

A G E N D A
BOARD OF APPEALS - TOWN OF BRIGHTON
AUGUST 7, 2024

Written comments may be submitted to Rick DiStefano, Secretary, Brighton Town Hall, 2300 Elmwood Avenue, Rochester, NY 14618 via standard mail and/or via e-mail to rick.distefano@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.

7:00 P.M.

CHAIRPERSON: Call the meeting to order.

SECRETARY: Call the roll.

CHAIRPERSON: Agenda Review with Staff and Members

CHAIRPERSON: Approve the minutes of the April 3, 2024 meeting.
Approve the minutes of the May 1, 2024 meeting.
Approve the minutes of the June 5, 2024 meeting. **To be done at the September 4, 2024 meeting**
Approve the minutes of the July 2, 2024 meeting.

CHAIRPERSON: Announce that the public hearings as advertised for the BOARD OF APPEALS in the Daily Record of August 1, 2024 will now be held.

[7A-02-24](#) Application of Igor and Renee Titoff, owners of property located at 155 Avalon Drive, for Area Variances from Section 203-2.1B(3) and 203-9A(4) to allow for construction of a detached garage with a 2.5 ft. rear setback and a 2.17 ft. side (east) setback in lieu of the minimum 5 ft. setback from all lot lines as required by code. All as described on application and plans on file. **POSTPONED FROM THE JULY 2, 2024 MEETING AT APPLICANTS REQUEST**

[8A-01-24](#) Application of Christina Lueng, agent, and Leung Irrevocable Trust, Christina W., owner of property located at 15 Maybrooke Road, for an Area Variance from Sections 203-2.1B(6) and 203-9A(4) to allow a standby emergency generator to be located in a front yard (Winton Road South) in lieu of the rear yard behind the house as required by code. All as described on application and plans on file.

[8A-02-24](#) Application of Father Gary Tyman, agent, and Our Lady of Lourdes Church, owner of property located at 165 Rhinecliff Drive, for an Area Variance from Section 207-2A to allow a front yard (Varinna Drive) fence to be 4 ft. in height in lieu of the maximum 3.5 ft allowed by code. All as described on application and plans on file.

[8A-03-24](#) Application of Jim Colombo, agent, and Jagdish Kaur, owner of property located at 30 Jefferson Road, for a Sign Variance from Section 207-32B to allow a business identification sign on a second building face where not allowed by code. All as described on application and plans on file.

[8A-04-24](#) Application of Igor and Renee Titoff, owners of property located at 155 Avalon Drive, for 1) an Area Variance from Section 205-2 to allow building coverage, after construction of a detached garage and small addition, to be 28% of the lot in lieu of the maximum 25% allowed by code; and 2) an Area Variance from Section 207-10E to allow a driveway extension to be 2.17 ft. from a side lot line in lieu of the minimum 4 ft. required by code. All as described on application and plans on file.

[8A-05-24](#) Application of BME Associates and Westfall Brighton SRE, LLC, agents, and Westfall Development, LLC, owner of property located south of Westfall Road, east of East Henrietta Road (CityGate), known as Tax ID parcels 149.06-1-3.11 and 149.06-1-3.12, for an Area Variance from Section 205-18B to allow a gravel access/maintenance drive to be 5 ft. from a side lot line in lieu of the minimum 10 ft. required by code. All as described on application and plans on file.

[8A-06-24](#) Application of BME Associates and Westfall Brighton SRE, LLC, agents, and Westfall Development, LLC, owner of property located south of Westfall Road, east of East Henrietta Road (CityGate), known as Tax ID parcels 149.06-1-3.11 and 149.06-1-3.12, for an Area Variance from Section 207-2B to allow a 345 +/- ft. retaining wall of varying height up to 12 ft. topped with a 48 inch railing where a maximum 6.5 ft. high wall is allowed by code. All as described on application and plans on file.

CHAIRPERSON: Announce that public hearings are closed.

NEW BUSINESS:

NONE

OLD BUSINESS:

NONE

PRESENTATIONS:

NONE

COMMUNICATIONS:

Letter from Joe Sanchez, 127 Maybrooke Road, dated August 4, 2024, in support of application 8A-01-24, 15 Maybrook Road.

PETITIONS:

NONE

Support for Variance Application 8A-01-24 for 15 Maybrooke Road

joe <charlie_m1@yahoo.com>

Sun 8/4/2024 9:36 PM

To: Rick DiStefano <rick.distefano@townofbrighton.org>

Dear Mr. DiStefano,

I am writing to express my strong support for the variance application submitted by Christina Leung (application number 8A-01-24) to allow the installation of a standby emergency generator in the front yard of her property at 15 Maybrooke Road.

As a neighbor residing at 127 Maybrooke Road, the proposed location for the generator is both practical and beneficial. The west side of the home, facing Winton Road South, is an ideal spot for the generator due to existing infrastructure and ease of access. Christina's thoughtful planning, including the proposed screening and landscaping, ensures that the generator will remain unobtrusive and maintain the aesthetic appeal of our neighborhood.

Having a standby generator is crucial for ensuring Christina and her family have a reliable power source during emergencies, which is a concern for all of us in the community. The frequent power outages in our area make this installation particularly necessary. I have reviewed the plans and believe that the installation will not negatively impact the neighborhood but will instead enhance the safety and preparedness of our community.

Christina has been a responsible and considerate neighbor, and her efforts to comply with safety regulations and neighborhood aesthetics are commendable. I strongly urge the Board to approve this variance application. Thank you for considering my comments.

Sincerely,

Joe Sanchez
127 Maybrooke Rd.
Rochester, NY 14618
585-369-4195
Joe Sanchez



Project: 8A-03-24

Date: August 7, 2024

Short Environmental Assessment Form

Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Short Environmental Assessment Form

Part 3 Determination of Significance

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

No Part 2 questions lead to 'moderate to large impacts may occur.'

This site has been previously disturbed and the placement of one additional sign on a second building face will result in no further disturbance to the site.

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
 ☒ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Town of Brighton Zoning Board of Appeals

August 7, 2024

Name of Lead Agency

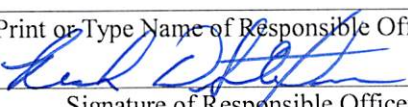
Date

Rick DiStefano

Secretary to the Board

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer



Signature of Preparer (if different from Responsible Officer)



State Environmental Quality Review

NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Project Number: 12A-03-21 & 12A-04-21

Date: November 30, 2021

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 Brighton Zoning Board of Appeals,, 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: 12A-03-21 30 Jefferson Rd – Use and Area Variance

SEQR Status: Unlisted

Conditioned Negative Declaration: No

Description of Action: Application of Jerry Goldman, attorney, and Jagdish Kaur, owner of property located at 30 Jefferson Road, for a Use Variance from Section 203-93A to allow a retail liquor store to be located in an IG Light Industrial District where not allowed by code and for an Area Variance from Section 205-18A to allow front yard parking where not allowed by code. All as described on applications and plans on file.

Location: 30 Jefferson Rd

Reasons Supporting This Determination:

After considering the action contemplated and reviewing the Environmental Assessment Form prepared by the applicant (Part I) and Town Staff (Parts II & III) and the Criteria for determining significance in the SEQR regulations (6 N.Y.C.R.R. Section 617.11), the Town of Brighton Zoning Board of Appeals finds that the proposed action will not have a significant impact on the environment based on the following finding:

1. Air, Water, Waste, Erosion, Drainage, and Site Disturbance.

The proposed Project is taking place on a previously disturbed site with most areas of disturbance taking place in previously disturbed areas. The site is relatively flat and the proposal does not significantly alter grade or drainage on the site. The proposed use is retail in nature and in itself will not disturb the site beyond the work done during the site improvement. Soil erosion control measures will be implemented during and after construction based upon a detailed grading and erosion control plan. The storm water drainage system will be designed and will be constructed in accordance with all applicable Town requirements. The proposed use is a retail liquor store will not create a substantial increase in solid waste production.

The proposed 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 drainage problems.

2. Noise, Visual, and Neighborhood Character.

The Project will not impact the neighborhood character of the surrounding area nor will it create any adverse noise or visual impacts. The Project is located in a currently vacant building in an industrial district. The proposed use and alterations will improve the overall look of the property by improving the building, adding landscaping, and cleaning up the property and building. Noise generated will be from vehicle traffic and it is not adjacent to residential areas.

The nature of the improvements to be made as part of this Project and the intensity of the proposed use are less than the existing uses within the surrounding area.

The Project will not be detrimental to the health, safety or general welfare of persons residing or working in the area of the proposed use or will not be detrimental or injurious to the property and improvements in the area or to the general welfare of the Town.

3. Agriculture, Archeology, Historic, Natural, or Cultural Resources.

The Project will not adversely impact agricultural, archeological, historical, natural, or cultural resources. The EAF Mapper Summary Report indicates that the project area is located near archaeologically sensitive areas. Proposed improvements are taking place on a previously disturbed site. There are no known archaeological resources within project site.

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. The Project is within a Watercourse Environmental Overlay District (EPOD) and parts of the proposed new front yard parking are located within a floodplain. The Project will be required to obtain an Environmental Overlay District Permit and Site Plan Modification approval from the Brighton Planning Board and must compensate for any impact to the flood plain and mitigate impacts to the EPOD. There are no wetlands located on the Project site.

The improvements will be short term and will not result in extended disturbance to the property. Therefore, the Project will have no significant adverse impact on wetlands or the floodplain.

5. Community Plans, Use of Land, and Natural Resources.

The Project is located in an IG – Light Industrial District and as part of this application is applying for an area variance to allow for the installation of parking in the front yard. They also seek a use variance to allow for a retail liquor store where one is not allowed by code. The Town's Comprehensive Plan does not specifically address the property. The Project changes will be installed on already disturbed areas and will have no adverse impacts on the natural resources found on the site.

6. Critical Environmental Area.

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

7. Traffic.

The proposed Project will generate more vehicle trips to or from the project site but is located on two significant roads and will not significantly increase traffic to these roads. The Project will not have a significant adverse impact on vehicular, bicycle, or pedestrian traffic. Thus, the Project will not result in any significant adverse traffic impacts.

8. 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.

For further information:

Contact Person: Ramsey A. Boehner, Environmental Review Liaison Officer

Address: Town of Brighton
2300 Elmwood Avenue
Rochester, N.Y. 14618

Telephone: (585)784-5229

State Environmental Quality Review

NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Project Number: ER-5-23

Date: April 24, 2024

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 Brighton Town 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: TopGolf Entertainment Venue

SEQR Status: Type I

Conditioned Negative Declaration: No

Description of Action: The action proposes the rezoning of (2) tax parcels totaling 17.8± acres in the Town of Brighton from RLB-Residential Low Density District to BF-2 General Commercial District. This proposed action also includes applications for Incentive Zoning pursuant to Chapter 209 of the Town Comprehensive Development Regulations, site plan approval, and Architectural Review Board approval, for an Outdoor Recreation & Golf Entertainment venue development that will consist of a ±48,282 S.F., 2-story building (±26,016 S.F. footprint), including retail sales, a full service restaurant and bar, meeting/event space, 80 driving range bays, an outfield area, outdoor range lighting, architectural accent lighting, a ±816 S.F., 20' high free standing brand logo sign in the outfield of the driving range facing internally to the building only, and parking for up to 375 vehicles. The project will have access from the existing CityGate driveways to the west, providing access to both East Henrietta Road and Westfall Road; no new curb cuts are proposed. Also to include, as part of the Incentive Zoning amendments, construction of ±970 linear feet of public sidewalk along the south side of Westfall Road.

Location: East Henrietta Road Tax ID parcels 149.06-1-3.11 and 149.06-1-3.12, Town of Brighton, Monroe County, New York.

Reasons Supporting This Determination:

After considering the action contemplated and reviewing the Full Environmental Assessment Form (EAF) prepared by the applicant and the Criteria for determining significance in the SEQR regulations (6 N.Y.C.R.R. Section 617.7(c)), the Town Board finds that the proposed action will not have a significant impact on the environment based on the following findings:

1. Land, Site Disturbance, and Construction

The proposed action will not have a potential significant adverse impact on land. Based on soil test pit explorations conducted on site, the depth to water table is greater than three feet, and the depth to bedrock is greater than five feet, and no outcroppings are present on site. The site does not contain areas with slopes of 15% or greater, and no blasting of bedrock is anticipated.

Construction will be a single phase. Although construction may extend beyond twelve months for final completion, the impact will be small and not significant or adverse. The site design of the action will be designed to conform to the construction erosion control requirements of the latest New York State Department of Environmental Conservation (NYSDEC), State Pollutant Discharge Elimination System (SPDES), General Permit. Prior to any earthwork being commenced on the site an erosion and sediment protection plan, and storm water pollution prevention plan, SWPPP, in accordance with the Town of Brighton and latest NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activities will be implemented.

Erosion control measures consistent with the New York State Standards and Specifications for Erosion and Sediment Control will be installed to capture sediments from the site. Temporary cover will be established as soon as all earthwork has been completed. As discussed below, the Materials Management Plan (MMP) details the procedures and design elements incorporated to protect public health and the environment both during construction and long-term final developed conditions in accordance with applicable NYSDEC regulations. The proposed design will minimize the need to import or export materials to the greatest extent practicable. The removal of excavated material off-site may result in a small impact, but the duration will be short and occur only during grading operations, which will be completed in accordance with applicable Town of Brighton requirements and the New York State Standards and Specifications for Erosion and Sediment Control. The export of any soil materials will be completed with licensed vehicles utilizing an approved haul route. Access to the site will be monitored and a temporary construction entrance will be established to prevent soil and mud from being tracked off of the site.

Other common NYSDEC approved forms of construction erosion control that will be implemented on this site to the extent necessary include but are not limited to, silt fence installation, stone check dams, sediment traps, temporary diversion swales and rock outlet protection. All erosion control measures will be inspected in accordance with the SPDES General Permit. Site inspections will be conducted two times per week. Any erosion control measures not performing as intended will be repaired or replaced as necessary.

By reason of the foregoing, the proposed action will not create any potential significant adverse impacts on the land through site disturbance and construction.

2. Surface and Groundwater, Wetlands, Erosion, Flooding, and Drainage

The proposed action will not result in the potential for erosion, flooding, or drainage problems, and will not have a potential significant adverse impact on surface water and groundwater. The proposed action will result in the creation of new stormwater management areas that will be located on the property. The stormwater facilities will retain water at varying depths and their construction will be the result of the implementation of the project's stormwater management plan. The facilities will be constructed to mitigate and attenuate the post-development stormwater condition. The facilities are required by municipal and NYSDEC regulations, and will be designed to meet their respective standards. The construction of these facilities will provide a benefit in the form of stormwater runoff management and thus do not pose a potential adverse environmental impact. The proposed action does not alter the surface area of any existing body of water by more than 10% or 10 acres, and no dredging of an existing water body or regulated wetland is proposed or required.

There will be a small impact on wetlands as the proposed action will disturb approximately ± 0.07 acres of federal regulated wetland, but the impact is not significant. The wetland limits were established per a delineation completed by BME Associates and verified per a site walk with the US Army Corps of Engineers in September of 2023, and a Jurisdictional Determination was issued by the US Army Corps of Engineers on November 16, 2023. The wetland disturbance at less than 0.10 acre qualifies the disturbance for a Nationwide Permit (NWP), which was authorized by the US Army Corps of Engineers on January 16, 2024. The NWP is established to permit nominal wetland disturbances. The proposed disturbance is below the threshold established within the EAF Workbook for consideration of a potential Moderate to Large impact. The work will be completed per the standard published conditions of the US Army Corps NWP and the NYSDEC Water Quality Certificate.

The proposed action will not involve any disturbance to a regulated water body or stream that would result in turbidity within the water body. The project will include implementation of a construction erosion control plan and a project SWPPP for the duration of construction. These practices are designed per municipal and NYSDEC standards and will be designed and implemented to prevent erosion pollution from the construction activity thus limiting the potential for impacts to the downstream receiving waters. Given the implementation of the SWPPP and the anticipated short duration of site work activities, there is only a small impact.

No water intake facility is proposed as part of the proposed action. Water supply will be provided via the public water system of the Monroe County Water Authority (MCWA) to be extended through the proposed development. The proposed water supply demand is 10,000 gpd and adequate supply is available through the MCWA system. The applicant has conducted flow tests which indicate that the current system has adequate supply and pressure to serve the project. The proposed action does not involve the discharge of wastewater to any surface water bodies. All wastewaters will be collected and conveyed

by a proposed sanitary sewer system to the Monroe County Pure Waters system. Therefore, no impact will occur.

The proposed action may cause soil erosion, but the impact is small because the proposed action will be of a short construction duration (for site work operations) and will include the preparation and implementation of a SWPPP. NYSDEC regulations require that the SWPPP addresses water quality during and after construction. The proposed action will include a construction erosion control plan consisting of silt fence, siltation basin(s), inlet structure protection, stabilized construction access road(s) and maintenance. The post-construction management facility will include a new stormwater management pond, and runoff reduction volume (RRv) practice(s) located onsite. All features will be designed per the NYSDEC Stormwater Design Manual and the NYSDEC Manual for Sediment and Erosion Control. The implementation of the SWPPP reduces the rate of runoff from the project site, thus reducing the potential for erosion. The development and implementation of the project SWPPP provides the mechanism to reduce the potential for an adverse environmental impact from erosion.

The municipal and NYSDEC regulations require that a development provides a plan that addresses water quality in storm water runoff. A component of the SWPPP is dedicated to water quality treatment. The project's SWPPP includes the design of water quality treatment features including bio-retention areas, forebays and settling basins. All features will be designed per the NYSDEC Stormwater Design Manual, which contains the design parameters required to address water quality to the satisfaction of this item. The design and implementation of the water quality features will be subject to municipal review. The proposed action does not propose the use of pesticides or herbicides for construction activities, or the use of phosphorus containing fertilizers. Any water quality impacts that may occur during construction will be temporary and short term, and based on the design of the water quality treatment features described above, the proposed action will not otherwise cause water quality impacts within or downstream from the action.

No designated floodways, or 100-year or 500-year floodplain areas exist on the project site. No air permit is required for the proposed action.

The proposed action will not create any potential significant adverse impacts to surface or ground water, nor in solid waste production, nor potential for erosion, nor promote flooding or drainage problems.

3. Air

The proposed action will not result in a potential significant adverse impact to air quality. No air permit is required for the proposed uses.

4. Noise, Odor and Light

Although the proposed action may produce sound above noise levels established by local regulation, the potential impact from noise is small as defined by the EAF Workbook

because it is anticipated to be temporary and short duration during the construction operations. Once the facility is open, it will be subject to comply with the noise ordinances of the Town of Brighton. There are no anticipated noise levels above ambient levels given the proximity of the I-590 interstate and state and county highways in the vicinity of the project site.

No blasting is proposed or anticipated for the construction of the proposed action.

The proposed action's operation will not generate odors as it is an indoor/outdoor recreation venue. The proposed on-site restaurant will be equipped with the necessary mechanical and kitchen equipment as required by the local code.

Lighting will consist of dark sky compliant LED fixture pole mounted lighting for the parking lot and building mounted lighting for the outdoor recreation area. There will be no pole mounted lights for the outdoor recreation area. There will be no light spillage onto adjacent properties and all exterior lighting will comply with the Brighton Town Code. The lighting proposed will be equivalent to the other facilities operated by the project sponsor, which illustrate that there will be no off-site light spill. The addition of the new lights will not change the existing sky glow condition in the area. The area is characterized by several commercial and office uses that utilize parking and building lighting, and to the east, two Town Parks, utilize athletic field lighting, and thus the proposed lighting is consistent with the surrounding uses. In addition, Interstate 590 to the south is populated with the interstate light poles and fixtures. Thus, the proposed lighting plan will not have an impact on the surrounding area.

The proposed action will not have any potential significant adverse impacts on noise, odor or light.

5. Archeology, Historic, Natural, Cultural, Architectural or Aesthetic Resources

The proposed action will not impair the character or quality of important historic, archaeological, architectural or aesthetic resources. According to the New York Archeological Site Location Map, the project site does not contain a documented archeological or historic resource. However, the site is within an archeological buffer area and in proximity to the New York State Barge Canal Historic District (located along the Erie Canal in the City of Rochester). A Phase 1A archaeological site investigation was completed as part of the original CityGate SEQRA Review (2010). Concerning the proposed TopGolf project site, the NYS Office of Parks, Recreation and Historic Preservation Office (SHPO) issued a "No Effect" letter dated October 19, 2023. This letter is on file with the Town of Brighton and documents the action will have no impact on historic and archeological resources.

There are no officially designated scenic views identified in the area of the project site. The proposed action may have a moderate to large impact on the viewshed, but the

impact is not significant or adverse. The proposed action incorporates the use of a pole and netting system designed to encircle the outfield area. The maximum pole and netting height are 156 ft. providing the height necessary for the use given its context and proximity to the adjacent land uses. This height has been determined by the user to be the minimum necessary based on data and technology and the in-practice results from current operations. The proposed net poles and netting are designed to be as transparent as possible with sky gray poles intended to blend into the background and the netting a black nylon material to minimize the visual impact. Views of the two-story building and netting from the Erie Canal and its towpath will be from 1,000 ft. with an existing vegetative buffer consisting of existing and proposed trees and vegetation between the canal and the project site. Additionally, the current view from the Erie Canal and its towpath are of Monroe County co-gen plant and industrial use. The project layout, taking advantage of the site topography, allows for a 22 ft to 32 ft. lower elevation than that of Westfall Road reducing the pole and netting height from this vantage point. The action is bordered by a multi-building professional/medical office park to the east and a multi-building commercial retail plaza to the west, which includes a big box store, and in close proximity to the project is a multi-story community hospital and the Citygate smokestack that is approximately 200 feet in height. Thus, the proposed action is not in sharp contrast with other existing land uses in the area.

The proposed action will not present a potential significant adverse impact to historical, archaeological, architectural, or aesthetic resources.

6. Vegetation, Fish, Wildlife, Significant Habitats, Threatened or Endangered Species

The proposed action will not have a significant adverse impact on flora or fauna. The project site contains an unmapped Woodlot Environmental Protection Overlay District (EPOD) as defined by the Town of Brighton Comprehensive Development Regulations, the purpose of which is to preserve and protect woodlots and trees. While this woodlot consists primarily of poor-quality successional growth trees, the proposed action will require Woodlot EPOD permit approval that will be subject to Town review during the formal site plan approval process. A detailed tree mitigation plan and landscaping plan will be required for review during the planning process and implemented prior to issuance of a Final Certificate of Occupancy, which will ensure that no significant or adverse impacts occurs to this woodlot area.

The proposed action does not contain habitat for endangered or threatened species, flora or fauna as identified through the NYSDEC EAF mapper. The project site contains no vegetation of value as its primary make up is scrub brush and successional growth. The site has previously been disturbed through prior occupation and construction operations. The project site is not home to and will not interfere with the movement of any migratory wildlife, and there are no records or rare or state-listed protected plants or animals, or significant national communities, on the project site.

Therefore, the proposed action will not result in a potential significant adverse impact to flora or fauna.

7. Human Health

The proposed action will not have a significant adverse impact on public health or safety. The proposed action is subject to all applicable Federal, State, and Local laws, regulations, and code requirements.

There are 2 historic/inactive landfills present on the property in areas proposed for re-development: a construction and demolition (C&D) debris landfill (RO-146) and an ash and sludge landfill (B-005). The action proposes re-use of the property in compliance with applicable regulations, in accordance with the MMP prepared by EnSol Engineering & Environmental after consultation with the NYSDEC, and as received by the Town of Brighton. Multiple sub-surface investigations have been conducted within, and in the vicinity of, the two landfills. Investigation results have not revealed the presence of any hazardous materials as defined by NYSDEC regulations 6 NYCRR Parts 371.1 and 371.3. Non-hazardous waste mass materials, largely typical construction and demolition debris are present underneath existing soil cover caps of varying thicknesses.

Execution of the proposed action will require temporary exposure and handling of waste-mass materials during construction, but the impact is small and will not result in an adverse environmental impact because the final Project design will provide design elements specific to the protection of public health and the environment. The MMP details the procedures and design elements incorporated to protect public health and the environment both during construction and long-term final developed conditions in accordance with applicable NYSDEC regulations. As confirmed by letter dated March 11, 2024, the MMP and Operational Maintenance and Monitoring Plan have been reviewed and approved by the NYSDEC and the requirements of 6 NYCRR Part 363-9.7.

Long-term final developed conditions include modification of the existing landfills, which will be an improvement over the existing conditions as the final developed conditions will include reconstructed/improved cover systems that will provide more robust and permanent (pavement, concrete, etc.) separation of waste materials over the existing soil cover system which is of various thickness.

Additionally, the final design also includes sub-slab depressurization and indoor air quality monitoring systems for the proposed structure as outlined in the Operation Maintenance and Monitoring Plan.

Based on the foregoing, there will be no significant adverse impact resulting from the proposed action on human health or safety.

8. Open Space, Recreation, and Agricultural Land

The proposed action will not result in an impact on agricultural resources because the project site and surrounding lands are not currently engaged in an agricultural use. Thus,

the proposed action will not cause fragmentation of or prohibit use of adjoining agricultural uses. The proposed action will not result in the loss of a designated open space resource or recreational opportunity as identified in any open space plan, study, or code adopted by the Town of Brighton.

The proposed action does not present a potential significant adverse impact to agriculture, open space, or public recreation.

9. Community Plans, Use of Land, Neighborhood Character

The proposed site is not specifically identified within the current Town of Brighton Comprehensive Plan (Envision Brighton 2028, adopted September 2018) as there are currently no recommendations regarding the individual land use of the project site itself. The project site is not located within or has been identified within any county or regional land use plan.

Envision Brighton 2028 reflects that the Town of Brighton, like all municipalities, desires and has the need to encourage new smart growth development to generate tax revenues that support the Town's municipal budget. With the shrinking base of developable land in the Town of Brighton, Envision Brighton 2028 provides that decision on the size and types of development should be driven by four basic criteria: (1) the availability of necessary utilities and infrastructure; (2) the ability of the market to absorb the proposed development; (3) the community and/or political appetite for the development type (including new, walkable lifestyles based on increased accessibility to amenities); and (4) the impact on the environment, traffic, and municipal budget and services. The proposed action meets each of these criteria, by utilizing two large parcels of land lacking adequate access sandwiched between office use and a large retail development. The proposed action will have availability to existing utilities and infrastructure, and traffic will access through an existing development to a well-established highway network. As a regional draw the market will have the ability to absorb the project and provide economic benefits to both the Town of Brighton and surrounding communities with little to no impact on the municipal budget and services. The proposed action will provide increased walkability with the Westfall Road sidewalk amenity.

The proposed action also furthers the Town's comprehensive plan as reflected in the Planning Board Advisory Report dated October 18, 2023, specifically by providing leadership and actively participating in efforts to improve the overall economic and social health of the Rochester Metropolitan Region, and by attaching and promoting sustainable development of quality commercial uses in areas with existing infrastructure, in an effort to expand the Town's local tax base while providing desired goods and services, and without compromising other community goals.

The Town's Comprehensive Plan 2000 (adopted October 24, 2001) recommended that the property be re-zoned from RLB-Residential Low Density (current zoning) to Low

Density Office. The plan also discussed if a final master plan for the Iola campus shows convincing evidence that traffic levels for proposed uses, necessary infrastructure design and road and intersection improvements are made and that there is an alternative use that is preferable to Low Density Office, then it should be considered.

The proposed action may have a moderate impact with respect to consistency with the Town Comprehensive Developments Regulations. The proposed action requests re-zoning from a residential district to a commercial district and various incentives in exchange for amenities under the Town's Incentive Zoning Law, including changes in scope of conditionally permitted uses, building height, parking, and signage. However, the impact is not significant or adverse because existing Town zoning to the east is office and the zoning of the adjacent lands to the west, in the City of Rochester, is a Planned Development District for mixed commercial, retail, hotel development. Thus, the proposed action to re-zone the project site to a commercial/business district will result in consistency with surrounding land use and zoning. The project site is served by existing in-place transportation and utility infrastructure capable of serving the site. The 48,282-sf building and 375 car parking lot are not in sharp contrast to the commercial development in this area of Westfall Road and East Henrietta Road. The Planning Board Advisory Report further found that "given the scale and intensity of surrounding land uses, both in the Town of Brighton and City of Rochester, the uses permitted by the proposed zoning change are entirely appropriate for the area concerned" and that "the proposed rezoning to General Commercial District (BF-2) is in accord with the existing development immediately adjacent to the west on the CityGate site and with the proposed plans for further development of the CityGate site as are now pending before the City of Rochester."

No expansion of the current in-place infrastructure is required beyond typical extension of the available infrastructure into the site to serve the proposed action.

The proposed action is consistent with the character of the community in this area, which consists of commercial, retail, office, and recreational uses along the East Henrietta Road corridor at Westfall Road. The proposed action:

- a. Does not impact or eliminate historic resources.
- b. Will not increase demand for community services as adequate police and fire protection services exist.
- c. Does not displace affordable or low-income housing.
- d. Will not interfere with the enjoyment of public resources, including the Erie Canal.
- e. Is not out of scale or inconsistent with the predominant architectural scale and character of the area, which is multi-story commercial buildings and parking areas.

- f. Is not inconsistent with the character of the existing natural landscape as the area is predominantly commercially developed, and the project site itself has been disturbed through previous uses and construction activity.

The proposed action will not create a material demand for other actions that would result in a significant adverse impact on the environment. The project site is bordered by existing development to the east and north, the municipal boundary and commercial development to the west, and the Erie Canal and Interstate 590 to the south. Thus, there is no probability of the project inducing secondary development in the area. The proposed action does not require other actions or approvals that have not already been considered in the context of this environmental review.

As a result, the proposed action will not result in a potential significant adverse impact relative to community plans or goals.

10. Critical Environmental Area

The proposed action will not have an impact on any designated Critical Environmental Area as set forth in 6 N.Y.C.R.R. Section 617.14(g). The project site is not located in a designated critical environmental area. Although the project site is in proximity to a Critical Environmental Area designated by the City of Rochester along the Erie Canal, the proposed action is not located within the Critical Environmental Area and will not affect any of the qualities of the Critical Environmental Area that led to its designation.

11. Energy

The proposed action will not result in a major change in the use of either the quantity or type of energy, or require a new, or an upgrade, to an existing substation. The project site is currently served by the local utility company and service from the current system will be provided. The project will have an electric demand of less than 2,500 MW hours per hour and is less than 100,000 square feet in size. The completed facility will be ±48,282 S.F and constructed in compliance with the NYS Building (Energy) Code.

The proposed action will not result in a potential adverse impact on energy.

12. Traffic and Transportation

The project site, along with the lands to the west comprising the remaining Citygate property, was subject to previous traffic reviews and analysis (yrs. 2010 and 2013). A GEIS encompassing the properties in both the Town of Brighton and the City of Rochester was prepared and ultimately adopted with the City of Rochester as lead agency and the Town of Brighton participating under a lead agency agreement in 2010. An updated traffic impact study was completed by GTS Consulting in June of 2023. The

scope of the traffic study was determined through consultation with the Town of Brighton DPW, City of Rochester, and NYS Department of Transportation.

The study anticipated overall traffic by the build out of the Citygate development is well below the original 2010 estimates that were approved, and thus the proposed action will not exceed capacity of the existing highway network. In particular, the proposed action is expected to generate traffic volumes at levels 40-48% lower than the 2008 estimates during the morning peak hour, 31% lower than the 2008 estimates during the evening peak hour, and 13-15% lower than the 2008 estimates during the Saturday peak hour. As a result, traffic associated with the proposed TopGolf Outdoor Recreation and Golf Entertainment Venue is generally minor and will not have any significant additional impact on traffic along East Henrietta Road and Westfall Road.

Access to the proposed TopGolf Outdoor Recreation and Entertainment venue will be through the existing Citygate entrances and internal road network located in the City of Rochester. Citygate is already well served by NYS Route 15A (East Henrietta Road) and Westfall Road, both classified as minor arterials by NYSDOT. In addition, there is nearby access to NYS Route I-390 and NYS Route I-590 via East Henrietta Road. The proposed project does not include any new curb openings on any public roads, including no curb openings within the Town of Brighton.

The proposed action does not alter existing transit access. The project will include on-site sidewalks which will provide a pedestrian route between the facility and the transit stop location in the City of Rochester which is approximately 1,500 feet to the west of the site, at the intersection of East Henrietta Road and Stan Yale Drive. These stops are currently served by RTS routes 17 and 41.

The project will include on-site sidewalks to connect to the existing pedestrian network in the adjoining City Gate development. This in turns provides pedestrian and bicycle access to the Canal towpath, the City and Town sidewalk network, and transit stops. The project also proposes construction of a sidewalk off-site on Westfall Road, west of South Winton Road, thus completing a desired connection within the Town's sidewalk network in this area of Town.

There is no impact to movement of people or goods as the action does not disrupt or alter the existing highway network, access drives, or travel patterns. The proposed action will not result in encouraging or attracting of a large number of people to the project site for more than a few days. Although the proposed action will increase the number of visitors traveling to the site, the trips will be daily and short term.

The proposed action will not have a significant adverse impact on vehicular, bicycle, or pedestrian traffic. Thus, the proposed action will not result in any significant adverse traffic impacts.

13. Community Services

The proposed action will not be detrimental to the health, safety or general welfare of persons residing or working in the area of the proposed use and will not be detrimental or injurious to property and improvements in the area or to the general welfare of the Town.

Emergency services (fire service, ambulance, police) have adequate response capabilities for this proposal.

The proposed action, including the proposed zoning change, is not anticipated to have a significant impact on residential development and therefore is not anticipated to have a significant impact on the Brighton School District.

The proposed amenity of 970 +/- linear feet of new public sidewalk running from the project site east along Westfall Road to Buckland Park, will advance the goals of the Bike Walk Brighton plan (2013) and Envision Brighton 2028 comprehensive plan (2018) and provide a benefit for the larger community.

14. Synergistic and Cumulative Impacts

The proposed action will not result in changes in two or more elements of the environment which, when considered together, result in a substantial adverse impact on the environment. Each potential impact of the proposed action listed in Part 2 of the Full EAF has been considered individually, but those potential impacts when considered collectively or in combination will also not result in any significant adverse impacts.

There will be no significant adverse environmental impacts associated with potential cumulative impacts because there are no simultaneous actions being taken at the project site or in conjunction with the proposed action, or simultaneous actions being taken at other property located in proximity to the project site. Reasonably related long-term, short-term, indirect and cumulative impacts were considered, including simultaneous or subsequent actions that are included in any long range plan of which the action under consideration is a part; likely to be undertaken as a result thereof; or dependent thereon, and no actions meet these regulatory criteria.

Based upon this information and the information contained in the completed Full EAF, and the other information summarized herein comprising the Town Board record in this matter, the Town Board finds that the proposed action will not have any significant adverse impact upon the environment. This Negative Declaration indicates that no environmental impact statement need be prepared and that the SEQRA process is complete.

Lead Agency: Town Board of the Town of Brighton

For further information:

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