

PLANNING BOARD  
TOWN OF BRIGHTON  
MEETING OF NOVEMBER 15, 2023  
Brighton Town Hall  
2300 Elmwood Avenue

Written comments may be submitted to Jason Haremza, Executive Secretary, Brighton Town Hall, 2300 Elmwood Avenue, Rochester, NY 14618 via standard mail and/or via e-mail to [jason.haremza@townofbrighton.org](mailto:jason.haremza@townofbrighton.org).

Applications subject to public hearings and the documents to be considered by the Board will be available for review on the town's website no later than twenty-four hours prior to the meeting to the extent practicable.

FINAL AGENDA

7PM

CHAIRPERSON: Call the meeting to order.

SECRETARY: Call the roll.

CHAIRPERSON: Agenda Review with Staff and Members. Briefly review 'Planning Board Rules and Procedures/Rules of Decorum at Public Meetings' adopted 10-18-2023.

CHAIRPERSON: Approval of 8-16-2023 minutes  
Approval of the 9-20-2023 minutes  
Approval of the 10-18-2023 minutes

CHAIRPERSON: Announce that the public hearings as advertised for the PLANNING BOARD in the Daily Record of 11-9-2023 will now be held.

\*\*\*\*\*

**Application Number: [6P-03-23](#) [Additional Information](#)**

*OpenGov reference no: NA*

1 Knollwood Drive

Application of Carl Grasta, owner, for Site Plan Modification and EPOD (watercourse) Permit approval to construct an in-ground swimming pool in conjunction with a new home (11P-01-22) on property located at 1 Knollwood Drive. All as described on application and plans on file. **TABLED 6-21-2023; PUBLIC HEARING REMAINS OPEN**

**Application Number: [10P-03-23](#) [Additional Information](#)**

*OpenGov reference no: PB-23-13*

1905 and 1925 South Clinton Avenue

Application of 1925 South Clinton LLC, owner, and Costich Engineering, agent, for Final Site Plan Approval and Conditional Use Permit Approval (Phase 3) to construct a 20,664 +/- sf Aldi grocery store on lot 2 (1925 South Clinton Avenue, Tax ID #136.15-1-9.1) and to allow overall site impervious coverage to increase above the allowable 55 % to 56.75% on property located at 1905 / 1925 South Clinton Avenue. All as described on application and plans on file. **TABLED 10-18-2023; PUBLIC HEARING REMAINS OPEN**

**Application Number: [11P-01-23](#)**

*OpenGov reference no: PB-23-19*

1905 South Clinton Avenue

Application of 1925 S Clinton, LLC, owner, and Gregory Ralph, agent, for Conditional Use Permit Approval to allow for a Jersey Mike's Subs restaurant on property located at 1905 South Clinton Avenue. All as described on application and plans on file.

**Application Number: [11P-02-23](#)**

*OpenGov reference no: PB-23-17*

3180 Brighton Henrietta Town Line Road

Application of Brighton Business Park Associates, LLC, owner, and BME Associates, agent, for Demolition Review and Approval to raze a single-family house on property located at 3180 Brighton Henrietta Town Line Road. All as described on application and plans on file.

**Application Number: [11P-03-23](#)**

*OpenGov reference no: PB-23-21*

2829 West Henrietta Road

Application of Taib El Kettani, owner, and Rafiullah Sahak, lessee, for Conditional Use Permit Approval to allow for a convenience store on property located at 2829 West Henrietta Road. All as described on application and plans on file.

**NEW BUSINESS:**

NONE

**CHAIRPERSON:** Announce that public hearings are closed.

OLD BUSINESS:

NONE

---

PRESENTATIONS:

NONE

COMMUNICATIONS:

NONE

PETITIONS:

NONE

SIGNS:

<a href="#"><u>1703</u></a>	1880-1882 S Winton Rd Paul Dudley ID Signsystems	Building face sign Montessori School of Rochester <i>ARB 10-24-2023 Approved as presented</i>
-----------------------------	--	---

## PLANNING BOARD REPORT

**HEARING DATE:** 11-15-2023

**APPLICATION NO:** 6P-03-23

**LOCATION:** 1 Knollwood Drive

**APPLICATION SUMMARY:** Application of Carl Grasta, owner, for Site Plan Modification and EPOD (watercourse) Permit Approval [add steep slope EPOD] to construct an in-ground swimming pool in conjunction with a new home (11P-01-22) on property located at 1 Knollwood Drive. **NOTE: This application was tabled by the Planning Board at the 6-21-2023 meeting and has been postponed at the applicant's request since.**

### COMMENTS

*The Board may wish to consider the following comments when asking questions*

### BUILDING AND PLANNING:

1. 1 Knollwood Drive currently contains a single family dwelling under construction.
2. The subject property is zoned Residential – Low Density A (RLA)
3. The subject site is also within Environmental Protection Overlay District (EPOD) 3, Watercourse and Floodplain Protection. The boundaries of the Watercourse Protection District shall be delineated on the Official Town of Brighton EPOD maps and shall include the following areas: West Branch of Allens Creek, Crittenden Creek, **Allens Creek**, Irondequoit Creek, Buckland Creek, Red Creek, the Genesee River and the New York State Erie Canal; for a distance of 100 feet from each bank or to the landward boundary of special flood hazard.
4. In reviewing the application and materials submitted, town staff made the determination, based on the criteria in [Town of Brighton Code Section 203-118](#) that the subject site is also within Environmental Protection Overlay District (EPOD) 1, Steep Slope Protection.
5. The site of the proposed pool is within two EPODs, making this a Type 1 Action, per [Town of Brighton Code Section 201-14J](#). The applicant has submitted a full environmental assessment form (EAF) which is currently under review by staff. The applicant also needs to submit an Planning Board application and fee for the second EPOD permit.
6. A site plan, engineers report, hydraulic information, easement information, and supporting documents were submitted in May 2023. Additional materials were submitted in October including a plan set with a revision date of 10-2-2023, a revised engineer's report dated 10-4-2023, a stormwater pollution prevention plan (SWPPP) dated 10-6-2023, and a full environmental assessment form (EAF).

7. The Watercourse and Floodplain Protection District EPOD and Steep Slope EPOD boundaries shall be corrected on the plan. The boundary should be shown for a distance of 100 feet from each bank or to the landward boundary of special flood hazard, whichever is greater. The steep slope boundary is shown incorrectly. The boundary shall include all areas of 15% or greater slopes, and all areas within 50 feet of the toe or top of such slopes. See also the attached memo from Michael Guyon, PE, dated 11-9-2023.
8. Per [Town of Brighton Code Section 203-129B](#) No permit to undertake a regulated activity within the Watercourse and Floodplain Protection District shall be issued by the Planning Board unless it determines that the proposed project complies with the following standards:
  - a. The proposed activity provides adequate measures to prevent disruption and pollution of fish and wildlife habitats and freshwater wetlands, stormwater runoff, septic and sewage systems and any other activity on the site.
  - b. A natural vegetative buffer of 100 feet from each bank shall be retained adjacent to the watercourses to absorb floodwaters, to trap sediments, to protect adjacent fish and wildlife habitats and to protect scenic qualities.
  - c. Site preparation, including stripping of vegetative cover or grading, shall be undertaken so that the amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water is limited. Disturbed soils shall be stabilized and revegetated before construction can begin. During the interim, erosion protection measures, including but not limited to vegetation, retention ponds, recharge basins, berming, silt traps and mulching, shall be used to ensure that sedimentation is minimized and mitigated.
  - d. The project shall provide adequate measures to protect surface and ground waters from direct or indirect pollution and from overuse.
  - e. Fill shall not encroach on natural watercourses, constructed channels or floodway areas. All fill shall be compacted at a final angle of repose which provides stability for the material, minimizes erosion and prevents settlement.
  - f. Roads, trails and walking paths along water bodies shall be sited and constructed so they are not a source of runoff and sedimentation. Such roads, trails and walking paths shall be constructed and sited in such a manner as to maximize the visual opportunities of a water body while maintaining the scenic qualities of the water body.
  - g. No new dock, boat launching site or fishing access and parking area shall be constructed unless it is shown that it will not impede the natural flow of the streams to which this section applies and will be located and constructed so as to minimize its intrusion into the streams and avoid adverse environmental impact and unreasonable impacts upon public use of the waters.
  - h. New structures, except for fences, bridges and fishing access parking areas, shall not be constructed within 25 feet of the bank of the stream.
  - i. New structures shall be designed and constructed in accordance with erosion control standards and stormwater control standards contained in the Best Management Practices for Stormwater Runoff Management and Stormwater Management Guidelines for New Development, as found in Chapter 6 of the New York State Department of Environmental Conservation's Stream Corridor

Management Manual.

9. Per [Town of Brighton Code Section 203-120B](#) No permit to undertake a regulated activity within a steep slope protection district in the Town of Brighton shall be issued by the authorized official or the Planning Board unless the applicant can adequately demonstrate that:
- (a.) The stable angle of repose of the soil classes found on the site shall be used to determine the proper placement of structures and other development-related facilities within the plateau area. Site-specific calculations of the stable angle of repose for the site shall be determined by a professional soil scientist or engineer using the soil classes and nomenclature contained in the Soil Survey of Monroe County and obtained for the site by borings, as well as high-intensity soil survey data provided by the applicant.
  - (b.) The stability of soils will be maintained or increased to adequately support any construction thereon or to support any landscaping, agricultural or similar activities. This shall be documented by soil bearing data provided by a qualified testing laboratory or engineer and paid for by the developer.
  - (c.) No proposed activity will cause erosion or slipping of soil or cause sediment to be discharged into any stream or tributary, or the wetlands or tributaries of Irondequoit Bay.
  - (d.) Plant life located on the slopes outside of the minimum area that need to be disturbed for carrying on approved activities shall not be destroyed. Plants or other acceptable ground cover shall be reestablished in disturbed areas immediately upon completion of development activity so as to prevent any of the harmful effects set forth above to maintain the natural scenic characteristics of any steep slope.
  - (e.) Access down steep slopes shall be provided with ramp slopes no greater than 1:6 and side slopes no greater than 1:3 if not terraced or otherwise structurally stabilized. Disturbed nonroadway areas shall be stabilized and adequately drained;
  - (f.) There is no reasonable alternative for the proposed regulated activity on that portion of the site not containing steep slopes.

**TOWN ENGINEER:** See attached memo dated 11-9-2023 (Note: SWBR is providing engineering services to the Town on an interim basis). All 10 items in the memo must be addressed but the following items are of particular importance:

1. The geotechnical report indicates that the existing slope is fill material and is not suitable for structural fill. The report states that this fill is sensitive to settlement and should not be left in place beneath the pool, cabana or associated patio slab. This could be a substantial volume of material. The long form EAF indicates that this material will be removed from the site to be used as fill. Please explain this statement.
2. Confirm that concerns over backwash discharge from the pool have been resolved.

**CONSERVATION BOARD:**

*Advisory comments*

None

## **ENVIRONMENTAL REVIEW/SEQR**

The granting of two or more EPOD permit is a Type 1 Action. Environmental Review. Coordinated review is not necessary as there is only one involved agency, the Town of Brighton Planning Board. Review of the full environmental assessment form is ongoing and a determination is pending.

## **BOARD ACTION/DECISION**

If the Planning Board entertains tabling, the following reasons are recommended by staff, along with any others added by the Board:

1. Applicant shall respond in writing to all comments of the Planning Board, Department of Public Works, Town Engineer, and Building and Planning Department
2. Submit corrected plans showing the delineation of both EPODS
3. Submit a revised Planning Board application to include both EPOD permit approval requests.



**ROCHESTER OFFICE**  
387 East Main St  
Rochester NY 14604  
585 232 8300  
rochester@swbr.com

Architecture  
Graphic Design  
Interior Design  
Landscape Architecture  
Structural Engineering

Date: November 9, 2023

From: Michael E. Guyon, P.E.

To: Evert Garcia, Jason Haremza

Copy: File

Re: Application No. 6P-03-23  
Owner: Carl Grasta  
Property Address: 1 Knollwood Drive  
Project Description: Site Plan Modification and EPOD, (Watercourse), Permit Approval  
Construct an In-Ground Swimming Pool

We have completed our review of the above referenced project and offer the following comments for the Planning Boards consideration:

**General:**

1. The EPOD and its associated buffer for the Watercourse and Floodplain Protection District EPOD is shown incorrectly on the plan. The boundary should be shown for a distance of 100 feet from each bank or to the landward boundary of special flood hazard, whichever is greater.
2. The steep slope boundary is shown incorrectly. The boundary shall include all areas of 15% or greater slopes, and all areas within 50 feet of the toe or top of such slopes.
3. Sheet S-2 includes hatching within the floodplain. What is the intent of this hatching? The plans should include a legend.
4. A letter of credit should include landscaping, including ground cover that is intended to stabilize disturbed areas, sanitary sewer, and water service improvements. The letter of credit should be submitted to the Town for review and approval. An original Letter of Credit must be received by the Town prior to the start of construction.
5. The geotechnical report indicates that the existing slope is fill material and is not suitable for structural fill. The report states that this fill is sensitive to settlement and should not be left in place beneath the pool, cabana or associated patio slab. This could be a substantial volume of material. The long form EAF indicates that this material will be removed from the site to be used as fill. Please explain this statement.
6. Cut sheets and technical data regarding the proposed lighting should be provided. The location of the lighting should be shown on the plans.
7. The pool shall comply with all applicable Town of Brighton and NYS Building Code requirements.



# SWBR

## Engineer's Report:

1. The final SWPPP must be signed by a New York State licensed professional engineer (PE), who will certify that the design of all construction phase and postconstruction phase stormwater pollution prevention and erosion and sediment control practices meets the requirements outlined in the Town's design criteria and the New York State Standards and Specifications for Erosion and Sediment Control and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the Town Engineer. This certification statement must be included in the SWPPP.

## Plans

1. Modified Site Plan
  - a. The pump station must be designed in conformance with the NYS Residential Building and Plumbing codes.
  - b. We are concerned that the backwash discharge will discolor and degrade the water quality of Allens Creek. The NYSDEC MS4 permit indicates that pool discharges are exempt from the need to obtain a SPDES permit provided the discharge is dechlorinated. The NYSDEC indicates that as a general rule, 10 days holding time after the last chemical treatment, is usually adequate to dissipate chlorine prior to discharge. The NYSDEC also recommends that pool water be essentially free of chlorine, algaecides, and other potential pollutants prior to discharge. Additionally, pool discharges should be done slowly to prevent soil erosion, flooding, or damage to adjacent properties (the recommended maximum discharge rate is 25 gal/min or less). How will the proposed design meet these recommendations.
  - c. A detail showing the silt fence backed by orange construction fencing should be provided on the plans.
  - d. A note should be added to the plans indicating that all slopes greater than or equal to 3 horizontal to 1 vertical will be stabilized with an erosion fabric material such as jute mesh or sod.
  - e. The cabana and storm sewer system will discharge directly onto the steep slopes. What measures will be implemented to reduce the discharge velocity? Details of these measures should be provided on the plans.

## Detail Sheet

1. The following details must be provided on the plans:
  - a. The sanitary lateral detail provided on the plans is not applicable. Details of the forcemain and pump station should be provided.

## PLANNING BOARD REPORT

**HEARING DATE:** 11-15-2023

**APPLICATION NO:** 10P-03-23

*OpenGov reference no:* PB-23-13

**LOCATION:** 1905 and 1925 South Clinton Avenue

**APPLICATION SUMMARY:** Application of 1925 South Clinton LLC, owner, and Costich Engineering, agent, for Final Site Plan Approval and Conditional Use Permit Approval (Phase 3) to construct a 20,664 +/- sf Aldi grocery store on lot 2 (1925 South Clinton Avenue, Tax ID #136.15-1-9.1) and to allow overall site impervious coverage to increase above the allowable 55 % to 56.75% on property located at 1905 / 1925 South Clinton Avenue. **NOTE: This application was tabled by the Planning Board at the 10-18-2023 meeting.**

### COMMENTS

*The Board may wish to consider the following comments when asking questions*

### BUILDING AND PLANNING:

1. The Project has previously received:
  - a. Preliminary Overall Site Plan Approval
  - b. Final Site Plan Approval for Phase 1 which consisted of the 11,600 square foot Doodlebugs Children's Center facility
  - c. Final Site Plan Approval for Phase 2 which consisted of the 9,200 +/- sf multi-tenant retail building (including a Starbucks with drive-through operation) and other associated site improvements
  - d. Site Plan Modification for Phase 2 which consisted of the realignment of a cross access driveway servicing the adjacent properties to the south at 1969 and 2001 South Clinton Avenue
2. The subject property is zoned Office – Low Density District (BE-L), and is subject to an Incentive Zoning Approval.
3. Plan sets dated 9-19-2023 containing existing features/demolition plan, site plans, utility plans, grading and erosion control plans, phasing plans, lighting plans, and landscaping plans, have been submitted. A response letter to the Planning Board's 10-18-2028 review was submitted and dated 10-31-2023. This included revised plans but the plans' revision date was not updated.
4. The project was reviewed and approved with conditions by the Architectural Review Board (ARB) on 9-26-2023.
5. The applicant confirmed that the hours of operation, including deliveries, shall be 9AM to 9PM and complies with the BE-L/IZ regulations.

6. The applicant has provided a response dated 10-31-2023 to the 10-18-2023 Monroe County review comments.
7. Per the IZ regulations, the Planning Board may grant the applicant a reduction in the code-mandated 45% green space requirement. The revised application still falls short of this requirement and requires a waiver. The applicant has provided the following response/rationale for the waiver:

*The applicant has modified the site plan to reflect a reduction in impervious area, thereby increasing the greenspace to 43.16% (56.84% impervious). The applicant is showing a portion of the parking to be land-banked. The required parking ratio of the overall site plan is met with 367 parking spaces providing 5 parking spaces/1000 sf. The applicant wishes to land-bank approximately 17 parking spaces in an effort to reduce lot coverage. The applicant is proposing land-banking in lieu of eliminating the 17 parking spaces due to the unknown disposition of the future 2-story building at the northwest corner of the site. At this time, the applicant is requesting the greenspace waiver rather than have to come back to the Planning Board at a future date and request a further greenspace waiver. Should the future building be built with a use that necessitates parking in excess of the 5 per 1000, the applicant would request to build the land-banked parking spaces on a future application to the Planning Board. The modified greenspace ratio of 43.16% reflects the land-banked parking being calculated as impervious area. The applicant would also like to identify that a significant portion of impervious area is dedicated to public sidewalks that have been included in the project. Including the public sidewalks as greenspace results in a greenspace ratio of 44.85% (55.15% impervious). The land-banked parking and public sidewalks results in a 45.30% total greenspace ratio (54.70% impervious). Please see Phase III Greenspace Sketch for the various calculations referenced herein. In addition to the lot coverage reduction, the applicant is proposing additional landscape plantings in the rear of the Aldi building and also in the added landscaped area shown on the modified site plan.*

Town staff appreciates the applicant's willingness to further explore this issue. However the attached Town Engineer memo dated 11-13-2023 notes:

*The applicant is requesting to increase the overall site impervious coverage from the allowable 55% to 56.75% on the property located at 1905/1925 South Clinton Avenue. This request should also include 1825 S. Clinton Avenue. It does not appear that the impervious threshold of 55% will be exceeded with the completion of Phase 3. The future phases may be able to be modified to provide additional green space and the 55% threshold can be maintained. It is premature to grant this relief. Also, the plans indicate that 367 parking spaces are required by the Town Code for the overall project and 384 spaces are being proposed. Additional green space could be obtained by reducing the number of parking spaces provided. Banked parking does not constitute green space.*

8. The applicant is commended for providing bicycle parking near the entrance to the proposed grocery store. Per the recommendations of the Conservation Board, staff recommends that this bicycle parking be covered/roofed to protect it from inclement weather. There are likely opportunities to extend a small roof/canopy off the side of the proposed building to accommodate covered bicycle parking.
9. Currently the nearest transit stop, served by RTS Route 12/South Clinton, is on Rue De Ville, approximately 450 feet east of South Clinton Avenue. This is over 1,200 feet from the proposed grocery store. Per the Monroe County recommendations, the applicant is strongly encouraged to discuss with RTS how best to provide transit service to both the existing retail and services east of South Clinton Avenue, and the new retail and services under construction west of South Clinton Avenue. The proposed grocery store, in particular, will likely attract transit users, both employees and customers. The Building and Planning Department can assist in facilitating a meeting with RTS.

**TOWN ENGINEER:** See attached memo dated 11-13-2023 (Note: SWBR is providing engineering services to the Town on an interim basis). All 30 items in the memo must be addressed but the following five items are of particular importance:

1. The proposed Aldi's building will include the installation of rooftop HVAC units. The proximity of this building to the apartment complex raises concern regarding the noise generated by these units. Chapter 102-3 of the Code of the Town of Brighton indicates that the creation of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Said noise shall be prohibited when it is of such character, intensity and duration or of any type or volume that a reasonable person would not tolerate under the circumstances and that is detrimental to the life, health or welfare of any individual or would cause or create a risk of public inconvenience, annoyance or alarm. The applicant should demonstrate that the noise generated by the rooftop HVAC units will comply with Chapter 102 Noise, of the Code of the Town of Brighton. The NYSDEC Program Policy, Assessing and Mitigating Noise Impacts provides guidance regarding the evaluation of noise impacts.
2. We understand that many of the easements that are being requested will be resolved as part of the Phase II review process. However, we reviewed the existing easements for the project site and we discovered that easements to permit the extension of utilities such as sanitary laterals, storm laterals, water services and other utilities across the adjacent properties do not exist. These easements would be instrumental for future maintenance of these utilities. We have provided a schedule of all easements (existing/proposed, public/private) that shall be provided in conjunction with this project. All texts, maps and descriptions should be prepared and submitted to this office for review of the proposed easements. Upon satisfactory completion of these documents, the easements shall be filed at the Monroe County Clerk's Office with the Town being provided with copies of each Town easement with the liber and page of filing. Upon filing, all easements will have to be noted upon the resub map (with ownership, purpose and liber/page) prior to the site or subdivision plans being signed by the DPW.
3. The applicant is requesting to increase the overall site impervious coverage from the allowable 55% to 56.75% on the property located at 1905/1925 South Clinton Avenue. This request should also include 1825 S. Clinton Avenue. It does not appear that the

impervious threshold of 55% will be exceeded with the completion of Phase 3. The future phases may be able to be modified to provide additional green space and the 55% threshold can be maintained. It is premature to grant this relief. Also, the plans indicate that 367 parking spaces are required by the Town Code for the overall project and 384 spaces are being proposed. Additional green space could be obtained by reducing the number of parking spaces provided. Banked parking does not constitute green space.

4. Bioretention area #5 must be installed, and the grading plan must reflect its construction.
5. The proposed grading plan indicates that the stormwater will be directed across the stone dust trail. This is not acceptable, and a culvert may be required to convey the stormwater beneath the trail.

#### **SEWER DEPARTMENT:**

*The applicant should contact Tim Jason ([tim.jason@townofbrighton.org](mailto:tim.jason@townofbrighton.org) 585-784-5289) in the Sewer Department with any questions on these comments.*

1. Sewer permit required
2. Cleanouts shall be provided within 5' outside of the building and a maximum spacing of 75' between cleanouts.

#### **CONSERVATION BOARD:**

*Advisory comments*

1. Bicycle parking (racks) close to the Aldi's building should be incorporated into the project. If possible, weather protection should be provided for the bicycle parking (racks).

#### **CONDITIONAL USE PERMIT FINDINGS**

The following findings, based on the standards found in [Town of Brighton Code Section 217-7](#), are suggested for the Planning Board's consideration and discussion.

1. The Planning Board finds that the proposed grocery store use complies with the standards of the General Commercial District (BF-2).
2. The Planning Board finds that the proposed use is in harmony with the purpose and intent of [Code Sections 217-3 through 217-7.2](#) (Conditional Uses). The location and size of the grocery store, the intensity, size of the site and access have all been considered in the Board's review.
3. The Planning Board finds that the establishment of a grocery store in this location, will not be detrimental to persons, detrimental or injurious to the property and improvements in the neighborhood, or to the general welfare of the Town.
4. The grocery store will be developed on a site with a previously approved development plan and not result in the destruction, loss or damage of any natural, scenic or significant historical resource.
5. The Planning Board finds that the establishment of a grocery store will not create

excessive additional requirements for public facilities and services and will not be detrimental to the economic welfare of the community.

6. The Planning Board finds that the establishment of a grocery store will be adequately served by essential public facilities.
7. The Planning Board finds that the establishment of a grocery store will not result in the loss or damage to trees.
8. The proposed finds that the establishment of a grocery store in this location essentially conforms to the Town's Comprehensive Plan: Envision Brighton 2028. Specifically Volume 2, Pages 40-41, the South Clinton Avenue Land Use Subarea: "Predominant land uses should continue to reflect general office and commercial development."

## **ENVIRONMENTAL REVIEW/SEQR**

This proposed final site plan approval and conditional use permit approval falls within the parameters of the previous environmental determination for Phase 2, adopted by the Planning Board 3-15-2022, which in turn was the Planning Board's adoption of the original environmental determination made by the Town Board for the overall project. No further review is required.

## **BOARD ACTION/DECISION**

If the Planning Board entertains approval, the following conditions are recommended by staff, along with any others added by the Board:

1. Applicant shall respond in writing to all comments of the Planning Board, Department of Public Works, Town Engineer, and Building and Planning Department that were not included in the 10-31-2023 response.
2. The applicant shall satisfy the requirements of the Town Engineer including, but not limited to the five issues noted above in the town engineer section of this report and summarized below:
  - a. Rooftop mechanical equipment noise
  - b. Easements
  - c. Green space requirement
  - d. Bioretention area #5
  - e. Stormwater flow across the stone dust trail

For a complete list of all 30 specific requirements, please refer to the attached memo dated 11-13-2023.

3. Construct/install covered bicycle parking
4. Document outreach to RTS regarding how best to coordinate public transit service with the development

5. Final drawings shall include a clear revision dates
6. A letter of credit shall be provided to cover certain aspects of the project, including, but not limited to demolition, landscaping, stormwater mitigation, infrastructure and erosion control. The applicant's engineer shall prepare an itemized estimate of the scope of the project as a basis for the letter of credit.
7. The project and its construction entrance shall meet the New York State Standards and Specifications for Erosion and Sediment Control. Erosion control measures shall be in place prior to site disturbance.
8. The contractor shall designate a member of his or her firm to be responsible to monitor erosion control, erosion control structures, tree protection and preservation throughout construction.
9. All comments and concerns of the Town Fire Marshal shall be addressed. Comments can be obtained from the Town of Brighton Fire Marshal (Chris Roth, 585-784-5220). A turning radius analysis demonstrating that emergency vehicles can adequately access and navigate the site shall be submitted to the Town Fire Marshal for review.
10. All Town codes shall be met that relate directly or indirectly to the applicant's request.
11. All other reviewing agencies must issue their approval prior to the Department of Public Works issuing its final approval.
12. The entire project shall comply with the most current New York State Fire Prevention and Building Code. The proposed building shall be sprinklered in accordance with Town of Brighton sprinkler requirements.

## Memo

Date: November 13, 2023

From: Michael E. Guyon

To: Jason Haremza

Copy: File, Evert Garcia

Re: Application 10P-03-23

1925 South Clinton Avenue

Application of 1925 South Clinton LLC, owner, and Costich Engineering, agent, for Final Site Plan Approval and Conditional Use Permit Approval (Phase 3) to construct a 20,664 +/- sf Aldi grocery store on lot 2 and to allow overall site impervious coverage to increase above the allowable 55 % to 56.75%.

We have completed our review of the above reference project, the applicants responses dated 10/31/2023 and the revised plans dated 9-19-2023, revised 10/27/2023 and offer the following comments for your consideration:

### General:

1. Plan revisions should be noted on each sheet.
2. The proposed Aldi's building will include the installation of rooftop HVAC units. The proximity of this building to the apartment complex raises concern regarding the noise generated by these units. Chapter 102-3 of the Code of the Town of Brighton indicates that the creation of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Said noise shall be prohibited when it is of such character, intensity and duration or of any type or volume that a reasonable person would not tolerate under the circumstances and that is detrimental to the life, health or welfare of any individual or would cause or create a risk of public inconvenience, annoyance or alarm. The applicant should demonstrate that the noise generated by the rooftop HVAC units will comply with Chapter 102 Noise, of the Code of the Town of Brighton. The NYSDEC Program Policy, Assessing and Mitigating Noise Impacts provides guidance regarding the evaluation of noise impacts.
3. We understand that many of the easements that are being requested will be resolved as part of the Phase II review process. However, we reviewed the existing easements for the project site and we discovered that easements to permit the extension of utilities such as sanitary laterals, storm laterals, water services and other utilities across the adjacent properties do not exist. These easements would be instrumental for future maintenance of these utilities. We have provided a schedule of all easements (existing/proposed, public/private) that shall be provided in conjunction with this project. All texts, maps and descriptions should be prepared and submitted to this office for review of the proposed easements. Upon satisfactory completion of these documents, the easements shall be filed



at the Monroe County Clerk's Office with the Town being provided with copies of each Town easement with the liber and page of filing. Upon filing, all easements will have to be noted upon the resub map (with ownership, purpose and liber/page) prior to the site or subdivision plans being signed by the DPW.

4. We understand that a letter of credit has been provided for Phase II of the project. However, a separate letter of credit shall be provided to cover certain aspects of Phase III of the project, including, but not limited to: the roadway, sanitary sewer, storm sewer, water main, stormwater management facilities, sediment and erosion control and landscaping. The letter of credit should be submitted to the Town for review and approval.
5. It is our understanding that the Aldi's specifications include provisions for construction waste management. A copy of these specifications should be provided.
6. The applicant is requesting to increase the overall site impervious coverage from the allowable 55% to 56.75% on the property located at 1905/1925 South Clinton Avenue. This request should also include 1825 S. Clinton Avenue. It does not appear that the impervious threshold of 55% will be exceeded with the completion of Phase 3. The future phases may be able to be modified to provide additional green space and the 55% threshold can be maintained. It is premature to grant this relief. Also, the plans indicate that 367 parking spaces are required by the Town Code for the overall project and 384 spaces are being proposed. Additional green space could be obtained by reducing the number of parking spaces provided. Banked parking does not constitute green space.
7. Chapter 205-18 of the Code of the Town of Brighton indicates that in the Low Density Office BE\_L District, no parking, paved area or aisles shall be permitted within 20 feet of any lot line. The paved area needed to accommodate truck traffic from the Aldi's loading area appears closer than 20 feet to the property line. An area variance or waiver may be required to accommodate this paved area.

### Phase 3 Engineer's Report

1. The October 31, 2023, response letter prepared by Costich indicates that 17 parking spaces will be land banked. The plans suggest that 14 spaces will be land banked. Please clarify this discrepancy.
2. The water distribution calculations suggest that there is adequate flow and pressure to serve the proposed Aldi's project. A map illustrating the link ID and Nodes referenced in the calculations must be provided to complete the review of the calculations.
3. Does the traffic analysis consider the additional traffic from the Gables property?
4. The initial stormwater management design provided approximately 12900 cu.ft. of water quality volume in bioretention areas 1 – 5. The drainage calculations for Phase III suggest that the water quality volume is less than that originally proposed. Calculations must be provided that demonstrate that the revised stormwater management design provides water treatment similar to the treatment originally proposed. It does not appear that the current WQv is consistent the the water quality volume originally proposed.
5. The Drainage map for Phase III incorrectly delineates Developed Area D-1. This drainage area includes a large portion of the Aldi's roof and the calculations must be revised to consider this change.
6. The map illustrating the areas contributing to the bioretention basins does not include any of the runoff generated by the ring road and the main drive west of the parking area along the front of the Aldi's store. How will the drainage generated by these two impervious areas be treated? The original design proposed that the run-off generated by this area would be treated in bioretention areas 1 – 4.
7. The construction of bioretention area No. 5 must be included during the implementation of Phase III. A portion of the Aldi's building and the parking area north of the Aldi's building will be treated by bioretention area no. 5.

SWBR.COM

8. The Engineer's report indicates that a 5-acre waiver will be required to construct Phase III. General Permit GP-0-20-001 requires that the engineer prepare a phasing plan that defines the maximum disturbed area per phase and shows required cuts and fills. The owner or operator shall install any additional site-specific practices needed to protect water quality. This information should be provided in the revised SWPPP.
9. A map showing the drainage areas discharging to the revised stormwater collection system has been provided. However, calculations demonstrating that the revised collection system has adequate capacity to accommodate the design storm events have not been included in the submittal. The calculations must be submitted for review. The area discharging to the bioretention facilities shown on the collection system map differs than those shown on the map provided with the bioretention calculations. These drainage areas should be consistent.

#### **CA100 Phase III Existing Features/Demolition Plan:**

1. The buffer area along the western property line should be noted and shown on the plans.

#### **Sheet CA111 – Phase III Site and Pavement Marking Plan**

1. The applicant should consider providing additional crosswalks to safely direct pedestrians from the center parking area across the drive aisle that extends along the front of the Aldi's building. The crosswalks will alert drivers of pedestrian crossings and reduce vehicle/ped conflicts.
2. How was the snow storage areas determined?
3. The applicant indicates that deliveries should occur during periods of minimal traffic. These periods should be identified.
4. The sidewalk along the access road to the Gables should extend to the southern South Clinton Ave. entrance of the project.

#### **Sheet CA121 Phase III Utility Plan**

1. The plans suggest that the stormwater generated along the driveway accessing the Gables and the drive along the front of the Aldi's building will flow from south to north unimpeded. Catch basins should be installed along the roadway to capture the run-off. This runoff was originally intended to be treated in bioretention areas. How will the stormwater be directed to the bioretention basins.

#### **Sheet CA131 – Phase III Grading and Erosion Control Plan**

1. Bioretention area #5 must be installed, and the grading plan must reflect its construction.
2. A sediment basin appropriately sized should be considered prior to the discharge of stormwater into bio-retention facility #5. The appropriate calculations and supporting mapping demonstrating that the basin is adequately designed should be submitted for review.
3. Stockpile areas and associated erosion control must be shown on the plans.
4. The proposed grading plan indicates that the stormwater will be directed across the stone dust trail. This is not acceptable, and a culvert may be required to convey the stormwater beneath the trail.

#### **Sheet LA100 & LA110 – Phase III Landscape Plan**

1. The applicant indicated that bare root saplings will be used to improve the landscaping along the west side of the Aldi's building. Please provide a description of the proposed bare root saplings. The saplings should be consistent with the standards identified in the Code of the Town of Brighton Article V, Landscaping Regulations. Since the planting location of the saplings is not currently known, a note should be added to the plans indicating that the developer will install additional saplings as directed by the Town of Brighton.
2. Will landscape screening be provided for the RPZ enclosure along S. Clinton Ave.? SWBR.COM

## **Sheet CA503 – Phase III Detail Sheet**

1. The bioretention detail must indicate that the filtering media will have a minimum depth of 2.5 feet as indicated in the stormwater management calculations.
2. A detail should be provided showing the curb construction along the bioretention areas. It is our understanding that the curb will be at grade across the upland side of the facility to permit stormwater to flow into the bioretention area. What precautions will be provided to deter cars from damaging the bioretention area?

## PLANNING BOARD REPORT

**HEARING DATE:** 11-15-2023

**APPLICATION NO:** 11P-01-23

*OpenGov reference no:* PB-23-19

**LOCATION:** 1905 South Clinton Avenue

**APPLICATION SUMMARY:** Application of 1925 S Clinton, LLC, owner, and Gregory Ralph, agent, for Conditional Use Permit Approval to allow for a Jersey Mike's Subs restaurant on property located at 1905 South Clinton Avenue.

### COMMENTS

*The Board may wish to consider the following comments when asking questions*

### BUILDING AND PLANNING:

1. 1905 South Clinton Avenue currently contains a single story, multi-tenant, commercial building under construction.
2. The subject property is zoned Office – Low Density District (BE-L) and is subject to an Incentive Zoning Approval.
3. Floor plans and a site diagram have been submitted, as well as operational information relevant to the Conditional Use Permit request.

**TOWN ENGINEER:** NONE

### SEWER DEPARTMENT:

*The applicant should contact Tim Jason ([tim.jason@townofbrighton.org](mailto:tim.jason@townofbrighton.org) 585-784-5289) in the Sewer Department with any questions on these comments.*

1. Need to review internal plumbing plan to verify grease trap connection

**CONSERVATION BOARD:** NONE

### CONDITIONAL USE PERMIT FINDINGS

The following findings, based on the standards found in [Town of Brighton Code Section 217-7](#), are suggested for the Planning Board's consideration and discussion.

1. The Planning Board finds that the proposed restaurant use complies with the standards of the General Commercial District (BF-2).
2. The Planning Board finds that the proposed use is in harmony with the purpose and intent of [Code Sections 217-3 through 217-7.2](#) (Conditional Uses). The location and size of the restaurant, the intensity, size of the site and access have all been considered in the

Board's review.

3. The Planning Board finds that the establishment of a restaurant in this location, will not be detrimental to persons, detrimental or injurious to the property and improvements in the neighborhood, or to the general welfare of the Town.
4. The restaurant will be developed within an existing structure on a developed site and not result in the destruction, loss or damage of any natural, scenic or significant historical resource.
5. The Planning Board finds that the establishment of a restaurant will not create excessive additional requirements for public facilities and services and will not be detrimental to the economic welfare of the community.
6. The Planning Board finds that the establishment of a restaurant will be adequately served by essential public facilities.
7. The Planning Board finds that the establishment of a restaurant will not result in the loss or damage to trees.
8. The proposed finds that the establishment of a restaurant in this location essentially conforms to the Town's Comprehensive Plan: Envision Brighton 2028. Specifically Volume 2, Pages 40-41, the South Clinton Avenue Land Use Subarea: "Predominant land uses should continue to reflect general office and commercial development."

## **ENVIRONMENTAL REVIEW/SEQR**

This proposed conditional use permit approval falls within the parameters of the previous environmental determination for Phase 2, adopted by the Planning Board 3-15-2022, which in turn was the Planning Board's adoption of the original environmental determination made by the Town Board for the overall project. No further review is required.

## **BOARD ACTION/DECISION**

If the Planning Board entertains approval, the following conditions are recommended by staff, along with any others added by the Board:

1. Applicant shall respond in writing to all comments of the Planning Board, Department of Public Works, Town Engineer, and Building and Planning Department
2. The entire project shall comply with the most current New York State Fire Prevention and Building Code and the Town of Brighton sprinkler requirements.
3. All Town codes shall be met that relate directly or indirectly to the applicant's request.

## PLANNING BOARD REPORT

**HEARING DATE:** 11-15-2023

**APPLICATION NO:** 11P-02-23

*OpenGov reference no:* PB-23-17

**LOCATION:** 3180 Brighton Henrietta Town Line Road

**APPLICATION SUMMARY:** Application of Brighton Business Park Associates, LLC, owner, and BME Associates, agent, for Demolition Review and Approval to raze a single-family house on property located at 3180 Brighton Henrietta Town Line Road.

### COMMENTS

*The Board may wish to consider the following comments when asking questions*

### BUILDING AND PLANNING:

1. 3180 Brighton Henrietta Town Line Road contains a vacant single family dwelling.
2. The subject property is presently zoned Technology and Office Park District (TOP).
3. A demolition plan has been submitted.
4. The Historic Preservation Commission (HPC) will not schedule a public hearing to consider 3180 Brighton Henrietta Town Line Road for landmark status. See attached letter dated 10-27-2023.

**TOWN ENGINEER:** See attached memo dated 11-9-2023. The 13 outstanding items are generally of a technical nature, typical for residential demolitions. They includes issues related to letter of credit, curb closure, tree protection, basement fill material, and do not rise to the level of hindering approval.

### SEWER DEPARTMENT:

*The applicant should contact Tim Jason ([tim.jason@townofbrighton.org](mailto:tim.jason@townofbrighton.org) 585-784-5289) in the Sewer Department with any questions on these comments.*

1. Pump out septic tank, drill hole in bottom
2. Provide paid receipt for the above-mentioned work

**CONSERVATION BOARD:** NONE

### ENVIRONMENTAL REVIEW/SEQR

If the Planning Board finds that the proposed action will not have a significant impact on the environment, Town staff suggests that the Planning Board adopt the prepared negative

declaration when considering Demolition Review.

## **BOARD ACTION/DECISION**

If the Planning Board entertains approval, the following conditions are recommended by staff, along with any others added by the Board:

1. Applicant shall respond in writing to all comments of the Planning Board, Department of Public Works, Town Engineer, and Building and Planning Department.
2. The applicant shall satisfy the requirements of the Town Engineer including the 13 issues noted the attached memo dated 11-9-2023.
3. All Town codes shall be met that relate directly or indirectly to the applicant's request.
4. The project and its construction entrance shall meet the New York State Standards and Specifications for Erosion and Sediment Control.
5. The contractor shall designate a member of his or her firm to be responsible to monitor erosion control, erosion control structures, tree protection and preservation throughout construction.
6. Erosion control measures shall be in place prior to site disturbance.
7. The plans shall clearly show all trees proposed to be removed.
8. All trees to be saved shall be protected with orange construction fencing placed at the drip line or a distance greater than the drip line. Trees shall be pruned, watered, and fertilized prior to, during and after construction. Materials and equipment storage shall not be allowed in fenced areas.
9. Any contractor or individual involved in the planting, maintenance or removal of trees shall comply with the requirements of the town's Excavation and Clearing (Chapter 66), Trees (Chapter 175) and other pertinent regulations and shall be registered and shall carry insurance as required by Chapter 175 of the Comprehensive Development Regulations.
10. The project will comply with the requirements of NYSDOL Code Rule 56 regarding asbestos control and Chapter 91 of the Code of the Town of Brighton, Lead-Based Paint Removal. In addition to any other requirements of Code Rule 56, the applicant shall verify that the project will comply with Section 56-3.4(a)(2) regarding on-site maintenance of a project record, and Section 56-3.6(a) regarding 10 Day Notice requirements for residential and business occupants. The property owner shall ensure that the licensing requirements of Section 56-3 and asbestos survey and removal requirements of Section 56-5 are met.
11. Prior to the issuance of a demolition permit or building permit, asbestos shall be removed according to NYS and the Town of Brighton requirements and verification shall be

submitted from a qualified company that asbestos has been removed.

12. Specifications for backfill requirements of the building footprints shall be included on the plans. No existing construction materials (concrete or other) from the existing homes shall remain on-site.
13. The Town of Brighton Department of Public Works (DPW) requires that the existing laterals be televised and the conditions assessed. Replacement laterals will need to be installed if the DPW determines they are required.
14. A letter of credit shall be provided to cover certain aspects of the project, including, but not limited to: demolition, restoration, sanitary sewer, water main, stormwater water management facilities, landscaping, and sediment and erosion control. The letter of credit should be submitted to the Town for review and approval. An original Letter of Credit must be received by the Town prior to the start of construction.
15. Basement excavation may yield large amounts of spoil. Location of spoil piles and plans for their removal or distribution shall be provided.
16. The contractor shall obtain all necessary Highway Access, Sewer Construction, Demolition, or other permits from the Town or other agencies prior to starting work.





## Public Works Department

Commissioner of Public Works – Evert Garcia, P.E.

**Brendan Ryan**  
Assistant Engineer

Date: November 9, 2023

From: Brendan Ryan

To: Jason Haremza

Copy: File

Re: *Application No. 11P-02-23*  
*Frank Imburgia/FSI Construction, Owner*  
*Concept Review to demolish a 1,245 +/- sf single family home with Related Site Improvements*  
*3180 Brighton Henrietta Town Line Road*

We have completed our review of the above referenced project and offer the following comments for the Planning Board's consideration

**General:**

1. A letter of credit shall be provided to cover certain aspects of the project, including, but not limited to: restoration, sanitary sewer, storm sewer, water main, stormwater water management facilities, landscaping and sediment and erosion control. An original Letter of Credit must be received by the Town prior to the start of construction.
2. All other approvals from jurisdictional agencies must be obtained prior to that of the DPW.
3. The contractor shall obtain all necessary Highway Access, Sewer Construction, or other permits from the Town or other agencies prior to starting work.
4. If any environmental conditions or issues, not previously identified, are encountered during demolition, the owner and the contractors(s) shall immediately notify the Town, Monroe County Health Department and NYSDEC before continuing the construction process.
5. The project must comply with the requirements of NYSDOL Code Rule 56 regarding asbestos control and Chapter 91 of the Code of the Town of Brighton, Lead-Based Paint Removal. In addition to any other requirements of Code Rule 56, the project must comply with Section 56-3.4(a)(2) regarding on-site maintenance of a project record, Section 56-3.6(a) regarding ten-day notice requirements for residential and business occupants. The property owner shall ensure that the licensing requirements of Section 56-3 and the asbestos survey and removal requirements of Section 56-5 are met.
6. Does the applicant intend on closing the existing curb cut on Brighton-Henrietta Town Line Road? The plans must be submitted to MCDOT for review and comment.
7. The applicant must consult with MCDOT to determine if a Highway reservation strip will be required similar to neighboring properties.
8. The sewer lateral will need to be capped before demolition.
9. A restoration plan including final grading, landscaping, etc. must be provided.
10. The demolition plan does not specify the fill material to be used to backfill the foundation. Clean fill must be used, and no construction or other debris may be included. A note to this effect should be added to the plans.
11. The Town's records indicate that there are FEMA Flood Hazard Zones on the property. The plans should be updated to include these boundaries.
12. The 18" maple tree at the northwest corner of the work area appears that it may be too close to the work area to be protected and saved

13. The project must comply with the SPDES General Permit for Stormwater Discharges from Construction Activity - GP-0-15-002. In accordance with the General Permit the project shall include erosion and sediment control practices designed in conformance with the most current version of the technical standard, New York State Standards and Specifications for Erosion and Sediment Control

State Environmental Quality Review

**NEGATIVE DECLARATION**

Notice of Determination of Non-Significance

**Project Number:** 11P-02-23

**Date:** 11-15-2023

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Brighton Planning Board, as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

**Name of Action:** 11P-02-23

**SEQR Status:** Unlisted

**Conditioned Negative Declaration:** No

**Description of Action:** Application of Brighton Business Park Associates, LLC, owner, and BME Associates, agent, for Demolition Review and Approval to raze a single-family house on property located at 3180 Brighton Henrietta Town Line Road.

**Location:** 3180 Brighton Henrietta Town Line Road

**Findings and Reasons Supporting this Negative Declaration:**

Based on information submitted to the Lead Agency, Short Environmental Assessment Form (EAF) Part 1 this action will not have a significant adverse impact on the environment for the reasons set forth below:

1. Air, Water, Waste, Erosion, Drainage, and Site Disturbance. The Project will not create any significant adverse impact in the existing air quality or water quality, nor in solid waste production, nor potential for erosion, nor promote flooding or drainage problems. Stormwater runoff from the Project will be adequately collected and treated on site through the stormwater management facility to be constructed on the Property and discharged in accordance with all applicable New York State standards.
2. Noise and Visual Impacts. The Project will not create any adverse noise or visual impacts. The demolition of the existing vacant building will actually improve the visual impact of this property on the surrounding area.
3. Agriculture, Archeology, Historic, Natural, or Cultural Resources, Community or Neighborhood Character. The Project will not adversely impact agricultural, archeological, historical, natural, or cultural resources. The site has been previously developed, so no

significant cultural resources should be disturbed.

4. Vegetation, Fish, Wildlife, Significant, Habitats, Threatened or Endangered Species, Wetlands, Flood Plains. The Project will not have a significant adverse impact on plant or animal life. The Property does not host any threatened or endangered species, and therefore the Project will have no impact on any threatened or endangered species. There are no State or Federal wetlands on the Property. The Property does contain a very small portion of a flood hazard area but this will not be impacted by the demolition.

5. Community Plans, Use of Land, and Natural Resources. The Project is consistent with and in furtherance of the goals set forth in the Town's Comprehensive Plan.

6. Growth, Subsequent Development, etc. The Project will not induce any significant or adverse growth or subsequent development.

7. Long Term, Short Term, Cumulative, or Other Effects. The Project will not have any significant adverse long term, short term, cumulative, or other environmental effects.

8. Critical Environmental Area. The Project will not have an impact on any designated Critical Environmental Area as set forth in 6 NYCRR Section 617.14(g).

9. Traffic. The Project will not have a significant adverse impact on vehicular traffic.

10. Public Health and Safety. The Project will not have a significant adverse impact on public health or safety.

The Project is subject to all applicable Federal, State, and Local laws, regulations, and code requirements including all requirements of the Town of Brighton, Monroe County Department of Transportation, Monroe County Water Authority, Monroe County Department of Health, and New York State Department of Environmental Conservation.

Pursuant to SEQRA, based on the abovementioned information, documentation, testimony, correspondence, and findings, and after examining the relevant issues, including all relevant issues raised and recommendations offered by involved and interested agencies and Town Staff, the Lead Agency determines that the Project will not have a significant adverse impact on the environment, which constitutes a negative declaration, and, therefore, SEQRA does not require further action relative to the Project.

The Town of Brighton Planning Board, as Lead Agency, has made the following additional determinations:

A. The Lead Agency has met the procedural and substantive requirements of SEQRA.

B. The Lead Agency has carefully considered each and every criterion for determining the potential significance of the Project upon the environment as set forth in SEQRA, and the Lead Agency finds that none of the criteria for determining significance set forth in SEQRA would be implicated as a result of the Project.

C. The Lead Agency has carefully considered (that is, has taken the required “hard look” at) the Project and the relevant environmental impacts, facts, and conclusions in connection with same.

D. The Lead Agency has made a reasoned elaboration of the rationale for arriving at its determination of environmental non-significance, and the Lead Agency’s determination is supported by substantial evidence, as set forth herein

E. To the maximum extent practicable, potential adverse environmental impacts will be largely avoided or minimized by the Applicant’s careful incorporation in its application materials of measures designed to avoid such impacts that were identified as practicable.

Date Issued: 11-15-2023

For further information:

Contact Person: Rick DiStefano, Environmental Review Liaison Officer

Address: Town of Brighton  
2300 Elmwood Avenue  
Rochester, NY 14618

Email: [rick.distefano@townofbrighton.org](mailto:rick.distefano@townofbrighton.org)  
Telephone: 585-784-5228

## PLANNING BOARD REPORT

**HEARING DATE:** 11-15-2023

**APPLICATION NO:** 11P-03-23

*OpenGov reference no:* PB-23-21

**LOCATION:** 2829 West Henrietta Road

**APPLICATION SUMMARY:** Application of Taib El Kettani, owner, and Rafiullah Sahak, lessee, for Conditional Use Permit Approval to allow for a convenience store on property located at 2829 West Henrietta Road.

### COMMENTS

*The Board may wish to consider the following comments when asking questions*

### BUILDING AND PLANNING:

1. 2829 West Henrietta Road currently contains a two story, multi-tenant, mixed use building. The proposal is for the north tenant space, approximately 770 square feet, last occupied by a cell phone store.
2. The subject property is zoned General Commercial District (BF-2)
3. Floor plans and a site diagram have been submitted.
4. The change of use from a retail (previous use was a cellular telephone store) to a convenience store/grocery store space creates a one space parking deficiency. A prior variance for parking on this property was granted on 10-4-2017 that waived eight parking spaces (25 required at that time, 17 on site). A new variance request is required for the additional parking deficiency of one space. A variance application has been submitted and is on the agenda for the 12-6-2023 ZBA meeting.
5. The proposal is for a specialty grocery store (halal meats)/convenience store. The applicant has stated that meat processing will consist of taking large cuts of fresh halal meat, and portioning it on site into smaller cuts for individual customers. Customer volume is expected to be low and focused on the Afghan community.
6. The applicant has submitted information related to the conditional use permit application.
7. The applicant should provide additional information on the operations of the meat processing/butchering operations. Related to this, additional information should be submitted related to on-site trash storage and removal. Is there a dumpster? Is it shared by all tenants? Is it screened? How often is it collected by the trash hauler?

**TOWN ENGINEER:** NONE

**SEWER DEPARTMENT:**

The applicant should contact Tim Jason ([tim.jason@townofbrighton.org](mailto:tim.jason@townofbrighton.org) 585-784-5289) in the Sewer Department with any questions on these comments.

1. Provide details on the chop saw (meat saw?) indicated on the site plan.
2. More details are needed regarding food sales and food preparation.
3. If there is any food preparation, a grease trap may be required.

**CONSERVATION BOARD: NONE****CONDITIONAL USE PERMIT FINDINGS**

Conditional use permit findings are drafted for consideration and discussion by the Planning Board. However, there may be too many outstanding issues to resolve before the board can adopt final findings. The following findings, based on the standards found in [Town of Brighton Code Section 217-7](#), are suggested for the Planning Board's consideration and discussion.

1. The Planning Board finds that the proposed specialty grocery store/convenience store use complies with the standards of the General Commercial District (BF-2).
2. The Planning Board finds that the proposed use is in harmony with the purpose and intent of [Code Sections 217-3 through 217-7.2](#) (Conditional Uses). The location and size of the specialty grocery store/convenience store, the intensity, size of the site and access have all been considered in the Board's review.

*May need to resolve meat processing, trash, and parking issues.*

3. The Planning Board finds that the establishment of a specialty grocery store/convenience store in this location, will not be detrimental to persons, detrimental or injurious to the property and improvements in the neighborhood, or to the general welfare of the Town.

*May need to resolve meat processing, trash, and parking issues.*

4. The specialty grocery store/convenience store will be developed within an existing structure on a developed site and not result in the destruction, loss or damage of any natural, scenic or significant historical resource.
5. The Planning Board finds that the establishment of a convenience store/grocery store will not create excessive additional requirements for public facilities and services and will not be detrimental to the economic welfare of the community.

*May need to resolve meat processing, trash, and parking issues.*

6. The Planning Board finds that the establishment of a convenience store/grocery store will be adequately served by essential public facilities.

7. The Planning Board finds that the establishment of a convenience store/grocery store will not result in the loss or damage to trees.
8. The Planning Board finds that the establishment a convenience store/grocery store in this location essentially conforms to the Town Master Plan: Envision Brighton 2028. Specifically Volume 2, Pages 47-47, the West Henrietta Road Land Use Focus Area. Although small, the occupancy of of this commercial space by a viable business is better than a vacant space for the West Henrietta Road corridor.

## **ENVIRONMENTAL REVIEW/SEQR**

Staff reviewed the submitted materials and carefully considered both State (6 NYCRR 617.5) and Town (Town Code Section 201-14) and determined the proposed accessory structure is a Type 2 action, requiring no further environmental review.

Specifically 6 NYCRR 617.5(c)(18):

Reuse of a residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is a permitted use under the applicable zoning law or ordinance, including permitted by special use permit, and the action does not meet or exceeds any of the thresholds in section 617.4 of this Part.

## **BOARD ACTION/DECISION**

If the Planning Board entertains tabling, the following reasons are recommended by staff, along with any others added by the Board:

1. Applicant shall obtain the necessary approvals of the Zoning Board of Appeals
2. Applicant shall respond in writing to all comments of the Planning Board, Department of Public Works, Town Engineer, and Building and Planning Department
3. The applicant is reminded that the entire project shall comply with the most current New York State Fire Prevention and Building Code and the Town of Brighton sprinkler requirements. This may require the hiring of an architect licensed in New York State.