

Town of Union Planning Board Minutes

Tuesday, September 14, 2021

The Town of Union Planning Board held a regular meeting on Tuesday, September 14, 2021, at the Town of Union Office Building, 3111 East Main Street, Endwell, New York.

Members present: D. Kudgus, S. McLain, T. Crowley, S. Forster, M. Jaros, C. Curtin (Alternate)

Members absent: L. Miller, K. Rose

Others present: Marina Lane, Rick Materese, Scott Mancini, Bob Kashou, Othman Othman, Shivan Othman, George Taylor, Paul Simonet, Kip Forsberg, Adele Everett,

A. CALL TO ORDER

Chairman Miller called the meeting to order at 6:59 p.m.

B. MEETING MINUTES

1. Acceptance of June 8, 2021 Meeting Minutes

Vice Chairman Kudgus asked for a motion to accept the June 8, 2021, Meeting Minutes, as written.

Motion Made: M. Jaros

Motion Seconded: S. McLain

MOTION: Acceptance of the June 8, 2021, Meeting Minutes as revised.

VOTE: **In Favor:** S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus

Opposed: None

Abstained: None

Motion Carried

2. Acceptance of July 13, 2021 Meeting Minutes

Vice-Chairman Kudgus asked for a motion to accept the July 13, 2021, Meeting Minutes, as written.

Motion Made: M. Jaros

Motion Seconded: T. Crowley

MOTION: Acceptance of the July 13, 2021, Meeting Minutes as written.

VOTE: **In Favor:** S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus

Opposed: None

Abstained: None

Motion Carried

3. Acceptance of August 10, 2021 Meeting Minutes

Vice-Chairman Kudgus asked for a motion to accept the August 10, 2021, Meeting Minutes, as written.

Motion Made: M. Jaros
Motion Seconded: S. Forster
MOTION: Acceptance of the August 10, 2021, Meeting Minutes as written.
VOTE: **In Favor:** S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

C. 4324 Watson Boulevard, Special Permit for Floodplain Development, Premier Media, Scott Mancini

Ms. Lane noted that the Planning Board had declared lead agency and classified the action as an unlisted action at the previous meeting.

1. SEQRA Determination

Ms. Lane read a brief description of the proposed action. “Construct double-sided digital LED billboard. One side of the billboard will be visible to motorists traveling east on Route 17 and the other side will be visible to motorists traveling west on Route 17. Each sign face will have the dimension of 10’6” high x 36’ in length. Total height of the structure will be 55” from property grade. Elevation at ground level for the sign is 833’ and it requires a special permit for development in the 100-year floodplain. The project is affecting 0.000114784 acres of ground. The sign is a permitted sign.”

Ms. Lane reviewed part 2 of the EAF and all of the environmental impacts were small to none for the project. Ms. Lane reminded the Planning Board that they were evaluating only the impact of the sign to base flood elevation; not the sign itself. The sign code was changed in 2020 to allow electronic billboards.

Ms. Lane read the Determination of Significance for the Planning Board. “Premier Media LLC has been approved for an Outdoor Advertising permit from the NYS DOT for an electronic, 50’7” high, 378 square-foot off-premise sign to be located at 4324 Watson Boulevard adjacent to State Route 17/86. The sign will not exceed 35-feet in height above the elevation of the shoulder of State Route 17/86. Premier Media plans to locate the sign in the 100-year floodplain and therefore a special permit is required for development in the floodplain. A heavy equipment repair business and dog daycare are located on the property. This proposal to locate the billboard sign in the floodplain was evaluated for any adverse negative impact on base flood elevation and the environment.

The sign is proposed to be located at ground elevation 833' asl. The base flood elevation is 836' asl. The sign will be elevated on a 36" diameter pipe column in a maximum 5' by 5' concrete base. The sign, base and pole would not result in any rise in base flood elevation.

The project does not require a stormwater management plan as there is minimal soil disturbance proposed.

The sign is permitted, and therefore the Town Board has determined that the proposed action will not result in adverse impacts to aesthetic, agricultural, historic or other natural or cultural resources; or community or neighborhood character.

The proposed sign, pipe column and buried base would not have any significant negative impacts on base flood elevation or the environment."

Vice-Chairman Kudgus asked for a motion to approve the Negative Declaration under SEQRA.

Motion Made: S. McLain
Motion Seconded: T. Crowley
MOTION: Approval of the Negative Declaration under SEQRA
VOTE: **In Favor:** S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

2. Public Hearing for Special Permit for Floodplain Development, Installation of an Off-Premise Sign; vote at Planning Board's Discretion

Vice-Chairman Kudgus read the public notice and then opened the Public Hearing for Development in the floodplain at 4324 Watson Boulevard at 7:08 p.m. Since no one had questions or comments about the project, Vice-Chairman Kudgus closed the Public Hearing at 7:10 p.m.

Ms. Lane introduced Scott Mancini, the representative for Premier Media, and asked the Planning Board whether they had any questions for him. Mr. Crowley asked Mr. Mancini to explain how the messaging on the sign would work. Mr. Mancini answered that the change time is regulated by the state and the minimum hold time for the state of New York is 5 seconds, and Premier Media's minimum hold time is usually 8 seconds, but sometimes it is 10 seconds. There is no fade or dissolve and it changes instantaneously in less than a second.

Ms. Lane then summarized her staff report for the Planning Board. Patrick Lyons of Premier Media submitted an application to place an electronic off-premises sign in the 100-year floodplain at 4324 Watson Boulevard. Base flood elevation at the property is 836-feet above sea level (836' a.s.l.), and the submitted survey map shows the base of the sign pole at 833'a.s.l. The pole is 41-feet high, and the sign will be placed higher than the floodplain. All uses within areas of special flood hazard, other than those specified in the code, are permitted only after the issuance of a special permit by the Town of Union Planning Board.

The property is subject to a 239-Review, and Broome County Planning did not identify any community-wide impacts, and B.C. Department of Public Works had no concerns. NYS DOT stated that they had issued the required Outdoor Advertising Permit, and that the applicant should ensure proper coordination with the Norfolk Southern Railway for this installation.

Ms. Lane asked Mr. Mancini if he knew whether the sign would encroach on the Norfolk Southern Railway property and he answered that they would not encroach at all.

The Planning Department recommends approval of the Special Permit for floodplain development, with the following stipulations:

1. Utilities, electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the utility components during conditions of flooding.
2. Per § 121-12.H.,
 - (2) All [other] development occurring within the area of special flood hazard will have upon completion a certificate of compliance issued by the local administrator.
 - (3) All certificates shall be based upon the inspections conducted subject to Subsection G of this section and/or any certified elevations, hydraulic information, flood proofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.
3. § 300-66.11. Transferability.
 - a) A special permit is not transferable except upon approval by resolution of the issuing board.

- b) A special permit shall authorize only one special use and shall expire if the special use ceases for more than three months for any reason.
4. This Special Use Permit shall expire if construction of the sign has not commenced within one year.
 5. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to construction of the sign, but no later than September 30, 2021. The applicant shall agree to follow the stipulations of approval in strict accordance with the special use permit. Changes to the site plan following approval may require a minor site plan review or submittal to the Planning Board, depending on the degree of change per Section 300-63.2. Applicability.

Vice-Chairman Kudgus called for a motion to approve the Special Permit for Floodplain Development for Installation of an Off-Premises Sign, with stipulations.

Motion Made: M. Jaros
Motion Seconded: T. Crowley
MOTION: Approval of the Special Permit for Floodplain Development for Installation of an Off-Premises Sign, with stipulations.
VOTE: **In Favor:** S. McLain, T Crowley, M. Jaros, D. Kudgus
Opposed: S. Forster
Abstained: None
Motion Carried

D. 1500 County Airport Road, Outdoor Kids’ Festival, Terri Farrell, Bob Kashou
Ms. Lane noted that the Planning Board had declared lead agency and classified the action as an unlisted action at the previous meeting.

1. SEQRA Determination

Ms. Lane read a brief description of the project. “This is a one day event which will be held on September 18, 2021, from 9:30 a.m. until 2:30 p.m. on the sports field. There are over 200 parking spaces on site with overflow parking on a secondary field.”

Ms. Lane reviewed part 2 of the EAF and all of the environmental impacts were small to none for the project. Ms. Lane read the Determination of Significance for the Planning Board.

“Mr. Kashou applied for a Special Permit for Outdoor Entertainment to hold an outdoor festival in a partnership with Molina Healthcare at an existing commercial sports field and associated parking lot on 16.1 acres. The festival

schedule for September 18, 2021, was evaluated for any adverse negative impact on the environment.

The festival, a fundraiser, will consist of inflatable games, a disc jockey for music background, and vendors. The hours are between 9:30 a.m. and 2:30 p.m., similar to the hours of the usual sports events on the site. DJ music will be controlled to meet the Town ordinance for sound, so there may be some impact on sound, but it will be temporary and not significant.

Available parking spaces will limit attendance, and the organizers will provide parking attendants to ensure compliance with parking regulations. The proposed action will not have any significant effects on existing traffic patterns, solid waste production or disposal. The project does not require a SWPPP as there is no soil disturbance or construction proposed.

The proposed action will not result in adverse impacts to aesthetic, agricultural, historic or other natural or cultural resources; or community or neighborhood character.

With no soil disturbance, it will not impact archaeological resources, nor endangered or threatened vegetation or animals. The festival will not create a hazard to environmental resources or human health.

The proposed project will not adversely impact the use of energy, nor have adverse impacts on subsequent development. The proposed action will not result in any adverse effects on the community's existing plans or goals, or change in use or intensity of use of land.

The project will not have any significant negative impacts on the environment, so I am recommending a negative declaration.”

Vice-Chairman Kudgus asked for a motion to approve the Negative Declaration under SEQRA.

Motion Made: S. Forster
Motion Seconded: M. Jaros
MOTION: Approval of the Negative Declaration under SEQRA
VOTE: In Favor: S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

2. Public Hearing for Special Use Permit for Outdoor Entertainment; Vote at the Planning Board's Discretion

Vice-Chairman Kudgus read the public notice and then opened the Public Hearing for a Special Use Permit for Outdoor Entertainment at 1500 County Airport Road at 7:26 p.m. Since no one had questions or comments about the project, Vice-Chairman Kudgus closed the Public Hearing at 7:26 p.m.

Ms. Lane then summarized her staff report for the Planning Board. The site is the current location of the Greater Binghamton Sports facility, an outdoor soccer/sports team venue. The outdoor fields are level, and the proposal is to place inflatable games on the turf field. There are approximately 225 parking spaces on site. There are indoor restrooms and concession stands for visitors.

The Planning Department staff recommends approval of the Special Permit specifically for the Outdoor Festival on September 18, 2021, with the following stipulations.

- 1) Private and qualified parking attendants shall ensure that attendance is limited to available parking so no one will park on the roads.
- 2) Traffic circulation and traffic control arrangements shall ensure safe passage for emergency vehicles, motor vehicles and pedestrians to and from the main event space. A space shall be reserved specially for emergency vehicles with easy access to the event.
- 3) There shall be no vehicular access nor parking within the 50 foot wide Columbia / Millennium Pipeline Group's right-of-way.
- 4) Parking on the practice field shall be delineated with stakes and ropes, or cones, to maintain orderly parking and vehicular movement on the site.
- 5) No motor vehicles other than those for the inflatable games shall be permitted to run longer than 10 minutes on site. No motor vehicles shall be permitted to race within the site at speeds higher than 10 miles per hour.
- 6) Noise at all times shall not exceed the Town's noise limits, which must be decreased by six decibels as this property is in a residential district (Chapter 300, Article 50).
- 7) If tents for food preparation are planned, Code Enforcement shall be notified no less than three days in advance. Seating is not permitted under a tent that is intended for cooking of any food.
- 8) The property owner shall be responsible for all activities that occur on the property.
- 9) No alcohol shall be brought on site from attendees.
- 10) Special permit modification approval will be required if there are any changes to the site plan or change in use of the property.
- 11) 300-66.11. Transferability of Special Permits
 - a. A special permit is not transferable except upon approval by resolution of the issuing board. A special permit shall authorize only one special

use and shall expire if the special use ceases for more than three months for any reason.

Vice-Chairman Kudgus called for a motion to approve the Special Use Permit for Outdoor Entertainment, with stipulations.

Motion Made: S. Forster
Motion Seconded: T. Crowley
MOTION: Approval of the Special Use Permit for Outdoor Entertainment, with stipulations.
VOTE: **In Favor:** S. McLain, T Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

E. 3623 George F. Highway, Special Use Permit for Auto Sales and Floodplain Development, Kevon Othman

Ms. Lane noted that they had done the environmental review for this project at the last meeting because it went to the ZBA for a variance to have a zero front setback, and the ZBA did grant that variance.

1. Public Hearing for Special Use Permit for Auto Sales; Vote at the Planning Board’s Discretion

Vice-Chairman Kudgus read the public notice and then opened the Public Hearing for Special Use Permit for Auto Sales at 3623 George F. Highway at 7:34 p.m.

Ms. Lane noted for the record that the applicants have been working with the DOT on a Use and Occupancy agreement. The applicants are working actively to expand the area for selling vehicles similar to what it had been before at that property.

After Ms. Lane’s comment, Vice-Chairman Kudgus closed the Public Hearing at 7:35 p.m.

Ms. Lane read her report to the Planning Board. “Kevon Othman submitted an application to sell motor vehicles from 3623 George F. Highway. The property is located in a General Commercial zoning district and selling vehicles is permitted by Special Use Permit from the Planning Board. The property is 0.21-acres.’

The former owner of this property sold vehicles from the property since before 2006, and began the process of applying for a Use and Occupancy agreement with the NYSDOT and Broome County a few years ago in order to legally park

display vehicles outside of the property, but he did not follow through with the application. This was not made clear when he sold the property to the current owner, Kevon Othman.

When Mr. Othman applied for his dealer's license, he was told by the DMV that he needed to submit a statement saying that he can use the property for auto sales. When Mr. Othman requested the statement from Code Enforcement, he was told he needed a survey, which is when Mr. Othman learned that he does not own as much property as he thought, and he restarted the application for the Use and Occupancy agreement with the DOT. At this time, this application is using the existing property only (3 spaces for display). When the NYS DOT and Broome County approve the Use and Occupancy agreement, the applicant will submit a new formal application to expand his auto sales lot. The approval of this special use permit to sell autos will also allow Mr. Othman to begin the application process for the dealer's license with the DMV, which takes some time.

The Town of Union Zoning Board of Appeals granted the area variance for a zero-foot front setback from the property line. The site plan shows parking for one employee, and two for customers including one accessible parking space. The site plan shows three parking spaces for display vehicles, the minimum required by the NYS DMV for a valid dealer's license.

The location of the garage is in the 100-hundred year floodplain, and therefore a Special Permit for floodplain development is required.

Under the requirements of SEQRA, Section 617.7(c), the proposal is an Unlisted action, was reviewed with the short Environmental Assessment Form, and the Planning Board issued a Negative Declaration on August 10, 2021.

This property was subject to a 239-Review, being located on State Route 17C. Regarding auto sales, Broome County recommended that the project should comply with applicable laws for the storage, handling, and disposal of toxic and hazardous chemicals, and should have a spill prevention plan. In addition, the Planning Board should take into consideration the potential hazards related to minor auto repair and any vehicle washing. Finally, the conditions should address outdoor tire storage, and collision/junk vehicles.

Broome County Health Department recommends 1) any hazardous materials/wastes stored on site should utilize primary and secondary containment systems and be registered with the NYS DEC as required. 2) A spill response plan and equipment should be readily available onsite for any spills, leaks or other discharges of hazardous materials/wastes. Plan to

include notification to NYS Spill Hotline of any “Reportable Spill” as defined by NYS DEC, and 3) Any floor drains in areas used for vehicle maintenance are to be connected to the municipal sewer system if available. Floor drains connected to a shallow absorption system are considered Class V Motor Vehicle Injection Wells under the USEPA and requires the use of an oil/grease separator before entering the system.

The staff recommendation is to approve the Special Use Permit with the following stipulations:

- 1) § 300-40.2. Automotive sales.
 - A. The sale of new or used vehicles may be allowed by special use permit, provided the following:
 - (1) The sales area shall be paved, suitably graded and drained, and maintained in a neat and orderly manner.
 - (2) No more than three vehicles shall be displayed for sale on site, as the number of cars that may be for sale on the premises must be specified on the special use permit. An increase in the number of cars to be sold shall require a new special permit.
 - (3) A spill prevention plan shall be provided to the Planning and Code Enforcement offices.
 - B. All maintenance of motor vehicles shall be performed fully within the garage. No motor vehicle parts shall be stored outside of an enclosed structure or screened area, which may not be located in front of the building.
 - C. The retail sale of fuel or automobile parts shall not be permitted.
- 2) Only minor vehicle maintenance shall occur on the property, including cleaning, due to the proximity of Patterson Creek and lack of sufficient drainage management.
- 3) Body fender work, painting, and refinishing vehicles is prohibited.
- 4) Absorbent pads shall be maintained on site and used under any vehicle found to be leaking fluids.
- 5) Any tires or parts not stored inside the building shall be enclosed in a fully screened enclosure.
- 6) No inoperable or unregistered vehicles shall be stored on site.
- 7) § 300-66.11. Transferability.

a) A special permit is not transferable except upon approval by resolution of the issuing board.

b) A special permit shall authorize only one special use and shall expire if the special use ceases for more than three months for any reason.8)

8) The applicant shall be required to acknowledge all of the above conditions, in writing, before displaying a DMV Dealer’s License sign, but no later than September 30, 2021.

There was some discussion about whether warranty repair work could be performed on the vehicles. Mr. Forster wanted the new owners to be permitted to repair vehicles covered by the 30-day warranty that New York State requires. Mr. Materese suggested that the words “no repairs outside of warranty repair” could be added to the second stipulation. Ms. Lane noted that she would incorporate these suggestions in her approval letter.

Vice-Chairman Kudgus called for a motion to approve the Special Use Permit for Auto Sales, with stipulations.

Motion Made: S. Forster
Motion Seconded: M. Jaros
MOTION: Approval of the Special Use Permit for Auto Sales, with stipulations.
VOTE: **In Favor:** S. McLain, T Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

2. Public Hearing for Special Permit for Development in the Floodplain; Vote at the Planning Board’s Discretion

Vice-Chairman Kudgus read the public notice and then opened the Public Hearing for Development in the Floodplain at 3623 George F. Highway at 7:47 p.m. Since no one had questions or comments about the development in the floodplain, Vice-Chairman Kudgus closed the Public Hearing at 7:48 p.m.

Ms. Lane read her staff report for the Planning Board. “Most of the property is in the 100-year floodplain, and per § 121-10.2.A. of Town Code, all uses within areas of special flood hazard other than those specified in § 121-10.1 are permitted only after the issuance of a special permit by the Planning Board. Base flood elevation at the property is 835-feet above sea level (835’a.s.l.), and the Broome County GIS website show the elevation contours at the property at 830’a.s.l.

The project is an Unlisted Action, and the Planning Board issued a Negative Declaration under the New York State Quality Review Act (SEQRA) on August 10, 2021. This property was subject to a 239-Review, being located on State Route 17C. Relative to the special permit for development in the floodplain, Broome County noted that the property is almost entirely in the FEMA 100-year floodplain.

The Planning Department recommends approval of the Special Permit for an auto sales facility in an existing building within the 100-year floodplain, with the following stipulations:

1. Any storage facility for chemicals, explosives or flammable liquids shall be located at an elevation at least two feet higher than the elevation of the base flood elevation, therefore seven-feet above ground. All potentially pollutant or toxic materials, including oils, solvents, waste fluids and batteries, shall be stored at least two feet above base flood elevation in the event of flooding. All hazardous chemicals shall have secondary storage equal to 115% capacity of the primary container.
2. The owner of the business shall be responsible for ensuring that vehicles on site are well maintained and not leaking fuel, oil, transmission and other fluids to prevent contamination of the Patterson Creek watershed.
3. Utilities, electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and flood-proofed, or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of a Certificate of Compliance. The applicant shall agree to follow the stipulations of approval in strict accordance with the special permit for development in a floodplain.”

Mr. Crowley asked how many cars could be displayed for sale. Ms. Lane answered that right now they can only put three cars on the lot for display legally. Mr. Crowley also made the applicants aware that their cars may get dented from stones thrown up by the trains since the property is located so close to the railroad tracks. He also urged the applicants to develop a strategy for where they would move the cars in the event of a flood.

Vice-Chairman Kudgus called for a motion to approve the Special Permit for Development in the Floodplain, with stipulations.

Motion Made: S. Forster
Motion Seconded: T. Crowley

MOTION: Approval of the Special Use Permit for Development in the Floodplain, with stipulations.
VOTE: **In Favor:** S. McLain, T Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

3. Pending approval of Special Use Permits, Site Plan Review

Ms. Lane read her staff report for the Planning Board. “Per the NYSDOT comments, the applicant is currently in the process of coordination with NYSDOT regarding the right-of-way considerations involved with this proposal. The applicant shall not be permitted to allow any encroachments, including parked vehicles, on the right-of-way owned by the Norfolk Southern Railway. No items may be placed in the State right-of-way that are not permitted under a prospective Use & Occupancy Permit, including signage.

The staff recommendation is to approve the Site Plan with the NYSDOT and Broome County Health Department requirements and the following stipulations:

1. The automobile sales parking lot shall be striped according to the plan by October 30, 2021. The required handicap parking shall conform to the Property Maintenance code of NYS, and shall be provided with signage displaying the international symbol of accessibility. The access aisle shall be provided with signage reading “No Parking Anytime.” Signs shall be permanently installed at a clear height of between 60 inches and 84 inches above grade and shall not interfere with an accessible route from an access aisle.
2. If the applicant wishes to add additional outdoor lighting, the lighting plan shall be submitted to Code Enforcement for their approval prior to installation.
3. If a sign is desired, the applicant shall apply for a sign permit from the Building Official. All temporary signs, portable signs, or balloons shall be reviewed and approved by the Code Enforcement Office prior to being placed on the property. Signs that blink, rotate, or move are not permitted.
4. The site plan shall be updated with the location of any dumpster or trash-storage location prior to the issuance of a Certificate of Compliance. The outdoor trash storage area shall be maintained in a neat and orderly manner.
5. Site plan approval shall expire after one year unless substantial improvements have been made pursuant to the approved site plan. The applicant may request an extension from the Planning Board.
6. The applicant shall be required to acknowledge all of the above

conditions, in writing, prior to the issuance of a Certificate of Compliance. The applicant shall agree to follow the stipulations of approval in strict accordance with the site plan. Changes to the site plan following approval may require a minor site plan review or submittal to the Planning Board, depending on the degree of change per Section 300-63.2. Applicability.

Mr. Othman noted that he thinks that he can park more than three cars on the lot. Ms. Lane noted that we cannot allow you to park on property that is not yours. Mr. Jaros suggested that if the applicants can get the property surveyed that they do not have to wait for the DOT, and they can come right back to the Planning Board. Once the applicants prove that they have more space on the lot, the Planning Board can approve a revised site plan.

Vice-Chairman Kudgus asked for a motion to approve the Site Plan for 3623 George F. Highway, with stipulations.

Motion Made: T. Crowley
Motion Seconded: M. Jaros
MOTION: Approval of the Site Plan for 3623 George F. Highway, with stipulations.
VOTE: In Favor: S. Forster, T. Crowley, M. Jaros, D. Kudgus
Opposed: S. McLain
Abstained: None
Motion Carried

F. 3003 Watson Boulevard, Taylors' Pizzeria/Restaurant, George Taylor

1. SEQRA Determination

Ms. Lane read a brief description of the project, "Convert former office into a small, sit-down pizzeria/restaurant. Plan to have approximately 20 seats, and will offer take-out service also. The parking lot has 12 parking spaces, including one accessible space and access space. Hours of operation will be between 10:00 a.m. and 11:00 p.m. The total property area is 0.28 acres and 164.5 square feet will be disturbed for the project.'

Ms. Lane reviewed part 2 of the EAF and all of the environmental impacts were small to none for the project. Ms. Lane read the Determination of Significance for the Planning Board.

"The applicant is purchasing an existing commercial approximately 1,600 square-foot 2-story building at 3003 Watson Boulevard to open a sit-down pizzeria and restaurant. The property is zoned Neighborhood Commercial and a sit-down restaurant is permitted by Special Use Permit from the Planning Board.

The property is surrounded by other businesses and residences along Watson Boulevard and the relatively small restaurant would not change the character of the neighborhood. The parking lot of the former office building will be

expanded by two parking spaces for a total of twelve spaces. A stormwater management plan is not required because most of the site is developed. Two additional parking spaces will be constructed in the rear of the property, and will be surrounded by approximately 0.10-acres of grass for natural drainage.

The project will not significantly impact traffic, existing utilities, and will not have a significant impact on wildlife or flora. Existing landscaping and fencing will minimize impacts pertaining to odors, noise, and lighting shall be directed only on the parking lot.

The property is not in the 100-year floodplain and there are no wetlands on the property. This property is located within the buffer area of the NYS DEC remediation site #704038, the Endicott Area-Wide Investigation, but is not directly impacted by the contamination.

Upon close review, the project as proposed will not have a significant adverse impact upon the environment.”

Vice-Chairman Kudgus asked for a motion to approve the Negative Declaration under SEQRA.

Motion Made: S. Forster
Motion Seconded: S. McLain
MOTION: Approval of the Negative Declaration under SEQRA
VOTE: In Favor: S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

2. Public Hearing for Special Use Permit for Sit-Down Restaurant; Vote at Planning Board’s Discretion

Vice-Chairman Kudgus read the public notice and opened the Public Hearing for Special Use Permit for a sit-down restaurant at 3003 Watson Boulevard at 8:14 p.m.

Ms. Adele Everett, a current tenant at 3003 Watson Boulevard, asked Mr. Taylor if there would be enough room to fit a commercial kitchen and provide seating for the public in the building. Mr. Taylor answered that the two rooms on the left will be combined for a small galley kitchen and then the back room will be used for a small dining room. Mr. Taylor commented that the number of patrons he can have in the dining room is limited by the amount of parking.

Since there were no other questions or comments about the project, Vice-Chairman Kudgus closed the Public Hearing at 8:16 p.m.

Ms. Lane read her staff report for the Planning Board. “The property is not subject to a 239-Review. The Town Engineering Department and Code Enforcement have reviewed the project and had no concerns.

The staff recommendation is to approve the Special Use Permit with the following stipulations:

- 1) Per NYS Department of Health Section 5-1.31 Cross-Connection Control regulations, prior to the issuance a Certificate of Compliance, the property owner must install a backflow prevention device to prevent contaminated water from flowing back into the public water supply system.
- 2) If a two-inch and above backflow prevention device is required, a professional engineer shall design the backflow prevention device, and the appropriate forms and design shall be submitted to the Village of Endicott Water Department. Once approved by the Broome County Health Department, your plumber shall obtain a permit from the Village of Endicott Water Department to install the device, which shall then be tested by a certified backflow device tester prior to the issuance a Certificate of Compliance.
- 3) A grease trap shall be installed on the sanitary sewer system prior to the issuance a Certificate of Compliance.
- 4) No cooking shall take place outdoors.
- 5) Any plan to add outdoor seating shall first be reviewed by the Code Enforcement Office.
- 6) The hours of public operation shall be permitted between 7:00 a.m. and 11:00 p.m., due to the proximity of residences.
- 7) Special permit modification approval will be required if there are any changes to the site plan or change in use of the property.
- 8) The Special Permit shall expire should the property or business be sold or transferred to another entity, per § 300-66.11. Transferability:
 - a. A special permit is not transferable except upon approval by resolution of the issuing board.
 - b. A special permit shall authorize only one special use and shall expire if the special use ceases for more than three months for any reason.
- 9) The applicant shall be required to acknowledge all of the above stipulations, in writing, prior to the issuance of a building permit.”

Vice-Chairman Kudgus asked for a motion to approve the Special Use Permit for a Sit-Down Restaurant, with stipulations.

Motion Made: S. Forster
Motion Seconded: T. Crowley
MOTION: Approval of the Special Use Permit for a Sit-Down Restaurant with take-out, with stipulations.
VOTE: In Favor: S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

Mr. Crowley asked if Mr. Taylor would still have take-out since the approval was for a sit-down restaurant. Ms. Lane explained she would modify the Special Use Permit approval letter by saying a sit-down restaurant with take-out to make sure that Mr. Taylor was covered. Mr. Forster changed his motion to read “approval of the Special Use Permit for a Sit-Down Restaurant with take-out.”

3. Pending SUP approval, Site Plan Review

Ms. Lane read her site plan report for the Planning Board. “The building was previously used as an office and the existing parking lot has 11 parking spaces. Two additional spaces are proposed, and two existing spaces adjacent to the restaurant’s accessible ramp shall be converted to one accessible space and access space, resulting in twelve parking spaces. One parking space is required for every two seats, limiting the number of patron seats to twenty-four. On-street parking cannot be used to increase the seating, and is prohibited between the hours of 4:00 p.m. and 5:30 p.m.

The parking lot has a dry well for drainage, and additional stormwater drains either into surrounding grassy areas or into Watson Boulevard, depending on the location.

There will be three employees maximum per shift, and the applicant anticipates they will park in the property parking lot. The restaurant will be opened to the public between 10:00 a.m. and 11:00 p.m. Garbage shall be contained in trash cans, enclosed in a fence behind the building.

The project is not subject to a 239-Review. The Town Engineering Department has reviewed the project and has no concerns. Code Enforcement has reviewed the project and has no concerns.

The project meets the requirements for site plan review for a restaurant in a Neighborhood Commercial zone. The staff recommendation is to approve the Site Plan, with the following stipulations:

1. The parking lot shall be striped according to the plan prior to the issuance of a Certificate of Compliance. The required handicap parking shall conform to the Property Maintenance code of NYS, and shall be

provided with signage displaying the international symbol of accessibility. The access aisle shall be provided with signage reading “No Parking Anytime.” Signs shall be permanently installed at a clear height of between 60 inches and 84 inches above grade and shall not interfere with an accessible route from an access aisle.

2. Parking shall not be permitted on the grass. If Code Enforcement determines there is not enough parking on site, a revised site plan with additional parking shall be submitted for site plan review.

3. The trash-storage area shall be maintained in a neat and orderly manner.

4. Existing outdoor lighting shall be directed into the parking lot. If the applicant wishes to add any outdoor lighting, the lighting plan shall be submitted to Code Enforcement for their approval prior to installation.

5. The applicant shall apply for a sign permit from the Building Permits office. All temporary signs, portable signs, search lights, balloons, sidewalk and curb signs shall be reviewed and approved by the Code Enforcement Office prior to being placed on the property.

6. Signs that blink, rotate, or move are not permitted.

7. Per NYS law, restaurants with fewer than 50 seats must be inspected by the Code Enforcement every three years. It is your responsibility to coordinate that inspection by calling the Code Enforcement office at (607) 786-2920. The initial inspection shall be completed prior to the issuance of a Certificate of Compliance.

8. Site plan approval shall expire after one year unless substantial improvements have been made pursuant to the approved site plan. The applicant may request an extension from the Planning Board.

9. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of a building permit. The applicant shall agree to follow the stipulations of approval in strict accordance with the site plan. Changes to the site plan following approval may require a minor site plan review or submittal to the Planning Board, depending on the degree of change per Section 300-63.2. Applicability.

There was some discussion after Ms. Lane read her report. Mr. Taylor questioned whether the maximum number of employees per shift could be increased. Mr. Materese, the Town Supervisor, noted that the Planning Board does not seek to limit the number of employees Mr. Taylor has. Ms. Lane added that the number of employees was included in her report, but was not a stipulation of approval. Ms. Lane emphasized that even though patrons could park on the street this would not allow Mr. Taylor to increase the seating in the restaurant. Mr. Taylor answered that he was aware that the only way he could increase the number of seats in his restaurant would be to increase the number of parking spaces in the lot. Ms. Lane added that outside lighting can be an issue because Code Enforcement gets calls when lights that shine

into the neighbors' backyards. Mr. Kip Forsberg, the current owner of the building, noted that there is a light in the back of the building, and there is another post with a light in front of the building that was previously approved.

Mr. Jaros asked when Mr. Taylor planned to open his restaurant. Mr. Taylor answered probably next April. Mr. Forster asked Mr. Taylor if he would keep his other restaurant open until the new one is ready. Mr. Taylor answered that his other restaurant will remain open until he moves to the 3003 Watson Boulevard location.

Vice-Chairman Kudgus asked for a motion to approve the Site Plan for 3003 Watson Boulevard, with stipulations.

Motion Made: S. Forster
Motion Seconded: M. Jaros
MOTION: Approval of the Site Plan for 3003 Watson Boulevard, with stipulations.
VOTE: In Favor: S. McLain, S. Forster, T. Crowley, M. Jaros, D. Kudgus
Opposed: S. McLain
Abstained: None
Motion Carried

G. 3608 George F. Highway, Special Permit for Floodplain Development, Park Outdoor, Paul Simonet

1. Declare Lead Agency

Vice-Chairman Kudgus asked for a motion to Declare Lead Agency.

Motion Made: S. McLain
Motion Seconded: M. Jaros
MOTION: Declare the Planning Board as Lead Agency.
VOTE: **In Favor:** S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

2. Classify the Project as an Unlisted Action

Vice-Chairman Kudgus asked for a motion to classify the Project as an Unlisted Action.

Motion Made: S. McLain
Motion Seconded: T. Crowley
MOTION: Classify Project as an Unlisted Action.
VOTE: **In Favor:** S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None

Abstained: None
Motion Carried

3. SEQRA Determination

Ms. Lane introduced the applicant, Paul Simonet, the representative for Park Outdoor. Ms. Lane reminded the Planning Board that they were evaluating only the impact of placing the off-premises sign in the 100-year floodplain, not approving the sign.

Ms. Lane stated that the total acreage of the site is 0.36-acres and the disturbance for the project is 0.001-acres. Ms. Lane reviewed part 2 of the EAF and noted that the environmental impacts were small to none for locating the sign in the 100-year floodplain.

Ms. Lane then read Part 3 of the EAF, the Determination of Significance, for the Planning Board. “Park Outdoor has proposed an electronic 34' high, 288 square-foot off-premise sign to be located at 3608 George F. Highway. The entire property is in the 100-year floodplain and therefore the proposal requires a special permit for development in the floodplain. The property is owned by the Town of Union through the FEMA buyout program, and requires approval from the Department of Homeland Security and FEMA before the Town can issue an off-premise sign permit. The proposal to locate a billboard sign in the floodplain was evaluated for any adverse negative impact on the floodplain and environment.

The sign is proposed to be located at ground elevation approx. 828' above sea level (asl). The base flood elevation is 835' asl. The sign would be elevated on a 24" & 3/8" pipe column in a 10' by 10' and 10'-deep concrete base. The base and pole would not result in any rise in base flood elevation.

The project does not require a stormwater management plan as there is minimal soil disturbance proposed.

The sign is permitted, and therefore it has been determined by the Town Board that the proposed action would not result in adverse impacts to aesthetic, agricultural, historic or other natural or cultural resources; or community or neighborhood character.

The proposed sign, pipe column and buried base would not have any significant negative impacts on base flood elevation or the environment. I propose a negative declaration.”

Vice-Chairman Kudgus asked for a motion to approve the Negative Declaration under SEQRA.

Motion Made: S. McLain
Motion Seconded: M. Jaros

MOTION: Approval of the Negative Declaration under SEQRA
VOTE: In Favor: S. McLain, T. Crowley, S. Forster, M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

4. Retroactively Call for a Public Hearing for Floodplain Development for an Off-Premises Sign

Ms. Lane noted that she had received a request from the Town Board to retroactively call for a Public Hearing for Park Outdoor because the applicant had only missed the deadline by one day. The request was approved by Alan Pope, the Town Attorney, so Ms. Lane was able to grant this request.

Vice-Chairman Kudgus asked for a motion to retroactively call for a Public Hearing for a Floodplain Development for an Off-Premise Sign

Motion Made: M. Jaros
Motion Seconded: T. Crowley
MOTION: Retroactively Call for a Public Hearing for Floodplain Development for an Off-Premise Sign
VOTE: In Favor: S. McLain, M. Jaros, D. Kudgus, T. Crowley
Opposed: S. Forster
Abstained: None
Motion Carried

Mr. Crowley asked Mr. Simonet whether he would be digging down 10 feet for the concrete base for the sign. Mr. Simonet answered that they need to dig ten feet to provide for a wind load of 110 miles per hour on the sign. Mr. Crowley asked him what he would do with the dirt that comes out of there and Mr. Simonet replied that they would haul it off the property.

5. Public Hearing for Special Permit for Floodplain Development, Installation of an Off-Premises Sign: Vote at the Planning Board's Discretion

Vice-Chairman Kudgus read the public notice and then opened the Public Hearing for Development in the floodplain at 3608 George F. Highway at 8:43 p.m. Since no one had questions or comments about the project, Vice-Chairman Kudgus closed the Public Hearing at 8:44 p.m.

Ms. Lane read her staff report for the Planning Board. "Paul Simonet of Park Outdoor submitted an application to place an electronic off-premises sign in the 100-year floodplain at 3608 George F. Highway. The entire property is in the 100-year floodplain. Base flood elevation at the property is 835-feet above

sea level (835'a.s.l.), and the Broome County GIS website show the elevation contours at the base of the sign pole at 828'a.s.l. The pole to the bottom of the sign is 22-feet high, and the sign will be placed higher than the floodplain.

The property is subject to a 239-Review; Broome County Planning did not identify any community-wide impacts, and B.C. Department of Public Works had no concerns. NYS DOT stated that the sign shall not encroach on the State right-of-way and should conform to the Towns' setback requirements, and if the billboard is placed in a manner such that it is visible from NYS Route 17, it will be subject to NYSDOT's Outdoor Advertising Permit process.

The Planning Department recommends approval of the Special Permit for floodplain development, with the following stipulations:

1. Utilities, electrical, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the utility components during conditions of flooding.
2. Per § 121-12.H.,
 - (1) All [other] development occurring within the area of special flood hazard will have upon completion a certificate of compliance issued by the local administrator.
 - (2) All certificates shall be based upon the inspections conducted subject to Subsection G of this section and/or any certified elevations, hydraulic information, flood proofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.
3. § 300-66.11. Transferability.
 - a) A special permit is not transferable except upon approval by resolution of the issuing board.
 - b) A special permit shall authorize only one special use and shall expire if the special use ceases for more than three months for any reason.
4. This Special Use Permit shall expire if construction of the sign has not commenced within one year.
5. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to the issuance of a sign permit. The applicant shall agree to follow the stipulations of approval in strict accordance with the special use permit. Changes to the site plan following approval may require a minor site plan review or submittal to the Planning Board, depending on the degree of change per Section 300-63.2. Applicability.

Ms. Lane explained that Mr. Simonet did not have to do a survey of the property because it is entirely in the floodplain, unlike Premier Media’s project. Per code, the leading edge of the sign cannot be within the eight-foot front setback from the property line. Because the property lines are not clear, Ms. Lane advised Mr. Simonet to consult with the DOT to determine the property boundary, so that Park Outdoor would meet the DOT requirements.

Mr. Forster asked if the power for the electronic sign would be underground. Mr. Simonet replied that he is not the person who makes the determination about the wiring of the sign. He noted that they have people who do the electrical work on the signs and they coordinate this aspect of the sign with NYSEG. Mr. Forster asked Mr. Simonet if conduit wiring would come down the pole. Mr. Simonet said that sometimes they do this, but he was not sure how this sign will be wired. Mr. Forster noted that if the project does get approved, the wiring should be underground wiring and he thought that Park Outdoor should do whatever they could to dress it up. Mr. Simonet agreed with Mr. Forster and said that, in the sign business, visibility is everything, so Park Outdoor wouldn’t want a wire competing with the visibility of the sign.

Mr. Forster also asked whether it was legal to place a sign on a FEMA property. Mr. Simonet answered that it is legal because the sign would have such a minimal impact on the floodplain. He added that the only thing that would be above ground in the floodplain is the pole for the sign. Ms. Lane noted that FEMA would have to approve the sign in the floodplain before construction on the sign begins.

Vice-Chairman Kudgus called for a motion to approve the Special Permit for Floodplain Development for Installation of an Off-Premises Sign, with stipulations.

Motion Made: T. Crowley
Motion Seconded: S. McLain
MOTION: Approval of the Special Permit for Floodplain Development for Installation of an Off-Premises Sign, with stipulations.
VOTE: **In Favor:** S. McLain, T Crowley, M. Jaros, D. Kudgus
Opposed: S. Forster
Abstained: None
Motion Carried

L. Other Such Matters as May Properly Come Before the Board

Ms. Margaret Scarinzi, the Planning Director, and Colleen Curtin, the new Planning Board Alternate member, were introduced to the Planning Board. Ms. Lane thanked all of the members for their flexibility with meeting dates, and then she distributed packets for the September 21, 2021, meeting to the members.

M. Adjournment

Vice-Chairman Kudgus asked for a motion to adjourn the meeting at 9:00 p.m.

Motion Made: D. Kudgus
Motion Seconded: M. Jaros
MOTION: Adjourning the meeting.
VOTE: **In Favor:** L. Miller, S. McLain, S. Forster,
M. Jaros, D. Kudgus
Opposed: None
Abstained: None
Motion Carried

Next Meeting Date

The next meeting of the Planning Board is tentatively scheduled for Tuesday, September 21, 2021, at 7:00 p.m.

Respectfully Submitted,
Carol Krawczyk