

**Official Minutes**  
**City of Niagara Falls Planning Board**  
**September 13, 2023**

A regular meeting of the City of Niagara Falls Planning Board was held on Wednesday, September 13, 2023 at 6 p.m. in the Council Chambers, Niagara Falls City Hall, 745 Main Street, Niagara Falls, N.Y., 14301.

**CALL TO ORDER & ROLL CALL**

**Board Members Present:**

Tony Palmer  
John Spanbauer  
Beverly Callen  
Charles MacDougall  
Ken Nossavage  
Timothy Polka  
Joyce Williams  
Ryan Dallavia

**Staff Present:**

Kevin Forma, Director of Planning  
Mike Pesarchick, Planner II

**Board Members Excused:**

Schurron Cowart

**Attendees Present:**

Anna Knight, Linde, Inc.  
Mike McDonnell, Linde, Inc.  
Andrew Warta, Linde, Inc.  
Justin Betts, Linde, Inc.  
David Yagielski, Linde, Inc.  
Magver Infante, Linde, Inc.  
Brandon Kennedy, Preservation Buffalo-Niagara  
Kelley Kinderman, Community Services for Every1

**Attendees Present:**

Sharath Sankarlal, Linde, Inc.  
Brett Gawronski, SWBR  
Andrea Simler-DeGolier  
Matt Long, Long Associates  
John Giusiana, Giusiana Architects  
Puneet Tandon, SJI Properties

**PLEDGE OF ALLEGIANCE**

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**APPROVAL OF AGENDA**

A motion to approve the agenda was made by **Joyce Williams** and seconded by **Timothy Polka**.

Tony Palmer	YES
John Spanbauer	YES
Beverly Callen	YES
Charles MacDougall	YES
Ken Nossavage	YES
Timothy Polka	YES
Ryan Dallavia	YES
Joyce Williams	YES

**Motion: Passed unanimously.**

**APPROVAL OF MINUTES**

A motion to approve the minutes of the meeting held on July 19<sup>th</sup>, 2023 was made by **Ryan Dallavia** and seconded by **Ken Nossavage**.

Tony Palmer	YES
John Spanbauer	Abstain
Beverly Callen	YES
Charles MacDougall	YES
Ken Nossavage	YES
Timothy Polka	YES
Ryan Dallavia	YES
Joyce Williams	YES

**Motion: Passed unanimously.**

Mr. Spanbauer elected to abstain because he was not present at the July 19, 2023 meeting.

**PUBLIC PARTICIPATION** (*All Non-Agenda Topics*):

There was no public participation.

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**ACTION ITEMS:**

1. **Planning Board Recommendation: to declare the Planning Board as Lead Agency for the State Environmental Quality Review (SEQR) process regarding the plant expansion project at 4503 Royal Avenue (S.B.L. 160.09-1-9), on behalf of the applicant Linde, Inc.**

**Anna Knight** introduced herself as the project lead for the Niagara Falls Electrolyzer Project. Her colleagues in the audience introduced themselves to the Board.

Ms. Knight provided the Board with background information about Linde, Inc. She stated that Linde had been a member of the community for over 40 years. The company has a site on Royal Avenue operating for 24 hour, 7 days per week. There is also a company general office in Tonawanda. The company has over 1000 employees there and they're supporting this project.

Ms. Knight provided an overview of the proposed expansion. Ms. Knight stated that the goal of the project is to decrease carbon emissions and go a little bit greener. The goal of this industrial expansion is to utilize that green power to separate water into hydrogen and oxygen. The electrolyzer project is a new expansion for green hydrogen instead of using the old school, grey hydrogen and fossil fuels. It is an industrial expansion.

Ms. Knight explained that Linde, Inc. has a building here but it's not an occupied building, it houses process equipment. Part of the expansions, would be to hire more folks for the Niagara Falls site itself including operators, drivers, etc. The proposal would provide over 250 construction jobs for the community.

Mr. Spanbauer asked if the plants would create any noise. Ms. Knight explained that there would be industrial noise but within the fence line. She stated that it was no more than what was standard.

**Andrew Warner** stated that the company was working to produce additional hydrogen to backfill for what they lost at the facility that would be go liquefy and send out on trailers. Mr. Warner explained how that was done.

Mr. Spanbauer asked how many trucks would go in and out of the facility in a day.

**Justin Betts** explained that the trucks came down Royal Ave to the intersection on 47<sup>th</sup> Street to Niagara Falls Boulevard. He stated that they have 26 trailers on site, 16 of those units are hydrogen. They have approximately 20 drivers that are in and out the facility 24/7. This is to make up for lost production. Generally the company takes out five trailers per day.

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Mr. Forma reminded the Board they would vote to declare the Planning Board as Lead Agency for the State Environmental Quality Review (SEQR) process.

Mr. Palmer called for a motion to approve the Planning Board's Lead Agency declaration.

A motion was made by **Mr. Nossavage** and seconded by **Mr. Polka**.

Tony Palmer	YES
John Spanbauer	YES
Beverly Callen	YES
Charles MacDougall	YES
Ken Nossavage	YES
Timothy Polka	YES
Ryan Dallavia	YES
Joyce Williams	YES

**Motion: Passed unanimously.**

- Planning Board Recommendation: to dispose of the City-owned property at 401 Ferry Avenue (S.B.L. 159.29-2-31), on behalf of the applicant Andrea Simler-DeGolier. Applicant seeks to purchase the property to use as a community garden and erect a structure to be used as a cottage and workshop for classroom space.**

**Andrea Simler-DeGolier** stated that she currently has a short-term rental property and would like to purchase next door. She and her husband are serious about positively influencing their neighborhood, fixing it up and helping their neighbors. They would like to enhance the property and be a part of the development.

Ms. Simler-DeGolier explained that it would probably be a short-term rental. and stated that the cottage would be used predominantly for a workshop.

Ms. Simler-DeGolier explained that the project was a five-year plan.

Mr. Palmer clarified that this the Board was voting to recommend approval of the purchase of the property.

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Motion to recommend disposal of the property was made by **Mr. Palmer** and seconded by **Mr. Dallavia**.

Tony Palmer	YES
John Spanbauer	YES
Beverly Callen	YES
Charles MacDougall	YES
Ken Nossavage	YES
Timothy Polka	YES
Ryan Dallavia	YES
Joyce Williams	YES

**Motion: Passed unanimously.**

**3. Planning Board Recommendation: to send comments to the Historic Preservation Commission regarding 25 Rainbow Boulevard (“The Turtle,” S.B.L. 158.12-1-20) as part of the Local Historic Landmarking process pursuant to Section 1335.05-2(C) of the City of Niagara Falls Zoning Code.**

Mr. Pesarchick clarified that Planning Board was asked to send comments as part of the Landmarking process outlined in the City’s Historic Preservation Law. He asked if anyone had any comments at that time not previously submitted.

Mr. Spanbauer stated that he was at the August meeting last year where they discussed declaring that the building was historic. He said there was discussion of a need for more examination and a need to bulk up the application for being a landmark.

Mr. Spanbauer asked if they had created an application or something we would be able to view. Mr. Pesarchick stated that there was a document and it had been sent out previously to the Board members.

Mr. Spanbauer said that he would not want it to be declared a landmark unless the Board had specific determinations of what the building was going to be used for. He stated that it was a great building and can be utilized for a lot of things, but that he did not want it declared a Landmark if that meant it would prevent some kind of development.

Mr. Pesarchick asked Mr. Spanbauer if that was his official comment on the record.

Mr. Spanbauer stated that it was.

Mr. Dallavia agreed with Mr. Spanbauer and asked that his comment be added to the record.

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The Board asked if the property owners applied for a historic designation. Mr. Pesarchick said that this application was prepared by the Historic Preservation Commission, not the property owners.

Mr. Palmer asked if the HPC needed this by a certain time.

Mr. Forma clarified that there is nothing specific in the HPC law in terms of timing. Mr. Forma stated that the HPC would like to keep this moving but if the Board wanted to table this until revisions were made based on the comments made, they could do that.

Mr. Spanbauer asked Mr. Forma what was his department's stand on this issue.

Kevin Forma stated that he didn't have a specific stance on this. He stated that he had a personal opinion on it but this was a Historic Preservation Commission (HPC) issue. The HPC feel it's a unique piece of architecture and he didn't disagree with that. Mr. Forma stated that it is a unique piece of architecture within the context of the city, and he certainly has never seen anything like it anywhere else.

Mr. Palmer stated that the Board could table it if they felt it was more advantageous for them to look into it some more.

A motion to table the submission of comments to the HPC was made by **Mr. Dallavia** and seconded by **Ms. Callen**.

Tony Palmer	YES
John Spanbauer	YES
Beverly Callen	YES
Charles MacDougall	YES
Ken Nossavage	YES
Timothy Polka	NO
Ryan Dallavia	YES
Joyce Williams	YES

**Motion: Passed by 7-1 majority vote.**

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4. **Level II Site Plan Approval: for the project at 1605 Ferry Avenue (S.B.L. 159.322-19) on behalf of the applicant Long Associates for owner NeighborWorks Community Partners. Applicant seeks to renovate existing Presti Apartments building and construct a new two-story, 14-unit building for residential and community space.**

**Matthew Long** addressed the board in regards to changes at 1605 Ferry Ave.

Mr. Long stated that two months ago, they presented the project to the Planning Board. He said that there were some concerns with the gym that they had to address with NYS SHPO. The plan remained the same as the previous submission, with 38 units being renovated within the existing structure and in the gym.

Mr. Long said there was a slight change to the proposed new building. The prior site plan called for 14 units with office space. Mr. Long said that the client proposes removing 1,000 square feet of office space and adding two more housing units in the new building for a total of 54 housing units in the project.

Mr. Long asked for the approval to complete the process to move forward.

Mr. Pesarchick reminded the Board that that a public hearing was already held in July.

Ms. Williams asked if the only change was from 14 to 16 units in the new building. Mr. Palmer said that was the only difference.

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

Tony Palmer	YES
John Spanbauer	YES
Beverly Callen	YES
Charles MacDougall	YES
Ken Nossavage	YES
Timothy Polka	YES
Ryan Dallavia	YES
Joyce Williams	YES

**Motion: Passed unanimously.**

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5. **Level II Site Plan Approval: for the previously-approved project at 333 1<sup>st</sup> Street (S.B.L. 159.09-1-2.11) on behalf of the applicant SWBL Associates for owner Community Services for Every1. Applicant proposes significant alteration from initial approved site plan for 74-unit residential structure and demolition of existing vacant building.**

**Kelly Kinderman** and **Brett Gawronski** introduced themselves and addressed the Board.

Mr. Gawronski stated that the project received approval from the Board in April. The contractor performed an estimate on the design, after approval and determined that some of the exterior finishes were a little bit over price. They were over on square footage, just a bit of within the building. They switched out some of the materials, such as terracotta on the exterior coat. Instead of having expensive material, like the terracotta, they will replace it with a metal panel with a similar look. The building will still have pretty much the same aesthetics. They lost a tier of units, which means they went from 78 units to 73 units.

The applicant submitted an updated application and product narrative, you guys were done with that change.

Mr. Gawronski stated that they were able to get the prices down was a little bit more.

The site plan shows that the playground, parking, the rear of the building, the entryway in from the alley, are where they were located before. The footprint of the building was modified a little bit in the front but the intent and basically everything that was planned for the site is still intact.

Mr. Gawronski stated that the applicant took some of the complicated windows that were that were casement windows and simplified them a little bit by taking some of the volumes off of them. Some of the balcony doors that used to have a sidelight will not have the sidelight anymore but essentially, the Juliet balconies, that's all remain intact.

Ms. Kinderman stated that construction costs are up so they were trying to do minimal changes. They had to change some of the features and internal features but didn't stray too far from what we originally presented.

Mr. Gawronski stated that this is a nonlinear process when putting these projects together because there is a package that has to go into the state. Back in April, the applicant thought there was a potential that the state would issue an RFP in May, for a possible submission date in June, early July. The applicant wanted to make sure they got in front of the Board for approval. They did not coming back with changes but unfortunately the



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state has dragged this process out. The applicant learned that day that the State will issues their RFP on Friday with a due date of early November.

This project would be packaged up and submitted at the time with approval in early spring, late winter. Ms. Kinderman stated that they had a successful site visit last month that resulted in the determination and construction bidding. The applicant will know the capital funding in the first week of October.

Mr. Polka asked what the projected cost of the project is. Ms. Kinderman stated that they were at \$37,000,000.

Mr. MacDougall asked if the building was all electric and where would the generator be. Mr. Gawronski stated that there would be an emergency generator behind the building for emergency lighting and the elevator. Mr. Gawronski explained the building would be well-insulated and could go approximately 36 to 48 hours before anyone experienced uncomfortable temperatures. The emergency generator would power a cooling center which is probably going to a meeting room and also the heating on the first floor.

Ms. Kinderman explained that in most of the affordable housing projects that own they have an emergency generators and provide services for their tenants if they lose power.

Mr. Polka asked if there was air conditioning. Mr. Gawronski said there was air conditioning in each unit.

Mr. Palmer asked about noise, given the proximity to the First Presbyterian Church next door. Mr. Gawronski stated that the generator would only function if there was an emergency. He stated that all the condensing units would be located on the roof, providing cooling in the summer. Heat in the winter would be provided by a heat pump.

Mr. Palmer verified that the Board had all the updated information pertaining to the site.

Motion to approve the site plan was made by **Mr. Spanbauer** and seconded by **Mr. Nossavage**.

Tony Palmer	YES
John Spanbauer	YES
Beverly Callen	YES
Charles MacDougall	YES
Ken Nossavage	YES
Timothy Polka	YES
Ryan Dallavia	YES
Joyce Williams	YES

**Motion: Passed unanimously.**

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6. **Level II Site Plan Approval**; for the project at 552 Third Street (S.B.L. 159.21-148) on behalf of the applicant David Giusiana, on behalf of owner SJI Properties. Applicant seeks to construct an on-grade parking lot to support the uses of the Hall Apartments building next door. The project includes asphalt paved parking, fencing, and landscaping elements.

**John Giusiana** introduced the project on behalf of Giusiana Architects. He stated that the project consists of the development of a parcel of land with 28 parking spaces to support this development. The drainage system would be a series of basins, draining back to the back alley. The applicant would put in landscaped areas fenced along 3<sup>rd</sup> Street and along the adjoining property to the north.

Mr. Palmer asked if they were going to leave a little bit of green space and green space within the lot.

Mr. Giusiana indicated that the buffered green space on the pictures indicated the areas where green space would be located.

Mr. MacDougall asked if the parking lot would be lit. Mr. Giusiana stated that he believed lighting would be off the building. There are two more lighting poles shown in the proposals.

Mr. Polka asked if the applicant owned the adjacent building. Mr. Giusiana stated that he did not own the adjacent house. One of the houses shown in the picture has been knocked down and is now an empty lot.

Motion to approve the site plan was made by **Mr. Polka** and seconded by **Mr. Dallavia**.

Tony Palmer	YES
John Spanbauer	YES
Beverly Callen	YES
Charles MacDougall	YES
Ken Nossavage	YES
Timothy Polka	YES
Ryan Dallavia	YES
Joyce Williams	YES

**Motion: Passed unanimously.**

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**OLD BUSINESS:**

There was no old business.

**NEW BUSINESS:**

There was no new business.

**PLANNING REPORT / COMMUNICATIONS:**

Mr. Forma said he is continuing to digest the zoning code now that he had a full staff on board. He hoped to have more full meetings like that one and said he believed they were getting past the Pandemic wall. He said he hoped that more projects would emerge in the City and they would continue to bring good projects through the Planning Board.

**ADJOURNMENT**

Motion to adjourn made by **Mr. Polka**.