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MEMBERS PRESENT: Harold Fabinsky, Chairman/Paul Bodden/David Kaczor/Philip Murray/

Nicholas Baich, Alternate

EXCUSED: Henry Heppner/Joseph Liberti/Nicholas Taneff/Andrew Geist, Building Inspector

OTHERS PRESENT: John P. Bernard, Planning Coordinator

Len Berkowitz, Deputy Town Attorney

Thomas Ostrander, Assistant Town Municipal Engineer

Rosemary Messina, Planning Board Secretary

The Chair called the Planning Board meeting to order at 7:03 P.M. by stating 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.

The Chair stated that alternate, Mr. Baich, will be voting this evening in the absence of Mreppmer. Heppner,

Mr. Liberti and Mr. Taneff.

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

Mr. Murray made a motion, seconded by Mr. Bodden to accept the November 8, 2018 meeting minutes as presented.

THE **VOTE** ON THE **MOTION** BEING:

FABINSKY AYE

BAICH AYE

BODDEN AYE

KACZOR AYE

MURRAY AYE

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

The Chairman called the Continuation of the Public Hearing to order. He verified that The Affidavit of Publication and Posting was published November 22, 2018. A copy was presented and filed with the Board by the Planning Board Secretary.

**IN FAVOR:**

*Mr. Sean Hopkins, Attorney*

*26 Mississippi Street – Suite 400*

*Buffalo, New York 14203*

Mr. Hopkins spoke in favor the project.

**AGAINST:**

*Ms. Debra May*

*5512 Big Tree Road*

*Orchard Park, New York 14127*

Ms. May wanted to verify that the plan was revised to not tear down the house that is on the adjacent lot next to her property and put in an access road to the project.

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Mr. Bodden made a **MOTION**, second by Mr. Kaczor, to **CLOSE** the Public Hearing.

THE **VOTE** ON THE **MOTION** BEING:

FABINSKY AYE

BAICH AYE

BODDEN AYE

KACZOR AYE

MURRAY AYE

THE **VOTE** BEING **UNANIMOUS,** THE **MOTION TO CLOSE THE PUBLIC HEARING**IS **PASSED**.

1. P.B. File #17-16, “Orchard Grove Apartments” proposed one-hundred and fifty (150) Multi-Family units, Vacant Land, 27+/- Acres located on the West side of California Road, East of Shadow Lane, and North of Big Tree Road (US 20A), Zoned R-4. Petitioner is seeking Planning Board findings under SEQRA, and Preliminary Approval for this project.

APPEARANCE: Sean Hopkins, Attorney

Mr. Hopkins gave a brief history of the proposed Orchard Grove project, noting that the previous owner, Brian Young, had proposed to construct 220-Senior Residential Units. The current owner, Mr. Andrew Romanowski, is proposing the construction of 150-Multi-Family Units with no access onto Big Tree Road. The updated construction plans eliminate the possibility of a roadway into the site from Big Tree Road. They would like the Board to make a Negative SEQR Declaration so they can proceed to obtain their required Erie County Permits. He noted that the similar “Walnut Grove” project in Amherst, New York has triple the density of the proposed Orchard Grove project.

Mr. Murray established that prior to the construction of the buildings, Phase 1 will include construction of the Shadow Lane extension, infrastructure, a club house, and mixed unit types at the site. The petitioner anticipate Phase 1 to take approximately 18-months to complete. Phases may overlap, but two phases will not be carried out at the same time.

Mr. Bodden established that the Conservation Board approved the Landscaping Plan on 11/6/18, with a large amount of landscaping proposed for the site. He feels everything has been explained quite well.

Mr. Kaczor feels all his questions have been addressed by the Petitioners and he has no further questions.

Planning Coordinator John Bernard spoke of the updated plan, noting that Building #14 is now a natural block to eliminating any possible access to Big Tree Road.

Chairman Fabinsky noted that the single-story units are appropriate for customers that want to downsize, and that the mix of building types in the community is good. The project results in less density, without a “cookie-cutter” look to the homes with the visual footprint of the larger buildings as from the roadway being minimized by the topography.

Mr. Bodden made a **MOTION**, seconded by Mr. Kaczor to **Grant** Preliminary Site Plan Approval to this Three Phase project to construct 150-Multi-Family units, based on the Site Plans received on 11/19/18 and the Board makes the following SEQR Determination:

1. This is an **Unlisted SEQR Action** based on the submitted Long EAF Parts 1 and2, and 3, with associated documentation & studies, and a **Negative Declaration** is made on 12/5/18 for this Three-Phase Project.

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2. Public Hearing and Development fees have been paid, in accordance with Section 144-70E of the Town Code.

3. The Phasing of this project provides the following Units:

a.) Phase 1, 68-Units with a Club House

Two (2) 2-Story 12 Unit Buildings

Three (3) 2-Story 10 Unit Buildings

One (1) 1-Story 8 Unit Building

One (1) 1-Story 6 Unit Building

Four (4) 5 Car Garages

b.) Phase 2, 56-Units

Two (2) Story 12 Unit Buildings

Four (4) 1-Story 8 Unit Buildings

One (1) 5 Car Garage

c.) Phase 3, 26-Units

Two (2) 2 Story 10 Unit Buildings

One (1) 1 Story 6 Unit Building

One (1) 9 Car Garage

4. Regarding Section 144-46C. (10) the proposed site plan is acceptable as the Petitioner has demonstrated, for this application, at the Bulk Regulation Density the same number of units as can be provided meeting all required setbacks as it would if constructed with a two (2) story eight (8) unit standard flat apartment building configuration as compared to the proposed more diverse and inclusive development which has a varying style and configuration. This determination is for this specific project only and shall not set any future precedent.

The developed site will have the following living style and units:

Five (5) 1-story 8-unit buildings w/attached garages

Two (2) 1-story 6-unit buildings w/attached garage

Five (5) 2-story 10-unit buildings – (2) 2-story townhouse type apartments w/attached garages, (8) flat type apartments

Four (4) 2-story 12-unit buildings – (4) 2-story townhouse type apartments w/attached garages, (8) flat type apartments

Six (6) detached garages buildings (34 garages)

One (1) 1-story clubhouse building

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5. Recreation fees in accordance with Section 144-70E of the Town Code will be paid.

6. The Conservation Board Approved the Landscaping Plan prepared by a NYS licensed Landscape Architect, submitted on 11/02/18, for all three-phases on 11/06/18, as follows:

a. **Phase 1**, total Landscape Estimate is $128,345, requires a Certified Check amounting to 50% of the total and this shall be deposited with the Town Clerk prior to receiving a Building Permit.

($64,172.50)

b. **Phase 2**, total Landscape Estimate is $68,545, requires a Certified Check amounting to 50% of the total and this shall be deposited with the Town Clerk prior to receiving a Building Permit.

($34,272.50)

c. **Phase 3**, total Landscape Estimate is $41,925, requires a Certified Check amounting to 50% of the total and this shall be deposited with the Town Clerk prior to receiving a Building Permit.

($20,962.50)

(The total Landscaping Value Estimate for all three phases is $238,815.)

7. Shadow Lane shall be extended to California Road as part of Phase 1 of this project.

8. Town Engineering Preliminary Site Plan Approval has been granted on 11/1/18.

9. The Applicant will not, at any future date, pursue access onto Big Tree Road.

THE **VOTE** ON THE **MOTION** BEING:

FABINSKY AYE

BAICH AYE

BODDEN AYE

KACZOR AYE

MURRAY NAY

THE **VOTE** BEING **FOUR (4) IN FAVOR**, AND **ONE (1) AGAINST**, THE **MOTION** IS **PASSED**.

Chairman Fabinsky asks that Mr. Romanowski have his Landscape Architect reach out to the adjacent neighbors regarding the rear Landscaping.

There being no further business, the Chairman adjourned the meeting at 7:42 P.M.

DATED: 12/28/18

REVIEWED: 1/09/19 Respectfully submitted, Rosemary M. Messina Planning Board Secretary

Harold T. Fabinsky, Planning Board Chairman