P.B. Meeting #10 Regular Meeting #10 Date: November 14, 2019 Page 1

**MEMBERS PRESENT:** Harold Fabinsky, Chairman

Paul Bodden

Henry Heppner

David Kaczor

Joseph Liberti

Philip Murray

Nicholas Taneff

Nicholas Baich, Alternate

**EXCUSED:** Len Berkowitz, Deputy Town Attorney

**OTHERS PRESENT:** Remy C. Orffeo, Acting Planning Coordinator

Steven Bremer, Supervising Code Enforcement Officer

Thomas Ostrander, Assistant Town Municipal Engineer

Rosemary Messina, Planning Board Secretary

The Chair announced fire alarm exit procedures and called the Planning Board meeting to order at 7:00 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.

Mr. Kaczor made a motion, seconded by Mr. Baich, to accept the September 12, 2019 meeting minutes as presented.

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

FABINSKY AYE

BODDEN AYE

HEPPNER AYE

KACZOR AYE

LIBERTI AYE

MURRAY AYE

TANEFF AYE

BAICH AYE

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

Mr. Liberti made a motion, seconded by Mr. Heppner, to accept the October 10, 2019 meeting minutes as presented.

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

FABINSKY AYE

BODDEN AYE

HEPPNER AYE

KACZOR AYE

LIBERTI AYE

MURRAY ABSTAINED

TANEFF ABSTAINED

THE **MOTION** **BEING (5) FIVE IN FAVOR AND TWO ABSTENTIONS, THE MOTION IS PASSED**.

P.B. Meeting #10 Regular Meeting #10 Date: November 14, 2019 Page 2

**OLD BUSINESS:**

1) P.B. File # 12-18, Buffalo Cigars 2911, Southwestern Boulevard, on the South side of Southwestern Boulevard, east of Michael Road, Zoned B-2. Applicant has scaled back their initial request to expansion of Parking Lot only, and is seeking Planning Board recommendation to the Town Board for a Building Permit and Site Plan approval to construct 51-parking spaces.

APPEARANCE: Mr. Doug Hutter, Zaxis

Mr. Andrew Gerbec, Wahl to Wahl

Mr. Hutter noted that the proposed Parking Lot Landscaping Plan was reviewed by the Conservation Board on October 29, 2019, and received “contingent approval” by that Board. As requested, he has resubmitted a revised Landscaping Plan to include (6) six fir trees at the site.

Chairman Fabinsky verified with Mr. Hutter that the requested 51-parking spaces will be adequate, to accommodate Buffalo Cigars’ patrons, eliminating the problem of re-occurring usage of Route 20 for over-flow parking. He also stated that our Deputy Town Attorney (not present this evening) advises that the Board can accept the letter from Mr. Smith authorizing “Zaxis International” representatives to represent him for the review of this project.

Mr. Baich confirmed that an approved two-story addition is currently being constructed on the existing structure adjacent to the proposed parking lot site.

Mr. Murray discussed segmentation and the intention for the property having no other purpose. He does not want to see tail-gate parties take place here, as he is concerned for the residents living nearby.

Mr. Heppner discussed the location of the (6) six fir trees. These will be placed along the parking area to assist with buffering.

Mr. Taneff discussed his concerns for the letter of authorization received from Mr. Smith. He concluded that he would like notarized board meeting minutes from this “LLC” sent to the Planning Board.

Mr. Bremer stated he has no issues with this project.

Mr. Bodden made a **MOTION**, seconded by Mr. Kaczor, to recommend that the Town Board **GRANT** Site Plan Approval and issue a Negative Declaration for this Unlisted Action, to construct 51 Parking Spaces, per the plan received on 10/10/19, based on the following conditions and stipulations:

1. This is an Unlisted SEQR Action, based on the Short EAF Part 1, and a Negative Declaration is recommended.

2. 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.

3. No outside storage or display is permitted.

4. Petitioner will hydro seed all disturbed dirt area, and remove miscellaneous debris.

5. Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.

P.B. Meeting #10 Regular Meeting #10 Date: November 14, 2019 Page 3

6. Applicant received NYS Dot approval for a road cut.

7. Town Engineering Approval was granted on 8/8/19.

8. Conservation Board approved Landscape Plan on 10/29/19.

9. The Orchard Park Planning Board retains all Town Code enforcement rights regarding any further parking lot expansion or building construction, including but not limited to, a pavilion.

**THE VOTE ON THE MOTION BEING:**

FABINSKY AYE

BODDEN AYE

HEPPNER AYE

KACZOR AYE

LIBERTI AYE

MURRAY ABSTAINED

TANEFF ABSTAINED

ON THE QUESTION:

Mr. Heppner discussed Stipulation #3, and questions “what is the display” we are prohibiting.

Building Inspector Bremmer will be contacted by the Petitioner for signage.

With counsel having affirmed the Board’s prerogative to do so, notification was made that Mr. Smith’s presence will be required for review of the possible future Pavilion project.

THE **MOTION** **BEING (5) FIVE IN FAVOR AND TWO ABSTENTIONS, THE MOTION IS PASSED**.

2) P.B. File #17-16, Orchard Grove Apartments, west side of California Road, east of Shadow Lane, north of Big Tree Road (US 20A), Zoned R-4. Applicant is seeking Planning Board approval of a proposed revision to the Site Plan, approved by this Board on 1/10/19.

APPEARANCE**:** Mr. Andrew Romanowski, Alliance Homes

Mr. Bill Burke, Alliance Homes

Mr. Romanowski explained that at the October Planning Board Meeting they were tabled pending clarification of the project’s Site Plan status being in violation of the NYS Fire Regulations, which it was found to be. On October 29th, the Petitioners met with the Conservation Board where they were asked to revise the submitted Landscape Plan with three (3) trees slightly shifted in the location of the proposed Westerly fire access drive. The other access drive did not affect the landscaping. It was determined at the meeting that these changes were minor, and presented a limited alteration to the overall make-up of this community. It was further established that signage will be in place to ban snow piles and parking in the two additional access roads.

Mr. Fabinsky made a **MOTION**, seconded by Mr. Heppner, to **GRANT** a revision to the **FINAL SITE PLAN** that was approved by this Board on 1/10/19, based on the updated plan received on 10/17/19, wherein proposed changes are necessary to comply with New York State Fire Regulations, as follows:

1. The addition of two (2) access driveways are to be constructed (highlighted in yellow) as shown on the Updated Plan. The Landscape plan is revised with (3) proposed trees slightly shifted in the location of the proposed westerly fire access drive. The other drive did not affect the landscaping. The changes are very minor in nature, and will present limited alteration to the overall make-up of the community.

P.B. Meeting #10 Regular Meeting #10 Date: November 14, 2019 Page 4

2. The changes fall well within the Greenspace Requirement of 15%.

3. Any plantings in the impacted areas will be relocated to a nearby area to ensure proper visual enhancements from these plantings. This relocation must have approval from the Town of Orchard Park Conservation Board.

4. Conservation Board approval of Landscape Plan on 10/29/19.

THE VOTE ON THE MOTION BEING:

FABINSKY AYE

BODDEN AYE

HEPPNER AYE

KACZOR AYE

LIBERTI AYE

MURRAY AYE

TANEFF AYE

THE **MOTION** **BEING (7) SEVEN IN FAVOR, THE MOTION IS PASSED**.

3) P.B. File #33-19, “Lyrica Park”, located on the south side of Milestrip Road, west of Transit Road, Zoned CMO. Holly Sajda, Community Association Manager, Clover Management, Inc., requesting name change to “Vineyard Trail”.

APPEARANCE: Ms. Mary Ostrowski, HOA Vice President

Ms. Marian MacDonald, HOA Vice President

The Home Owners Association (HOA) representatives explained that they had not known their subdivision to be named anything but “Vineyard Trail”. Upon applying for a permit to install a non-illuminated, code compliant, identification sign at the entranceway of their community the Town of Orchard Park representatives informed them that the subdivision’s legal name is “Lyrica Park”. Therefore, a permit for the requested “Vineyard Trail” sign could not be issued.

The Board discussed the request and determined that, if approved by the Board, the members would like a letter, confirming that the petitioners present who are requesting this name change are authorized representatives of their HOA as can be confirmed by a statement to that effect on letterhead. The petitioners were also advised that their attorney and the Towns’ Attorney must work together to petition Erie County to change the Map Cover name from “Lyrica Park” to “Vineyard Trail”. It was also recommended that the HOA also work with Building Inspector Steven Bremmer in this matter.

Mr. Liberti made a **MOTION**, seconded by Mr. Fabinsky, to recommend that the Board **CONDITIONALLY APPROVE** a requested name change for the “Lyrica Park”, CMO subdivision to “**VINEYARD TRAIL**”, based on the following conditions and stipulations:

1. Provide evidence of approval to the Town Attorney as you work towards getting the name of the Map Cover in County Hall changed.

P.B. Meeting #10 Regular Meeting #10 Date: November 14, 2019 Page 5

THE VOTE ON THE MOTION BEING:

FABINSKY AYE

BODDEN AYE

HEPPNER AYE

KACZOR AYE

LIBERTI AYE

MURRAY AYE

TANEFF AYE

THE **MOTION** **BEING (7) SEVEN IN FAVOR, THE MOTION IS PASSED**.

**NEW BUSINESS:**

1. P.B. File #30-19, “Neaverth”, One-Lot Subdivision, 6115 Scherff Road, located on the West side of Scherff Road, Zone A-1. (SBL#198.01-2-4.111) Requests Planning Board Pre-Application Findings for a One-Lot Subdivision.

APPEARANCE: Mrs. Pam Neaverth, Property Owner

Mrs. Neaverth explained that her daughter would like to construct a single-family home upon 5.1-acres of their 32-acre property with a shared common driveway. In the future they will have separate driveways.

The members reviewed the submitted request. It was learned that the back land is unusable and that access to the property is through Scherff Road.

Mr. Orffeo established that the property will be purchased and split-off after approval is granted for the One-Lot Subdivision.

Mr. Ostrander feels the separate driveway should be put in now.

Regarding Planning Board Subdivision File #30-19, the following Pre-Application Findings are made based on the submitted Sketch Plan received 10/13/19 and the applicant has detailed:

* The total acreage is 5.1 +/- acres.
* The desired zoning classification is A-1.
* The number of possible stages of completion is 1.
* The applicant's position with respect to title is Property Owner.

1. The zoning will remain as is.
2. Access to surrounding properties is through Scherff Road.

3. 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.

1. Subdivision Development fees, per Section 144-70D of the Town Code, shall be paid prior to the Preliminary Plat Plan Public Hearing.
2. Public Hearing fees shall be paid prior to the Preliminary Plat Plan Public Hearing.

P.B. Meeting #10 Regular Meeting #10 Date: November 14, 2019 Page 6

1. One (1) Street Tree per the Conservation Board's Street Tree Plan shall be provided for each lotper Section 120-3F of the Town Code.
2. The applicant shall complete and submit the Short EAF, Part 1 for this Unlisted SEQR Action.

THE VOTE ON THE MOTION BEING:

FABINSKY AYE

BODDEN AYE

HEPPNER AYE

KACZOR AYE

LIBERTI AYE

MURRAY AYE

TANEFF AYE

THE **MOTION** **BEING (7) SEVEN IN FAVOR, THE MOTION IS PASSED**.

There being no further business, the Chairman adjourned the meeting at 8:00 P.M.

DATED: 12/2/19

REVIEWED: 12/7/19

Respectfully submitted,

Rosemary M. Messina

Planning Board Secretary

Harold T. Fabinsky, Planning Board Chairman