consistent with the site plan standards set forth in the Zoning Code, and further the Planning Board recommended approval of the Site Plan Applications pursuant to Zoning Code Chapter 245, Appendix B, B2.

Section 7. Since the Site Plan Applications are consistent with the site plan standards set forth in the Zoning Code, the Town Board hereby approves the Site Plan Applications subject to the conditions in Section 8.

Section 8. Conditions of Approval:

1. No outside storage or storage of materials of any kind shall be permitted.
2. All landscaping shall be maintained in accordance with the approved site plans.
3. Prior to the issuance of any certificate of occupancy, Applicants shall each provide to the Town Clerk, the name, address, telephone number, and email for a local representative responsible for operations and maintenance, and such contact information shall be kept current at all times.
4. All dumpsters shall be fully enclosed and secured with a lid at all times.
5. Approval by all Town Departments, including the Town Highway, Engineering, and Water & Sewer Departments shall be obtained before any building permit is issued for the Project.

Section 9. Town staff are hereby further authorized on behalf of the Town Board, or acting together or individually, to distribute copies of this Resolution to the Applicants and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 10. This Resolution, which is adopted by a majority vote of the Town Board, shall serve as the Town Board's approval with respect to the Site Plan Applications and Subdivision Application for the Project, and is issued by the Town Board pursuant to and in accordance with the Code and Zoning Code, and shall take effect immediately.

THE FOREGOING RESOLUTION, was put to vote as follows:

APPROVED
Ayes ^{Supervisor Virtuoso} Councilman Carpenter, Councilman Lee, Councilman Parks
Nays Councilman Teixeira

This Resolution was thereupon duly adopted.

April 16th, 2024