

**PLANNING BOARD MEETING**

MINUTES: APRIL 11, 2022

**MEMBERS PRESENT:** Bruno, Duchscherer, Greco, Lare, Starzynski, Stessing, Worrall  
Alternate members: Bowman, Stockinger

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Councilman Marston, Bob Westfall, Town Engineer, Kasey Morgan, Code Enforcement and Those Listed Herein.

Chairman Bruno opened the meeting at 7:00 P.M. He welcomed Amy Stockinger to the Board.

**MINUTES:** Planning Board Meeting – March 14, 2022

Page 8, 4<sup>th</sup> paragraph, last sentence to read – The proposed site has 22 acres, planned area is about 18 acres, which is more than 60%.

It was moved by Worrall – Stessing to **APPROVE** the minutes as amended.

Roll Call: Ayes – Worrall, Stessing, Bruno, Duchscherer, Greco, Lare, Starzynski  
Noes – None  
Carried

**VOUCHER:** Arlene Ehde, Recording Secretary - \$277.25

It was moved by Duchscherer – Starzynski to **APPROVE** the voucher for payment.

Roll Call: Ayes – Duchscherer, Starzynski, Bruno, Greco, Lare, Stessing, Worrall  
Noes – None  
Carried

**REFERRALS**

1. FROM: Town Engineer/Code Enforcement Officer  
RE: TRIPLE S DEVELOPMENT, LLC – 1815 LOVE ROAD  
SITE PLAN APPROVAL – RETAIL FACILITY – SBL #51.10-1-40.11

Chris Shores and DeAnna Hyche, The Broadway Group, appeared with a site plan for a 10,640 s.f. commercial retail store to be constructed at 1815 Love Rd. Retail floor area is 8,513 s.f., the remaining area is stock room.

Ms. Hyche explained that on a revised site plan they are able to meet the 65' setback as required.

They received a variance for parking. They have 36 parking spaces. They expect no more than 15 cars in the parking lot at one time. It is a destination store with an average of a 10 minute trip. Peak hours are 8:00 AM - 10:00 AM and 4:30 PM - 6:30 PM.

Side yard setback is an issue. Twenty-five feet is required, they have 21.6'. The site is somewhat restrictive because of new development to come on the east side. They are hoping this Board could approve the site plan with the 21.6' side yard. It was explained that the Town Board would make the decision if they would have to go to the Zoning Board of Appeals.

The plan shows CR zoning. However, it has been rezoned to B-1.

The lighting plan will be permitted by others as will the signage.

The Board of Architectural Review has approved the building. Vertical siding will be used with brick on the lower portion. Colors will be Navajo Beige and Desert Sand to complement future neighboring development.

Mr. Shores is retaining the 60' to the west for an access road to the back parcel. No structures will be built on that side of the property. Zoning on the 60' and the rear property is M-1.

It was moved by Bruno – Starzynski to recommend that the site plan be **APPROVED** with the following:

- B-1 zoning is corrected on the plan.
- Side yard setback of 25' be reduced to 21.6' for the Town Board's final decision or if a variance is required.
- Plan needs final verification from Engineering.

Roll Call: Ayes – Bruno, Starzynski, Duchscherer, Lare, Stessing, Worrall  
Noes – Greco  
Carried

It was moved by Bruno – Duchscherer to move #3 on the agenda to #2, #2 to #3.

Roll Call: Ayes – Bruno, Duchscherer, Greco, Lare, Starzynski, Stessing, Worrall  
Noes – None  
Carried

2. FROM: Town Board

RE: RESOLUTION FOR REFERRAL TO PLANNING BOARD  
DETAILED PLAN AND PRRELIMINARY PLAT APPLICATION – SOUTHPOINTE PDD

It was moved by Duchscherer – Worrall to receive and file.

Roll Call: Ayes – Duchscherer, Worrall, Bruno, Greco, Lare, Starzynski, Stessing  
Noes – None  
Carried

3. FROM: Town Board  
RE: LOCAL LAW INTRO #11 of 2021  
REZONING PORTION OF SBL #38.11-2-6.11  
WHITEHAVEN ROAD – B-1 TO R-2

Sean Hopkins, Esq. and Richard Haight, P.E. appeared representing Golfview Properties, requesting rezoning of a portion of SBL #38.11-2-6.11 from B-1 to R-2.

They have reduced the acreage for rezoning from 14.438 to 11.031. The 3.407 acres would remain a B-1 zone and is contiguous to an existing B-1 property which has 3.8 acres.

Originally there was 25 acres of B-1. It was reduced to 14 and now it would be reduced to 3.407 acres. The Town wanted to down zone the property a few years ago, but Mr. Grebenc thought it could be a viable commercial use.

The commercial zoning would be closest to the water. It preserves the possibility of a commercial project that could be tied to what is across the street.

Comprehensive Plan calls for a Hamlet in this area. However, a Hamlet requires B-3 zoning, not B-1. It was suggested that the Town evaluate the B-1 zoning, considering the scale and intensity of B-1.

Mr. Hopkins stated that the transition from R-2 to B-1 will be on their property if the rezoning is granted and not on property they do not own.

In a December 20, 2021 letter from the Long Range Planning Committee it was their opinion that the property should not be rezoned because the corner is considered a Hamlet.

It was moved by Starzynski – Lare to recommend **APPROVAL** of the revised request for rezoning from B-1 to R-2 conditioned upon the remaining B-1 parcel to be severed and create a new parcel. We are not giving any consideration for Exhibit 3 which suggests a conceptual site plan. No decision of the proposed site plan.

Mr. Worrall commented that he appreciates the thought and work that went into their proposal. He is working off the Comprehensive Plan as well as the comments from the Long Range Planning Committee, which both suggest not to rezone the whole parcel. Based on those comments, he will vote no. He has no market information that says it is not viable to be all B-1 or Hamlet Business. Based on the evidence he has, it should not be rezoned.

Roll Call: Ayes – Starzynski, Lare, Bruno, Duchscherer, Greco, Stessing  
Noes – Worrall  
Carried

4. FROM: Town Board  
RE: HERITAGE SUBDIVISION – SOUTH OF BEDELL ROAD, OFF SAWMILL RUN  
PRELIMINARY PLAT – 25 LOTS – SBL #24.18-1-22

Michelle Bodewes appeared representing Grand Island Development, LLC, requesting Preliminary Plat Approval for a 25 lot subdivision south of Bedell Road and as an extension of Sawmill Road.

There is a detention pond adjacent to property on the Bedell Road side. There are no required setbacks from the pond. Property to the west is privately owned. Solar project is to the south. Nearest point to the solar site is 500+ feet. There is wetlands and woods in the solar buffer. There are existing homes up to the proposed subdivision.

The road will be public. There are no environmental concerns.

Property is in a sewer district. Sidewalks will be required.

Mr. Westfall noted that the Highway Superintendent does not like islands in the cul-de-sacs and usually takes a stand against them.

It was moved by Stessing – Duchscherer to recommend **APPROVAL** of the Preliminary Plat for the Heritage Subdivision, recognizing that the required recreation fee of \$500 per lot will be paid.

Roll Call: Ayes – Stessing, Duchscherer, Bruno, Greco, Lare, Starzynski, Worrall  
Noes – None  
Carried

5. FROM: Town Engineer/Code Enforcement Officer  
RE: DAVID MAZUR – LONG ROAD AND GRAND ISLAND BOULEVARD – SBL #11.00-1-8  
SITE PLAN APPROVAL – MULTI-TENANT COMMERCIAL FACILITY

David Mazur appeared with a site plan for two buildings to be built at the corner of Long Road and Grand Island Boulevard.

The two buildings have a total of 19,400 s.f. They are a multi-tenant commercial facility, similar to his other project on Grand Island Boulevard. There will be garage/warehouse space, with an office and bathroom to the back or side wall of the twelve units. Office space will be 140 s.f – 155 s.f., depending on the needs of the tenant.

Fifty-eight parking spaces are provided. There is a special setback on Grand Island Blvd. The 6 parking spaces in the front yard setback will be removed, leaving 52 parking spaces, including 4 handicapped spaces.

There is an archeological sensitive area which cannot be disturbed. It will be fenced during construction.

The buildings will have 4' of red brick on the bottom. Siding will be charcoal in color with black trim.

There will be 12' doors instead of the 14' doors that he used on his previous project. The front building will be 2' lower in height with 7 doors. Back building will have 5 doors.

There are 9 Linden trees to be planted along the front. There was a discussion regarding some fencing across the frontage of the pond.

Ms. Stockinger commented that she appreciates what Mr. Mazur has done along the Boulevard. She asked if anything could be done to retain the threshold long term on this corner.

It was moved by Starzynski – Greco to recommend that the Site Plan be **APPROVED** as presented and eliminating the six parking spaces to maintain the 66' setback from the property line.

Roll Call: Ayes – Starzynski, Greco, Bruno, Duchscherer, Lare, Stessing, Worrall  
Noes – None  
Carried

6. FROM: Town Engineer

RE: TOPS PLAZA – 2160 GRAND ISLAND BLVD.  
SITE PLAN APPROVAL – PROPOSED 4,776 S.F. OUTPARCEL (2022)

Matthew Oates, P.E. appeared representing Benderson Development with plans for a 4,776 s.f. outparcel in the Tops parking lot next to the existing Key Bank. The building will consist of 2,526 s.f. of retail/restaurant space and a coffee shop with 2,250 s.f. with a drive-thru and outdoor seating.

A traffic study was included with a proposed plan in 2009 for a 7,000 s.f. outparcel building.

The right-in, right-out driveway will be moved slightly. Right-in will be moved in 40' to the north. Right-out moved approximately 60' to the south, lining it up with the drive-thru exit south of the proposed building.

Green space will be maintained along Grand Island Blvd. As part of the realignment, the drainage ditch along Grand Island Blvd. will be piped and covered to the signalized entrance.

The building will have an attractive architectural design. Wood siding with a mixture of decorative brick facing Grand Island Blvd. on the coffee shop section of the building. Ms. Stockinger suggested using some different colors or materials to break it up a bit. Proposed patio will be built in front of the coffee shop with a canopy

Dumpster enclosure will be screened and off to the side with a sidewalk to the dumpster.

Nine parking spots are shown for queuing for the drive-thru. Mr. Oates stated that an average of 4 – 5 spaces are normally used. Where will the cars go if there are 10, 11 or 12? Will they block the driveway? Why would this be different than others on the Island? They feel the 9 spots are sufficient for this operation. When asked, Mr. Oates stated that one would have to cross the lane of drive-thru traffic to get to the retail/restaurant.

They are code compliant on parking. There are 24 land banked parking spaces behind the gas station and a significant amount behind the plaza. There is plenty of room for snow storage and it can be removed, if necessary. Parking is sufficient according to Mr. Morgan.

To get to the Key Bank you have to make a 120 degree turn as opposed to a 90 degree. It should be made wider so that one can make more of a 90 degree.

There will be a three way stop sign at the right-in, right-out driveway, the same as it exists now. Mr. Westfall commented that they are waiting for comments from the DOT on the entrance/exit. The traffic study is old. The Herron Pointe development and the round-about has changed traffic dynamics. The Boulevard is different now.

Mr. Duchscherer stated that the 24 parking spots behind the gas station are not convenient to Tops. Can they be moved to the west, more opposite Tops and provide a pedestrian walkway to access Tops. This would be a better location for the 24 parking spots. With the proposed building, parking spaces are lost. There are times around the holidays you cannot get into the lot. He believes there is not enough parking.

We lost traffic calmness through the area to get to the retail space or Tops. There should be a way to calm the traffic. They need to work on the circulation pattern through the parking area to slow down traffic. Stop signs don't slow down people or stop them from going through the stop signs. There are traffic islands that impede the traffic flow. One island will be removed with the proposed building in its place. Mr. Oates noted that they find with additional development and more activity, it naturally slows people down.

The Design and Performance Standards need to be considered in the Central Business District. The building should be finished on all 4 sides. The two sides and the back are blank walls. The back wall faces the existing plaza.

Mr. Bruno noted, other Benderson projects have beautiful entrances. They have landscaping, including flowers, shrubs and trees. The entrance to the Lowe's Plaza off Niagara Falls Blvd. is dynamite. Even the screening for the dumpster is nice. We don't see much here. The Grand Island Chamber is asking them to do something. Treat our community as others.

On a previous plan there were a series of service doors, which were problematic. If there are service doors on this proposal, try to dress them up.

The Board questioned if 9 parking spaces for the proposed retail/restaurant is sufficient. Otherwise, customers would have to walk across the driveway queuing lane to get to that proposed retail/restaurant store.

Councilman Marston and Mr. Westfall mentioned that the driveway out to Baseline Road needs to be striped.

Recommendations to the applicant:

- Pedestrian connection to Key Bank.
- Dumpster screening.
- Widen turn toward Key Bank.
- Show where cars go if queuing is more than 9 vehicles?
- Pedestrian circulation to the main plaza.
- Traffic circulation to slow traffic.
- Look into parking spaces. Clarify with the Building Department.
- More landscaping.
- Enhance service doors.
- Check Design and Performance Standards.

It was moved by Stessing – Duchscherer to **TABLE** until we see the recommendations that we made hopefully included in the plan and the outcome of the DOT.

Roll Call: Ayes – Stessing, Duchscherer, Bruno, Greco, Lare, Starzynski, Worrall  
Noes – None  
Carried

### **COMMUNICATIONS – OTHER OFFICIALS**

1. FROM: Town Board  
RE: MINUTES – February 7, March 7, 2022  
Received and filed.
2. FROM: Board of Architectural Review  
RE: MINUTES – February 15, 2022  
Received and filed.
3. FROM: Zoning Board of Appeals  
RE: MINUTES – February 3, 2022  
Received and filed.

### **UNFINISHED BUSINESS**

1. FROM: Town Board/Town Engineer  
RE: GRAND ISLAND SUNRISE LLC – 871 WHITEHAVEN ROAD  
TYPE 3 SOLAR GENERATION PROJECT  
SITE PLAN AND SPECIAL USE PERMIT APPLICATION

Dan Leary, Grand Island Sunrise LLC, Jason Burford, Greenman-Pedersen, Inc. and Attorney  
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Jeff Palumbo appeared as a follow up with information since last month's meeting. They provided detailed renderings of the solar area at the time of installation and additional screening for 2 years. They made minor changes to the drawings.

Since the March meeting they have had a number of conversations with David Homes, owner of the adjacent PDD. They are trying to find a reasonable compromise. Talks are ongoing.

Also, they have added landscaping and corrected the signage. There wasn't any lighting at the gates. Mr. Stessing suggested that, from a safety standpoint, the Fire Company would need a light at the gate to get into the facility. Mr. Leary stated that they do not think of emergencies in the middle of the night because the system is de-energized in the evening. They can look into this but it is not part of the actual operation of the system. They would need a service from National Grid. It is something that they have not used or have not been required to use.

They meet the requirement of the Solar Law to be 500' from an inhabited residence on Whitehaven Road. On the Special Use Permit, it has not been met. Special Use Permit requires that it will be compatible with surrounding existing and planned uses. The PDD is an approved plan since 2011.

Mr. Bruno commented that we have to come up with a number from panel to back of the house that would be acceptable to everyone and is fair to both parties. Solar panel to the fence is about 15', fence to property line is 50' rear yard in a R-1D zone is 40'. It is up to 105' away. Landscaping should be done to its full extent. Mr. Leary commented that they would be screening for a home that doesn't exist.

Ms. Lare commented that as we are looking at how to establish how many feet from the proposed solar development and the proposed nearby home would be, we have to consider what is proposed for the landscaping and the visual presented here. It remains to be seen how incompatible the solar development would be. It could be more compatible than other potential developments in a B-1 zoning next to a residence.

Mr. Duchscherer noted that the applicant said they are having discussions with the owners of the PDD. We should wait until the discussions are over. If they don't agree, we have an approved PDD. This impacts the design. Let them talk it through.

Mr. Leary stated that in their discussions with David Homes, the principals are not anti-development. They appreciate the time and effort we have put forth. They support solar. They have their own interest in their property and want to develop. They want flexibility. What they took away from the last conversation is that they would not be in flat out opposition, but want to see if there is a way to work it out. They explained their restraints with the DEC wetlands and setbacks. The panels will be heavily screened. They will not be seen. There is no noise, no odors and no traffic.

They cannot reduce the number of panels and achieve the 5 megawatts.



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Attorney Jeff Palumbo stated that the purpose of the Solar Law is to minimize to the extent practicable the potential impact on members of the community when solar collectors may be installed near their property, while preserving the rights of property owners to install appropriately sited solar energy systems. They have done that. They can't create a larger buffer and have a solar farm because of the DEC wetlands. You are not going to see this from the ground floor.

When meeting with Mr. Stapelton from David Homes, one of his complaints is that you will see this from the second floor. Mr. Palumbo stated it will be seen from the second floor if it is 50', 75' or 500' away. They are doing everything to make this situation tolerable for the neighbors.

B-1 zoning allows, hotels, banks, car sales, etc., far more detrimental to the neighborhood than solar panels.

They are doing extensive landscaping. They can't increase the distance anymore. They need a recommendation to the Town Board.

In reviewing the Purpose of the Special Use Permits –407-114.

- C. (1) Mr. Palumbo said that is the purpose of the Solar Law.
- (2) They submitted documents that the solar farm does not depreciate the value of property, sometimes increases the value.
- (3) That has to be taken in consideration and compliance with the Solar Law.
- (4) They have done that.
- (5) They comply.

Referring to A. Mr. Worrall commented that It may be more compatible than a hotel or something else allowed in B-1.

It was moved by Duchscherer – Worrall to allow William Tuyn, representing David Homes, to speak for 2 minutes.

Roll Call: Ayes – Duchscherer, Worrall, Bruno, Greco, Lare, Starzynski, Stessing  
Noes – None  
Carried

Mr. Tuyn stated that he does not want to come across aggressively to oppose another developer. We are worried about it. You cannot build a house for less than a half million dollars plus the cost for the property and the infrastructure. David Homes has made a far greater investment compared to what they have invested.

At ground level you can see the black panels. We are looking to build the property out.

They have an approved PDD. They do comply with the open space. They met the requirements.

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No one is going to build a hotel with the tower on the property.

It was moved by Duchscherer to TABLE until the two parties can agree on the arrangement of the solar panels and the impact on the David Homes PDD.

No second. Motion lost.

Mr. Westfall was asked if the attorney was asked about the distance from the PDD. The attorney said the Planning Board should come up with a number.

Mr. Palumbo was asked if there was any more room for negotiations. He doesn't see it happening without DEC moving.

It was moved by Greco – Stessing to recommend the Site Plan be **APPROVED**. Mr. Stessing would like to see that the gates are lit.

Roll Call: Ayes – Greco, Stessing, Bruno, Lare, Worrall  
Noes – Duchscherer, Starzynski  
Carried

It was moved by Starzynski – Duchscherer to recommend the Special Use Permit be DENIED based on the first paragraph, second sentence of 407-114. This review shall be for the purpose of determining that each proposed use is, and will continue to be, compatible with surrounding existing and planned uses.

Comments – We need to define compatibility.

We don't have to define compatibility. It is a legislative decision.

If in a subdivision, looking out of a second floor, you are looking at houses.

Are 8' high black panels with greenery such a bad thing.

Compatibility is a subjective term.

Roll Call: Ayes – Starzynski, Duchscherer  
Noes – Bruno, Greco, Lare, Stessing, Worrall  
NOT Carried

It was moved by Bruno – Stessing to recommend that the Special Use Permit be **APPROVED**.

Comments – Hope the two parties can continue to see additional ideas. Work with wetlands, improve landscaping. Like to see it work for both parties.

There isn't a dwelling, but there is an approved plan. There could be a dwelling. Compromise on the 500'. Solar panels to back of house is over 100'.

The solar farm has 20 years. If it takes David Homes time to build out, the solar farm may be gone.

Roll Call: Ayes – Bruno, Stessing, Greco, Lare, Worrall  
Noes – Duchscherer, Starzynski  
Carried

2. FROM: Town Engineer/Code Enforcement Officer  
RE: ISLAND PET LODGE – 2120 ALVIN ROAD  
SITE PLAN REVISION – PROPOSED KENNEL ADDITION

Mike Ludwig appeared with a revised site plan for a proposed kennel addition at 2120 Alvin Road.

He is proposing 2,436 s.f. of kennel space on the southeast side of the existing structure. It is not public space. He has added 2 or 3 parking spaces. No new employees will be hired. There will only be a change in current employees' hours. There is an area reserved for future retail building space.

It was moved by Starzynski – Worrall to recommend **APPROVAL** of the revised site plan for 2120 Alvin Road.

Roll Call: Ayes – Starzynski, Worrall, Bruno, Duchscherer, Greco, Lare, Stessing  
Noes – None  
Carried

3. FROM: Town Engineer/Code Enforcement Officer  
RE: JOHN VALENTI – 1754 GRAND ISLAND BLVD.  
PRELIMINARY SITE PLAN SKETCH FOR DISCUSSION ONLY

It was moved by Bruno – Starzynski to **REMOVE** from the agenda and file.

Roll Call: Ayes – Bruno, Starzynski, Duchscherer, Greco, Lare, Stessing, Worrall  
Noes – None  
Carried

4. FROM: Town Board  
RE: LOCAL LAW INTRO #11 OF 2021 – REZONING PORTION OF SBL #38.11-2-6.11  
WHITEHAVEN ROAD – B-1 TO R-2  
CORRESPONDENCE – LONG RANGE PLANNING COMMITTEE  
(See #3 under Referrals)

It was moved by Bruno – Worrall to **REMOVE** from the agenda and file.

Roll Call: Ayes – Bruno, Worrall, Duchscherer, Greco, Lare, Starzynski, Stessing  
Noes – None  
Carried

5. FROM: Code Enforcement Officer  
RE: ACCESSORY USES AND STRUCTURES – PROPOSED CODE MODIFICATIONS

After review and discussion of the proposed code modifications to Accessory Uses and Structures, it was moved by Worrall – Starzynski to recommend **APPROVAL**, adding Exterior

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finishes and colors as close as practicable to the existing principal structure.

Roll Call: Ayes – Worrall, Starzynski, Bruno, Duchscherer, Greco, Lare, Stessing  
Noes – None  
Carried

6. FROM: Code Enforcement Officer

RE: EMERY FARM SOLAR – 2595 WHITEHAVEN RD.  
SPECIAL USE PERMIT APPLICATION

(Tabled 12/14/20 until it is referred.)

To remain on the **TABLE**. Applicant will be informed that the Board is contemplating removal of the application from the agenda if there is no further input or appearance from them.

5. FROM: Code Enforcement Officer

RE: LONG ROAD DISTRIBUTION FACILITY – 2780 LONG RD.  
SITE PLAN APPROVAL

It was moved by Bruno – Starzynski to **REMOVE** from the table awaiting Town Board's referral.

Roll Call: Ayes – Bruno, Starzynski, Duchscherer, Greco, Lare, Stessing, Worrall  
Noes – None  
Carried

It was moved by Bruno – Starzynski to **ADJOURN** at 9:55 P.M.

Roll Call: Ayes – Bruno, Starzynski, Duchscherer, Greco, Lare, Stessing, Worrall  
Noes – None  
Carried

Respectfully submitted,

Arlene Ehde, Recording Secretary