

Official Minutes
City of Niagara Falls Planning Board
June 14, 2023

A regular meeting of the City of Niagara Falls Planning Board was held on Wednesday, June 14, 2023 at 6:00 p.m. in Council Chambers, City Hall, 745 Main Street, Niagara Falls, N.Y.

CALL TO ORDER & ROLL CALL

BOARD MEMBERS PRESENT:

Tony Palmer
Charles MacDougall
Beverly Callen
Ryan Dallavia
John Spanbauer
Ken Nossavage

STAFF PRESENT:

Kevin Forma, Director of Planning
Michael Pesarchick, Planner II

BOARD MEMBERS EXCUSED:

Shurron Cowart
Joyce Williams
Timothy Polka

SPEAKERS:

John Bartolomei
Chris Andrzejewski

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA – FOR THIS MEETING

A motion to approve the agenda was made by **Mr. Nossavage** and seconded by **Mr. Spanbauer**.

MOTION: MAJORITY APPROVED

APPROVAL OF MINUTES FROM APRIL 25, 2023

A motion to approve the minutes from the Special Meeting held April 25, 2023, was made by **Mr. Spanbauer** and seconded by **Mr. Dallavia**.

MOTION: MAJORITY APPROVED

PUBLIC HEARING:

No public hearing was held.

ACTION ITEMS:

- 1. Level II Site Plan Approval for the purpose of constructing an 86-room Sleep Inn Mainstay Hotel at 9400. Niagara Falls Boulevard by the applicant, Paresh Patel for 9400 Niagara Falls Boulevard LLC.**

Mr. Chris Andrzejewski introduced himself as the site engineer for the design for the proposed Sleep Inn and briefly described the project. The proposed hotel will be located on a 1.83-acre parcel zoned C3 General, and will be 65'x90'x195.' Mr. Andrzejewski said there were no wetlands on the property and the tree survey was also incorporated into the design drawings to show the number of trees that have been taken away. The project was initially submitted a few years ago, but the owner has decided to move forward and they would like to begin construction this fall.

Mr. MacDougall expressed concern about too many hotels in Niagara Falls and asked if a market study indicated that there was still a need for another hotel on Niagara Falls Boulevard. **Mr. Andrzejewski** stated that he has a lot clients that are into hotel business and that market forecasts showed there was still demand for hotels to catch "overflow." **Mr. MacDougall** asked why they would build a hotel in that location. **Mr. Andrzejewski** said that the market showed that people are willing to drive 20 miles to a hotel.

Mr. MacDougall asked Mr. Forma if there were specific plans for Niagara Falls Boulevard. **Mr. Forma** said that there was nothing to do specifically to the area. **Mr. Palmer** added that that Niagara Falls Boulevard also falls within the jurisdiction of the Niagara County Planning Board in that area.

Mr. Palmer asked if there would be a problem with the paperwork given that it was three years old while site plan approval lasts 18 months. **Mr. Forma** explained that the paperwork had the proper information and there was no need for the applicant to resubmit the forms given that there was no prior approval. **Mr. Andrzejewski** said that the site plan and the hotel design has not changed.

Mr. Palmer asked for a motion to approve the project.

A motion to approve the Level II Site Plan for the purpose of constructing an 86-room Sleep Inn Mainstay Hotel at 9400 Niagara Falls Boulevard was made by **Mr. MacDougall** and seconded by **Mr. Dallavia**.

TONY PALMER	YES
JOHN SPANBAUER	YES
BEVERLY CALLEN	YES
CHARLES MACDOUGALL	YES
KEN NOSSAVAGE	YES
RYAN DALLAVIA	YES

MOTION: MAJORITY APPROVED

- 2. Planning Board recommendation for the purpose of scheduling a public hearing for the addition of a High Energy Overlay on the “Industrial” zone parcel at 2450 Buffalo Avenue at the request of the applicant, Tim D’Augustino on behalf of the owner, US Data Technologies Group Ltd.**

Mr. Palmer asked if there were any speakers for the project.

Mr. John Bartolomei introduced himself as the attorney representing US Data Technology. He stated that the firm settled the case on February 9, 2023 and a judge moved the date to June 15, 2023 to provide updates on progress. Mr. Bartolomei asked the Board to set a Public Hearing for June 28 to allow US Data Technology to go before the City Council on June 28 and stated that, in his opinion, they met all the requirements and worked closely with the City to meet all the submittals.

Mr. MacDougall asked why it took so long for the organization to come into compliance with the City’s policies and procedures.

Mr. Bartolomei stated that it was a whole new concept of overlays and the law was only a draft. Mr. Bartolomei, stated they had problems with dates but at each juncture they communicated with the city and learned that the biggest problem was noise, which his client wanted to address that immediately, to come in compliance within the requirements for an industrial zone. . The city didn't want them to use requirements for the industrial zone, but to submit under this overlay district. The city wanted them to come under the new law and the process and passing that new law took place on September 9th, 2022.

Mr. Palmer stated that the Board had a conflict with scheduling the public hearing because City Council and the Planning Board are both scheduled to meet on June 28 and presented several options for rescheduling.

A discussion occurred regarding the ability to provide Council with the material to review in time for their meeting on the 28th. It was decided that any issues could be resolved.

Ms. Callen asked that the time be moved to 5:00 p.m. instead of 6:00 p.m. This would allow her to attend and help to obtain quorum.

Mr. Palmer called for a motion.

A motion to approve a public hearing to be held on the June 27, 2023 at 5:00 p.m. was made by **Mr. Dallavia** and seconded by **Beverly Callen**.

TONY PALMER	YES
JOHN SPANBAUER	YES
BEVERLY CALLEN	YES
CHARLES MACDOUGALL	YES
KEN NOSSAVAGE	YES
RYAN DALLAVIA	YES

MOTION: MAJORITY APPROVED

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

Mr. Forma said that the Historic Preservation Commission has launched an application to declare “The Turtle,” 25 Rainbow Boulevard, as a Historic Landmark for the City. This was not an action item.

Pursuant to Section 1335.05-2 (C) of the Historic Preservation Law of the City of Niagara Falls, the Historic Preservation Commission solicits comments from different departments including the Planning Board. **Mr. Forma** said that the Commission would appreciate a 30-day turnaround from the meeting. **Mr. Forma** suggested at a future meeting, the Board could provide comments and then summarize them.

Mr. Forma also provide the Board with a letter received June 14, 2023 from an attorney representing the owners of The Turtle. He reiterated that action was required at the meeting and no vote was needed. The purpose was to provide information for the Board to understand what was distributed.

Mr. Palmer suggested that responding within 30 days would be problematic. **Mr. Forma** stated that 30 days was a preference not a requirement. **Mr. MacDougall** asked for clarification. He asked if they wanted the Board to say yes, if they had our support.

Mr. MacDougall asked Mr. Forma for clarification. He asked if they're looking for the Board to either say, yes, we want to support you or give comments back as individuals or as a group. **Mr. Forma** explained that the Board could comment on the recommendation material collectively. The statute itself simply says to send the recommendation out for comment to the Planning Board.

Mr. Palmer asked if this would fall into the Heritage District. He stated that if it did, everything would need to follow the criteria for the Heritage District. **Mr. Forma** was uncertain but will conduct research and provide a response to the members..

PLANNING REPORT / COMMUNICATIONS:

Mr. Forma introduced **Mr. Pesarchick** as the new Planner II and noted he would be appearing at Planning Board meetings in the future.

PUBLIC PARTICIPATION:

Mr. Palmer asked if anyone in the Audience had anything to address that was not an agenda item.

Lauren Adornetto, representing North East Data, LLC, conversationally referred to as “Blockfusion,” addressed this board to give a status update on the city's processing of the application for the project at at 5380 Frontier Avenue application, (Relative to the addition of a “High Energy Overlay” zone).

Ms. Adornetto stated in April, the board acted very efficiently to schedule a meeting for the hearing and then issue his recommendation to the City Council to approve with high energy use of overlay district. She stated that the application stalled in the City Council, where they have been unable to secure agenda placement to conclude the Council SEQR review. The project has no adverse environmental impacts, particularly with respect to noise because the facility based on several noise reports doesn't produce sound levels that are above the existing ambient sound level surrounding the industrial district. The nearest residential district to the facility is more than 100 feet away.

Ms. Adornetto said that the applicants have consistently made that argument and have requested multiple times to be on the Council's agenda but have been unable to secure that place. **Ms. Adornetto** stated that her client is aware the planning board is not in a position to act on the Level II Site Plan application that is currently pending and she thanked this board for the action that it took in April and wanted to explain the delays and reappearing before the board for the completion of its review.

Ms. Adornetto stated that the applicant understands that these are just regular delays, but they have reached a point where they feel compelled to make further statements on the record and

request that the city push the application along. **Ms. Adornetto** stated that the applicant's formal request, admitted to the city council by letter, is to be on the city council's agenda for the June 28 meeting where they requested secret determination, they believe should be a negative declaration.

Ms. Adornetto said that North East Data, LLC, is asking the Council at that meeting to adopt the Board's recommendation to approve the high energy usage overlay district and that will put the applicant in position to be before the Planning Board for its July meetings to complete the Level II Site Plan Review. Ms. Adornetto understands the quorum may be difficult for July 5 and anticipates being ordered again to the July 19, 2023 meeting.

Ms. Adornetto stated the applicants have provided all of the information that the city has asked for and appreciate the Board's action to date.

ADJOURNMENT:

Mr. Palmer asked for a motion to adjourn.

A motion to adjourn the meeting was made by **Mr. MacDougall and** seconded by **Mr. Spanbauer.**