TOWN OF GATES

PLANNING BOARD MINUTES

April 27, 2020

The regular meeting of the Gates Planning Board was called to order at 7:30 PM by Chairman Wall.

PRESENT MEMBERS: M. Wall (Chairman), T. May, J. Ruiz, J. Argenta, D. Gartley,D. Schum, (Town Attorney), K. Rappazzo (Dir. Of Public Works), L. Cordero (Councilman), M. Ritchie (Costich Engineering)

ABSENT MEMBERS:G. Lillie

The Board held a moment of silence for David Chamberlain, Planning Board Member and Town of Gates Employee, who passed away last week.

The first matter on the agenda was approval of the February 24, 2020 Planning Board Minutes. Mr. Argenta made a motion to approve the minutes as received. Ms. May seconded the motion. All were in favor; **the motion carried**.

**CHURCHVIEW COMMONS PRELIMINARY/FINAL SITE APPROVAL**

**OWNER: Gates Presbyterian Church Residential Zone (R-1-11)**

**LOCATION: 1049 Wegman Road**

**ENGINEER: Marathon Engineering**

Mr. Matt Thomalson of Marathon Engineering was present to speak on this application. Roger Langer, architect and Robert Cain, developer was also present. At this point Mr. Thomalson put up the graphic they prepared by sharing his screen for all to see.

Mr. Thomalson said they made application for Preliminary/Final Site Plan Approval for Churchview Commons located at 1049 Wegman Road behind the Gates Presbyterian Church. They are proposing a 45 unit-2 story apartment building which will be developed by Pathstone Corp. They have successfully received the variance from the Zoning Board as well as a rezoning to the MR districts which is consistent with the property immediately to the north of this property.

They have submitted a full application package which included several of the documents that were requested by the board including drainage, storm water pollution prevention plan, a queuing and traffic analysis by a Traffic Engineer. They have included such amenities such as the fire apparatus access lane along the north side to address the Fire Marshal comments. They have created a dedicated pedestrian lane between the church and the apartment building to facilitate some of the pedestrian movement. They have also been in receipt of the Town Engineer’s comment letter and have responded in writing.

Mr. Roger Langer stated that based on the comments from the Church’s congregation, Town Board, and other Town Department’s input, they have decided on a two-story building with sloped roof and return gables in order to blend in better with the neighborhood and present themselves as a better-neighbor to the community. Building is very similar to what was previously presented but what they did was mirror some functions within the building to align the trash collection room within the apartment building closer to the dumpster enclosure so that it would minimize travel distance for eliminating garbage and getting it out to the dumpster. They have not settled on the colors yet, but general appearance has brick to match the existing church as close as possible.

Mr. Thomalson wanted to point out a few things, they had explored a secondary-access to the parking. After further review, including a Queue Study, it was determined that a secondary-access would not be required.

Mr. Argenta asked about the 1,700 sq. ft. commercial space and the YWCA offices depicted on the plan. Mr. Thomalson said that YWCA is service provider; it is not a public space. 1,700 sq. ft. is the YWCA leased area.

Ms. May asked about green space and wanted to know how they would make it look beautiful. If trees are removed, how would they make it look beautiful? Mr. Thomalson referred to the Landscaping Plan. They are removing several trees, but the 4 trees near the parking area are in good condition and will stay. Trees near highway are dead and will be removed. For greenspace they are proposing to add several islands and landscape areas within the parking area itself to break-up the pavement, which also providesa nice front to the building. The rear of property will have trees to provide shading. Open space is being provided for the residents. It is located at the rear of the property; it is nicely shaded and faces west.

Ms. May asked about lighting and if it would interfere with neighbors. Mr. Thomalson stated that there will be pole-mounted lighting with double-headed fixtures, 18-feet high. The Church itself has building mounted lighting. Pathstone wants the area well lit for their residents. No light spill to neighbors. Entrance lighting for all doors. All with zero-light spill and dark-sky compliant.

Ms. May asked if the playground was going to be removed. Mr. Thomalson stated that the existing playground will be relocated or replaced by the Church.

Mr. Gartley asked about the garbage area and asked if the trash coral is in the shed. Mr. Thomalson stated they are working with Waste Management and exploring placing it at the end of the fire drives.

Mr. Wall asked about pond location. There are two, six foot gates proposed on the backside of the pond and Mr. Wall asked the Applicant to work with Town of Gates to relocate the access gates towards the east where it would be easier access with maintenance vehicles. The Town will also need an access-way (gravel or pavement) to get the pond for inspection and maintenance.

Mr. Thomalson agreed that they can revise the gate location.

Mr. Wall discussed the spillway, there is proposed grading and placement of riprap / stormwater features within the NYSDOT Right-of-way. Mr. Wall asked about the progress in obtaining the NYSDOT permits. Mr. Thomalson answered yes, they have made application to DOT and have a preliminary comment letter. They are working on addressing the comments. There is no piping or structure in the Right-of-way, so there will be no use and occupancy permit required, but a simple grading permit and erosion control to protect the Right-of-way drainage. They will provide the copies of the permits to the Town when they receive them.

Mr. Wall reminded Mr. Thomalson that all easements need to be reviewed and approved by the Town Attorney.

Mr. Wall stated that the dumpster enclosure looks like it is made out of wood. As a general standard for the Town, we are ok with a wood gating, but the back of the structure needs to be masonry. Mr. Thomalson and Mr. Langer agreed that they can make the masonry enclosure match the building colors.

Mr. Wall asked if there are building wall packs proposed. Mr. Thomalson said there will not be wall packs for general lighting there will be lighting at the entrances required by code. Mr. Wall said have the photometrics for one outlining area not for all the spots that way they can prove that there will not be any spill over. Mr. Thomalson agreed. They can add it to the plans.

Mr. Wall asked where they put in the 12x12x6 watermain, will there be an open roadway cut on Wegman Road. Mr. Thomalson stated that they have not determined it yet with the Monroe County Water Authority. The watermain is under the pavement, which would require an open-cut but the conversation is still ongoing.

Mr. Rappazzo had no comments.

Mr. Ritchie stated that most comments on comment letter were technical in nature and has not seen the response letter yet. He has no reason to believe that Mr. Thomalson could not respond to those comments adequately.

Mr. Cordero stated that he is in favor of this project.

At this point the meeting was open to the public. There was no one to speak for or against this project.

At this point the board was declared in Executive Session:

After discussion among the Board Members, the Gates Planning Board declared itself Lead Agency for this project pursuant to SEQR regulations and finds that this project is an Unlisted Action under SEQR. There is no significant adverse impact to the environment: no further SEQR action is required. Ms. May Seconded the motion, all were in favor, **MOTION CARRIED: NEG. DEC.**

After discussion among the Board Members, Mr. Wall made a motion,Ms. May seconded it, to **APPROVEPreliminary & Final Site Plan Approval** for Churchview Commons with the following conditions:

1. The following notes are to be added to the Final Site Plans:
   1. The stormwater management facility including the detention pond, drainage culverts, etc. are to be privately owned and maintained.
   2. No outside storage of vehicles and / or materials will be permitted.
   3. All signage shall conform to the Town of Gates standards.
   4. The applicant is to pay particular attention to the maintenance and cleanliness of the bordering roads to the property during the construction phase to the satisfaction of the Town’s Dept. of Public Works
2. Applicant is to provide final drainage calculations to the Town Engineer for review and approval.
3. All conditions set forth by the Monroe County Dept. of Planning and Development are to be incorporated into the Final Site Plan.
4. Applicant is to provide building materials and / or building colors to the Town. A color rendering was provided; the Board agrees that the preliminary color pallet does seem to fit into the nature of the neighborhood and improves the aesthetics.
5. Applicant is to present the variance requests to the Zoning Board, who will render a decision on grating relief. Please add the variance information to the Final Plans including the approved variances and the date of granting.
6. Applicant is to provide any and all easements necessary for the project to the Town Attorney for review and approval.
7. Please indicate the snow storage locations to the plan.
8. The Fire Marshal shall review and approve the plan.
9. Applicant is to submit the final site review fee to the Town of Gates prior to the signature of the Planning Board Chairman.
10. All stamps of approval from all regulatory agencies, including the Fire Marshal, are to be affixed to the Final Site Plan prior to the signature of the Planning Board Chairman.
11. A letter of credit is to be submitted to the Director of Public Works in the amount sufficient to cover drainage, landscaping, and As Built Survey.
12. The building is to be constructed according to the rendering presented to the Planning Board at the meeting. Any deviation from that color rendering is subject to further approval from the Planning Board.
13. Stormwater Maintenance Agreement is to be submitted the Town Engineer and the Dept. of Public Works for Approval.
14. Applicant is to schedule a Pre-Construction meeting prior to starting any work.
15. The Applicant is to add a typical door / security photometric information to the final plan.
16. Please revise the dumpster enclosure detail. Wood fence gate is acceptable; the remaining construction should be revised to masonry and match the primary building color.
17. The applicant is to work with the Town Engineer and Dept. of Public Works for the final access gate location and access way to the stormwater pond.
18. That the applicant provide all letters and permits copies of the outlet protection and the grading permits for the town records.
19. Any and all final comments from the Town Engineer and the Dept. of Public Works.

Ms. May seconded the motion, all were in favor, the motion carried.

**BURGER KING RESTAURANT PRELIMINARY/FINAL SITE APPROVAL**

**OWNER: 308 RNYF, LLC General Business Zone (GB)**

**LOCATION: 4 Spencerport Road**

**ENGINEER: Lauer-Manguso & Assoc.**

Mr. Robert Blood of Lauer-Manguso & Associates representing Carrol’s LLC was present to speak about the project.

This site is the now vacant Friendly’s Restaurant and the plan is to redevelop it as a new Burger King location. The existing building will be demolished. The new Burger King will be roughly on the same footprint on the building pad which will enable the existing adjacent drive lanes and most of the parking areas to remain. Storm infrastructure will largely remain unchanged. Utility connections will be temporarily disconnected, and then either abandoned or reconnected at the same locations. The one exception to that is on the north end (rear of the property) where the drive lane will be dedicated solely for a dual drive-thru access. The Fire Marshal has signed-off on accessibility.

They have been in front of the Town Board for their Conditional Use permit back in January, which was granted. The met with Zoning Board in early March for additional signage requests. That decision for that was TABLED because the county had yet to weigh in on that. They have received comments from the County, Fire Marshal, and Town Engineer and they will be responding to those.

Mr. Argenta asked about the storage room in the back of the building. Mr. Blood replied that is the cold storage. Masonry enclosure with a roof and a door for cold storage. Mr. Argenta asked if it would be refrigerated. Mr. Blood answered no. Just electrical connections for light. Mr. Argenta advised to ensure that no customers will be parking in that area when they pick up dumpsters. Mr. Blood said yes. He stated also that trash collection is done during the off hours.

Mr. Argenta asked about the west of the drive thru along the bank, there is parking spaces, but doesn’t seem to be an easy route for someone parking there to get over to Burger King. Mr. Blood said they intend to address that. They saw that in the Town Engineer’s comment. At the exit to the drive thru lane you can see a stop bar location, he thinks they are going to extend the sidewalk across that drive thru lane with curb ramps going to the west side of there and move the stop bar back so they stop before the cross walk.

Mr. Argenta asked about main entrance and drive thru elevation which are marked merchandising. Mr. Blood said that is something that Burger King requires that should be shown on the elevations for their approval. It is something that Carroll’s typically doesn’t do but what those are display cases with promotion advertising with whatever is current at the time.

Ms. May wanted clarification on the hours of operation. Mr. Blood stated the hours are 6:00 AM to Midnight- 7 days a week.Ms. May asked if they would go 24 hours one day. Mr. Blood said that he cannot speak on that. He thought that maybe they would adjust their drive-thru hours to that.

Ms. May wanted to know if there is a picture of the building and the color schemes. She would love to see samples. Mr. Blood said that they could do that. There is a lot of natural stone. Colors are Burger King prototype. Ms. May stated that Spencerport Road is like our Main Street and that is what people see when getting off the expressway and wanted to make sure of the beauty of the street.

Ms. May asked about snow removal and snow storage. Mr. Blood stated that the back of the site in the lawn area where the existing trees are adjacent to bio retention area. Ms. May said to keep in mind the pedestrians coming from Dunn Tower walking over. There is one crosswalk and she worries about people getting hit with the drive-thru. Mr. Blood said they have managed that.

Mr. Gartley wanted clarification on the color renderings. He wanted to know if Mr. Blood had them. He held one up to have the board look at it. The building will be cultured stone with panel. Red band at the top.

Ms. May asked about greenspace and plantings. Mr. Blood stated that in the rear all existing trees will remain and also the tree in front. Small flowering trees planted in the buffer by the drive-thru pass lane and the adjacent parking area for the bank. In addition, smaller mixture of evergreen and flowering plants all around the building as well as the pole sign out in front.

Mr. Wall asked how many cars can be queued-up with the double drive-thru. Mr. Blood thought it was 12 cars.

At this point the meeting was open to the public.

Ms. Maurice, Chairperson of the Zoning Board, stated that Mr. Blood left prints for the Zoning Board in March. They had to table it. She said they do have the county response. He is on the agenda for their May meeting and will have the sign variances wrapped up on May 11th.

At this point the board was declared in Executive Session:

After discussion among the Board Members, the Gates Planning Board declared itself Lead Agency for this project pursuant to SEQR regulations and finds that this project is an Unlisted Action under SEQR. There is no significant adverse impact to the environment: no further SEQR action is required. Ms. May Seconded the motion, all were in favor, **MOTION CARRIED: NEG. DEC.**

After discussion among the Board Members, Mr. Wall made a motion to **APPROVE** Preliminary & Final Site Plan Approval for Burger King Restaurant with the following conditions:

1. The following notes are to be added to the Final Site Plans:
   1. The stormwater management facility including the detention pond, drainage culverts, etc. are to be privately owned and maintained.
   2. No outside storage of vehicles and / or materials will be permitted.
   3. All signage shall conform to the Town of Gates standards.
   4. The applicant is to pay particular attention to the maintenance and cleanliness of the bordering roads to the property during the construction phase to the satisfaction of the Town’s Dept. of Public Works
2. Applicant is to provide final drainage calculations to the Town Engineer for review and approval.
3. All conditions set forth by the Monroe County Dept. of Planning and Development are to be incorporated into the Final Site Plan.
4. Applicant is to provide building materials and / or building colors to the Town. A color rendering was provided; the Board agrees that the preliminary color pallet does seem to fit into the nature of the neighborhood and improves the aesthetics.
5. Applicant is to present the variance-requests with the Zoning Board. Please add the variance information to the Final Plans including the approved variances and the date of granting.
6. Applicant is to provide any and all easements necessary for the project to the Town Attorney for review and approval.
7. Please address any Town Engineer and the Dept. of Public Works comments at the Preliminary Phase.
8. Please indicate the snow storage locations to the plan.
9. The Fire Marshal shall review and approve the plan.
10. Applicant is to submit the final site review fee to the Town of Gates prior to the signature of the Planning Board Chairman.
11. All stamps of approval from all regulatory agencies, including the Fire Marshal, are to be affixed to the Final Site Plan prior to the signature of the Planning Board Chairman.
12. A letter of credit is to be submitted to the Director of Public Works in the amount sufficient to cover drainage, landscaping, and As Built Survey.
13. The building is to be constructed according to the rendering presented to the Planning Board at the meeting. Any deviation from that color rendering is subject to further approval from the Planning Board.
14. The applicant is to add a sidewalk and appropriate crosswalks to the front of the property permitting safe-access from the westerly parking area to the front door of the building
15. Any and all final comments from the Town Engineer and the Dept. of Public Works.
16. Stormwater Maintenance Agreement is to be submitted the Town Engineer and the Dept. of Public Works for Approval.
17. Applicant is to schedule a Pre-Construction meeting prior to starting any work.

Mr. Argenta seconded the motion, all were in favor, the motion carried.

**ROYAL CAR WASH SUBDIVISION &PRELIMINARY/FINAL SITE APPROVAL**

**OWNER: Three A Resources, LLC General Business Zone (GB)**

**LOCATION: 1190 Chili Avenue**

**ENGINEER: Passero Associates**

Mr. David Cox of Passero Associates and Mr. Anthony Daniele and Mr. Danny Daniele were present to speak about this project.

Mr. Cox stated that they were here to preliminary site plan approval and to get some feedback on the design plans and also would ask for a recommendation letter to the ZBA for seeking some variances.

Mr. Cox went on to say that the Daniele’s have been very successful with the Royal Car Wash brand. They have car washes in Greece, Irondequoit, Webster, Brighton, Henrietta, and City of Rochester soon. Gates is the part of the map that they are missing right now. This will complete the whole Rochester area. The property is where the old Wishing Well Restaurant was located on Chili Avenue. This is a great redevelopment opportunity. Plan is to subdivide around 2 acres. One will be retained by the medical facilities and then 1.1 acres will be subdivided for the Royal Car Wash. It is zoned general business so they did need a special permit for a car wash which they did receive from the Town Board. The hours of operation for the car wash are 7 AM

to 9 PM Monday thru Friday and 8 AM to 9 PM on Saturday and 8 AM to 7 PM on Sunday.

The existing entrance is off of Chili Avenue. There will be three stacking lanes which can stack just over 35 cars, which is more than any of their other car washes. Their other car washes are in the 25 to 30 range. Fast Pass gets you through very quickly. Heated concrete pad for the winter months. Takes about 90 seconds to go through the wash. Majority of cars are on the site about 2 ½ minutes. After the car wash you can exit the property or you can pull in and use the free vacuum stalls. There will be 16 vacuum stalls.There is a dedicated left and a dedicated right to exit the property. All the storm water will be captured and taken to infiltration basin in the back where it will be treated. The car wash uses the latest water saving technology with high pressure nozzle tips. It used about 40% less water than the typical car wash. There is no drying stations in the back. The car wash is able to get the cars really dry as it is exiting the car wash. The lighting will be dark sky compliant. Landscaping is done with great care. They a variety of different plantings. No wetlands, no flood plains and traffic is far less than a restaurant. They are also proposing a sign off 490/390 that is 45 ft. tall. Middle of building on each side there is a sign Royal Car Wash. Building is a colonial look with brick.

Mr. Argenta asked about parking and would it impact the existing building. Mr. Cox did check with that and they did confirm that it meets the adequate parking requirements for existing building.

Mr. Argenta asked about the northwest dumpster and asked if it can be revised. Mr. Cox said they are working on an easement with owner.

Mr. Anthony Daniele stated that talking with the owner they will be sharing dumpster.

Ms. May said that the building is esthetically beautiful and she loves the fact that they are advocating for green space. She wanted to know about safety because of being by the expressway. She wanted to know that it is a safe area and that they have cameras. Mr. Cox stated that there is 24 hr. surveillance. They have about 23 cameras that are part of the plan. He said that 97% of customers pay with credit cards so there is very little cash transaction and very little cash on the property. In the 12 years that the Daniele’s have been in business, they have never had a break in.

Mr. Ruiz asked if they would be able to have employees moving cars along so there is no situation of back up on Chili Avenue. Mr. Anthony Daniele stated that there is enough car stacking area to accommodate over 30 vehicles and that is on their property. There is also room for another 10 cars before they get to Chili Avenue.

Mr. Gartley asked about the exterior. Brick with black shingled roof. Wanted to know if this is a prototype or any thought about matching existing buildings. Mr. Anthony Daniele stated that all the other buildings they have are the same color scheme. It is colonial looking and doesn’t go out of style and classic looking.

Mr. Wall said that it looks like the queuing of cars looks like it would be around 30 cars. He said that it seems adequate for the site.

Mr. Schum said there was a comment during pre-meeting that the actual access to the site comes through the adjoining property in other words it doesn’t have free access to Chili Avenue. He presumes that there is going to be access easement where ingress and egress to the site through the adjoining parcel to Chili Avenue.

Mr. Anthony Daniele said absolutely and one had already been drafted.

Mr. Ritchie stated that the plans and the SWPPP that the infiltration testing and deep hole testing results be called out as an infiltration basin, actually bio-retention infiltration, but regardless he stated they would like to see the results of infiltration and deep hole testing to confirm that infiltration will work there. Wants a good comfort level that infiltration practices will work here.

Mr. Cox said that where the infiltration basin is located is in the parking lot currently. They prefer to not dig up the owner’s parking lot at this time. Mr. Ritchie said there is green areas around. Mr. Cox stated if they let them do it in the grass area it would work. After the purchase goes through then they can look at doing it on the paved area.

Mr. Cordero is all in favor of this project and stated that they do a great job and keep up their property very nicely. It’s good to see them in this town.

At this point the meeting was open to the public. There was no one to speak for or against this project.

At this point the board was declared in Executive Session:

After discussion among the Board Members, the Gates Planning Board declared itself Lead Agency for this project pursuant to SEQR regulations and finds that this project is an Unlisted Action under SEQR. There is no significant adverse impact to the environment: no further SEQR action is required.**MOTION PASSED: NEG. DEC.**

Mr. Wall made a motion to grant **Subdivision Approval** for Royal Car Wash with the following conditions:

1. Any / all Final Town Engineer and Dept. of Public Works comments.
2. That Monroe County Survey review and approve the plan prior to the Planning Board Chairman’s signature.

Also at the regular meeting of the Gates Planning Board, held on Monday, April 27, 2020, the Board granted **Preliminary Site Approval** for Royal Car Wash with the following conditions:

1. The following notes are to be added to the Final Site Plans:
   1. The stormwater management facility including the detention pond, drainage culverts, etc. are to be privately owned and maintained.
   2. No outside storage of vehicles and / or materials will be permitted.
   3. All signage shall conform to the Town of Gates standards.
2. Applicant is to provide final drainage calculations including the infiltration test results to the Town Engineer for review and approval.
3. All conditions set forth by the Monroe County Dept. of Planning and Development are to be incorporated into the Final Site Plan.
4. Applicant is to provide building materials and / or building colors to the Town. A color rendering was provided; the Board agrees that the preliminary color pallet does seem to fit into the nature of the neighborhood and improves the aesthetics.
5. Applicant is to present the variance requests to the Zoning Board, who will render a decision on grating relief. Please add the variance information to the Final Plans including the approved variances and the date of granting.
6. Applicant is to provide any and all easements necessary for the project to the Town Attorney for review and approval.
7. Please address any Town Engineer and the Dept. of Public Works comments at the Preliminary Phase.
8. Please indicate the snow storage locations to the plan.
9. The Fire Marshal shall review and approve the plan prior to Final Plan review.

Mr. Argenta seconded the motion, all were in favor, the motion carried.

**LUONG PROPERTY PRELIMINARY SITE APPROVAL**

**OWNER: Hieu Luong Residential Zone (R-1-15)**

**LOCATION: 4254 Lyell Road**

**ENGINEER: Bernd Gigas, PE**

Mr. Bernd Gigas, Engineer and Mr. Henry Stewart, Attorney for the Luong Family were present to speak about the application.

Mr. Stewart made a statement that since July, 2018 he has been the attorney for Mr. Hieu Luong and more recently the attorney for his wife. He represents them both in matters concerning the Town of Gates, the Dept. of Environmental Conservation and the NYS Supreme Court. They have taken steps to address issues of alleged non-compliance with the Gates Town Code affecting the Luong’s property located at 4254 Lyell Road. In that regard and in the furtherance of the Luong’s desire to operate an organic farm on that property, they have been informed that it is necessary to make application to the Planning Board for site plan review and approval.

In the regard, the Luong’s have hired an engineer, Mr. Bernd Gigas, who has prepared the applicants application. Mr. Gigas and Mr. Luong are present this evening. Mr. Stewart wanted to highlight that the Luong’s property on Lyell Road is designated as an agricultural district and that it is to their understanding the only agricultural district in the Town of Gates.

Mr. Gigas has been looking at this project since late January and has been to the site many times. Primarily he was called in to help Mr. Luong and Mr. Stewart in the matter of the wetland restoration that is being mandated by the NY DEC. On the site visits, he noted 10 flags that the DEC had put into different locations on the site. That really serves as the bait-line for getting a first line of where the DEC thinks the wetland is. The maps generally available are only rough outlines. The accuracy is about 15 ft. so he is not suggesting that this is survey quality data. He would have like to have sat down with Mr. Rappazzo in mid-March but that was not possible. The idea is to be able to get conceptual agreement that this makes sense so that then they can go to the DEC, get them to agree with the physical locations of the stakes then as necessary proceed with the survey. He went on to say that he spoke with Mr. Rappazzo today and he received comments from Mr. Ritchie with issues in regards to the application. He was able to communicate with them that there is obviously some work to be done on it. Fundamentally the intent of this is not to be non-responsive but responsive. But given the timing and the information that he had and the lack of history on the project.

Mr. Schum said that from the presentation from Mr. Gigas, it is pretty much acknowledged that the application is preliminary in the sense that there is a lot of information and detail that he has not been able to develop. Also his feelings with the DEC, it has not been confirmed yet where the physical boundaries are. The most that the Planning Board could entertain at this point in time is to indicate that the application has in fact been filed and there is a lot of information that is either not yet available to the applicant or to the applicant’s engineer. It needs to be adjourned for the purposes for allowing that information to be developed and submitted to the town and the Town Engineer and Superintendent so that a meaningful discussion could be had concerning what those items are and how they fit into the compliance requirements of the town for site plan approval

Mr. Stewart said that one of the aspects with respect to that is that the representatives of the DEC have briefly come out and walked the property with Mr. Luong and with him. That is before Mr. Gigas was retained. They are willing to do that again and there was some discussion that perhaps Mr. Rappazzo would be present as well with Frank Aloi who has been the attorney for the town that has been involved with the NYS Supreme Court matter. He said if they were to have that again, another walk through, that would be very welcome.

Mr. Schum stated that that is one of the issues that needs to be cemented in. Until that happens, the Planning Board really doesn’t have enough concrete information in order to move forward tonight. Whenever that finalization can happen, he is sure that the town representatives and town engineer and DEC representatives would be more than willing to coordinate that with the developer’s engineer from the DEC.

Mr. Gigas agreed. He stated that Mr. Schum’s understanding is correct. The DEC has not been back to the site. They do not have agreement to the additional 25 stakes that he has put in. In terms of physical location, that needs to be done.

Mr. Schum said that there has been some filling or disturbance of what was there prior to Mr. Luong’s development of the property and there needs to be some baseline established as to where it was and where it is now so that moving forward and this project and site plan is to be considered, we need to know what needs to be done in order to establish where it was and where it is and where it needs to go.

Mr. Gigas stated that he has those markers physically identified with stakes on the property. The confirmation of that is obviously up to the DEC. so that then we can proceed with a survey and get that locked down and get an agreement on what is and what is not available land.

Mr. Stewart said that one of the aspects is to fully address all of that so that Mr. Luong can farm this land so that the DEC is satisfied with remediation and so that the town is satisfied with remediation and that is the general desire here in good faith that is being put forth.

Mr. Wall stated that there is not much here that we can act on this plan.

At this point the meeting was open to the public.

Mrs. Wendy Baker lives next door to Mr. Luong. She stated that he actually does not live there. She stated that she has been dealing with this since 2013. She says that the town should take a good look at some of the DEC recommendations. There has been lots of change to this property. If he wanted to just farm, he could have done so without doing the filling or the destruction to the property. She is against it. When this is properly addressed by DEC and everyone else, she will again come forward.

Mr. Dan Baker also lives next door to Mr. Luong. He also stated that he is against this project. He has been dealing with this for quite some time. He has filled in hundreds and hundreds of dump truck loads of dirt and rubble. Anytime he has attempted to confront him about this, he reacts in an extremely violent way. He cannot express how unpleasant this has been. He has added several feet of height of almost the entire area that has been cleared out. Has changed the entire water table. His place floods sometimes up to his knees now. He has made sure he has put berms up between the properties and has cut off underground culverts that were designed about 80 years ago to continue the flow of water from the wetlands from the east onto the west. He has completely plugged that. So that all backs up into his property and the church property and just continues to back up. He cannot have any type of discussion with Mr. Luong because he will physically threaten. He has threatened his family and his children. This is something that he should not be given any leeway beyond what anyone else would get. Now all that being said, if he would put everything back the way the DEC has already commanded him to do, which he has ignored, and if he were to do that, put it back the way it was, he is talking about the water table, put back the dirt. We don’t know where this dirt came from. That is what he wanted to say.

Mr. Stewart said in fair politeness that what they are trying to do is comply with the DEC and what the town is asking for and that is why they are in front of the Planning Board this evening.

Mr. Wall made a motion to**TABLE** the Preliminary Site Approval for Luong Property because of the following conditions:

1. The Planning Board requests:
   1. A plan that depicts the pre-developed conditions to the parcel.
   2. A plan that depicts any-and-all land disturbances since Mr. Luong took possession of the above referenced property. This could include, but not limited to, any change of topography, building of additions / structures, and the amount of fill imported to the parcel.
2. That the Dept. of Public Works, Town Engineer, Town Attorney, NYSDEC, and representatives from Mr. Luong’s Team agree on a set of Compliance Requirements.

Ms. May seconded the motion, all were in favor, the motion carried.

**PERROTTA GATES CENTER SUBDIVISION RESUBDIVISION**

**OWNER: Anthony Perrotta Limited Industrial (L.I.)**

**LOCATION: 1773 Buffalo Road**

**ENGINEER: Robert J. Avery, L.S.**

Mr. Robert J. Avery, Land Surveyor was present to speak about the project. This is a proposed subdivision of an existing 53.9 acre parcel located on the south side of Buffalo Road immediately west of the Town Hall complex, into 3 parcels of land. They are all compliant. Listed as Limited Industrial Zone. It is kind of a strange configuration as it sits now because it is really and you can understand what it was. There were 3 parcels taken out of this overall farm at one point in time. You have 1665 Buffalo Road, which is a pharmaceutical distributor and then across the private drive from that is a truck place and then there is also a parcel that is currently vacant. This parcel wraps around behind to the east and west of these other lots.

The 60 ft. private drive is also part of this tax ID. The proposal is to take the one tax ID of 53.9 parcel acre and divide it up into 3 different lots. Lot 1 being adjacent to the town hall property. Lot 2 would be way over on the west side of the property and includes the existing two-story house on that parcel, which is an L shaped piece. That property is approximately a 5 acre parcel. And then Lot 3 would be the remainder of the land most of which is either federal or state wetlands and basically undevelopable which is 47.5 acres of land. They are not proposing any construction and is not a site plan application at all. This is strictly subdivision of land. They feel that it is a great site to offer out to the community whoever may be interested in purchasing from

Mr. Perrotta. He has done a lot of clean up on the site. He is anxious to have the subdivision approved so that these three parcels can be sold.

Mr. Argenta looking at the site plan and thought it was more than 3 parcels. Mr. Avery said yes those are existing.

Mr. Schum asked if the 3rd parcel, the larger 45 plus parcel, has road access and is it land locked.

Mr. Avery stated that no it is not land locked and it does have the 60 ft. existing slab going out to Buffalo Rd.

At this point the meeting was open to the public. There was no one to speak for or against this project.

At this point the board was declared in Executive Session:

After discussion among the Board Members, the Gates Planning Board declared itself Lead Agency for this project pursuant to SEQR regulations and finds that this project is Type 2 Action under SEQR. There is no significant adverse impact to the environment: no further SEQR action is required.**MOTION PASSED: NEG. DEC.**

Mr. Wall made a motion to grant **Resubdivision Approval** for Perrotta Gates Center Subdivision with the following conditions:

1. Any / all Final Town Engineer and Dept. of Public Works comments.
2. That Monroe County Survey review and approve the plan prior to the Planning Board Chairman’s signature.

Mr. Gartley seconded the motion, all were in favor, the motion carried.

Mr. Wall made a motion to adjourn the meeting, Mr.Gartleyseconded the motion, all were in favor, the motion carried.

The meeting was ADJOURNED at 9:35 PM.

This page intentionally left blank in memory of David Chamberlain. Dave was a dedicated Planning Board Member and Town Employee, and he will be missed.

Respectfully submitted,

Linda M. Saraceni

Recording Secretary