

The meeting to order at 7:00 P.M. followed by the Pledge of Allegiance.

**ROLL CALL:**

Present

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Margaret Bebak  
James Frick  
Dale J McCabe  
Raymond Nalewajek  
Eric Sailer  
Jeffrey Schieber, Code Enforcement Officer  
Chris Trapp, Town Attorney

**DRAFT**

Absent

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Joseph Sherman

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**APPROVAL OF PROOFS OF PUBLICATION**

Motion by Frick, second by Bebak, to receive and file the proofs of publication and posting of legal notice.

Ayes: All

Noes: None

Motion Carried

**APPROVAL OF MINUTES**

Motion by McCabe, seconded by Frick, to approve minutes 2022-05 of May 12, 2022.

Ayes: All

Noes: None

Motion Carried

**OLD BUSINESS**

**SPR2021-05**

A request from Brad Vaillancourt c/o Canisius High School for site plan approval for property located at 2885 Clinton Street for construction of an athletic complex with all related site improvements.

Motion by Bebak, seconded by Sailer, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

Mr. Vaillancourt stated the project needs SEQR determination and final Planning Board approval. Canisius High School is excited to get the project going.

Chairperson Bebak stated there is currently litigation on the SEQR process and for the record the Planning Board will go through an extensive review of the processes the Planning Board has been through.

Code Enforcement Officer Jeffrey Schieber stated the project was submitted to the Town of West Seneca in February 2021 and numerous documents were submitted. Mr. Schieber submitted the project for a fully coordinated SEQR review, and the drawings/documents were distributed to numerous agencies outside of the Town of West Seneca. The following correspondence were received:

- March 18, 2021, full Engineering Report from applicant

**SPR2021-05** (continued)

- March 4, 2021, email from Erie County Sewer indicating approval
- March 16, 2021, Erie County Department of Planning signed 239M form
- April 1, 2021, Town Engineer requested minor changes
- April 28, 2021, revised submittal from applicant including a draft flood impact study, full SWPP, and revised plans
- May 7, 2021, first comments from SHPO
- May 11, 2021, letter from Town Engineer indicating minor corrections, approval of floodplain modifications, and noted on the initial approval letter the new flood plain would hold more water than currently exists today
- April 1, 2021, DEC letter received
- May 13, 2021, subsequent SHPO letter received and a response from the applicant
- May 26, 2021, a fully approved project from Town Engineer
- September 14, 2021, additional SHPO correspondence
- October 7, 2021, documentation from applicant that wetlands delineated with DEC
- November 24, 2021, a new submittal to NYSDOT to ensure they were in full receipt of the application
- December 30, 2021, updated response from applicant with minor comments
- February 8, 2022, Town Engineer provided second letter of approval for the entire project based on the modifications made
- As part of the litigation process, the Planning Board was required to resubmit the project for a new coordinated SEQR review
- May 9, 2022, letter mailed from the Code Enforcement Office containing numerous documents including all the approval letters already in place to the following agencies: ECWA, NYSDOT, Army Corp of Engineers, NYSDEC, Erie County Department of Planning, Union Fire Department, Erie County Sewer 1, NYS Office of Parks, Recreation, and Historic Preservation (SHPO), the Town Engineer and the West Seneca Environmental Commission
- As of today, the 30-day window has surpassed; additional letters have been received:
  - ✓ June 2, 2022, Erie County Department of Planning acknowledged receipt of the new SEQR project, they had a minor comment for the Planning Board
  - ✓ May 11, 2022, Erie County Sewer indicated approval via email, noting there are no new sewer impacts
  - ✓ May 11, 2022, lengthy SHPO response indicating the applicant has met all requirements and are permitted to proceed with work; SHPO will have a representative, and possibly a member from the Tribal Nation, during the excavation and site works
  - ✓ Town Engineering approval still stands

Mr. McCabe stated he understands SHPO to be archeological. Mr. Schieber stated that agency deals with archeological studies. It is noted there were archeological findings and were fully reviewed by SHPO and the native tribes. This has been an extensive process due to the sensitive matters. All approvals are in place and documented with the Code Enforcement Office.

Chairperson Bebak stated SHPO approved based on the fact there was prior disturbance and the understanding that anything new uncovered will be inventoried during work. Mr. Schieber stated items were found however, Canisius modified the site plan to stay away from those areas.

**SPR2021-05** (continued)

Mr. Vaillancourt stated there is an area of avoidance that will be fenced off for the duration of the project. SHPO requested they put a silk fabric down to protect the "virgin" soils to preserve any artifacts below. The contract document reflects this.

Chairperson Bebak asked Mr. Vaillancourt to speak to modification of floodplain plans. Mr. Vaillancourt referenced the plan and illustrated the present hundred-year flood plain and the new flood plain. Mr. Vaillancourt explained that the new plan may appear as if it is providing less floodplain area, but in fact holds approximately 40% more volume of hundred-year floodplain than is currently present. The project does exceed the floodplain and helps any water that may come down the creek.

Mr. Frick stated the West Seneca Planning Board was designated lead agency for the SEQR review in early 2021. As part of the environmental review process, the applicant had to file a full EAF (Environmental Assessment Form) because this is a Type I action. The project has an area disturbance more than 10-acres, and this requires a Type I action. Part I of the EAF was provided by the applicant. The lead agency then must complete Part II and III. Part II and III are basically a review of Part I to determine if there will be any significant or potential environmental impacts. Mr. Frick specified he was in possession of Part II, completed by the Planning Board.

A resident from 97 Lexington Green had the following questions/comments:

- Will this project be adjacent to the football fields -Mr. Vaillancourt stated this is adjacent to the football fields.
- Where will the project be in relation to the Lexington Green Development – Mr. Vaillancourt indicated the location on the drawing; the Lexington Green development is on the other side of the creek.
- How much parking is being added - Mr. Vaillancourt stated no additional parking is being added, the fan capacity for baseball is nowhere near football games.
- Will the fields be lighted – Mr. Vaillancourt stated they will not be lighted.
- Will the fields be rented out - Matthew Carver, Vice President of Finance at Canisius High School, stated there is no intention of renting to any group.
- Believes this is segmentation, the project is growing and noted Canisius owns additional property on Clinton Street – Mr. Carver stated at this time there are no plans to develop the additional property. This project was in the spirit of the development phases at the time the property was acquired. This is the final phase of the vision; at this time the additional property has no plans to be developed.
- The project's purpose is to draw students to the high school – Mr. Carver stated the project is to accommodate the current programs the school offers and do not have home fields for.

Mr. Frick stated as required by New York State law, the Planning Board then completed Parts II and III of the EAF; in review a few issues were noted with potential environmental impacts:

- Item 1a: Proposed action may involve construction on land where depth to water table is less than 3 feet. Average depth to water table on site is 2.96 feet. Construction will generally not penetrate this depth except possibly for some drainage pipes and foundations for the small ancillary buildings that are to be constructed. Therefore, no significant adverse effects will occur.
- Item 1d: Proposed action may involve the excavation and removal of more than 1,000 tons of natural material. Excavation for playing fields, stormwater detention facility and site regarding will exceed 1,000 tons but will not be removed from site. Therefore, no significant adverse effects will occur.

**SPR2021-05** (continued)

- Item 3d: Proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body. Construction will occur along the bank of Buffalo Creek primarily to excavate material to balance/regrade the site and to create addition flood storage (proposed design increases flood storage on site by 20%). Therefore, no significant adverse effects will occur.
- Items 5a,b,c: Proposed action may result in development in a designated floodway, a 100-year floodplain and a 500-year floodplain. A portion of the project will occur within the Buffalo Creek floodplain. The floodplain will be reshaped resulting in a 20% increase in the volume of flood water, noting Canisius has increased this, that the site can accommodate. It is very common to allow recreational fields to be constructed in floodplains. Therefore, no significant adverse effects will occur.
- Item 7h: Proposed action requires the conversion of more than 10-acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: grassland – aerial photo, site visit and EAF-Part I. The land was previously used for farming but has been abandoned for this purpose for a long time. The grassland soil will be excavated to build approximately 3.85-acres of artificial turf playing field and approximately 3.95-acres of natural turf playing field, lawn areas and stormwater detention facility area in addition to approximately 0.5-acres of pavement and buildings. Stormwater will be collected and detained on site and released to Buffalo Creek at a rate that will not exceed existing or as allowed by code or ordinance. This has been reviewed and approved by the Town Engineer on at least two occasions. Therefore, no significant adverse effects will occur.
- Item 8a: The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System. The area of the development is abandoned farmland which contains soils within the noted classification. All excavated soils will remain on site and could be used in the future if the area was to be used for farming again. Therefore, no significant adverse effects will occur.
- Item 10b: The proposed action may occur wholly or partially within, or substantially contiguous to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archeological site inventory. This site meets the above criteria and has had an extensive archeological investigation and testing. A sensitive area was found, and the site plan adjusted to keep work out of this area. SHPO has stated that the remaining area has been previously disturbed that there is little likelihood that any additional significant artifacts will be present. An archeologist and a member of the Seneca Nation will be on site during construction to aid the contractor and monitor the excavations for any additional sensitive archeological artifacts. They will have the ability to stop construction at any time to make any necessary examinations of the site. Therefore, no significant adverse effects will occur.

Mr. Frick stated the Planning Board received many letters from letters Daniel Warren and addressed some items from each letter as follows and noted Mr. Warren was present at the meeting:

- Letter Dated April 24, 2021:
  - ✓ Item 1: Question whether this is a permitted use as a “school on residential property” - This question was reviewed during the construction of the main playing field, and it was determined the use was acceptable as no change in use is occurring, therefore previous determination is still valid.
  - ✓ Item 2: “Buffalo Creek is a navigable waterway” - This is not true however the Buffalo River is considered a navigable waterway.
  - ✓ Item 3: “Flooding issues in this area began in 2014 and continue to this day” - The history of flooding dates back before 1966 when the Lexington Green area was developed with significant ice jam flooding noted as early as 1971 with minor flooding occurring on a regular basis.

**SPR2021-05** (continued)

- ✓ Reference USACE reports from 1966, 1979 and 2016 and the "Resilient New York Flood Mitigation Initiative, Buffalo Creek, NY" from 2020 prepared by OBG.
- ✓ Item 4: "Consideration of original project in conjunction with this project" - The combined effects of both projects were considered during our review – this will be addressed later in this statement.
- ✓ Item 5: "No Traffic Study was performed for this project" - The NYSDOT did not request one as onsite parking is not being modified as timing of the usage of the new fields and the current playing field will not overlap.
- ✓ Item 6: "Rezoning at 3735 Clinton Street for storage of construction equipment was not considered" - Storage of construction equipment is not a major traffic generator and has little or no effect on the traffic level of service on Clinton Street.
- ✓ Item 7: "Original Oxbow property acquired subject to conservation easement" - Phase I is contiguous with this property; this phase has no connection. However, this phase will detain all runoff from both phases prior to release to Buffalo Creek which is not connected to the Oxbow property.
- Letter dated September 24, 2021
  - ✓ Item 1: "USACE FOIL request yielded no documents" - The Town received a letter dated November 30, 2021, of no significant impact.
- Letter dated September 30, 2021:
  - ✓ Item 1: "All materials have not been made available to the public" - Materials are made available on the town website including in the meeting minutes.
  - ✓ Item 2: "Not all information was distributed to the involved and interested agencies" - All materials have been forwarded and in addition, full packets of all information have been sent to all involved and interested agencies in April of this year.
- Letter dated October 7, 2021:
  - ✓ Item 1: "Additional 300,000 gals of water will be added to the site from Phase I" - This water is added during the growing season and not during the time when flooding will be occurring.
  - ✓ Item 2: "Pesticides will be used to maintain the fields" - Property is zoned residential. Pesticide usage would not be significantly different as this was developed as residential property.
  - ✓ Item 3: "Statements concerning Groundwater Flooding" - The Lexington Green development does have a groundwater flooding issue. The statement that "groundwater flooding occurs when natural underground drainage cannot drain rainfall away quick enough" is not correct. Groundwater flooding occurs because of groundwater flowing into an area from outside of the region due to high porosity of the underlying soils. The Lexington Green development is constructed on fill from the Buffalo Creek realignment project and embanked granular fill leading to this high porosity – reference the 1979 and 2016 USACE reports.
  - ✓ Item 4: "Stormwater discharge is increased from site" - The Phase II design retains the 100-year flooding volume of both phases I and II on site until the creek level drops to an elevation that will allow its release.
  - ✓ Item 5: "Additional significant adverse impacts per 6 NYCRR 617.7(c)" - The proposed project will not adversely change existing air quality, ground or surface water quality or quantity, increase in solid waste, potential for erosion, flooding, leaching or drainage problems. Removal of large quantities of vegetation (grassland) will occur but majority of affected area will be replanted grass or artificial turf with a small change in impervious area that would increase surface runoff. All other identified items will not be a significant impact: creation of material conflict with a community's current plans or goals, impairment of character or quality of important historical,

**SPR2021-05** (continued)

archeological, architectural, or aesthetic resources, substantial change in intensity of use of land, changes in two or more elements of the environment when considered together result in a substantial adverse impact, and two or more related actions when considered cumulatively would meet one or more of the criteria in subdivision 617.7 (c).

▪ Letter dated January 10, 2022

- ✓ Item 1: "Significant archeological discoveries made in 2007" - Response from SHPO stated the Phase I areas were disturbed to the point that no significant artifacts were present. SHPO required the applicant to perform extensive investigation and testing for this project that required a minor change in the site layout to avoid a "sensitive area". The remaining area of this project was determined to have been significantly disturbed that no useful artifacts are likely present. In addition, SHPO has required that all excavation be monitored by an archeologist so that in the event any artifacts of significance are uncovered, they will be properly preserved. The archeologist would have the authority to stop construction at any time if it deemed necessary.

▪ Letter dated May 26, 2022:

- ✓ Item 1: "Effect on Oxbow Property – increased stormwater runoff into the Oxbow Property" - The Phase 2 drainage modifications will direct all runoff from both phases to the newly design detention pond, therefore no increase in overland flow will occur into the oxbow lake area. In addition, no significant increase in impervious area will occur with this project.

Mr. Frick provided the following SEQR review summary:

- 1) The project was determined to be a Type I action under the statewide SEQRA regulations, 6 NYCRR 617.4 since the project exceeds the threshold for physical alterations of 10 acres.
- 2) All involved and interested agencies were provided the necessary information to review this project, none of which took exception to the proposed action. Agencies included: NYSDOT, USACE, NYSDEC, ECDPW, ECDEP, Town Engineer, and SHPO. SHPO was the only agency that provided any requirements during construction.
- 3) Concerns for increase in flooding were addressed by incorporating a flood bench into the site grading design that increased the flood storage on the site by approximately 20%. In addition, a large natural bottom detention facility was part of the design that will retain up to a 100-year flood from the entire developed area of the property.
- 4) The increased amount of impervious area is minor and is mitigated by the detention structure.
- 5) No significant increase in air or noise pollution is anticipated.
- 6) The use of pesticides to maintain the natural grass areas will be partially mitigated by the detention structure and are not significantly different if this property was used for a residential development.
- 7) The Planning Board has reviewed all available information and has determined that no significant environmental impact will occur from this project.
- 8) The physical alterations contemplated under this project do not significantly alter the land composition to result in an adverse environmental impact.

Chairperson Bebak stated the Planning Board in the Town of West Seneca as the lead agency having done all the proper SEQR review and entered into public record will take a motion.

Motion by Sailor, seconded by Frick, to adopt the following resolution:

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

**WEST SENECA PLANNING BOARD**  
**Minutes #2022-06**  
**June 9, 2022**

**WEST SENECA PLANNING BOARD**  
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**June 9, 2022**



**SPR2022-07** (continued)

patio. Mr. Cairns stated he believed so. Mr. McCabe stated he assumed serving liquor on the patio would be the intention if the applicant was eligible. Mr. Cairns stated this was correct.

Chairperson Bebak questioned if Mr. Cairns was aware of the Union Road Corridor standards. Mr. Cairns stated he was aware of the standards. Mr. Cairns stated they may be encroaching on the right-of-way and variances may be needed.

Mr. McCabe questioned the Code Enforcement Officer what variances may be needed. Code Enforcement Officer Jeffrey Schieber stated this project requires two approvals and at least three meetings. Tonight, is to hear the Planning Boards questions, comments, and concerns. The establishment had a small outdoor seating area, the project requires a front yard setback variance; the patio roof is constructed within the required 40' yard setback. The initial belief was that a parking variance was also required; however, the owner of the property also owns the adjacent property to the south and recognizes that the Union Road Corridor encourages shared parking. A letter has been provided stating the parking will be shared. The variance for outdoor seating will be addressed at the next Zoning Board of Appeals meeting to ensure the board is satisfied with what is being proposed. The application is also in front of the NYSDOT as part of the Planning Board and Zoning Board of Appeals process. The concern from the Code Enforcement Office is vehicle impact protection for safety and to protect patrons on the outdoor patio.

Mr. Frick referred to the Union Road Corridor and stated there are required architectural standards that must be adhered to and address the materials to be used on the facade of the structure. The heavy timber look is not consistent with the standards and suggested wrapping parts of the columns with brick encasement on the lower portions. Brick could be continued in between the columns to delineate the seating area. This would blend more into the architectural requirements of the Union Road Corridor.

Mr. Cairns questioned if an iron railing would suffice, and stated specifications were not readily available and there were also budget concerns. Chairperson Bebak referred to the car wash on Union Road and stated the stone facade is an example, along with the Community Center. The Planning Board is not making the plans but giving suggestions. The buildings are supposed to look as if they are 2-stories. The parking barrier could be combined with brick posts. The area is to be closer to the road and a walkable community.

Mr. Sailer stated the Union Road Corridor has very extensive requirements for plantings to soften the area. This should be incorporated and may give the feel of the Union Road Corridor.

Mr. McCabe noted this is an existing structure, the space for the requirements may be a little difficult. The Planning Board is primarily looking for the applicant to spruce things up given what he has.

Chairperson Bebak stated after the variance(s) are obtained, the applicant would return to the Planning Board with updated site plans.

Mr. McCabe questioned what is on the second floor. Mr. Cairns stated the second floor is living quarters.

No comments were received from the public.

**SPR2022-07** (continued)

Motion by Bebak, seconded by McCabe, to table site plan approval for property located at 1800 Union Road for construction of a patio roof on the front of the existing building.

Ayes: All

Noes: None

Motion Carried

**SPR2022-08**

A request from Rich Wilkinson c/o Quick Service Realco, LLC. for site plan approval for property located at 1175 Union Road for the redevelopment of the building into a new restaurant.

Motion by Frick, seconded by Sailer, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

Mr. Wilkinson stated the request is to modify the existing building and rebrand as a Taco Bell. Although the structure should look like a Taco Bell, Mr. Wilkinson acknowledged this is a unique corridor. An option was to leave the existing building as is and change the color to leave the appearance of a 2-story building. Another option was to get rid of the peaked roof for a flatter roof.

Mr. Wilkinson provided drawings of a non-peaked and peaked roof. The building currently has a peaked roof on the Union Road and side street side. Fake windows will be added and is shown on both plans. The plans are the same with the peak being the only difference. The colors being used would be grey and some purple.

Mr. Nalewajek and Mr. McCabe sated they were in favor of the flat roof. Chairperson Bebak stated she favored the peaked roof as it was more colonial; the flat roof was more modern and did not fit in as much with the Union Road Corridor.

Mr. Sailer questioned if removing the peak would make any roof top elements be visible from the Union Road Corridor. Mr. Wilkinson stated this will block more of the roof-top because the peak is squared off.

Mr. Nalewajek questioned if the flat top elevation was determined by shielding of roof-top units. Mr. Wilkinson stated it is the Taco Bell branding to have a more squared off look.

Mr. Sailer stated he was in favor of the peaks and the greys with elements of wood tones.

Mr. Wilkinson stated modifications would be made to update the landscaping.

Code Enforcement Officer Jeffrey Schieber stated there are no intentions of changes to the parking lot, the sign will be changed and remain in place; this is just a facelift.

Mr. McCabe questioned the lighting. Mr. Wilkinson stated the plan shows the existing lighting which will be revamped to LED lighting and directed more downward. Mr. Nalewajek requested a photometric submission.

Mr. Sailer stated many buildings have an access with a direct connection between the building to the sidewalk and questioned if this could this be incorporated into the site plan. Mr. Wilkinson stated this could be done. The ADA parking spots were relocated to meet code.

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**SPR2022-09** (continued)

Mr. Nalewajek questioned the lighting solution along the parking. Mr. Andrzejewski stated the existing lighting on the building is staying.

Mr. Frick questioned if any modifications would be made to the facade of the building. Mr. Andrzejewski stated to his knowledge there were no changes being made.

Mr. Schieber explained the project was before the Planning Board in the past. The rear parcel was rezoned to C-1 with the intent to place parking in the back; as the engineer stated, this would not work. There is two-tone siding on the building. The applicant was issued permits for the handicapped accessible ramp that currently exists. The last piece today is to approve site plan. The Planning Board may require shielding of the parking.

Chairman Bebak stated she has reviewed the Union Road Corridor standards and this project adds to the vital mixed-use environment and has little to no front or side setbacks. Another aspect is to minimize the visual presence of off street parking and screen from viewing. Chairperson Bebak stated it was her suggestion to add a decorative brick wall in the front or something more decorative than landscaping to block the parking and bring the appearance of the site closer to the road, in front of the parking. Mr. Sailer suggested a brick or stone wall with a coping stone along the top.

Mr. Sailer questioned if there will be signage. Mr. Andrzejewski stated the signage will remain on the building.

Mr. Frick questioned if there was any plan for the rear parcel. Mr. Andrzejewski stated there is no plan; there were too many issues in the past.

Chairperson Bebak stated stockade fencing should be along the back.

Mr. McCabe questioned if the site plan proposal was by legal description; does the legal description include both the commercial and the residential which is in the rear. Only the front portion is being developed which is commercial. Mr. Schieber stated in the past, the rear portion was also zoned C-1 to develop a parking lot. The entire parcel is C-1. The project was rezoned, and the site plan was denied.

Mr. McCabe stated there should be a requirement that there is no access onto the residential street across the back portion of the property.

Chairperson Bebak questioned the thought of the decorative wall. Mr. Andrzejewski stated he felt it may look out of place as this is a unique building. Mr. Sailer suggested a raised planting bed to elevate the plants. Mr. Nalewajek stated more softening rather than a brick wall.

Chairperson Bebak noted the front porch appeared to need repairs. Mr. Andrzejewski stated the work had stopped to obtain proper permits. The porch is not part of the site plan. Mr. Schieber stated he will facilitate the porch upgrade with the owners.

No comments were received from the public.

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

**WEST SENECA PLANNING BOARD**  
**Minutes #2022-06**  
**June 9, 2022**

**SPR2022-09** (continued)

Motion by Frick, seconded by McCabe, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

Motion by Bebak, seconded by Frick, to grant site plan approval for property located at 1420 Union Road for the redevelopment of the site and building into a beauty salon with the following conditions: 1) the parking be screened with raised planting/landscaping; 2) a stockade fence along the rear of the property; 3) Code Enforcement will work with the owners on exterior matters; 4) no vehicle access onto the residential street.

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

Motion by Bebak, seconded by Frick, to adjourn the meeting at 8:20 P.M.

Ayes: All

Noes: None

Motion Carried

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**AMY M. KOBLER**  
**TOWN CLERK/PLANNING BOARD SECRETARY**