

**OFFICIAL MINUTES**  
**NIAGARA FALLS PLANNING BOARD**  
**July 8, 2020**

A regular meeting of the Niagara Falls Planning Board was held Wednesday, July 8<sup>th</sup> 2020, at 6:05 PM, in City Council Chambers, City Hall, 745 Main Street, Niagara Falls, New York.

**PRESENT:**

Tony Palmer  
Michael Murphy  
Robert Kazeangin  
Peter Heuer  
Tim Polka  
Charles MacDougall  
Joyce Williams

William Dunn

**EXCUSED:**

Schurron Cowart

**ALSO:**

Thomas DeSantis  
James Bragg  
Michelle Shaughnessy

**APPROVAL OF AGENDA**

Motion to approve the Agenda with Action Item #2 being heard prior to Action Item #1, and to add emailed comments from Dan Parsnick on 402/430 Buffalo Avenue to communications made by Mr. Murphy and seconded by Mr. Polka. No discussion. **Approved Unanimously.**

**APPROVAL OF MINUTES**

Motion to Approve the Minutes, for the virtual meeting dated June 24<sup>th</sup> 2020, was made Mr. Kazeangin, and seconded by Mr. Murphy. **Approved Unanimously**

**PUBLIC PARTICIPATION: NONE**

**ACTION ITEMS:**

1. **Site Plan Review: 1500 James Avenue (130.14-2-19 (I1))**

Proposal by Michael Cerrone, of Cerrone Estate Properties, to construct a 24,000 sq. ft. new addition for storage of parts, tools, shipping materials and office space.

Mr. Cerrone stated that the same tenant has been in this location since 1996 and they are running out of room to remain there. This addition will allow them the space they need and they will can sign a longer lease.

Mr. Palmer asked about the noise complaints in the past. Mr. Cerrone spoke to the owners just today and has confirmed that they no longer work on that particular engine that yielded those complaints.

Mr. DeSantis asked when construct would begin. Mr. Cerrone stated early fall is what they are aiming at.

Upon review, staff certifies that the above action complies with the City's Codified Zoning Ordinances, in intent and purpose, specifically Chapter 1324, but only with the following conditions being satisfied in conjunction with the proposed use(s) or expansion:

- 1) **Environmental Assessment (SEQR):** The Planning Board hereby accepts and adopts the findings of the SEQRA review, finalized and dated 7/02/2020.
- 2) **Compliance:** Comply with all applicable State and local building, safety, and health codes. Deviation from or non-compliance with any conditions of this Site Plan approval, shall render this approval null and void

- 3) **Expiry Date:** Applicant shall act to implement and substantially complete the proposed action, as approved, within 18 months from the date of approval. Failure to substantially complete the proposed action shall render this Site Plan Approval null and void unless an extension is granted.
- 4) **Signage:** Signage shall comply with Chapter 1121 of the Codified Ordinances.
- 5) **Landscaping:** Requirement is for three (3) trees, (1 per 50' frontage plus 1 per 10 parking spaces or part thereof) and a 5' wide landscaped strip along the perimeter of any such parking area. The applicant provides four (4) trees on plans dated 5/05/2020. The applicant does not provide planting details. Applicant shall provide a planting schedule together with proposed tree species to be approved by the senior planner prior to the issuance of any building permits. Proposed trees shall have a minimum 2" caliper. Planting areas contiguous to the parking lot should be delineated by a "raised-curb" or similar.
- 6) **Bond:** A performance bond, or equivalent, in the amount of \$1,500 shall be submitted to the Legal Department in accordance with Section 1301.10 and 1324.7 of the Zoning Ordinance prior to the issuance of any building permit or certificate of occupancy.

Motion to approve was made by Mr. Polka and seconded by Mr. MacDougall.

**POLLED VOTE:**

Mr. Murphy	Yes	Ms. Williams	(no vote taken)
Mr. Heuer	Yes	Mr. Kazeangin	Yes
Mr. Polka	Yes	Mr. Dunn	Yes
Mr. Palmer	Yes	Mr. MacDougall	Yes
<b>Approved Unanimously</b>			

**2. Site Plan Review: 402/430 Buffalo Avenue (159.54-1-45 (R4-A) & 159.54-1-46 (R4-A)**

Proposal by Michael Marsch, of Merani Hotel Group, to develop a mixed-use complex with 28 market rate apartments and 83 Holiday Inn Express Hotel rooms along with first floor retail space.

Mr. Marsch stated the this project will make use of the 2.5 acres of land that has been vacant for some time and will also bring 27 full time jobs to the City. The overall cost of the project will be 22.5 million.

Mr. Murphy, after reviewing the plans, stated that the center section of the Building looks Historical but the outside towers do not. He asked if other materials or windows could be used to keep within the Historical aspect due to it being in R4 District. Mr. Palmer voiced his concern for the residential neighbors would be staring at a wall, can this be changed. Mr. Marsch and Architect Mr. Harrison agreed this could be achieved with layering of materials on the façade, Reliefs and window designs. They agreed The east and west façade walls of the Project will also mimic the former Nabisco building's architectural style, in this instance by simulating the presence of windows on these otherwise blank facades through the use of relief, extending inward and/or outward from the from the (east and west) face of the building to appropriately mimic the original building's window pattern. They also agreed the windows will mimic those of the former Nabisco building's architectural style, particularly the lattice window motif, and window pattern. These changes will be added to the conditions for the Site Plan. Mr. Marsch also asked that the Expiry Date be changed from from18 months to 24 months- the Board agreed and conditions updated to reflect.

Mr. Kazeangin asked what floors would the Apartments be on. Mr. Marsch stated that the building would be divided by sides and not floors. Residents will have their own entrance separate from the Hotel entrance. There will be no entrance to Tim Hortons from the Hotel lobby.

Mr. Murphy expressed his concern on the Traffic Study that was provided. That Study has no Drive Thru data which is what is proposed for the retail space of this project. How many cars are expected to use the drive thru at different times of the day. Mr. DeSantis asked Mr. Marsh how cars could be qued in the parking lot. Mr. Marsh stated thirteen (13).

Kathy Dubois, of 113 6<sup>th</sup> Street, feels the Alley will not have room for two cars to pass by with parked cars on the street. A lot of the neighbors there do not have driveways and do park on the street. Mr. Murphy feels that Tim Hortons can do a walk in location like they have at the Delta Sonic on Niagara Falls Boulevard, but this has never been discussed. Mr. DeSantis stated that drive thru's were prohibited for years in that down town area, but this project has already obtained a Variance to allows them to. At this point the Board needs to find suggestions/ways to help move this project forward.

Mr. Murphy suggested that Fourth Street be the Que road, as not a residential street, and this could eliminate the problem. Mr. Palmer stated he has not seen the traffic study but is confident that Mr. Bragg and Mr. DeSantis and sit down with Mr. Marsh and the architects to review this option and come up with a solution to the que can be along side Engineering. The Board agreed.

Mr. Polka asked what height of the building would be and what the the front setback would be. Mr. Marsch stated that the highest peak would be 76 ft. and the setback would be a little further then 25 feet.

Mr. Parsnick, of 612 Buffalo Avenue, stated he has several concerns: The increased traffic on Buffalo Avenue, 6th Street East is narrow where 6<sup>th</sup> Street is wider, And the Elevation Plan shows 2/3 of the parking is on the west end of the lot. Overall he likes the design and glad that parcel of land will be used, but does feel more thought needs to go into the traffic and que problem.

Mr. Murphy asked Mr. Marsh if he was aware that a portion of the Site had Petroleum contamination. Would they be scraping that ground or building upon it. Mr. marsh stated it would be scrapped and capped to sidewalk level.

Mr. DeSantis asked if there would be a path for the public to walk through the parking lot. Mr. Marsch stated that there would be and also sidewalks to be utilized. They will also encourage people to exit using the back door as a further safety measure. Mr. Polka added that marked cross walks, like on Grand Island location, would work well. Also moving the Order Board would also help traffic.

Upon review, staff certifies that the above action complies with the City's Codified Zoning Ordinances, in intent and purpose, and more specifically Chapter 1324, but only with the following conditions being satisfied in conjunction with the proposed uses:

- 1) **Environmental Assessment (SEQR):** The Planning Board hereby accepts and adopts the findings of the SEQRA review, finalized and dated 6/4/2020.
- 2) **Compliance:** The project complies with all applicable State and local building, safety, and health codes. Deviation from or non-compliance with any conditions of this Site Plan approval, shall render this approval null and void.
- 3) **Expiry Date:** Applicant shall act to implement and substantially complete the proposed action, as approved, within 24 months from the date of approval. Failure to substantially complete the proposed action shall render this Site Plan Approval null and void unless extension is granted by the Planning Board.
- 4) **Lot/Boundary lines:** *The proposed hotel site consisting of 402 Buffalo Avenue (SBL# 159.54-1-46) and 430 Buffalo Avenue (SBL# 159.54-1-45) shall be legally amalgamated into a single lot/SBL number, pursuant to the regulations, prior to filing for any building permit.*
- 5) **Signage:** Signage shall comply with the City of Niagara Falls Codified Ordinances regarding Sign Regulations in force at the time of permitting.
- 6) **R-4 Heritage Bulk and Density Standards:**
  - a) The maximum building height in an R4 District is 45 feet, and the maximum front yard setback is 25 feet. The proposed five-story building is 72 feet height and has a front yard setback of 28.1 feet. Notwithstanding the action of the ZBA, the construction of an interpretation of a building that previously existed on the subject lot is permitted without regard to bulk and density standards under

- Zoning Chapter 1319.2. The applicant proposes constructing an interpretation of the National Food Company Complex/Nabisco building that previously occupied 430 Buffalo Avenue from 1901 until demolition in 1976. *Therefore, in qualifying for this provision, the applicant MUST, before filing for a building permit, provide a determination letter to the Department of Planning from a licensed architect that illustrates how the proposed structure is consistent with the scale, form, materials, and features of the former Nabisco building.* Such letter shall be made part of the official record of these proceedings.
- b) Windows will mimic those of the former Nabisco building's architectural style, particularly the lattice window motif, and window pattern.
  - c) The east and west façade walls of the Project will also mimic the former Nabisco building's architectural style, in this instance by simulating the presence of windows on these otherwise blank facades through the use of relief, extending inward and/or outward from the from the (east and west) face of the building to appropriately mimic the original building's window pattern.
- 7) **Storage:** Proposed dumpster and enclosure shall comply with Section 738.08 of the Codified Ordinances that mandates disposal areas be screened from view by placement of a solid wood fence of masonry wall at least as tall as the refuse containers.
  - 8) **Landscaping:** Requirement is for thirty-three (33) trees, (1 per 50' frontage plus 1 per 10 parking spaces or part thereof) and a 5' wide landscaped strip along the perimeter of any such parking area. This is calculated by the fact that there are 133 parking spots and 974 feet of frontage (4<sup>th</sup> Street frontage: 172 feet, 6<sup>th</sup> Street frontage: 172 feet and Buffalo Avenue frontage: 630 feet). The landscaping plan dated 5/14/40 provides 35 trees. Proposed trees shall have a minimum 2" caliper. Planting areas contiguous to the parking lot should be delineated by a "raised-curb" or similar.
  - 9) **Parking:** Parking area and associated driveways and access aisles shall be paved and drained to the City sewer system as per City Engineering Department standards and approvals. Handicapped parking spaces shall be marked and signed in accordance with NYS requirements. Improvements undertaken by the applicant shall be at their own expense and in accordance with all NYS DOT and City Engineering requirements and approvals. All Driveway aprons shall be no wider than 35 feet. Where and new sidewalk/dropped curb is installed, such sidewalks/dropped curb will be ADA compliant specifically with cast-in place, detectable warning strips. All such improvements in the right-of-way shall be inspected and verified by City Engineering Department. Minimum parking space dimensions are a maximum 9' x 18' per space.
  - 10) **Lighting:** All exterior site lighting, including wall packs, shall be angled downward only and away from adjacent properties. All fixtures and luminaries shall be of a full cut design and shall be of a type that does not exceed a 90° cutoff angle. Any light standard shall not exceed 25' in height. Lighting details shall be provided as part of construction drawings.
  - 11) **Right-of-Way:** Sidewalks shall be maintained (or re-constructed) along the Buffalo Avenue, Fourth Street and Sixth Street property lines Improvements undertaken by the developer/applicant shall be at their own expense and in accordance with all NYS DOT and City Engineering requirements and approvals. Any existing driveway or dropped-curb that is removed shall be replaced with new sidewalk and grass margin. Where any new sidewalk/dropped curb is installed, such sidewalk/dropped curb will be ADA compliant specifically with cast-in-place detectable warning strips. All such improvements in the right-of-way shall be inspected and verified by Coty Engineering Department. Evidence of such shall be provided by Code Enforcement prior to the issuance of any Certificate of Occupancy.
  - 12) **Bond:** Prior to the issuance of any building permit or certificate of occupancy, a performance bond ( or equivalent) in the amount of \$28,000.00 shall be submitted to the Legal Department in accordance with Section 1301.10 and 1324.7 of the Zoning Ordinance prior to the issuance of any building permit or certificate of occupancy.
  - 13) **Site Plan Details:** A further discussion and analysis of options for an alternative and possibly more optimal 'drive-thru' que pattern on site between the Planning Office staff, and the Architect & Engineer project designers, representing the owner, to review possible options and to agree on a optimal final

design of the location of the car que for the drive-thru. This is to verify that the best solution is in the final design plans for the project and that it also is protective as possible of the surrounding property owners and that it will minimize any traffic concern. Failure to come to an agreement in this review shall render this approval null and void

With change of Expiry date from 18 to 24 months, window/facade design, and review and determination of traffic que location to be reviewed and discussion between Planning, Engineering and Merani group a Motion to approve was made by Mr. Murphy and seconded by Mr. Polka.

**POLLED VOTE:**

Mr. Murphy	Yes	Ms. Williams	Abstain
Mr. Heuer	Yes	Mr. Kazeangin	Yes
Mr. Polka	Yes	Mr. Dunn	Yes
Mr. Palmer	Yes	Mr. MacDougall	Yes

**Approved Unanimously**

**OLD BUSINESS:**

Mr. Murphy asked what the purpose for redoing the Short Term Rental Ordinance was. Mr. Maziar, of Corporate council, stated it is to streamline the process and make sure the is compliance. Mr. DeSantis let the Board know that if a property is a short term rental and then is sold, that new owner would have to apply and be approved to use the property as a rental again. The Short-term rental argeement does not stay with the property.

**NEW BUSINESS: NONE**

**COMMUNICATIONS:**

1. Email from Carroll Schultz Reetz on Resolution of Extension of Moratorium of Short Term Rentals
2. Email comments from Dan Parsnick on 402/430 Buffalo Avenue

**PLANNING REPORT:**

Mr. DeSantis informed the Board that the Planning Department has been working on a Airport Protection Overlay Zone and will be coming before the Board soon. When the County organized this with all the surrounding towns of he Airport, one of the BRACK questions was does each town have this in place.

Mr. DeSantis said Blue Cardinal is advancing with a few of their rehab projects which the Board will be seeing and voting on by end of July and going forward.

**ADJOURN**

Motion to adjourn meeting was made by Mr. Polka and seconded by Mr. Murphy. The meeting was duly adjourned at 7:27 P.M.