

**WEST SENECA COMMUNITY ROOM**  
1300 Union Road  
West Seneca, NY 14224

**WEST SENECA PLANNING BOARD**  
Minutes #2019-10  
October 10, 2019

Chairman Niederpruem called the meeting to order at 7:00 P.M. followed by the Pledge of Allegiance led by Sergeant-at-Arms George Clifford.

**ROLL CALL:** Present - Robert Niederpruem Jr., Chairman  
Donald Mendola  
James Rathmann  
George Clifford  
Margaret Bebak  
Brendon Najm  
Jeffrey Schieber, Code Enforcement Officer  
Tina Hawthorne, Town Attorney

Absent - Dale J McCabe

Chairman Niederpruem read the Fire Prevention Code instructing the public where to exit in case of a fire or other emergency.

#### **APPROVAL OF PROOFS OF PUBLICATION**

Motion by Rathmann, seconded by Mendola, to receive and file the proofs of publication and posting of legal notice.

Ayes: All

Noes: None

Motion Carried

#### **APPROVAL OF MINUTES**

Motion by Mendola, seconded by Rathmann, to approve Minutes #2019-09 of September 12, 2019.

On the question, Mr. Clifford referred to Item #SPR2019-06 and requested his comment concerning a left turn lane be added to the minutes along with the applicant's response.

Motion by Mendola, seconded by Rathmann, to amend the motion and approve Minutes #2019-09 of September 12, 2019 with the inclusion of Mr. Clifford's comment regarding the left turn lane.

Ayes: All

Noes: None

Motion Carried

**OLD BUSINESS**

**SPR2019-04**

A request from Frank Wailand for site plan approval for property located at 3155 Seneca Street for construction of a 13,400 sf multi-tenant building and 89 storage units.

Chairman Niederpruem stated the petitioner requested this item be tabled until the next meeting.

Motion by Clifford, seconded by Rathmann, to table this item until the November 14, 2019 meeting.

Ayes: All

Noes: None

Motion Carried

**2019-01**

A request from DATO Development, LLC for a special permit for property located at 299 Leydecker Road, being part of Lot No. 396, changing its classification from R-60A to R-60A(S), for a multi-family development consisting of five 10-unit, 2-story buildings and six single story duplexes (24 units).

Motion by Mendola, seconded by Clifford, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

Attorney Sean Hopkins of Hopkins Sorgi & Romanowski, PLLC represented DATO Development, LLC and stated there is adequate downstream sanitary sewer capacity during wet weather conditions and Robert Smythe of the NYSDEC submitted an email on September 13, 2019 with his approval. Carmina Wood Morris also provided additional information to Town Engineer Steven Tanner and on September 16, 2019 Mr. Tanner issued an email approving the downstream sanitary sewer capacity analysis report and confirming a mitigation payment to the town in the amount of \$17,556.

Chairman Niederpruem noted a petition opposing the project was filed at a previous meeting and is part of the record.

Five residents of the surrounding neighborhood made the following comments:

- ✓ Number of apartments – 74 into an area between 59 single family homes; no need for more apartments
- ✓ Preferred one floor development over two-story buildings; would have no problem with ten patio homes on site
- ✓ Possibility of project becoming subsidized housing

**2019-01** (continued)

- ✓ Possibility of negative effect on property values
- ✓ There is still overflow at the pump station and if there is proper sanitary sewer capacity there should be no overflow – Mr. Mendola noted the Town Engineer has stated the pump station is not operating at capacity and should be increased.
- ✓ The variable frequency drive is running at 50 Hertz and questioned the maximum it can run at – Chairman Niederpruem responded the variable frequency drive can run at 100 percent; if they are only receiving 50 Hertz it is underperforming.
- ✓ Sewer work was done a few years ago, but the sewers will not handle the additional sewage from 74 units
- ✓ Intersection of Leydecker Road and Southwestern Blvd. has 2.8 times more than the national average of accidents; traffic study did not include the three fatalities this year or traffic from employees going to work at WNYDDSO and the Children’s Psychiatric Center – Mr. Hopkins responded Leydecker Road is a county highway and the traffic study was reviewed and approved.
- ✓ Current condition of property is being neglected

Motion by Mendola, seconded by Rathmann, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

Mrs. Bebak commented it would be nice to see the property remain vacant and used as a park, but it is zoned properly for multi-family homes, so they cannot deny a special permit just because they don’t like the project.

Motion by Bebak, seconded by Mendola, to recommend approval of a special permit for property located at 299 Leydecker Road, being part of Lot No. 396, changing its classification from R-60A to R-60A(S), for a multi-family development consisting of five 10-unit, 2-story buildings and six single story duplexes (24 units), with the stipulation that the easterly portion (1.38 acres) remain undeveloped and subject to a declaration of restrictions to be recorded in the Erie County Clerk’s office and copied to the Town Clerk, Town Attorney and Code Enforcement Office.

Ayes: (4) Mrs. Bebak, Mr. Mendola, Mr. Najm, Chairman Niederpruem

Noes: (2) Mr. Rathmann, Mr. Clifford

Motion Carried

**SPR2019-05**

A request from Rosina Food Products Inc. for site plan approval for property located at 3100 Clinton Street for construction of a 111,223 sf food processing factory.

Motion by Mendola, seconded by Rathmann, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

Gregory Setter, Chief Operating Officer for Rosina Food Products, stated all concerns raised at the last meeting were addressed and they have been working with Code Enforcement Officer Jeffrey Schieber. The biggest concern was tapping into the sewer and they have recently obtained sewer approval. If for some reason the flow cannot be accepted into the pipeline, Rosina will put in an adequate storage facility on site and slowly release into the sewer line.

Mr. Schieber gave an update on what took place since the last meeting:

- ✓ Erie County Sewer District 1 approved connection to the 27" main and Rosina will install storage tanks.
- ✓ Army Corps of Engineers (ACOE) is in agreement with the wetland documents and what will be done.
- ✓ A light study was provided indicating parking lot lighting will not crest past the outside edge of the curbing on all sides.
- ✓ The Town of West Seneca has never cleaned the drainage ditch and NYSDOT should be cleaning it since they installed it.
- ✓ NYSDOT has approved the curb cuts.
- ✓ A tree survey has been submitted.
- ✓ The fire department will have 360° access to the site; the building is fully sprinkled; they are aware of and comfortable with the ammonia system
- ✓ Generic renderings of the elevations were provided, but the building is setback 150' so it may not even be seen.
- ✓ The security guard station has not yet been fully thought out and they have agreed the building design will be submitted to the Planning Board for approval.
- ✓ There is no town engineering approval yet and Rosina will be revising their drawings to satisfy the Town Engineer's request to include potential future development and green infrastructure. None of the proposed changes should affect any SEQR items.
- ✓ Erie County Sewer District 1 also required the current project and any future build out.

**SPR2019-05** (continued)

Mr. Mendola referred to the outfall storm sewer that takes a limited amount of water from that side of Clinton Street and commented the project will increase the amount of water going in. Mr. Setter stated this has already been addressed with the storm water plan. The retention area closest to Clinton Street will hold a 100 year rain storm, so it should rarely, if ever, overflow. If it does, the overflow pipe will handle anything additional. Both the ACOE and DEC have signed off that the retention pond is more than adequate.

Chairman Niederpruem commented that Clinton Street is a state highway and NYS should be maintaining the ditch. There should be an agreement on file from when this was installed and NYS should be put on notice.

A Clinton Street resident stated his property is directly across from this site and his front yard is 4' to 6' lower than Clinton Street. There is a berm to prevent water from running into his yard, but if the retention pond goes above flood stage it would be a huge problem for him. He questioned how deep the retention pond is and how far off Clinton Street. Mr. Setter responded the retention pond is 8' deep and 25' to 30' off Clinton Street. The resident suggested some type of barrier to prevent a vehicle from going into the pond.

Motion by Mendola, seconded by Rathmann, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

Motion by Mrs. Bebak, seconded by Mr. Mendola, to adopt the attached resolution issuing a negative declaration for SEQR to allow the applicant to continue with Brownfield cleanup and table site plan approval of the project.

Ayes: All

Noes: None

Motion Carried  
\*APPENDICES\*

**SPR2019-06**

A request from JSEK West Seneca LLC for site plan approval for property located at 1343, 1347 & 1353 Union Road for a car wash facility.

Motion by Mendola, seconded by Clifford, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

**SPR2019-06** (continued)

Attorney Sean Hopkins of Hopkins Sorgi & Romanowski, PLLC represented JSEK West Seneca LLC and stated the architecture of the building was dramatically improved and enhanced with stone, wood, glass, etc. The applicable storm water required has been confirmed and because they are only increasing the amount of impervious surface on the site by less than one acre, the standard is a 25 year storm. The property where the garage is located is being conveyed to the neighbor and in exchange they are relinquishing some reciprocal parking easement rights they had.

Project Architect James Boy stated he talked to Vigilant Fire Chief John Gullo and he is happy with the turning radius and fire lanes. He also requested a lockbox and a second means of egress off Fremont Avenue, but Mr. Boy was aware the Planning Board and residents were not in favor of that.

Mr. Hopkins stated the updated plan shows bollards directing traffic out to Union Road. Catch basins were added for stormwater management and a yard drain was added along the north property line which will help neighboring properties. They are applying to the Zoning Board of Appeals for variances on the driveway setbacks and they will be proceeding with filing a highway work permit with NYSDOT.

Mr. Mendola commented on a need for more storm sewer along the north property line and suggested addition of a workable swale or piping. Project Engineer John Schenne stated the swale to the north picks up a small area of green space and carries it around the north side. All pre-existing grades run from the west to the east to a catch basin on the side street. Mr. Schenne stated they can add another catch basin if necessary and will work with the Town Engineer.

Mr. Rathmann requested more spot elevations, particularly in the swales and stated the contours and elevations within the parking lot need to be revised to stay within the site. Mr. Schenne stated an agreement was worked out to go on the neighbor's property a short distance to correct their drainage problems.

Mrs. Bebak requested a smaller rendering of the building for the board to look at.

Mr. Rathmann stated existing trees must be shown on a tree survey and indicate which are coming down and those that will remain. The Union Road corridor also requires concrete or granite curbs around parking areas, so they need to see the grades in the parking lot to determine where it is draining and if the curbs are needed.

A resident suggested traffic be allowed onto Fremont Avenue to alleviate some traffic on Union Road.

**SPR2019-06** (continued)

Mr. Hopkins stated it was agreed there will be no public access to Fremont Avenue and that would not be well received by the neighborhood.

Mr. Rathmann commented on the use of bollards to direct traffic. Mr. Hopkins stated they will also be striping and have signage, and they are proposing two exit lanes subject to NYSDOT review. Mr. Rathmann noted there does not appear to be two lanes at the exit and he did not believe they could fit two vehicles.

Motion by Mendola, seconded by Clifford, to close the public hearing.

Ayes: All                                      Noes: None                                      Motion Carried

Motion by Bebak, seconded by Rathmann, to table this item pending further information.

Ayes: All                                      Noes: None                                      Motion Carried

**NEW BUSINESS**

**SPR2019-07**

A request from Great Expectations Child Care for site plan approval for property located at 4534 Clinton Street for construction of a 3019 sf building addition.

Motion by Mendola, seconded by Clifford, to open the public hearing.

Ayes: All                                      Noes: None                                      Motion Carried

Andrew Terragnoli, PE of Studio T3 Engineering PLLC represented Great Expectations Child Care and stated their proposal to construct a one-story, 3019 sf addition connecting their two existing buildings. NYS Fire Code requires a maximum of 150' of access around the rear of the building, so there will be two new driveway additions and a concrete sidewalk to connect. There will be no new curb cuts and no reduction in handicapped parking. Landscaping will be done to match the existing plantings. The engineering plan was approved by the Town Engineer and the project complies with minimum setbacks, so no variances are needed.

Architect Joseph See stated they plan to blend the existing brick veneer architecture of the two existing buildings. The project is under 12,000 sf, so sprinklers are not required, but it was noted each room has two doors, one of which exits the building.

**SPR2019-07** (continued)

Mr. Rathmann noted the playground on the north end that is impacted by a fire lane. Mr. See stated this will be redesigned so there is no interruption to the fire lane. Mr. Rathmann further commented on the grade change along the new sidewalk on the east side of the building. Code Enforcement Officer Jeffrey Schieber stated NYS inspected the site and the owners had to install a fence.

Mr. Mendola questioned the standard for grass pavers. Mr. Terragnoli responded they must meet H25 loading to be acceptable and he will provide more information.

No comments were received from the public.

Motion by Mendola, seconded by Rathmann, to close the public hearing.

Ayes: All                                      Noes: None                                      Motion Carried

Motion by Clifford, seconded by Najm, to grant site plan approval for property located at 4534 Clinton Street for construction of a 3019 sf building addition.

Ayes: All                                      Noes: None                                      Motion Carried

**2019-07**

A request from Young Development Inc. for a rezoning & special permit for property located at 945 Center Road, being part of Lot No. 204, changing its classification from R-65A & R-75 to R-60A(S), for construction of 32 attached residential units for lease with attached garages.

Motion by Mendola, seconded by Rathmann, to open the public hearing.

Ayes: All                                      Noes: None                                      Motion Carried

Chairman Niederpruem requested an explanation on what was done to the site. He referred to the town ordinance that protects property from being clear cut and questioned who owns the property, who gave the go ahead to cut the trees and who paid for it.

Attorney Sean Hopkins of Hopkins Sorgi & Romanowski PLLC represented Young Development and stated Mr. Young has a contract to purchase the property. Clear cutting was done by a third party and Mr. Young presumably paid for the service.

Chairman Niederpruem questioned if Mr. Young had any idea of the wetlands on the site.



**2019-07** (continued)

Mr. Hopkins stated there are no mapped wetlands on the site. After the stop work order was issued they retained the services of Earth Dimensions and it was determined that .45 acres qualifies as jurisdictional federal wetlands. The updated plan submitted impacts 5/100 of an acre of the wetlands.

Chairman Niederpruem stated he would like to hear comments from the Army Corps of Engineers. He requested a stump survey and wanted to know the species of trees and their size to submit to the West Seneca Environmental Commission so they can put a value on it. Chairman Niederpruem further noted he is not in favor of the two-story row of buildings on the revised plan.

Mr. Hopkins stated he had met with some of the neighbors and a double staggered row of evergreen trees was added to the plan and the building setback was increased to 53.95'.

Mr. Mendola questioned the zoning to the west of the site. Code Enforcement Officer Jeffrey Schieber stated the majority of Center Road is zoned R-65A or R-75.

Three residents of the surrounding neighborhood offered the following comments/concerns:

- ✓ Submitted a petition signed by 47 adjacent property owners opposed to the rezoning
- ✓ Population density and traffic concerns
- ✓ Storm water overflow; sewer system is overburdened; flooding on Center Road
- ✓ No tree survey was done
- ✓ No permits were obtained from the Army Corps of Engineers; what fines will there be
- ✓ Property is not zoned properly for this type of development; do not have to rezone
- ✓ Opposed to building another senior housing development
- ✓ Began work clear cutting before submitting project to the town
- ✓ Original project submitted to Town Board called for 22 townhomes; revised plan is for apartments in the middle of a single family neighborhood
- ✓ Not in line with the Comprehensive Plan which calls for improving community identity and livability
- ✓ Clear cutting a wetlands without authorization is not an environmentally friendly development practice
- ✓ Urged the Planning Board to take a stand against developers and reject the project

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**2019-07** (continued)

Town Attorney Tina Hawthorne referred to Chapter 110 of the Town Code that regulates clear cutting land and stated a tree removal permit was not granted and the penalty is up to a total of \$250 fine. It also allows the court to address replanting of trees and no issuance of a building permit until the situation is rectified. Mrs. Hawthorne stated she will be discussing this with the Town Board.

Motion by Mendola, seconded by Clifford, to table this item until all items are received and penalties are defined.

Ayes: All

Noes: None

Motion Carried


**ADJOURNMENT**

Motion by Mendola, seconded by Rathmann, to adjourn the meeting at 8:45 P.M.

Ayes: All

Noes: None

Motion Carried

  
**JACQUELINE A FELSER**  
**TOWN CLERK/PLANNING BOARD**  
**SECRETARY**

**WHEREAS**, the Planning Board of the Town of West Seneca, as lead agency acting pursuant to the State Environmental Quality Review Act, Article 8 of the New York State Environmental Conservation Law, has reviewed Part I of the Full Environmental Assessment Form ("EAF") prepared by the applicant for property located at 3100 Clinton Street (SBL 124.15-2-10) ("Subject Property"), for construction of a new protein manufacturing facility (the "Project"), and reviewed the draft completed Part II of the EAF analyzing the potential for the Project to result in any significant adverse environmental impacts and has otherwise taken a hard look at the identified potential environmental impacts utilizing the criteria specified in 6 NYCRR 617.7(c); and

**WHEREAS**, upon review of Parts I and II of the EAF and documentation and plans submitted by the applicant in connection with the review of the Project, the Planning Board has not identified any potentially significant adverse environmental impacts associated with the proposed use of the Subject Property, has determined that preparation of an Environmental Impact Statement is not necessary and that the issuance of a Negative Declaration is therefore appropriate; now, therefore, be it

**RESOLVED** that pursuant to 6 NYCRR 617.7(a) the Planning Board does hereby adopt a Negative Declaration with respect to the Project based on its determination that the Project will not result in any potentially significant adverse environmental impacts.