

The Regular meeting of the Penfield Town Board was held on Wednesday, February 5, 2025, at 6:30PM at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York.

| | | |
|----------|----------------|---------------|
| Present: | Jeff Leenhouts | Supervisor |
| | Kevin Berry | Councilperson |
| | Candace Lee | Councilperson |
| | Bob Ockenden | Councilperson |
| | Linda Teglash | Councilperson |

| | | |
|---------------|---------------|---------------|
| Also Present: | Amy Steklof | Town Clerk |
| | Pete Weishaar | Town Attorney |

Supervisor Jeff Leenhouts called the meeting to order
Councilperson Berry led the Pledge of Allegiance

Communications and Announcements

- Town and County Tax Bills were mailed in January. It's important to remember full payment or first installment payments are due February 10th without interest. If you have not received your tax bill, please contact the Town Tax Office at 585-340-8625.

- Penfield Ecumenical Food Shelf is seeking new Adopt-A-Shelf participants. The commitment involves providing approximately 20 items per month for a period of 3-4 months. If interested in helping, please contact the food shelf at penfieldfoodshelf@gmail.com or call 585-234-0799.

- Winter Weather Reminders - Winter Parking Restrictions and snowplow safety are in effect November 15th to April 1st, between 2:00AM and 7:00AM. Parking on roads, shoulders, residential roads, cul-de-sacs, or highways is prohibited. Please keep a safe distance behind snowplows, watch for warning lights, and never pass a snowplow on the right. For more information regarding snow and ice management in Penfield, please visit www.penfield.org/snow. Residents are also encouraged to shovel 3 feet of snow from around fire hydrants in their neighborhood to ensure firefighters can access them during an emergency.

- This is an important reminder to ensure safety that recreational vehicles are not permitted in town parks or on town-owned land. This includes ATV's, dirt bikes, and similar motorized vehicles. Recreational vehicle users are encouraged to explore permitted locations in the area for activities to be enjoyed responsibly.

- The Town will host several weekend brush drop-off events for Penfield residents, throughout the winter for branches and shrubs only located off Gloria Drive from 7:00AM - 3:00PM on the following dates:

February 8th and 9th and March 15th & 16th

Regular scheduled drop-off services are expected to resume on Monday, March 31st. Please contact the Department of Public Works for further information at 340-8710.

- Penfield Recreation is seeking volunteers to lead a new DEAR (Daytime Education at Recreation) class! If you have a passion, skill or talent you'd like to share, we want to hear from you. Whether it's a one-time workshop or a semester-long course, don't miss the chance to make a difference in the community. For more information, please contact Pam Gerace at Penfield Recreation 585-340-8655.

- Stay informed with E-Notifications from the Town of Penfield. Register your e-mail or mobile number to get notifications when new information is posted on the Town's website. Learn more and register at Penfield.org/Enotify.

- On Friday February 7th, The Penfield Community Center located at 1985 Baird Rd. will host its first Family Valentine's Dance, from 5-7PM. Activities include dancing, music, games, refreshments, and a photo booth! Everyone is welcome.

- Join Penfield Trails Committee on Saturday, February 7, for a "Night Hike" through Rothfuss Park, located at 1648 Five Mile Line Rd., 6:30-7:30PM. Please come prepared with appropriate footwear. All ages are welcome. Children under 16 should be accompanied by an adult. The event is free. Pre-registration is encouraged at penfield.org/hike.

- Registration for 2025 Penfield Community Victory Garden, located at 1748 Five Mile Line Rd., is now open! Spaces are limited and filled on a first-come, first-served basis. Please contact 585-340-8655 or visit Penfield Recreation Office at 1985 Baird Rd. to register.

- Town Offices will be closed on Monday February 17, 2025, in observance of President's Day. The Penfield Public Library will maintain regular hours.

Supervisor Leenhouts reminded everyone that public comments for the Public Hearings should be made specific to the Public Hearing topic. Other public comments may be made during the Public Participation portion of the meeting. The entire meeting may be viewed on the Town website at Penfield.org, February 5, 2025, meeting.

Town Clerk Steklof stated that as per the Town Board meetings Rules and Procedures, a five-minute speaking limit will be in place for all participants of the Public Hearings and Public Participation portions of the meeting. Public Participation is not a question-and-answer period. The Town Board will listen to all comments and follow-up after the meeting if a detailed response is required.

The Town Supervisor has the authority to enforce the time limit per speaker.

Public Hearing #1: To Consider Proposed Local Law to Amend Chapter 90 (Animals) of the Town Code to Modify Regulations pertaining to Animal Control Enforcement.

The Town Clerk read the title of the above Public Hearing; said Notice was published in the Webster Herald on January 22, 2025, on the Town Website and Town Clerk's bulletin board. No postcards were mailed due to this being a town wide action.

No public comments occurred.

Hearing Closed

Public Hearing #2: To Consider Revisions to the Proposed Local Law to Amend Section 250-6.1 (Environmental Overlay Districts) and other Related Sections of the Town Code

The Town Clerk read the title of the above Public Hearing; said Notice was published in the Webster Herald on January 22, 2025, on the Town Website and Town Clerk's bulletin board. No postcards were mailed due to this being a town wide action.

Sandra Gasserlick of Creek Street urged the Town Board not to change the EPOD law since it will affect many residents, and the proposed law weakens the regulations.

Dave Woodward of Harris Road asked to have a link added to the Public Hearing notices on the Website to help educate the public regarding all Public Hearing topics. He spoke about the Timber Harvesting section of the proposed revisions to this Local Law and inquired about the fee structure.

Mel Callan of Harris Road asked if the State Department of Environmental Conservation (DEC) had been notified of the proposed changes.

Supervisor Leenhouts stated he would check.

Ms. Callan stated that it would have been important to consult with the State DEC (Department of Environmental Conservation) regarding this subject matter.

The Town Attorney stated the Environmental Energy and Conservation Committee (EECC) reviewed the changes, but he did not know if DEC had been consulted.

Hearing Closed

Public Hearing #3: To Consider Proposed Modifications to the Town's Firearm Discharge Map to Classify Certain Developed Neighborhoods as "Firearm Discharge Prohibited" Areas

The Town Clerk read the title of the above Public Hearing; said Notice was published in the Webster Herald on January 22, 2025, on the Town Website and Town Clerk's bulletin board. No postcards were mailed due to this being a town wide action.

Supervisor Leenhouts stated that the proposed update to this law reflects the Town of Penfield's growth while preserving it's rural heritage. The modifications prioritize safety in densely populated neighborhoods while ensuring that East Penfield farmers and landowners can continue to protect their crops and livestock.

Sue Unckless of Plank Road read a statement and gave Town Clerk Steklof a petition with 720 electronic signatures asking the Town to move the hunting line further East where the density of population is less. The petition also asks the Town to increase the 500-foot radius allowed for shooting to ensure a higher level of safety for all.

Wade Braman of Harris Road and Sweets Corners Road and representing Braman Farms, owns 145 acres. He opposes moving the firearm discharge line East to Salt Road.

Dave Woodward of Harris Road stated that residents that are concerned about safety should not have new laws created regarding the discharge of firearms and/or changing the hunting lines, but should be concerned about enforcement and repercussions. He said, "if no one is enforcing the laws, then it doesn't do any good".

Gary Standish of Harris Road stated his home has been struck by gunfire three times in the past 15 years by his next-door neighbors. He is worried about safety.

Councilperson Lee asked for Mr. Standish to estimate the distance between his home and his neighbor's home.

Mr. Standish estimated the distance to be approximately 400 feet.

Dave Skiba of Sheffield Square stated that the Sheriff's office should be handling those hunters who do not follow the State and Town Firearm Safety rules. He asked what data the Town has on the issue of safety with hunters and concerns on use of firearms. He also asked if the petition the Town received this evening was signed by Town residents or those from other parts of the county.

Gary Smith of Northrup Road stated he does not want the hunting lines moved to Salt Road. He stated that a coyote killed his cat, and wildlife needs to be controlled but the current lines make sense.

Patrick Young of Atlantic Avenue stated he does not want the hunting lines moved. He considers hunting a bonding sport. He believes in gun safety.

Town Clerk Steklof read into the record an email from Linda Schriever of Jackson Road. She would like the firearm discharge line to be moved further to the East to ensure the safety of those who live between Jackson Road and Rte. 250. The increase in population density and increased traffic on Jackson Road justifies a re-alignment of the Firearm Discharge Map.

Hearing Closed

Public Participation

Jacob Zoghlin of the law firm Underberg and Kessler stated he represents "Preserve Penfield". He gave the Town Attorney and Town Board a handout and spoke about the Willow Pond project and the serious concerns the members of Preserve Penfield have with this project. (see attached) Mr. Zoghlin reviewed the January 22, 2025, Special Town Board meeting and heard various Town Board members express doubts about the project.

Councilperson Lee stated this project has been pending for almost a full year. She acknowledged that the Town Board received Mr. Zoghlin's letter yesterday afternoon. She believes it warrants review by the Town Board and Town Attorney and proposes that resolutions 25T-053 and 25T-054 be tabled to allow the opportunity of an informal discussion with residents, Town Board and Town Attorney.

Supervisor Leenhouts stated he would like to move forward with resolutions 25T-053 and 25T-054 but is willing to table them. Councilperson Ockenden and Councilperson Berry would also like the resolutions tabled for further review.

Supervisor Leenhouts stated that during Public Participation there will be no back-and-forth conversations with the Town Board. He has noticed during some meetings people will leave before they can provide their input. He would like to make sure everyone has a chance to be heard.

Wende Roche, of Willow Pond Way stated that the proposed Willow Pond project is not in line with what is approved for that area. She encouraged the Town board to take another look at the proposed development before plans are approved. She would like Mark IV to create a better 2 story building option instead of the proposed 3 story building. She opposes the change of use in that area. She also expressed concerns about traffic and safety in that area. She would like the Town to work on fixing the traffic congestion before considering more development there. Traffic on Penfield Road needs to be addressed. Ms. Roche stated that Councilperson Lee shared Resolution #25T-053 from this evening's agenda. She said she will continue to advocate for her neighbors. She invited the Town Board to drive through the Willow Pond neighborhood. Ms. Roche thanked Councilperson Teglash for meeting with her and some neighbors last week. She hopes the Town Board will take her comments into consideration before moving forward with the project. Ms. Roche provided her statement for the project file.

Laura Bayne-Bourcy of Parham Drive shared her concerns about the Town Board meeting on January 22, 2025. She is not in favor of a multi-residential development replacing the housing originally planned for the Willow Pond PUD (see attached).

Jim Eldred of Liberty Street asked the Town Board if they had received envelopes from him that he addressed to each Town Board member, the Town Attorney, and the Town Clerk, that included documents regarding the

Clark House. He stated that on Monday, January 13, 2025, he delivered the envelopes to the Supervisor's and Town Clerk's offices. Town Clerk staff then placed the envelopes in the appropriate mailboxes. The Town Board confirmed receipt. Mr. Eldred stated he was disappointed that no one had gotten back to him to discuss the documents. Mr. Eldred went over his concerns. (documents are attached)

Supervisor Leenhouts stated he had met with Mr. Eldred and appreciated the history that Mr. Eldred shared. Supervisor Leenhouts said the Town Board will take his comments and notes into consideration. He thanked Mr. Eldred for participating in tonight's meeting. Mr. Eldred asked the Town Board to pause this project for 30 days.

Joe Bianchi and Lindsay Principe, both of Willow Pond Way, stated their homes back up to the Willow Pond project. Mr. Bianchi provided pictures showing major flooding in their backyards. (see attached). The concern is that if a new building is erected, more flooding will occur. They wonder how the flooding will be mitigated. Mr. Bianchi stated he has an easement on his property that floods. He is worried the sewer in that location will not be able to handle any more tie-ins. He stated the Town had not come out to check on it, but someone came out and placed a cone on it. The cone is still there, and he doesn't know why. He also wonders if the project moves forward, where will the snow be plowed during the winter months. Both neighbors want to know how damages will be rectified post construction. They are also concerned about the extra traffic.

Supervisor Leenhouts asked Mr. Bianchi to send him an e-mail.

Barbara Midura of Embury Road brought up concerns regarding the Clark House and the lack of communication, leaving residents not knowing the particulars and status of the project. She is also concerned with the actual preservation of the Clark House and the architectural character of the building. She feels it's disrespectful to add an addition to the Clark House as it is an historical landmark. She asked the Town Board to reconsider the design and layout that would enhance the Clark House and it's preservation.

Sarah Jane Clifford of Penfield Road stated she previously owned the Gymnastic Training Center of Rochester on Fairport Nine Mile Point Road. She said that she is aware that there is a proposal to allow a "Chick-Fil-A" restaurant to move into the Fairport Nine Mile Point Road building. She is concerned that the interested buyer is having trouble getting zoning. She doesn't understand why it has been an issue when Don's Original is a restaurant in the same area. She also stated she is concerned with the traffic issues on Rte. 250 and feels a traffic light at the intersection would be advantageous. She has heard that the proposed "Chick-Fil-A" is willing to add a traffic light. She supports making the area safer. She would like to see an increase of businesses in the community and hopes "Chick-Fil-A" will be approved for that space.

Mr. Zoghlin of Underberg & Kessler again approached the dais and stated that the "Chick-Fil-A" application for the Conditional Use Permit, seeks the wrong relief. There is a 250/441 overlay district that applies to the property and has additional requirements that permit sit down restaurants in that area but not for take-out restaurants. The Town Code does have a distinction between sit-down and take-out restaurants because the different uses have different impacts. Therefore, the permission for the take-out restaurant cannot be granted. Instead, they will need to apply for a variance from the Zoning Board and not a Conditional Use Permit from the Planning Board.

Town Clerk Steklof stated she is in receipt of two e-mails opposing the Willow Pond project. (see attached)

Councilperson Lee asked for a brief pause to let people leave without interruption.

Additions and Deletions

Councilperson Lee moved to table resolutions 25T-053 and 25T-054;
Seconded by Councilperson Ockenden.

Minutes to Approve

Councilperson Lee moved to approve the Minutes of January 8, 2025;
Councilperson Ockenden seconded; All voted "Aye."

Petitions

A petition was received this evening with 720 electronic signatures from Penfield residents, residents from other Towns and States regarding the Firearm Discharge Map (see Public Hearing #3). The petition was sent to all Town Board members and is filed in the Town Clerk's office.

Resolutions by Function

Law and Finance

#25T-048 Authorization to Maintain Properties and Assess the Charges to the 2026 Property Tax Bills

WHEREAS, on December 16, 2015, the Town Board of the Town of Penfield adopted a resolution to enact Local Law #3 of 2015 entitled "A LOCAL LAW TO PROVIDE FOR THE CODIFICATION OF THE LOCAL LAWS, ORDINANCES AND CERTAIN RESOLUTIONS OF THE TOWN OF PENFIELD INTO A MUNICIPAL CODE TO BE DESIGNATED THE CODE OF THE TOWN OF PENFIELD; and

WHEREAS, the purpose of the Code of the Town of Penfield includes, among other things, to provide for the safety, health protection and general welfare of persons and property in the Town of Penfield by requiring the maintenance of all such properties within the Town; and

WHEREAS, the property owners of

50 Jackson Rd. Ext. SBL#124.02-1-34 2203 Five Mile Line Rd. SBL# 139.10-1-28
2454 Browncroft Blvd SBL#123.09-1-28.1 1503 Creek St. SBL# 108.11-1-4.1
124 Beacon Hills Dr. S. SBL#109.05-2-48 59 Random Knolls SBL#125.03-4-31

have failed to maintain the subject properties in accordance with the applicable code requirements, which is resulting in concerns for the safety, health protection and general welfare of surrounding persons and properties; and

WHEREAS, the town staff has continually requested the maintenance of the subject properties by the owners thereof with no result:

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Penfield hereby authorizes the Building/Code Compliance Inspector to have the properties appropriately maintained; and

BE IT FURTHER RESOLVED, that the Town Board further authorizes that the cost of said maintenance and any necessary subsequent maintenance during the 2025 season also be charged to the 2026 property tax bill for the subject properties.

Moved: Lee
Seconded: Teglash

Vote: Berry Aye Lee Aye
 Leenhouts Aye Ockenden Aye
 Teglash Aye

Adopted

#25T-049 Budget Amendment to 2024 in the Library Fund for Gift & Memorial Activity

WHEREAS, at their monthly meetings, the Library Board recognized revenue in 2024 totaling \$2,677.61 in the Gift & Memorial Fund for use on operational expenses, and

WHEREAS, at their monthly meetings, the Library Board approved expenses in 2024 totaling \$36,386.48 from the Gift & Memorial Fund, and

WHEREAS, the Town Board desires to have an up-to-date budget in relation to current appropriations and revenues,

NOW BE IT RESOLVED that the following 2024 budget amendments be approved:

| <u>Revenue</u> | <u>Amount</u> | <u>Appropriations</u> | <u>Amount</u> |
|--------------------------|---------------|--------------------------|---------------|
| L00-1000-2401-0003 | \$2,292.61 | L00-7410-0004-4043 | \$36,386.48 |
| Gift & Memorial Interest | | Gift & Memorial Expenses | |

L00-1000-2705-0002 \$385.00
Gift & Memorial Gifts & Donations

L00-1000-6000-0000 \$33,708.87
Budgeted Surplus

Moved: Lee
Seconded: Ockenden

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|-------|-----------|-----|----------|-----|
| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-050 Budget Transfers for the General, Lighting, Sewer and Sewer Debt Service Fund

WHEREAS, the Town Board desires to have an up-to-date budget in relation to current income and expenditures,

NOW BE IT RESOLVED that the following 2024 budget transfers be approved:

Moved: Lee
Seconded: Berry

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|-------|-----------|-----|----------|-----|
| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-051 Authorization for Supervisor to sign a Professional Services Agreement with Three + One Company, Inc. for CashVest.

BE IT RESOLVED, that the Supervisor is hereby authorized to sign a contract, not to exceed \$14,900.00 for services with Three + One Company, Inc, to provide CashVest, a liquidity and treasury analysis service. This resolution and the Professional Services Agreement submitted by Three + One Company, Inc. shall constitute the contract. This agreement has been reviewed and approved by the Town Attorney.

Moved: Lee
Seconded: Teglash

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|-------|-----------|-----|----------|-----|
| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-052 Authorization for Town Supervisor to Sign a Professional Service Contract Amendment with Bergmann PC for Design Services on the Clark House.

WHEREAS, on October 4, 2023, Bergmann PC, was awarded a contract for the design of the Clark House renovation project, by resolution 23T-200; and

WHEREAS, additional design services beyond the contracted scope were required to complete the project and Bergmann submitted a letter summarizing the additional costs incurred; and

WHEREAS, the Board reviewed said letter at its work session on January 22, 2025, and agreed to authorize the Supervisor to sign the contract amendment; and

NOW THEREFORE BE IT RESOLVED, that the Supervisor is hereby authorized to sign a contract amendment, not to exceed \$78,825.00 with Bergmann, 280 East Broad Street, Suite 200, Rochester, NY 14604, for professional design services for the Clark House rehabilitation project. This resolution and the proposal submitted by Bergmann shall constitute the contract. This agreement to be reviewed and approved by the Town Attorney.

BE IT FURTHER RESOLVED, the Town Board approves appropriation of \$78,825.00 from the Assigned General Fund Balance as an amendment to the 2025 budget for these design services.

Moved: Lee
Seconded: Ockenden

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|-------|-----------|-----|----------|-----|
| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-053 State Environmental Quality Review Act (SEQRA) Review and Determination Associated with the Special Use Permit Application for 47 Willow Pond Way (Tax ID 139.08-2-1.21)

WHEREAS, an application was received by the Penfield Town Board for the issuance of a Special Permit in accordance with Section 250-5.4 of Penfield Town Code (Planned Development District). The Special Use Permit is required to allow a change in use at 47 Willow Pond Way (Tax ID 139.08-2-1.21) from the currently approved development plan to the proposed 88-unit multi-family development comprised of two buildings with 44 units each, parking garage units, and associated site improvements; and

WHEREAS, the action was classified as an unlisted action pursuant to State Environmental Quality Review Act (SEQRA), and the Town Board, acting as Lead Agency in an uncoordinated review

WHEREAS, the action was classified as an unlisted action pursuant to the SEQRA; and

WHEREAS, the Town Board has considered the action, reviewed the Environmental Assessment Form, thoroughly analyzed any relevant areas of environmental concern associated with this action and determined that no significant adverse environmental impacts will result from granting a Special Use Permit.

NOW, THEREFORE, BE IT RESOLVED, the Town Board makes a negative declaration for the purposes of SEQRA, and authorizes the Supervisor to sign Part 3 of the EAF, thus concluding its environmental review.

TABLED

Moved:
Seconded:

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| Vote: | Berry | Lee |
| | Leenhouts | Ockenden |

Teglash

Adopted

#25T-054 Granting a Special Use Permit to 47 Willow Pond Way (Tax ID 139.08-2-1.21) to Allow a Change in Use in the Willow Pond PD

WHEREAS, an application was received by the Penfield Town Board for the issuance of a Special Permit in accordance with Section 250-5.4 of Penfield Town Code (Planned Development District). The Special Use Permit is required to allow change in use at 47 Willow Pond Way (Tax ID 139.08-2-1.21) from the currently approved development plan to the proposed 88-unit multi-family development comprised of two buildings with 44 units each, parking garage units, and associated site improvements; and

WHEREAS, the action was classified as an unlisted action pursuant to State Environmental Quality Review Act (SEQRA), and the Town Board, acting as Lead Agency in an uncoordinated review, made a negative declaration, which concluded the SEQRA review process; and

WHEREAS, a public hearing was held on December 4, 2025 to consider the application and to hear all persons interested in providing comment in the matter; and

WHEREAS, the Town Board continued review of the proposed change in use at two subsequent Work Session Meetings on December 18, 2024 and January 22, 2025 to review public comments received and discuss the application materials, reports, and memos associated with the proposed project; and

WHEREAS, the applicant submitted a memo prepared by Passero Associates, dated December 13, 2024, which is attached hereto, that outlined the traffic and transportation improvements voluntarily offered by the applicant. The proposed improvements included crosswalk striping, in-street pedestrian crossing signs, and speed feedback signs, all of which the Town agreed upon. Additionally, the memo offered the installation of speed cushions, which will require further analysis and input from Town staff and the Penfield Transportation Committee; and

WHEREAS, the Town Board has reviewed and considered all submitted application materials and corresponding legal, technical and agency reviews.

NOW, THEREFORE, BE IT

RESOLVED, the applicant's request for a SPECIAL USE PERMIT is hereby GRANTED subject to the following conditions:

1. The applicant shall obtain a SPECIAL USE PERMIT from the Town Clerk and pay the appropriate fee. The SPECIAL USE PERMIT is non-transferable to future tenants or other businesses, unless determined otherwise by the Town and/or its Attorney.
2. The applicant must obtain Final Site Plan approval through the Planning Board, pursuant to the requirements set forth in Section 250-5.4 of Penfield Town Code.
3. The applicant will provide the transportation enhancements outlined in the Passero Memo (December 13, 2024) in accordance with the methods prescribed by the Town, as approved by the Town Engineer and Director of Public Works.
4. The applicant shall obtain any permits required by the Penfield Building Department and comply with the occupancy requirements established for the property by the Penfield Fire Marshal in accordance with the New York State Uniform Code.

- 5. The applicant will operate the business in accordance with the information submitted in the application and testimony provided at the public hearing; and
- 6. The applicant shall obtain any permits, approvals and/or inspections required by Monroe County and/or New York State agencies.
- 7. The use and operation of the site will conform with approval granted by the Town Board and all applicable provisions of the Penfield Town Code.
- 8. This development shall comply with all Federal, State, County and Town laws, regulations and codes.
- 9. Failure to comply with the conditions set forth hereinabove may result in the revocation of this Special Permit pursuant to the requirements of Chapter 250 of the Penfield Town Code.

TABLED

Moved:
Seconded:

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| Vote: | Berry | Lee |
| | Leenhouts | Ockenden |
| | Teglash | |

Adopted

Public Works

#25T-055 Authorize purchase of One (1) Bobcat Sweeper Bucket (72")

WHEREAS, the Director of Public Works desires to purchase a Bobcat Sweeper Bucket (72"), through New York State Contract #PC69396, from Bobcat of the Finger Lakes, 7216 Pittsford-Palmyra Road, Fairport, NY 14450, for a cost of \$5,582.56; and

WHEREAS, total funds of \$5,582.56 for said purchase are budgeted in the 2025 Highway Department Budget (DA0-5130);

NOW, THEREFORE, BE IT RESOLVED, that the Director of Public Works be, and hereby is, authorized to purchase said bobcat sweeper bucket.

Moved: Ockenden
Seconded: Berry

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| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-056 Authorizing Purchase of a 2025 Bobcat T86 T4 Compact Track Loader

WHEREAS, the Director of Public Works desires to purchase a 2025 Bobcat T86 T4 Compact Track Loader, through Sourcewell Contract #020223-CEC, from Bobcat of the Finger Lakes, 7216 Pittsford-Palmyra Road, Fairport, NY 14450, for a cost of \$149,684.00; and

WHEREAS, total funds of \$149,684.00 for said purchase are budgeted in the 2025 Highway Department Budget (SDO-8540);

NOW, THEREFORE BE IT RESOLVED, that the Director of Public Works be, and hereby is, authorized to purchase said compact track loader.

Moved: Ockenden
Seconded: Lee

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| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-057 Authorizing the Purchase of One (1) 2026 International HV607 6-Wheel Dump Trucks with Plow and Wing

WHEREAS, the Director of Public Works desires to purchase one 2026 International HV607 SBA (HV607) cab and chassis trucks with dump bodies, plows, and wings, from NYSOGS Contract # PC68946, Proposal # 14488-03 from Regional International Corporation, 1007 Lehigh Station Road, Henrietta NY, for a cost of \$274,693.97; and

WHEREAS, total funds of \$274,693.97 for said purchase are budgeted in the 2024 Highway Department Budget (DA0-5130);

NOW, THEREFORE BE IT RESOLVED, that the Director of Public Works be, and hereby is, authorized to purchase said trucks with dump body, plow, and wing attachments.

Moved: Ockenden
Seconded: Teglash

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| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-058 Authorizing the Purchase of One (1) 2026 International HV607 6-Wheel Dump Trucks with Plow and Wing

WHEREAS, the Director of Public Works desires to purchase one 2026 International HV607 SBA (HV607) cab and chassis trucks with dump bodies, plows, and wings, from NYSOGS Contract # PC68946, Proposal # 14488-03 from Regional International Corporation, 1007 Lehigh Station Road, Henrietta NY, for a cost of \$274,693.97; and

WHEREAS, total funds of \$274,693.97 for said purchase are budgeted in the 2024 Highway Department Budget (DA0-5130);

NOW, THEREFORE BE IT RESOLVED, that the Director of Public Works be, and hereby is, authorized to purchase said trucks with dump body, plow, and wing attachments.

Moved: Ockenden
Seconded: Berry

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| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-059 Authorizing Purchase of Two (2) 2026 International HX620 10-Wheel Dump Truck with Plow and Wing

WHEREAS, the Director of Public Works desires to purchase two (2) 2026 International HX620 SBA 6x4 (HX620) cab and chassis truck with dump body, plow, and wing, from NYSOGS Contract # PC68946, Proposal # 16352-

01 from Regional International Corporation, 1007 Lehigh Station Road, Henrietta NY, for a cost of \$327,586.16 each; and

WHEREAS, total funds of \$655,172.32 for said purchase are budgeted in the 2024 Highway Department Budget (DA0-5130);

NOW, THEREFORE, BE IT RESOLVED, that the Director of Public Works be, and hereby is, authorized to purchase said truck with dump body, salter, plow, and wing attachment.

Moved: Ockenden
Seconded: Lee

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| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-060 Awarding the Contract for Site Work Services for the Construction of the Clark House Renovation Project

WHEREAS, the Clark House Rehabilitation and Addition project (the "Project") includes the rehabilitation of the original historic home, selective demolition of the remainder of the existing building, rehabilitation of the historic structure in accordance with the Certificate of Appropriateness and construction of a new addition that will provide a new town lodge space with outdoor patio and related site improvements; and

WHEREAS, this project was classified as a Type II action under the State Environmental Quality Review Act, per 617.5 C (25) and requires no further environmental analysis; and

WHEREAS, in accordance with NYS Wicks Law, the Project was divided into five (5) prime contracts: General Construction, Site Work, Plumbing, HVAC, and Electrical; and

WHEREAS, in accordance with Section 103 of Article 5-A of the General Municipal Law, sealed bids were sought and requested to furnish the Town of Penfield a bid to provide the Town of Penfield with Site Work Contract for services associated with the construction of the Project; and

WHEREAS, on December 20, 2024, at 10:00 AM local time, the following sealed bids for Site Work were received, opened, and read publicly from the following list of bidders:

Bayside Paving Contractor, Inc
Genesee Construction Services

AND WHEREAS, the architect/engineer hired by the Town of Penfield for the Project, Bergmann/Colliers, reviewed the bids for each of the five (5) prime contracts (i.e., General Construction, Site Work, Plumbing, HVAC, and Electrical), interviewed the apparent low bidders with Town staff, prepared bid tabulations, and provided the Town of Penfield with its analysis of the bids prior to the Town Board work session on January 22, 2025; and

WHEREAS, the Town Board reviewed the submitted bids and the analysis provided and determined that it is in the best interest of the Town of Penfield to accept the low bid for Site Work; and

WHEREAS, Bayside Paving Contractor, Inc. was the lowest responsible and responsive bidder to meet the expectations and specifications of the bid package for a total cost of \$1,240,400.00; and

WHEREAS, the Town Board agreed to finance the Project using Town funds available from the Assigned Fund Balance in the in the Town's General Fund.

NOW, THEREFORE, BE IT RESOLVED, that a contract is hereby awarded to Bayside Paving Contractor, Inc. to provide Site Plan Contract services in accordance with the Contract Documents for the Project for the total amount not to exceed \$1,240,400.00. This resolution and the bid submitted by Bayside Paving Contractor, Inc. shall constitute the contract; and

BE IT FURTHER RESOLVED, that said award is subject to submission and approvals of appropriate Bonds and Insurance documents, and Town of Penfield required contractual documents, which will be subject to the Town Attorney's approval. Once all Town reviews and approvals associated with the contract have been completed the contractor will be given Notice to Proceed with this contract; and

BE IT FURTHER RESOLVED, the Town Board authorizes the transfer of funds from the General Fund Assigned Fund Balance to Capital Account H86-1000-5031-0000 to pay for the services associated with this contract, not to exceed the amount of \$1,240,400.00

Moved: Ockenden
Seconded: Teglash

| | | | | |
|-------|-----------|-----|----------|-----|
| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-061 Awarding the Contract for Plumbing Contract Services for the Construction of the Clark House Renovation Project

WHEREAS, the Clark House Rehabilitation and Addition project (the "Project") includes the rehabilitation of the original historic home, selective demolition of the remainder of the existing building, rehabilitation of the historic structure in accordance with the Certificate of Appropriateness and construction of a new addition that will provide a new town lodge space with outdoor patio and related site improvements; and

WHEREAS, this project was classified as a Type II action under the State Environmental Quality Review Act, per 617.5 C (25) and requires no further environmental analysis; and

WHEREAS, in accordance with NYS Wicks Law, the Project was divided into five (5) prime contracts: General Construction, Site Work, Plumbing, HVAC, and Electrical; and

WHEREAS, in accordance with Section 103 of Article 5-A of the General Municipal Law, sealed bids were sought and requested to furnish the Town of Penfield a bid to provide the Town of Penfield with Plumbing Contract for services associated with the construction of the Project; and

WHEREAS, on December 20, 2024, at 10:00 AM local time, the following sealed bids for Plumbing were received, opened, and read publicly from the following list of bidders:

DG Messmer Corp.
Nairy Mechanical, LLC

AND WHEREAS, the architect/engineer hired by the Town of Penfield for the Project, Bergmann/Colliers, reviewed the bids for each of the five (5) prime contracts (i.e., General Construction, Site Work, Plumbing, HVAC, and Electrical), interviewed the apparent low bidders with Town staff, prepared bid tabulations, and provided the Town of Penfield with

its analysis of the bids prior to the Town Board work session on January 22, 2025; and

WHEREAS, the Town Board reviewed the submitted bids and the analysis provided and determined that it is in the best interest of the Town of Penfield to accept the low bid for Plumbing; and

WHEREAS, DG Messmer Corp. was the lowest responsible and responsive bidder to meet the expectations and specifications of the bid package for a total cost of \$384,000.00; and

WHEREAS, the Town Board agreed to finance the Project using Town funds available from the Assigned Fund Balance in the in the Town's General Fund.

NOW, THEREFORE, BE IT RESOLVED, that a contract is hereby awarded to DG Messmer Corp. to provide Plumbing Contract services in accordance with the Contract Documents for the Project for the total amount not to exceed \$384,000.00. This resolution and the bid submitted by DG Messmer Corp. shall constitute the contract; and

BE IT FURTHER RESOLVED, that said award is subject to submission and approvals of appropriate Bonds and Insurance documents, and Town of Penfield required contractual documents, which will be subject to the Town Attorney's approval. Once all Town reviews and approvals associated with the contract have been completed the contractor will be given Notice to Proceed with this contract; and

BE IT FURTHER RESOLVED, the Town Board authorizes the transfer of funds from the General Fund Assigned Fund Balance to Capital Account H86-1000-5031-0000 to pay for the services associated with this contract, not to exceed the amount of \$384,000.00.

Moved: Ockenden
Seconded: Berry

| | | | | |
|-------|-----------|-----|----------|-----|
| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-062 Awarding the Contract for Electrical Contract Services for the Construction of the Clark House Renovation Project

WHEREAS, the Clark House Rehabilitation and Addition project (the "Project") includes the rehabilitation of the original historic home, selective demolition of the remainder of the existing building, rehabilitation of the historic structure in accordance with the Certificate of Appropriateness and construction of a new addition that will provide a new town lodge space with outdoor patio and related site improvements; and

WHEREAS, this project was classified as a Type II action under the State Environmental Quality Review Act, per 617.5 C (25) and requires no further environmental analysis; and

WHEREAS, in accordance with NYS Wicks Law, the Project was divided into five (5) prime contracts: General Construction, Site Work, Plumbing, HVAC, and Electrical; and

WHEREAS, in accordance with Section 103 of Article 5-A of the General Municipal Law, sealed bids were sought and requested to furnish the Town of Penfield a bid to provide the Town of Penfield with Electrical Contract for services associated with the construction of the Project; and

WHEREAS, on December 20, 2024, at 10:00 AM local time, the following sealed bids for Electrical were received, opened, and read publicly from the following list of bidders:

Kaplan Schmidt Electrical

AND WHEREAS, the architect/engineer hired by the Town of Penfield for the Project, Bergmann/Colliers, reviewed the bids for each of the five (5) prime contracts (i.e., General Construction, Site Work, Plumbing, HVAC, and Electrical), interviewed the apparent low bidders with Town staff, prepared bid tabulations, and provided the Town of Penfield with its analysis of the bids prior to the Town Board work session on January 22, 2025; and

WHEREAS, the Town Board reviewed the submitted bids and the analysis provided and determined that it is in the best interest of the Town of Penfield to accept the low bid for Electrical; and

WHEREAS, Kaplan Schmidt Electrical was the lowest responsible and responsive bidder to meet the expectations and specifications of the bid package for a total cost of \$760,000.00; and

WHEREAS, the Town Board agreed to finance the Project using Town funds available from the Assigned Fund Balance in the in the Town's General Fund.

NOW, THEREFORE, BE IT RESOLVED, that a contract is hereby awarded to Bayside Paving Contractor, Inc. to provide Electrical Contract services in accordance with the Contract Documents for the Project for the total amount not to exceed \$760,000.00. This resolution and the bid submitted by Kaplan Schmidt Electrical shall constitute the contract; and

BE IT FURTHER RESOLVED, that said award is subject to submission and approvals of appropriate Bonds and Insurance documents, and Town of Penfield required contractual documents, which will be subject to the Town Attorney's approval. Once all Town reviews and approvals associated with the contract have been completed the contractor will be given Notice to Proceed with this contract; and

BE IT FURTHER RESOLVED, the Town Board authorizes the transfer of funds from the General Fund Assigned Fund Balance to Capital Account H86-1000-5031-0000 to pay for the services associated with this contract, not to exceed the amount of \$760,000.00.

Moved: Ockenden
Seconded: Lee

| | | | | |
|-------|-----------|-----|----------|-----|
| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-063 Awarding the Contract for HVAC Contract Services for the Construction of the Clark House Renovation Project

WHEREAS, the Clark House Rehabilitation and Addition project (the "Project") includes the rehabilitation of the original historic home, selective demolition of the remainder of the existing building, rehabilitation of the historic structure in accordance with the Certificate of Appropriateness and construction of a new addition that will provide a new town lodge space with outdoor patio and related site improvements; and

WHEREAS, in accordance with NYS Wicks Law, the Project was divided into five (5) prime contracts: General Construction, Site Work, Plumbing, HVAC, and Electrical; and

WHEREAS, in accordance with Section 103 of Article 5-A of the General Municipal Law, sealed bids were sought and requested to furnish the Town of Penfield a bid to provide the Town of Penfield with HVAC Contract for services associated with the construction of the Project; and

WHEREAS, on December 20, 2024, at 10:00 AM local time, the following sealed bids for HVAC were received, opened, and read publicly from the following list of bidders:

Nairy Mechanical, LLC
Bell Mechanical Contractor, Inc.

AND WHEREAS, the architect/engineer hired by the Town of Penfield for the Project, Bergmann/Colliers, reviewed the bids for each of the five (5) prime contracts (i.e., General Construction, Site Work, Plumbing, HVAC, and Electrical), interviewed the apparent low bidders with Town staff, prepared bid tabulations, and provided the Town of Penfield with its analysis of the bids prior to the Town Board work session on January 22, 2025; and

WHEREAS, the Town Board reviewed the submitted bids and the analysis provided and determined that it is in the best interest of the Town of Penfield to accept the low bid for HVAC; and

WHEREAS, Nairy Mechanical LLC was the lowest responsible and responsive bidder to meet the expectations and specifications of the bid package for a total cost of \$575,700.00; and

WHEREAS, the Town Board agreed to finance the Project using Town funds available, and assigned for this project, in the Town's General Fund.

NOW, THEREFORE, BE IT RESOLVED, that a contract is hereby awarded to Nairy Mechanical LLC to provide HVAC Contract services in accordance with the Contract Documents for the Project for the total amount not to exceed \$575,700.00. This resolution and the bid submitted by Nairy Mechanical LLC shall constitute the contract.

BE IT FURTHER RESOLVED, that said award is subject to submission and approvals of appropriate Bonds and Insurance documents, and Town of Penfield required contractual documents, which will be subject to the Town Attorney's approval. Once all Town reviews and approvals associated with the contract have been completed the contractor will be given Notice to Proceed with this contract; and

BE IT FURTHER RESOLVED, the Town Board authorizes the use of funds from H86-1000-5031-0000 to pay for the services associated with this contract, not to exceed the amount of \$575,700.00

Moved: Ockenden
Seconded: Teglash

| | | | | |
|-------|-----------|-----|----------|-----|
| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-064 Awarding the Contract for General Construction Contract Services for the Construction of the Clark House Rehabilitation and Addition Project

WHEREAS, the Clark House Rehabilitation and Addition project (the "Project") includes the rehabilitation of the original historic home, selective demolition of the remainder of the existing building, rehabilitation of the historic structure in accordance with the Certificate of Appropriateness and construction of a new addition that

will provide a new town lodge space with outdoor patio and related site improvements; and

WHEREAS, this project was classified as a Type II action under the State Environmental Quality Review Act, per 617.5 C (25) and requires no further environmental analysis; and

WHEREAS, in accordance with NYS Wicks Law, the Project was divided into five (5) prime contracts: General Construction, Site Work, Plumbing, HVAC, and Electrical; and

WHEREAS, in accordance with Section 103 of Article 5-A of the General Municipal Law, sealed bids were sought and requested to furnish the Town of Penfield a bid to provide the Town of Penfield with a General Construction Contract for services associated with the construction of the Project; and

WHEREAS, on December 20, 2024, at 10:00 AM local time, the following sealed bids for General Construction were received, opened, and read publicly from the following list of bidders:

Loyal Nine Development Corp.
Genesee Construction Services, Inc.

AND WHEREAS, the architect/engineer hired by the Town of Penfield for the Project, Bergmann/Colliers, reviewed the bids for each of the five (5) prime contracts (i.e., General Construction, Site Work, Plumbing, HVAC, and Electrical), interviewed the apparent low bidders with Town staff, prepared bid tabulations, and provided the Town of Penfield with its analysis of the bids prior to the Town Board work session on January 22, 2025; and

WHEREAS, the Town Board reviewed the submitted bids and the analysis provided and determined that it is in the best interest of the Town of Penfield to accept the low bid for General Construction; and

WHEREAS, Loyal Nine Development Corp was the lowest responsible and responsive bidder to meet the expectations and specifications of the bid package for a total cost of \$2,939,900.00; and

WHEREAS, the Town Board agreed to finance the Project using Town funds available from the Assigned Fund Balance in the in the Town's General Fund.

NOW, THEREFORE, BE IT RESOLVED, that a contract is hereby awarded to Loyal Nine Development Services to provide General Construction Contract services in accordance with the Contract Documents for the Project for the total amount not to exceed \$2,939,900.00. This resolution and the bid submitted by Loyal Nine Development Services shall constitute the contract; and

BE IT FURTHER RESOLVED, that said award is subject to submission and approvals of appropriate Bonds and Insurance documents, and Town of Penfield required contractual documents, which will be subject to the Town Attorney's approval. Once all Town reviews and approvals associated with the contract have been completed the contractor will be given Notice to Proceed with this contract; and

BE IT FURTHER RESOLVED, the Town Board authorizes the transfer of funds from the General Fund Assigned Fund Balance to Capital Account H86-1000-5031-0000 to pay for the services associated with this contract, not to exceed the amount of \$2,939,900.00.

Moved: Ockenden
Seconded: Berry

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|-------|-----------|-----|----------|-----|
| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

Public Safety - None

Community Services

#25T-065 Authorization For Supervisor To Sign Recreation Contracts

BE IT RESOLVED, that the Town Board authorizes the Town Supervisor to sign the following recreation contracts:

The Center for Youth Earthworks Program, 905 Monroe Avenue, Rochester, NY 14620, instructor for youth outdoor education programs, 2/4/25-12/31/25, for a fee of 70% of total program revenue. Vouchers to be submitted at the conclusion of each program.

Soccer Shots, 95 Allens Creek Road, Bldg. 1, Suite 315, Rochester, NY 14618, instructor for youth soccer programs, 1/14/25-12/31/25, for a fee of 70% of total program revenue. Vouchers to be submitted at the conclusion of each program.

Jodi Marcello, 20 Falcon Trail. Pittsford, NY 14534, instructor for youth dance programs 01/30/25-12/20/25, for a fee of 70% of total program revenue. Vouchers to be submitted at the conclusion of each program.

Bravo! Creative Arts, 12 George St. Fairport, NY 14450, instructor for youth drama programs, 01/11/25-12/31/25, for a fee of 70% of total program revenue. Vouchers to be submitted at the conclusion of each program.

Mary Slaughter, 345 Lyndon Rd. Fairport, NY 14450, instructor for youth fitness programs, 01/20/25-12/20/25, for a fee of 70% of total program revenue. Vouchers to be submitted at the conclusion of each program.

Victory Fitness, 52 Depew St. Rochester, NY 14611, instructor for adult fitness programs, 01/14/25-12/20/25, for a fee of 70% of total program revenue. Vouchers to be submitted at the conclusion of each program.

Moved: Teglash
 Seconded: Ockenden

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|-------|-----------|-----|----------|-----|
| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-066 Authorization For Supervisor To Sign Recreation Contracts

BE IT RESOLVED, that the Town Board authorizes the Town Supervisor to sign the following recreation contracts:

The Center for Youth EarthWorks Program, 905 Monroe Avenue, Rochester, NY 14620, instructor for youth outdoor education programs, 2/4/25-12/31/25, for a fee of 70% of total program revenue. Vouchers to be submitted at the conclusion of each program.

Soccer Shots, 95 Allens Creek Road, Bldg. 1, Suite 315, Rochester, NY 14618, instructor for youth soccer programs, 1/14/25-12/31/25, for a fee of 70% of total program revenue. Vouchers to be submitted at the conclusion of each program.

Moved: Teglash
 Seconded: Lee

| | | | | |
|-------|-----------|-----|----------|-----|
| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

Old Business - None

New Business

#25T-067 Authorization to Settle 1600 Frpt Nine Mile Pt Rd
Tax Certiorari Proceedings

WHEREAS, 1600 Frpt Nine Mile Pt Rd LLC, heretofore commenced proceedings against the Assessor and the Board of Assessment Review and other respondents for a review of the Assessment for the tax roll year 2022 and 2023 for the premises located at 1600 Frpt Nine Mile Pt Rd., (tax map #110.03-1-4.215) located within the Town of Penfield, and

WHEREAS, negotiations have been had between the Attorney for the Town and the Attorneys for the Petitioner in an attempt to settle and compromise Petitioner's claim, and

WHEREAS, after such negotiations, tentative agreement has been reached between all parties on the terms of a proposed settlement subject to the approval of the Town Board and to the approval of the Supreme Court of the State of New York, which terms of settlement are set forth in the stipulations on file in the Office of the Town Assessor, and

WHEREAS, upon due consideration of all facts and circumstances, the Town Board finds that the proposed compromise and settlement is fair and reasonable and should be approved.

THEREFORE, BE IT RESOLVED, that the proposed settlement of the Tax Certiorari proceedings brought by 1600 Frpt Nine Mile Pt Rd. LLC, for the tax roll year 2022 and 2023 be and hereby are approved.

BE IT FURTHER RESOLVED, that the Attorney representing the Town be and hereby is directed to make application to the Supreme Court of the State of New York for approval of such settlement and that upon obtaining such approval, the Assessor of the Town of Penfield be and he hereby is directed to make the necessary adjustments in the Assessment Rolls for the Town of Penfield to reflect the terms of such settlement.

Moved: Lee
Seconded: Berry

| | | | | |
|-------|-----------|-----|----------|-----|
| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

#25T-068 Awarding a Contract for Professional Planning Services
Associated with the Preparation of an Active Transportation
Plan

WHEREAS, Town's 2023 Comprehensive Plan Update recommended the preparation of an Active Transportation Plan to identify strategies and opportunities to enhance and expand multi-modal access throughout the town; and

WHEREAS, the Town issued a Request for Proposals (RFP) for professional planning services associated with the preparation of a Town of Penfield Active Transportation Plan ("the project") and received multiple proposals from qualified firms; and

WHEREAS, a selection committee comprised of staff from multiple departments reviewed the proposals, interviewed the top three responders, and unanimously agreed that Colliers Engineering and Design was the best suited to assist the Town with the project; and

WHEREAS, this project was included in the 2025 Penfield Town Budget.

NOW, THEREFORE, BE IT RESOLVED, that the Supervisor is hereby authorized to sign a contract, not to exceed \$100,000.00 with Colliers Engineering and Design, 280 East Broad Street, Suite 200, Rochester, NY 14604, for professional planning services for the Active Transportation Plan. This resolution and the proposal submitted by Colliers shall constitute the contract. This agreement to be reviewed and approved by the Town Attorney.

Moved: Lee
Seconded: Teglash

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|-------|-----------|-----|----------|-----|
| Vote: | Berry | Aye | Lee | Aye |
| | Leenhouts | Aye | Ockenden | Aye |
| | Teglash | Aye | | |

Adopted

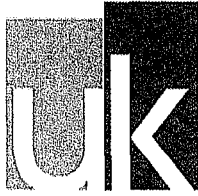
Executive Session

Next Meeting - March 5, 2025

Adjournment -

Supervisor Leenhouts moved to adjourn the meeting at 8:26PM

Amy M. Steklof, RMC/CMC
Town Clerk



underberg & kessler LLP

JACOB H. ZOGHLIN, PARTNER
(585) 258-2834
JZoghlin@underbergkessler.com

February 4, 2025

VIA E-MAIL¹ AND FIRST-CLASS MAIL

Town Board of the Town of Penfield, New York
3100 Atlantic Avenue
Penfield, New York 14526

RE: WILLOW PONDS SPECIAL USE PERMIT APPLICATION FOR A CHANGE IN USE IN A PDD.

Dear Honorable Town Board Members:

I write to you on behalf of Preserve Penfield, Inc., which includes individuals who live in the Town of Penfield (the “Town”), who live in the vicinity of the proposed Willow Ponds project (the “Project”), and/or who would be adversely impacted the Project proposed and the developer’s application (the “Application”) for a special use permit (“SUP”) to authorize a change in use in a Planned Development District (“PDD”). The Project would be located at 47 Willow Pond Way, Penfield, NY 14526, SBL Number 139.08-2-1.21 (the “Property”).

I reviewed the full video recording² from the Town of Penfield Town Board’s (the “Town Board”) January 22, 2025, meeting and working session, at which the Project was discussed, and write to address some issues that were discussed at that meeting in order to assist the Town Board in its review of the Application. My analysis demonstrates that, while there are legal constraints and obligations that the Town Board must consider in reviewing the Application, they do not necessarily compel the Town Board to approve of the Application.

THE BOARD HAS DISCRETION TO REVIEW, APPROVE, OR DENY THE APPLICATION.

At the Town Board meeting on January 22, 2025, several Town Board members made

¹ To Town of Penfield Town Board, including Supervisor Leenhouts (supervisor@penfield.org), Deputy Supervisor Bob Ockenden (ockenden@penfield.org), and Town Board Members Linda Teglash (teglash@penfield.org), Candace Lee (lee@penfield.org), and Kevin Berry (berry@penfield.org).

²See January 22, 2025 Town of Penfield Town Board Meeting, available at https://vimeo.com/1049747148?autoplay=1&muted=1&stream_id=Y2xpcHN8ODIyODIyMHxpZDpkZXNjffTd

statements suggesting that they felt constrained or legally required, to vote to approve the Application, and that any other decision would be overturned on appeal if challenged by the Developer. Beginning at 34:31-35:00, a Board Member said:

TB Member: "I think you provided us with a legal review,³ [if] I'm not mistaken. Is that correct"

Town Attorney: "Um, you mean about the standards."

TB Member: "Yea, about this being unique, right? That there was already a project approved and now there's a change and..."

Town Attorney: "Right."

TB Member: "Any ramifications from a legal perspective one way or another? I believe"

Town Attorney: "Yea."

TB member: "You did a review on that."

Town Attorney: "Alright"

TB Member: "And has anything changed or is it something you wanna look at again?"

Town Attorney: "No"

The Town Attorney then went on to describe it further around 34:50-35:41ish.

The Town Board further discussed the Town Attorney's advice between 40:45 – 41:30. During this discussion, Board members referred to the "advice of legal counsel," which they believed required them to approve the application or vote a certain way; otherwise, the decision would "not hold up" in court. They also remarked that "sometimes our hands are tied by the law."

And then at 42:47, a Town Board member references the Town Attorney's report/review and said, "I don't see any other permissible legal option to, to block this in an administrative capacity."

Collectively, these statements evidence a fundamental error of law, i.e., that the Town Board believes it has no "discretion" and no choice other than to approve the Developer's

³ Because the Town Board referenced and discussed a review of the Project (the "Review") and appeared prepared to grant the Application on that basis, I requested a copy of the Review from the Town so that we could respond to the assertions contained therein. In response, the Town Clerk was unable to identify and produce any such document. Accordingly, I respectfully request that the Town Board disclose the reasons that it thinks that it has no choice but to approve the Project. The public should have an opportunity to review the reasons that the Town Board believes it must approve the Project and respond to same. I believe that analysis of the referenced authorities may assist the Board in its review and contribute to the creation of a robust administrative record.

Application. That belief is incorrect and is contradicted by case law and common sense.

An applicant is NOT entitled to a special use permit as of right.⁴ Special use permits are considered “discretionary approvals,” meaning the reviewing body has “discretion” when deciding the application. Accordingly, the review of special use permit applications is not a “ministerial act” where no discretion is exercised⁵; rather, it is a “discretionary”⁶ function involving the Board’s review of facts and the exercise of reasoned judgment. See *Pleasant Val. Home Constr., Ltd. V. Van Wagner*, 41 N.Y.2d 1028 , 1029 (1977) (A “board has discretion to find, with proper support, that a particular development does not meet the criteria of the special use provisions of the zoning ordinance,” which can occur if the Board determines that the proposed project is not desirable at a particular place).

The reviewing board must determine if the standards for the special use permit were met, whether the project would be appropriate in that location, and whether the project would adversely impact the public welfare. See, e.g., *Knight v. Bodkin*, 41 A.D. 413 (2d Dept. 1973) (annulling special use permit where record testimony showed that the project would have adverse impacts on the surrounding area and community character, be inharmonious with the uses, and contravene municipal planning). Where facts provide reasonable grounds that the project does not qualify for a special use permit, would be a poor fit for that location, or would detract from the public welfare, a special use permit is properly denied. See, E.g., *Silvernail v. Rago*, 404 N.Y.S.2d 457 (4th Dept. 1978) (affirming denial of special use permit); *Pine Knolls Alliance Church v. Zoning Bd. Of Appeals*, 5 N.Y.3d 407 (2005) (“In assessing a special permit application, zoning officials are to review the effect of the [Project] ... on the public's health, safety, welfare or morals, concerns grounded in the exercise of police power, "with primary consideration given to the over-all impact on the public welfare." Thus, in considering a special use permit application, a government entity may consider whether the proposal “may actually detract from the public's health, safety, welfare or morals and may deny a special use permit on that basis.”)

THE APPLICANT CANNOT SATISFY THE REQUIREMENTS FOR A SPECIAL USE

⁴ *Tandem Holding Co. v. Board of Zoning Appeals of Town of Hempstead*, 43 N.Y.2d 801, 402 N.Y.S.2d 388, 373 N.E.2d 282 (1977); *Lemir Realty Corp. v. Larkin*, 11 N.Y.2d 20, 226 N.Y.S.2d 374, 181 N.E.2d 407 (1962); *Sullivan v. Town Bd. of Riverhead*, 102 A.D.2d 113, 476 N.Y.S.2d 578 (2d Dep’t 1984).

⁵ “Unlike a discretionary act, which involves the exercise of reasoned judgment, ‘a ministerial act envisions direct adherence to a governing rule or standard with a compulsory result.’” See *Lauer v. City of NY*, 258 AD2d 92, 110 (2d Dept 1999) (citing *Tango v. Tulevech*, 61 N.Y.2d 34, 41 (1983)) (The distinction between discretionary and ministerial acts is also important because “a discretionary official act enjoys governmental immunity with regard to any injurious results which it produces.”)

⁶ Discretionary acts involve the exercise of judgment and therefore may produce a range of acceptable results. See *Gorovets v. State*, 31 Misc.3d 1243[A], 2011 NY Slip Op 51096[U], (Court of Claims 2011) (holding that “the act here was discretionary and not ministerial. It involved the exercise of reasoned judgment which could typically produce different acceptable results, and involved policy determinations. “[D]iscretionary or quasi-judicial acts involve the exercise of reasoned judgment which could typically produce different acceptable results whereas a ministerial act envisions direct adherence to a governing rule or standard with a compulsory result.”) Here, because the Board is acting in a discretionary capacity, no law or rule compels a particular result, the Board is not required to approve the project.

PERMIT.

In reviewing such applications, it is the Applicant's burden to prove that it is in compliance with the Town Code and that a special use permit should be granted. If it fails to do so, a Town Board must deny the application. Indeed, the Appellate Division has held that an applicant for a special use permit must demonstrate "compliance with the conditions legislatively imposed upon the permitted use," otherwise the application can be denied. *See Try Sand & Gravel Co., Inc. v. Fleming*, 156 A.D.3d 1295 (3d Dept. 2017) ("Failure to satisfy even one legislative condition will provide a rational basis for the denial of a special use permit application. A town board's determination in this regard will not be disturbed unless it is illegal, arbitrary or an abuse of discretion. Even if a contrary result is itself also supported by the record, [a reviewing] Court will not substitute its own judgment for a town board's determination"). This shows that the Town has the legal authority to deny the special use permit application if the applicant does not satisfy its burden.

The New York State Court of Appeals – the Highest Court in New York State – has repeatedly upheld the Town Board's discretion to deny special use permits:

The grant or denial of the [special use] permit is left to the "untrammelled, but of course not capricious discretion" of the Board with which the courts may interfere only when it is clear that the Board has acted "solely upon grounds which as matter of law may not control the discretion" of the Board.

Cummings v. Town Bd. Of North Castle, 62 N.Y.2d 833, 834 (1984) (citing *Matter of Larkin Co. v Schwab*, 242 N.Y. 330, 335 (1926)); *Banner v. Moore*, 117 A.D.2d 917, 921 (3d Dept. 1986).

Here, the Town Code states that "**maintenance of the intent and function** of the planned development **shall be of primary importance**" when evaluating applications for a special use permit to allow a change of use in a Planned Development ("PD") District. Town Code Section 250-5.4(D)(5) (emphasis added). Accordingly, the Town Board may consider whether the proposed change aligns with the intent and function of the planned development. If the Application fails to maintain that intent and function, the Town board should deny it on that basis alone.

In this case, the Application specifically seeks to **change** the currently authorized use in the PD, which would undeniably alter the district's intent and function, thereby violating Town Code Section 250-5.4(D)(5). Thus, the Town Board has clear grounds to deny the Application.

Furthermore, this type of special use permit (allowing a change in use in a PD) is different from a typical special use permit, which grants permission to commence a specific, pre-authorized use in a particular location. Because this application seeks to **modify the allowable uses in a Planned Development District** – rather than establish an enumerated use explicitly permitted by special use permit – its inclusion in the Town Code does not constitute a legislative determination that the proposed use is inherently compatible with the general zoning plan or that it will not negatively impact the surrounding area.

A similar issue was addressed by the Fourth Department in *Mobil Oil Corp. v. Oaks*, 55 A.D.2d 809, 810 (4th Dept. 1976):

Mobil contends that the inclusion of a permitted use in an ordinance, subject only to a special permit, indicates that the use is in harmony with the neighborhood. Petitioner's reliance upon *Matter of North Shore Steak House v Board of Appeals of Inc. Vil. of Thomaston* (30 NY2d 238) and *Matter of Highland Brooks Apts. v White* (40 AD2d 178) is misplaced. In those cases the use sought by the applicant was a permitted use in the zoning district provided there existed compliance with certain enumerated conditions. In those cases there was a pre-established legislative finding that the requested use was in harmony with the general zoning plan, and the issue was, therefore, limited to whether the applicant had sufficient proof of compliance with the enumerated conditions. Such is not the case here. As enacted, the **Henrietta Zoning Ordinance does not contain a legislative finding that since a gasoline filling station is a permitted use in an "A" commercial district, provided a special permit be obtained, it is per se in harmony with the general zoning plan. Rather, as can be seen from section 39-35(c) of the ordinance, the Legislature left for the body which was to determine whether a special permit should issue to consider whether "the proposed use will be in harmony with the existing and proposed future development of the neighborhood in which the premises is situated"** (see *Matter of C & G Developers v Granito*, 53 AD2d 612). **Courts will not generally interfere with the town board's determination in a zoning dispute, since these matters are best "resolved by the 'common-sense judgments' of 'representative citizens doing their best to make accommodations between conflicting community pressures'"** (*Matter of Lemir Realty Corp. v Larkin*, 11 NY2d 20, 25). This rationale is particularly apt in a case such as this where to interfere would be to ignore the important ingredient of flexibility which the town board plainly reserved to itself when it enacted the Henrietta Zoning Ordinance (see *Todd Mart v Town Bd. of Town of Webster*, 49 AD2d 12, 19). The Henrietta Town Board made detailed findings based in part upon a comprehensive although not formally adopted plan. The findings are supported by substantial evidence which demonstrates that **moving the gasoline service station to the northeast corner of the intersection would not be in harmony with the present or probable future development of the lands immediately adjoining the proposed site.**

Mobil Oil Corp. v. Oaks, 55 A.D.2d 809, 810 (4th Dept. 1976) (emphasis added). So too here.

We know the Town Code contains no such legislative finding because (1) it does not expressly state that the proposed use is permitted or is appropriate in this context, and (2) it explicitly emphasizes the opposite, that **"the maintenance of the intent and function of the planned development"** is of **primary importance when evaluating special use permit applications.** Town Code Section 250-5.4(D)(5).

Accordingly, the Town Board has clear authority to consider whether this Application

will alter the intent or function of the planned development. The record reflects that it unquestionably will. Therefore, the Project **should NOT be approved.**

THE APPLICATION WOULD NEGATIVELY IMPACT THE PUBLIC WELFARE.

New York courts have held that an issuing body may deny a special use permit application where “reasonable grounds” exist for its denial. *Dan Gernatt Gravel Products, Inc. v. Collins*, 105 A.D.2d 1057 (4th Dept. 1984).

Such reasonable grounds for denial include those that negatively impact the public welfare, including:

- Adverse impacts on local traffic;
- Adverse impacts on the neighborhood;
- Violations of the Town Code;
- The Project being inappropriate for the specific location;
- Matters related to the public welfare, including density and intensity issues, which may contribute to or exacerbate adverse project impacts;
- Inconsistency with municipal plans (e.g., Town Master Plan or Comprehensive Plan); and
- Objections from other municipalities or government entities.

Dan Gernatt Gravel Products, Inc. v. Collins, 105 A.D.2d 1057 (4th Dept. 1984). Moreover, the Town Code does not prohibit the Town Board from considering any other particular issues or facts in deciding the application. The Town Board can therefore consider any fact that is not prohibited by law.

The Town Board has the authority to establish additional standards and factors for review in determining whether to grant the requested special use permit, as the Town Code does not preclude the Board from doing so. *Id.* In fact, New York’s Appellate Courts have unequivocally held that a **“Town Board is free to consider matters relating to the public welfare** in determining whether to grant or deny a special exception or permit.” *Chernick v. McGowan*, 238 A.D.2d 586, 587 (2d Dept 1997) (citing *Cummings v. Town Bd. Of North Castle*, 62 N.Y.2d 833, 834 (1984)) (emphasis added).

This means that the Town Board may consider reasonable factors related to the public welfare, safety, and compatibility with the general zoning plan when making their decision. If, based on its interpretation of the facts and substantial evidence, the Town Board determines that there are “specific, reasonable grounds to conclude that the proposed special use [is] not desirable at the particular location,” it has the authority – and the obligation – to “reject an application [even] for a properly proposed project for an otherwise permitted use.”⁷

⁷ *Moe’s Motor Cars, LLC v. Town of Ulster*, 229 A.D.3d 984 (3d Dept. 2024) (citing *Matter of Kinderhook Dev., LLC v City of Gloversville Planning Bd.*, 88 AD3d 1207, 1209, 931 N.Y.S.2d 447 [3d Dept 2011], *lv denied* 18 NY3d 805 [2012]; see *Matter of Steenrod v City of Oneonta*, 69 AD3d 1030, 1031, 892 N.Y.S.2d 649 [3d Dept 2010]).

The premise that the board has no choice but to approve the application is a **fundamental error of law**. If the Town Board were to base its decision on this incorrect legal assumption, a reviewing court would have no choice but to annul the Town Board's Determination or approval.

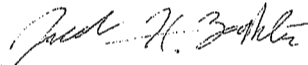
Moreover, the record clearly establishes that the Project would adversely affect the public welfare, is inappropriate for the proposed location, and fails to maintain the intent and function of the planned development. The concerns raised by Preserve Penfield, the Town Board, and the public at large – including traffic, safety, intensity, density, and overall suitability – are the same issues that have surrounded this Project from the beginning. A review of historical records confirms that these concerns have persisted for decades, providing ample and well-documented grounds for the Town Board to deny the Application.⁸

For these reasons, the Town Board has both the legal discretion and authority to deny the special use permit. The administrative record contains substantial evidence demonstrating that the Project fails to meet approval criteria, would negatively impact the public welfare, and is unsuitable for the proposed location. These findings are based on facts, first-hand knowledge, study, and experience, not merely generalized objections.

CONCLUSION

For the foregoing reasons, the Application should be denied. Please file a copy of this letter in the Town Clerk's Office and make it a part of the record for this Project as a whole. Thank you for your time and attention to this matter.

Sincerely,



Jacob H. Zoghlin

cc: Town of Penfield Town Clerk (clerk@penfield.org)

⁸ See, e.g., November 16, 1996 Town Board Resolution ("The Planning board made [a] recommendation to the [Town] Board ... as it relates to reduction of site density. ... The Town Board concurred with the Planning Board's recommendation that the original proposal ... [was] too intense for the site... and has modified the proposal to address density concerns"); November 20, 1996 Town Board Resolution ("The Town Board concurred with the Planning Board's recommendation that the original proposal [was] ... too intense of the site and has modified the original proposal to address density concerns.") Both 1996 resolutions also referenced concerns about density, drainage, traffic, and public safety for the Project.

PENFIELD TOWN BOARD RESOLUTION NO. 276 DATE November 20, 1996

BY Councilwoman Kohl

Law and Finance COMMITTEE

NAME Granting a Special Permit to Allow the Development of a 150
Bed Assisted Living Facility, an 89 Unit Independent Living
Facility and a 21,500 Gross Square Foot Office Building at 21,
34, 40 and 43 Willow Pond Way

WHEREAS, an application by Mark IV Construction, Co., Inc. has been received by the Penfield Town Board for the issuance of a Special Permit, pursuant to Article III-3-49-E of the Code to allow the development of a 150 bed assisted care facility on 5.3 acres, located on lot 258, an 89 unit independent living facility on 4.3 acres, located on lot 254 and a 21,500 gross (17,500 net rentable) square foot office building on 2.5 acres, located on lot 258A Willow Pond Way, located in the Planned Development zoning district; and

WHEREAS, a joint Town Board/Planning Board public hearing regarding the subject application and preliminary site plan approval was held on May 9, 1996, at 7:30 P.M., at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York, where the applicant did present his facts regarding the proposal and where citizen input was received and thereafter the joint public hearing was closed and decisions were reserved; and

WHEREAS, the Planning Board made recommendation to the Board regarding the site plan, particularly as it relates to reduction of site density, in its memo to the Board dated September 5, 1996; and

WHEREAS, the Town Board concurred with the Planning Board's recommendation that the original proposal of 168 beds in the assisted care facility, 96 units in the independent living facility and a 25,000 gross square foot office building were too intense for the site and has modified the original proposal to address density concerns; and

WHEREAS, the Town Board, acting as lead agency pursuant to the requirements of the State Environmental Quality Review Act (SEQRA) and the Penfield Environmental Quality Review Law (PEQR) has classified this proposal a Type I action and has made a determination of non-significance based on its findings, a copy of which is attached hereto and made a part hereof;

NOW, THEREFORE, BE IT RESOLVED, that this application for a SPECIAL PERMIT to allow the development of a 150 bed assisted living facility, an 89 unit independent living facility and a 21,500 gross (17,500 net rentable) square foot office building at 21, 34, 40 and 43 Willow Pond Way is hereby GRANTED subject to the following conditions:

1. The applicant shall obtain a SPECIAL PERMIT from the Town Clerk and pay the appropriate fee.

2. The applicant is permitted to construct a two story, 150 bed assisted living facility; a two story, 89 unit independent living facility; and, a two story, 21,500 gross (17,500 net rentable) square foot office building, subject to obtaining site plan and resubdivision approval from the Planning Board. This density is confirmed to be appropriate by the Town Board.

3. The applicant proposes to construct a development consisting of an 89 unit independent living facility, a 150 bed assisted care facility and a 21,500 gross (17,500 net rentable) square foot office. No specific phasing has been identified to date and the Board will allow the applicant to determine which uses will be constructed in which phase. However, no building permit for a future phase of development shall be issued to the applicant until the Board is assured that the prior phase is at or near completion (eligible for a Certificate of Occupancy).

4. The applicant shall demonstrate to this Board that a permit granting it approval for installation of a traffic signal light has been secured or confirmation in writing from the New York State Department of Transportation and that said permit will be issued for said signal light prior to receiving a building permit to commence construction. The applicant will be required to install or have installed a functional signal device and any roadway improvements as may be required by the New York State Department of Transportation prior to receiving a Certificate of Occupancy from the Department of Building & Planning Services for the first phase of development.

5. The applicant shall be responsible for the phased installation of sidewalks along property frontages on Penfield Road and both portions of Willow Pond Way as each phase of development occurs. The Town Board and the applicant shall meet prior to construction of each phase to determine the extent of linear footage of concrete sidewalk which is to be installed in conjunction with that particular phase of development.

6. The applicant shall be responsible for ensuring that each phase of development has adequate parking to accommodate the uses in them. In the case of the independent living facility, the applicant is encouraged to land bank that amount of parking not considered necessary or in excess of the needs of that use until such time as that need becomes evident.

7. The applicant shall be responsible for upgrading the 6.2 acre recreation area identified on its site plan in such a manner that provides for the construction of a pedestrian access path around the perimeter of said recreation area, connecting each surrounding dedicated road to it. The path design and construction materials shall be reviewed and approved by this Board. It shall be the applicant's responsibility to provide perpetual maintenance of said path. Any/all junk or debris on the premises shall be removed at the applicant's expense. All proposed improvements to the recreation area must be in place prior to receiving a Certificate of Occupancy for phase I of this development.

8. The applicant shall submit final building design and landscaping plans identifying materials and colored renderings for the Town Board's review and input to the Planning Board prior to receiving final site plan approval for each phase of development.

9. The applicant shall provide a future access easement to the property located at 2041 Penfield Road, directly to the west of his properties to ensure the capability of internal access to each property at a future date when said property is also proposed to be further developed. The proposed access easement shall be in a recordable form acceptable to the Town Attorney.

10. The applicant shall be responsible, at its cost, for the installation of street lights at the intersections of Penfield Road and Willow Pond Way and Willow Pond Way and Willow Pond Way in conjunction with the development of phase I of this proposal. The type and style of said light shall be consistent with the requirements of the Rochester Gas & Electric Corp. and the Town of Penfield's Design Criteria.

11. The applicant shall be permitted to utilize the existing barn on the site to secure construction materials during the development process. The applicant must immediately secure the barn to relieve area residents' concern for public safety and vandalism.

12. The Town Board agrees to abandon the existing right of way of Alder Lane upon the applicant providing proper documentation requesting said abandonment; said documentation shall be in a form acceptable to the Town Attorney.

AND BE IT FURTHER,

RESOLVED, that the Penfield Town Board is best suited to act as lead agency within the meaning of the State Environmental Quality Review Law (SEQRA) and the Penfield Environmental Quality Review Law (PEQR), and had designated itself as "lead agency" pursuant to SEQRA and PEQR, and

WHEREAS, the subject application was classified as a Type I Action and a negative declaration was made with respect to environmental significance, based on the following findings:

1. The applicant owns the remaining six parcels within the original Willow Pond Planned Unit Development, totaling 20 acres, of which 6.2 acres will be devoted to an open space passive recreational area, 1.7 acres will remain undeveloped until a future date, 5.3 acres will be devoted to the proposed 150 bed assisted care facility, 4.3 acres will be devoted to the proposed 89 unit independent living facility and 2.5 acres will be devoted to the proposed 21,500 gross (17,500 net rentable) square foot office building. This proposal will complete the development for the Planned Development zoning district at Willow Pond, since the 1.7 acre parcel was an exception parcel to the Planned Unit Development originally proposed by the applicant.

2. DENSITY: The applicant's initial proposal consisted of a 168 bed assisted care facility, a 95 unit independent living facility, two office buildings totaling 25,000 gross square feet and installation of a pedestrian path in the designated recreation area. Based on the Planning Board's recommendation and the Town Board's concern that the proposal was too intense for the site, the Board and the applicant have agreed to reduce the scope of the project to reflect the current proposal of a 150 bed assisted living facility, an 89 unit independent living facility, a 21,500 gross (17,500 net) square foot single office building and appurtenant pedestrian path to be constructed in the designated recreation area.

3. TRAFFIC LIGHT: The Board has received comment from many Willow Pond residents who have expressed concern that additional development in this area will only generate traffic to the intersection of Willow Pond Way and Penfield Road. This intersection is currently unsignaled and as a result of those residents being required to wait unreasonable periods of time to

make left turns onto Penfield Road, an unsafe situation is created due to driver impatience. The Town Board has required as a condition of approval of phase I of development of this proposal that the applicant be required to install a traffic signal at the intersection prior to the issuance of a Certificate of Occupancy and that it verify to the Town that it has secured a permit from the NYSDOT prior to requesting a building permit for phase I. The Board is supportive of the applicant's proposal of a combination of senior housing in the form of assisted care and independent living as such uses are generally considered to be low traffic generators, particularly during peak traffic morning and evening hours. The Board is convinced that no traffic light would be installed at the intersection of Willow Pond Way and Penfield Road without a developer incurring the cost of said installation, since the NYSDOT has no intention of installing a signal light at its own cost and since without the proposed development, the NYSDOT would not support the installation of a signal light since the intersection could not meet the State's warrants for such installation. The proposed development complies with the purpose and intent of the recently adopted Land Use and Access Management Plan (LUAMP) for this area in that no additional curb cuts onto Penfield Road are proposed and additional traffic controls and road improvements consistent with the recommendations of the LUAMP will be required to be installed prior to the issuance of a Certificate of Occupancy in phase I.

4. DRAINAGE: The applicant's engineer has demonstrated to the Town's satisfaction that storm water created by this proposal can be adequately managed on the site. The existing storm water retention facility at Willow Pond was designed and constructed to accommodate primarily single family residences for lots R-254, R-258 and R-258A. In light of potential storm water problems downstream, a detention facility is proposed to be constructed on lot 258A to compensate proposed runoff to be generated by the current proposal. The estimated rate of runoff from this site, if developed as single family residences, as originally proposed, is 23 cfs. the estimated rate of runoff as presently proposed is 31 cfs. A restriction will be placed within the 27" storm main that services the site which will allow storm water to drain from the site at a maximum rate of 23 cfs. Flows in excess of this rate will be diverted into the proposed detention facility. The volume of this facility will be 0.5 acre feet with side slopes of 1:4. This will essentially be a dry, depressed lawn area which will only detain water during and immediately after a heavy rain, all of which is addressed in a letter from D. J. Parrone & Associates, P.C. dated October 16, 1996.

5. SIDEWALKS/PUBLIC SAFETY: The Board will require as a condition of approval of this special permit that sidewalks be installed in a phased manner, in conjunction with each phase of development. The installation of sidewalks along the property frontage on Penfield Road will result in finally connecting sidewalks along the south side of Penfield Road from Linear Park to Fairport-Nine Mile Point Road. Construction of sidewalks along the property frontages on Willow Pond Way will create a safer pedestrian environment for both existing and proposed residents in this area.

6. RECREATION AREA: The applicant proposes to construct a walking path around the perimeter of the designated recreation area which will serve to create an exercise trail for those residing in the senior housing facilities and create a connection among all of the dedicated streets which terminate at the perimeter of the recreation area. The applicant will also be required to remove any junk or debris in this area and maintain it on a perpetual basis.

7. SOCIAL/ECONOMIC IMPACTS: The applicant proposes to develop a continuum of care for the senior population of the Town of Penfield at an affordable cost. The development of a 150 bed assisted care facility, an 89 unit independent living facility and an office building, which the applicant has indicated would most likely be devoted to medical office space to be installed for the purpose of supporting the above mentioned facilities, provides senior residents of the Town with alternative living facilities which are competitive with the markets which they serve. The Town Board recognizes the growing need for additional senior housing within the community and is supportive of the applicant's intent to assist in addressing that need.

The Board bases its determination herein upon the following:

1. The materials submitted by the applicant, as well as his testimony at the joint Town Board/Planning Board public hearing held on May 9, 1996.
2. The Planning Board's recommendation dated September 5, 1996.
3. The applicant's willingness to address the Boards' concerns for density reduction, installation of a signal light at the intersection of Penfield Road and Willow Pond Way.

4. The proposed use as it relates to providing additional alternative senior housing to town residents.

5. Citizen input at and subsequent to the public hearing.

Moved: Kohl

Seconded: LaFountain

| | | |
|-------|------------|--------------------|
| Vote: | Hession | <u> Aye </u> |
| | Kohl | <u> " </u> |
| | LaFountain | <u> " </u> |
| | Peters | <u> " </u> |
| | Philbrick | <u> " </u> |

xc: Building & Planning Services

FILED
PENFIELD, N.Y.
96 NOV 19 PM 12:06
CATHLEEN WILLIAMS
TOWN CLERK

Resolution #275 - Continued)

5. Citizen input at and subsequent to the public hearing; and

WHEREAS, the Town Board has prepared its Notice of Findings Statement in compliance with the requirements of SEQR and PEQR;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board, acting as lead agency pursuant to the requirements of PEQR and SEQR, does hereby accept said findings as complete and authorizes the Supervisor of the Town of Penfield to certify said findings, addressed hereinabove, to approve the issuance of a Special Permit and permit the Planning Board to complete its resubdivision and site plan approval process regarding said proposal as required by law.

AND BE IT FURTHER, RESOLVED, that the Town Clerk be and is hereby directed to file said Notice of Findings Statement and Certification of Findings as required by Law.

Moved: Kohl
Seconded: Peters

| | | | | |
|-------|------------|-----|-----------|-----|
| Vote: | Hession | Aye | Peters | Aye |
| | Kohl | Aye | Philbrick | Aye |
| | LaFountain | Aye | | |

Adopted

276 Granting a Special Permit to Allow the Development of a 150 Bed Assisted Living Facility, an 89 Unit Independent Living Facility and a 21,500 Gross Square Foot Office Building at 21, 34, 40 and 43 Willow Pond Way - by Kohl

WHEREAS, an application by Mark IV Construction, Co., Inc. has been received by the Penfield Town Board for the issuance of a Special Permit, pursuant to Article III-3-49-E of the Code to allow the development of a 150 bed assisted care facility on 5.3 acres, located on lot 258, an 89 unit independent living facility on 4.3 acres, located on lot 254 and a 21,500 gross (17,500 net rentable) square foot office building on 2.5 acres, located on lot 258A Willow Pond Way, located in the Planned Development zoning district, and

WHEREAS, a joint Town Board/Planning Board public hearing regarding the subject application and preliminary site plan approval was held on May 9, 1996, at 7:30 PM, at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York, where the applicant did present his facts regarding the proposal and where citizen input was received and thereafter the joint public hearing was closed and decisions were reserved, and

WHEREAS, the Planning Board made recommendation to the Board regarding the site plan, particularly as it relates to reduction of site density, in its memo to the Board dated September 5, 1996, and

WHEREAS, the Town Board concurred with the Planning Board's recommendation that the original proposal of 168 beds in the assisted care facility, 96 units in the independent living facility and a 25,000 gross square foot office building were too intense for the site and has modified the original proposal to address density concerns, and

WHEREAS, the Town Board, acting as lead agency pursuant to the requirements of the State Environmental Quality Review Act (SEQR) and the Penfield Environmental Quality Review Law (PEQR) has classified this proposal a Type I action and has made a determination of non-significance based on its findings, a copy of which is attached hereto and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED, that this application for a SPECIAL PERMIT to allow the development of a 150 bed assisted living facility, an 89 unit independent living facility and a 21,500 gross (17,500 net rentable) square foot office building at 21, 34, 40 and 43 Willow Pond Way is hereby GRANTED subject to the following conditions:

Resolution #276 - Continued)

1. The applicant shall obtain a SPECIAL PERMIT from the Town Clerk and pay the appropriate fee.
2. The applicant is permitted to construct a two story, 150 bed assisted living facility; a two story, 89 unit independent living facility; and, a two story, 21,500 gross (17,500 net rentable) square foot office building, subject to obtaining site plan and subdivision approval from the Planning Board. This density is confirmed to be appropriate by the Town Board.
3. The applicant proposes to construct a development consisting of an 89 unit independent living facility, a 150 bed assisted care facility and a 21,500 gross (17,500 net rentable) square foot office. Specific phasing has been identified to date and the Board will allow the applicant to determine which uses will be constructed in which phase. However, no building permit for a future phase of development shall be issued to the applicant until the Board is assured that the prior phase is at or near completion (eligible for a Certificate of Occupancy).
4. The applicant shall demonstrate to this Board that a permit granting it approval for installation of a traffic signal light has been secured or confirmation in writing from the New York State Department of Transportation and that said permit will be issued for said signal light prior to receiving a building permit to commence construction. The applicant will be required to install or have installed a functional signal device and any roadway improvements as may be required by the New York State Department of Transportation prior to receiving a Certificate of Occupancy from the Department of Building & Planning Services for the first phase of development.
5. The applicant shall be responsible for the phased installation of sidewalks along property frontages on Penfield Road and both portions of Willow Pond Way as each phase of development occurs. The Town Board and the applicant shall meet prior to construction of each phase to determine the extent of linear footage of concrete sidewalk which is to be installed in conjunction with that particular phase of development.
6. The applicant shall be responsible for ensuring that each phase of development has adequate parking to accommodate the uses in them. In the case of the independent living facility, the applicant is encouraged to land bank that amount of parking not considered necessary or in excess of the needs of that use until such time as that need becomes evident.
7. The applicant shall be responsible for upgrading the 6.2 acre recreation area identified on its site plan in such a manner that provides for the construction of a pedestrian access path around the perimeter of said recreation area, connecting each surrounding indicated road to it. The path design and construction materials shall be reviewed and approved by this Board. It shall be the applicant's responsibility to provide perpetual maintenance of said path. Any/all junk or debris on the premises shall be removed at the applicant's expense. All proposed improvements to the recreation area must be in place prior to receiving a Certificate of Occupancy for phase I of this development.
8. The applicant shall submit final building design and landscaping plans identifying materials and colored renderings for the Town Board's review and input to the Planning Board prior to receiving final site plan approval for each phase of development.
9. The applicant shall provide a future access easement to the property located at 2041 Penfield Road, directly to the west of his properties to ensure the capability of internal access to each property at a future date when said property is also proposed to be further developed. The proposed access easement shall be in a recordable form acceptable to the Town Attorney.

(Shaw)

no easement req.
as it is
on Penfield rd.

Resolution #276 - Continued)

10. The applicant shall be responsible, at its cost, for the installation of street lights at the intersections of Penfield Road and Willow Pond Way and Willow Pond Way and Willow Pond Way in conjunction with the development of phase I of this proposal. The type and style of said light shall be consistent with the requirements of the Rochester Gas & Electric Corp. and the Town of Penfield's Design Criteria.

11. The applicant shall be permitted to utilize the existing barn on the site to secure construction materials during the development process. The applicant must immediately secure the barn to relieve area residents' concern for public safety and vandalism.

12. The Town Board agrees to abandon the existing right of way on Alder Lane upon the applicant providing proper documentation requesting said abandonment; said documentation shall be in a form acceptable to the Town Attorney.

BE IT FURTHER, RESOLVED, that the Penfield Town Board is best suited to act as lead agency within the meaning of the State Environmental Quality Review Law (SEQRA) and the Penfield Environmental Quality Review Law (PEQR), and had designated itself as lead agency" pursuant to SEQRA and PEQR, and

WHEREAS, the subject application was classified as a Type I Action and a negative declaration was made with respect to environmental significance, based on the following findings:

1. The applicant owns the remaining six parcels within the original Willow Pond Planned Unit Development, totaling 20 acres, of which 6.2 acres will be devoted to an open space passive recreational area, 1.7 acres will remain undeveloped until a future date, 5.3 acres will be devoted to the proposed 150 bed assisted care facility, 8.5 acres will be devoted to the proposed 89 unit independent living facility and 2.5 acres will be devoted to the proposed 21,500 gross (17,500 net rentable) square foot office building. This proposal will complete the development for the Planned Development zoning district at Willow Pond, since the 1.7 acre parcel was an exception parcel to the Planned Unit Development originally proposed by the applicant.

2. DENSITY: The applicant's initial proposal consisted of a 180 bed assisted care facility, a 95 unit independent living facility, two office buildings totaling 25,000 gross square feet and installation of a pedestrian path in the designated recreation area. Based on the Planning Board's recommendation and the Town Board's concern that the proposal was too intense for the site, the Board and the applicant have agreed to reduce the scope of the project to reflect the current proposal of a 150 bed assisted living facility, 89 unit independent living facility, a 21,500 gross (17,500 net) square foot single office building and appurtenant pedestrian path to be constructed in the designated recreation area.

3. TRAFFIC LIGHT: The Board has received comment from many Willow Pond residents who have expressed concern that additional development in this area will only generate traffic to the intersection of Willow Pond Way and Penfield Road. This intersection is currently unsignaled and as a result of those residents being required to wait unreasonable periods of time to make left turns onto Penfield Road, an unsafe situation is created due to driver impatience. The Town Board has required as a condition of approval for phase I of development of this proposal that the applicant be required to install a traffic signal at the intersection prior to the issuance of a Certificate of Occupancy and that it verify to the Town Board that it has secured a permit from the NYSDOT prior to requesting a building permit for phase I. The Board is supportive of the applicant's proposal of a combination of senior housing in the form of assisted care and independent living as such uses are generally considered to be low traffic generators, particularly during peak traffic morning and evening hours.

(Resolution #276 - Continued)

The Board is convinced that no traffic light would be installed at the intersection of Willow Pond Way and Penfield Road without a developer incurring the cost of said installation, since the NYSDOT has no intention of installing a signal light at its own cost and since without the proposed development, the NYSDOT would not support the installation of a signal light since the intersection could not meet the State's warrants for such installation. The proposed development complies with the purpose and intent of the recently adopted Land Use and Access Management Plan (LUAMP) for this area in that no additional curb cuts onto Penfield Road are proposed and additional traffic controls and road improvements consistent with the recommendations of the LUAMP will be required to be installed prior to the issuance of a Certificate of Occupancy in phase I.

4. DRAINAGE: The applicant's engineer has demonstrated to the Town's satisfaction that storm water created by this proposal can be adequately managed on the site. The existing storm water retention facility at Willow Pond was designed and constructed to accommodate primarily single family residences for lots R-254, R-258 and R-258A. In light of potential storm water problems downstream, a detention facility is proposed to be constructed on lot 258A to compensate proposed runoff to be generated by the current proposal. The estimated rate of runoff from this site, if developed as single family residences, as originally proposed, is 23 cfs. The estimated rate of runoff as presently proposed is 31 cfs. A restriction will be placed within the 27" storm main that services the site which will allow storm water to drain from the site at a maximum rate of 23 cfs. Flows in excess of this rate will be diverted into the proposed detention facility. The volume of this facility will be 0.5 acre feet with side slopes of 1:4. This will essentially be a dry, depressed lawn area which will only detain water during and immediately after a heavy rain, all of which is addressed in a letter from D. J. Parrone & Associates, P.C. dated October 16, 1996.

5. SIDEWALKS/PUBLIC SAFETY: The Board will require as a condition of approval of this special permit that sidewalks be installed in a phased manner, in conjunction with each phase of development. The installation of sidewalks along the property frontage on Penfield Road will result in finally connecting sidewalks along the south side of Penfield Road from Linear Park to Fairport-Nine Mile Point Road. Construction of sidewalks along the property frontages on Willow Pond Way will create a safer pedestrian environment for both existing and proposed residents in this area.

6. RECREATION AREA: The applicant proposes to construct a walking path around the perimeter of the designated recreation area which will serve to create an exercise trail for those residing in the senior housing facilities and create a connection among all of the dedicated streets which terminate at the perimeter of the recreation area. The applicant will also be required to remove any junk or debris in this area and maintain it on a perpetual basis.

7. SOCIAL/ECONOMIC IMPACTS: The applicant proposes to develop a continuum of care for the senior population of the Town of Penfield at an affordable cost. The development of a 150 bed assisted care facility, an 89 unit independent living facility and an office building, which the applicant has indicated would most likely be devoted to medical office space to be installed for the purpose of supporting the above mentioned facilities, provides senior residents of the Town with alternative living facilities which are competitive with the markets which they serve. The Town Board recognizes the growing need for additional senior housing within the community and is supportive of the applicant's intent to assist in addressing that need.

The Board bases its determination herein upon the following:

1. The materials submitted by the applicant, as well as his testimony at the joint Town Board/Planning Board public hearing held on May 9, 1996.

2. The Planning Board's recommendation dated September 5, 1996.

Resolution #276 - Continued)

3. The applicant's willingness to address the Boards' concerns for density reduction, installation of a signal light at the intersection of Penfield Road and Willow Pond Way.

4. The proposed use as it relates to providing additional alternative senior housing to town residents.

5. Citizen input at and subsequent to the public hearing.

Moved: Kohl
Seconded: LaFountain

Discussion: Cm Peters stated a similar resolution in regards to the traffic light issue needed to be discussed at further length so it was withdrawn at the previous meeting.

| | | | | |
|-------|------------|-----|-----------|-----|
| Vote: | Hession | Aye | Peters | Aye |
| | Kohl | Aye | Philbrick | Aye |
| | LaFountain | Aye | | |

Adopted

Public Works

277 Transfer New Sidewalk Construction, Engineering and Nursery Costs From The General Reserve Fund into the General Fund -
by Hession

WHEREAS, Town Board Resolution #140, 181 and 114 authorized the Town Board to install new sidewalks on the North side of Whalen Road between Baird Road and Shadow Pine Drive and the installation of new sidewalks along Atlantic Avenue, Browncroft Boulevard, and Plank Road, and

WHEREAS, MRB prepared the specifications for the new sidewalks, and

WHEREAS, the following cost of the project is as follows:

| | | |
|-----------------------|-----------|------------------|
| Monroe County Permit | \$ | 100.00 |
| Hynes Concrete | | 24,355.18 |
| Sunshine Concrete | | 35,000.00 |
| Edgewood Nursery Inc. | | 268.50 |
| Northern Nurseries | | 147.50 |
| MRB Engineering | | 5,000.00 |
| Total | \$ | 64,871.18 |

AND, WHEREAS, the funds for said purchase are budgeted in the 1996 budget from the General Reserve Fund which is subject to Permissive Referendum,

NOW, BE IT FURTHER RESOLVED, that the transfer of said funds be and is hereby authorized from the General Reserve Fund to the General Fund, and

BE IT FURTHER RESOLVED, that this resolution is adopted subject to a Permissive Referendum and the Town Clerk shall and is hereby directed to publish and post a Notice in manner prescribed by Law.

Moved: Peters
Seconded: LaFountain

| | | | | |
|-------|------------|-----|-----------|-----|
| Vote: | Hession | Aye | Peters | Aye |
| | Kohl | Aye | Philbrick | Aye |
| | LaFountain | Aye | | |

Adopted

Hi my name is Wendy Roche and I live at 61 Willow Pond Way.

I and several of my neighbors are in a unique position of advocating for what is best for us, what is best for our neighbors, and what is best for the town.

- *Not opposing* the change of use may be what's best for those who back up to this project like myself. Mark IV admittedly did make concessions in regards to the project based on our feedback - which includes additional green space, the removal of parking spots that back up to our yards, privacy fencing and adjustments to parking lot lighting. I will however continue to say that a 3 story building is not in line with what is approved for that area and I do encourage the board to strongly consider that before plans are approved. I would also encourage Mark IV to create a better 2 story option that doesn't force us into accepting a 3 story build, because the 2 story option presented previously would remove all of the prior mentioned contingencies.
- *Opposing* this change of use is likely what is best for our neighbors - and by neighbors I mean those in the Willow Pond neighborhood as well as those who live on Penfield Road. Traffic is already congested and dangerous on route 441 and the town has yet to do anything about it in the 19 years that I have lived here. While your studies may show this project has a negligible traffic impact I think we all know there is a difference between traffic from a senior living community and traffic from a development that targets younger tenants.

Before I go further: Mr. Leenhouts, you saying that traffic is an issue all across the community does not mean you should throw your hands up and say "oh well, move forward." You have had countless residents come forward with concerns about safety and a priority should be figuring out how to fix that first before you allow any additional

development regardless of how it is zoned. Penfield Road may be managed by the New York State DOT but I'm sure the town provides feedback about state roadways on a regular basis. Not doing so is offensive to residents of this town – like those who live at 1996 Penfield Road who have had to repair and repaint their fence countless times over the years after cars crash through it, to the people who live at 1980 Penfield Road who had a car crash into their front porch causing significant structural damage, to the neighbors just down the street who had poles come down in their yard this past fall when a vehicle crashed into them, shutting down the road for hours. And the failure to address the traffic issues at Baird Road and Penfield Road is offensive to Sondra Myers and her family who have had countless cars come up over the curb and sidewalk and onto their property over the years – and twice in the last couple of months. You not making it a priority to address the traffic issues on Penfield Road is also incredibly offensive to anyone who dares walk down Penfield Road as for all of these accidents I mentioned could easily have killed a pedestrian on the sidewalk.

- *Opposing* this change of use as a whole would be what's best for the town as the question is, where does this end? Certain designations and requirements are put into place for a reason and when you keep voting to change those, it basically says you don't give a damn about rules and requirements that were put into place by your predecessors. I won't get into that further as there are others here far more knowledgeable than I am in regards to that.

I will instead focus on and continue to advocate for myself and the more than a dozen families who live between Sanders Farm and the entrance to this proposed project, as well as my neighborhood as a whole.

- The document that Candice Lee shared with me shows that approving the change of use permit means Mark IV will foot the bill for the repainting of pedestrian
-

crossing stripes and the addition of in-road signage at Willow Pond going across to Crown Oak. Good for you getting them to pay for it – but please do not forget it's something you had promised to do long before this apartment proposal came to light. You had painted lines when you put up pedestrian crossing signs – I will remind you AFTER a woman was struck and seriously injured – but then you went over them with an oil and stone project years ago. After repeated requests by me and other neighbors, I was told they would be fixed with the sidewalk that was installed late this past summer – they were not.

- The document shared also discusses but does not seem to commit to the installation of speed control devices – specifically speed cushions. Please correct me if I am wrong but it seems those are contingent on the transportation committee approving them. Know this is the same **transportation committee** my neighbors and I met with in 2013, 2015 and 2016, - and Mr. Valentine was part of those meetings where residents were imploring the committee to listen to our concerns about speeding traffic along the stretch of our S shaped road – the S shape that I will remind you that Mark IV created when they built our neighborhood. The only thing we were successful in doing after all those years was making Sanders Farm and Willow Pond a 3-way stop – **and this was ONLY after a serious crash at the corner where a car going nearly 50 miles an hour struck a tree.** The lack of support over the years has been exhausting which is why we stopped the fight and we started taking matters into our own hands, stepping into the street to stop speeding vehicles. The theme here is that the town is not proactive but rather reactive. Except when it comes to safety on Penfield Road.

So I sit her tonight and again it seems that nothing concrete is being done in regards to the safety of the residents most immediately impacted by this project – from Sanders

Farm to the entrance of this proposed development on Willow Pond. Furthermore nothing is in writing to help protect our neighbors who live along Willow Pond to Devonshire Circle and those who live on Camberly Place down to Route 250. They too have come to countless meetings talking about how their roads are a speedway – specifically from the Willow Pond light to the end where you can turn onto Devonshire. Residents on Camberly Place where the road curves over the stream have told you they are nervous backing out of their driveways as cars zip around the corner, often veering onto the other side of the street. These neighbors will without a doubt also see an increase in traffic as this is a preferred way to get to route 250 so we don't have to go out onto Penfield Road.

I invite you to come drive through our neighborhood and see for yourself what we are talking about. See that we are the ONLY neighborhood in Penfield with 3 apartment communities – perhaps 4 soon – as well as multiple office complexes. Drive 35 plus miles an hour as many cars do around the S shaped curve and see why my children can't ride their bike in the street, or why Lindsay and Arthur never felt comfortable letting their son play in their front yard, and how a car just missed running him over when he was crossing the road getting off the bus last year. Why for many years I asked the school district to move our bus stop to the corner of Willow Pond and Carob Court so the 7 children getting on the bus had a safe place to stand.

I would like to thanks Linda Teglash for taking time to meet with and listen to a small group of residents earlier this week. This is a very complex issue that goes far beyond development. This board has a due diligence to members of our community to seriously stop and listen to what we are saying before moving forward. If anything happens to another member of this neighborhood – adult or child – you too will be held responsible.

Thank you.

Scheidt, Susan

From: Tony Perrone <tperrone@preservepenfield.org>
Sent: Monday, February 17, 2025 11:04 PM
To: Jeffrey Leenhouts; Supervisor; Linda Teglash; Candace Lee; Ockenden, Robert; Kevin Berry; town board
Cc: Planning; Clerk; Laura Payne-Bourcy; Aimee Rinere; Mary Carroll; Daniel Moore; Zoghlin, Jacob H.
Subject: Willow Ponds Research and Request
Attachments: L Bourcy Ack Letter - Transp 2 14 25.pdf; Facts - Willow Ponds - S Curve Considerations - 4912-0127-0042.pdf

Dear Town Board,

Although representatives of Preserve Penfield, myself included, have recently emphasized the discretion wielded by the Board in its determination to approve or deny a Special Use Permit for the Willow Ponds project, I appreciate your demonstrated desire to base your decision on independent facts that will stand up to public scrutiny. In support of this, our organization is working to provide the Board with usable information, rather than just pelt you with unactionable complaints and unverified anecdotes.

Attached you will find a letter summarizing the results of a literature review compiled by Preserve Penfield members. Public safety is the core of our concern regarding this project, and the design of Willow Pond Way, both present and proposed, presents deep challenges that we would like to avoid exacerbating.

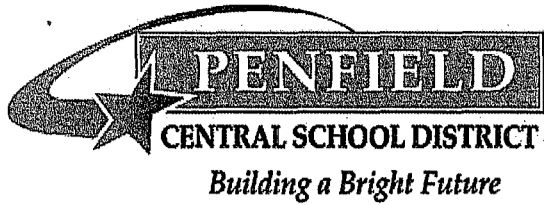
In addition, we have taken on the task of attempting to verify anecdotes shared by residents relating to school bus safety in this area. Also attached you'll find a letter from the Penfield Central School District indicating that their response to our FOIL request may take until April 16 to return. It is, of course, our intention to share our findings on this matter with the Board as soon as we can.

Given the further delays in obtaining relevant public records, I request that the Board keep the resolutions regarding Willow Pond (25T-053 and -054) **tabled until May** at the earliest. I don't make this request lightly. Jeff's comments from the Feb. 5 meeting regarding the project's already prolonged timeline (as well as his upstanding desire for Board unity despite his understandable objections) are not lost on me. Still, I believe it would be the right thing to do.

As always, I welcome your feedback, scrutiny, questions, or ideas regarding this information. Please let me know if I may be of any assistance.

Thanks,

Tony Perrone
President | Preserve Penfield
tperrone@preservepenfield.org
www.preservepenfield.org



TASHA POTTER, ED.D.
SUPERINTENDENT
PENFIELD CENTRAL SCHOOL DISTRICT
P.O. Box 900, Penfield, NY 14526
585-249-5700 • tpotter@penfield.edu
www.penfield.edu

February 14, 2025

Via Email to: LauraPayneBourcy@lpbconsulting.net
Laura Payne Bourcy

Re: Freedom of Information Law Request Dated 2/7/2025

Dear Laura:

This letter is being sent in response to your Freedom of Information Law ("FOIL") request, which the Penfield Central School District (the "District") received on February 7, 2025. You requested the following information:

- All bus incident reports or related internal records for the Willow Pond neighborhood in the last 20 years.
- Any e-mail communication that occurred with residents or the Town of Penfield in that neighborhood concerned about student safety and involving your vehicles or routes in this neighborhood or the 441 Corridor more broadly.
- Any training materials, including, videos that the Penfield Central School uses or has used to train or support drivers carrying PCSD students in these areas – especially Sanders Farm, Willow Pond Way or the 441 Corridor from Five Mile Line to the border of Penfield at Wayne County.

Consistent with Section 89 of the New York Public Officers Law, the District hereby acknowledges receipt of your FOIL request. Due to the breadth and scope of your request, the need to review records to determine the extent to which they must be disclosed, the volume of FOIL requests the District has recently received, and staffing limitations, the District requires additional time to respond to your request. Therefore, in accordance with Section 89(3)(a) of the Public Officers Law and Section 1401.5 of the Regulations of the Committee on Open Government, the District anticipates providing a response on or before April 16, 2025 – 60 calendar days from date of acknowledgment letter. If circumstances prevent the making of a response within that time, you will be notified of the same and of the date by which a decision will be made on your request.

Sincerely,

Lynn Scott
Records Access Officer

Preserve Penfield Inc.
8 Parham Drive
Penfield, NY 14526
tperrone@preservepenfield.org
www.preservepenfield.org

February 17, 2025

Penfield Town Board
3100 Atlantic Avenue
Penfield, NY 14526
board@penfield.org

Dear Town Board,

Preserve Penfield Inc. and its members have dedicated significant time researching, identifying, and analyzing relevant data and studies regarding the impacts of S curves on safety and traffic. This letter presents that information to assist the Town Board in its review of Willow Pond Ventures LLC's (the "Applicant" or "Developer") application for a special use permit to allow a change in use in the Planned Development (PD) District in which the Willow Ponds project is located (the "Application").

The traffic study provided by the Applicant failed to address the S curve at the site of the Willow Ponds Project (the "Property"). The study obtained by the Town called this out. Trip generation onto Willow Pond Way was incomplete in that it failed to account for traffic that would go right onto Sanders Farm and then left onto Willow Pond Way.

Neither study meaningfully addressed the dangers of the S-curve or the dangers of putting an entrance/exit across from another entrance/exit in an S-curve at the Property.

Accordingly, Preserve Penfield attempted to hire an independent traffic consultant in the Rochester region to provide a third-party, objective review of the traffic and safety impacts that would result at this S curve if the Application were approved. Due to apparent conflicts of interest – including business relationships with the Developer – none of the three traffic consultants contacted by Preserve Penfield could be retained to provide the requested Property-specific and Project-specific analysis about the traffic and safety impacts of the project the S curve at the Property.

Because the Applicant has failed to provide objective data on the S-curve issues. The Board must consider them to protect the safety and welfare of the public. To support the Town in this review of the Application, Preserve Penfield has prepared the following literature review of the traffic and safety issues commonly associated with S Curves.

First, it is important to note that the Developer, Willow Pond Ventures LLC, built this road and S-curve. Curves, such as S-curves, present significant safety challenges in residential areas. Research indicates that these curves have higher crash rates than straight-road segments. The Federal Highway Administration (FHWA)¹ reports that horizontal curves account for **more than 25% of fatal crashes, with an average crash rate approximately three times higher than other highway segments**. Most of these incidents involve vehicles departing the roadway, colliding with fixed objects, or overturning.

A study by Elvik (2022)² found that sharp horizontal curves, including S curves, increase accident rates. However, roads with numerous sharp curves do not necessarily have higher accident rates than those with fewer curves, suggesting that driver behavioral adaptation plays a role. Drivers tend to adjust their behavior in response to road design, which can mitigate some risks associated with sharp curves. However, this adaptation is stymied in this area by dense residential living, an assisted living center, and — if approved — three stories of apartments.

Moreover, in areas with significant snowfall during winter months, snowplowing often results in substantial snow banks on the sides of the road. When this occurs on S curves, it can significantly reduce visibility around the curve for drivers and pedestrians, increasing the risk of collision. When temperatures are at or near freezing, the thawing and re-freezing of these snowbanks can result in very icy conditions at the S Curve, compounding and exacerbating the risk of skidding or causing a vehicular accident.

Further research by Ryan et al. (2022)³ identified several factors contributing to higher crash rates on horizontal curves related to driver performance. These include increased task load and demand required at curve segments compared to straight segments. The study emphasizes the need for a comprehensive understanding of driver behavior to implement effective countermeasures.

A study published in the *International Journal of Environmental Research and Public Health*⁴ found that factors such as curve radius, superelevation, and vehicle speed significantly impact crash frequency on horizontal curves. The research suggests that

¹ U.S. Department of Transportation Federal Highway Administration. (n.d.). *Horizontal curve safety*. Horizontal Curve Safety | FHWA. <https://highways.dot.gov/safety/rwd/keep-vehicles-road/horizontal-curve-safety>

² Elvik, R. (2022). Which is the more important for road safety—road design or driver behavioural adaptation? *Traffic Safety Research*, 2, 9. <https://doi.org/10.55329/pvir7839>

³ Ryan, A., Hennessy, E., Ai, C., Kwon, W., Fitzpatrick, C., & Knodler, M. (2022). Driver performance at Horizontal Curves: Bridging critical research gaps to increase safety. *Traffic Safety Research*, 3, 14. <https://doi.org/10.55329/lmji8901>

⁴ Abdollahzadeh Nasiri, A. S., Rahmani, O., Abdi Kordani, A., Karballaezadeh, N., & Mosavi, A. (2020). Evaluation of safety in horizontal curves of roads using a multi-body dynamic simulation process. *International Journal of Environmental Research and Public Health*, 17(16), 5975. <https://doi.org/10.3390/ijerph17165975>

proper geometric design and maintenance are crucial for enhancing safety on these road segments.

In summary, S-curves in residential areas pose notable safety risks due to their geometric characteristics and the demands they place on driver performance. Implementing appropriate design measures and understanding driver behavior are essential steps toward mitigating these dangers. This suggests that the S curve is an existing hazard, and should not be exacerbated by placing increased demands on it, especially where they would compound existing safety and traffic problems at the Site.

Second and even more egregious is the intent to put two conflicting entrances on an S-curve. The Addison already exists, and the Developer's Application proposes a second entrance, which will double the conflict points at this already dangerous location.

1. Increased Conflict Points

- S-curves already create visibility challenges, and placing **two opposing driveways** in this location introduces multiple **conflict points** where vehicles enter, exit, and cross paths.
- Vehicles turning **left across traffic** from either development will have to judge gaps in both directions, which is difficult in an S-curve due to **limited sight distance**.
- Vehicles turning **right onto the main road** may be unable to gauge oncoming traffic speeds effectively.
- More driveways or intersections on an S curve mean more turning movements, sudden stops, and merging maneuvers, increasing the likelihood of collision. This is especially concerning when there is only one lane going in each direction.

2. Assisted Living Considerations

- **Slower-moving vehicles:** Residents, visitors, and transport services for assisted living facilities often move slower when entering or exiting.
- **Frequent medical transport:** Ambulances and transport vans require wide turns and can disrupt traffic flow.
- **Older drivers and pedestrians:** Senior residents may have **longer reaction times** and could struggle with judging distances and speeds on a curved road.

3. Apartment Complex Considerations

- **Higher traffic volume:** Apartment complexes generate frequent vehicle movements, including rush-hour peaks.
- **More turning movements:** With residents and deliveries, the number of left and right turns at the entrance/exit increases significantly.

- **Potential for speeding:** Younger drivers in apartments may be less cautious when navigating the curve. It is well-known that younger drivers often have higher rates of accidents, which is reflected in legislation, policy, and even insurance premiums.

4. Sight Distance Issues

- S-curves inherently **limit visibility** because the road bends, reducing how far a driver can see ahead.
- If one development's exit is at the **curve's apex**, vehicles pulling out may not be visible until the last second.
- A **stopped vehicle** waiting to turn across traffic could be in a driver's blind spot due to the curve.

5. Speed Differential Dangers

- Drivers approaching the S-curve from either direction may **not anticipate stopped or slow-moving vehicles** turning in or out.
- Speeding vehicles may be unable to react in time, leading to **rear-end collisions or T-bone crashes**. These risks are compounded during winter months when the time to slow down and stop can be reduced due to weather conditions.

6. Potential for Increased Pedestrian Activity

- Assisted living residents may use crosswalks, but visibility in an S-curve makes pedestrian crossings riskier.
- Apartment residents may walk to nearby amenities, adding **unexpected pedestrian conflicts** in an area where drivers already deal with challenging geometry.

A review of specific traffic and safety data/studies supports these conclusions:

A Study of Safety Impacts of Different Types of Driveways and Their Density.⁵

Summary: This research examines how various driveway types and densities affect traffic safety. It provides a cross-sectional comparison of mean crash frequency and rates among different driveway configurations to show that S curves have higher rates of collision.

Safety Effects of Different Driveway Types Defined in the Highway Safety Manual.⁶ *Summary:* This research investigates the safety impact of different driveway

⁵ Williamson, M., & Zhou, H. (2014). A study of safety impacts of different types of driveways and their density. *Procedia - Social and Behavioral Sciences*, 138, 576–583.
<https://doi.org/10.1016/j.sbspro.2014.07.241>

⁶ Williamson, Michael & Zhou, Huaguo & Fries, Ryan. (2018). Safety Effects of Different Driveway Types Defined in the Highway Safety Manual.
https://www.researchgate.net/publication/275543861_A_Study_of_Safety_Impacts_of_Different_Types_of_Driveways_and_their_Density

types across various roadway environments, providing crash prediction models and identifying the safety effects of converting different driveway types. It finds that there are noticeable adverse safety effects from S Curves.

Access Management (Driveways) | FHWA.⁷ *Summary:* The Federal Highway Administration provides guidelines on driveway placement, emphasizing that driveways should not be located near sharp curves or points that interfere with the free and safe movement of traffic due to limited sight distance and increased conflict points.

Safety Evaluation of Horizontal Curve Realignment on Rural, Two-Lane Roads.⁸ *Summary:* This study evaluates the safety effectiveness of horizontal curve realignment by increasing the radius of curved roadway segments on two-lane rural roads, aiming to reduce crash rates associated with sharp curves.

A Review of Pedestrian Safety Research in the United States and Abroad.⁹ *Summary:* This comprehensive review summarizes research on pedestrian safety, focusing on crash characteristics and the safety effects of various roadway features, including the impact of road geometry on pedestrian incidents.

Road Safety Management of Uncontrolled Access Points: Design Criteria and Insights into Risk Factors.¹⁰ *Summary:* This study provides a comprehensive approach to managing uncontrolled access points, discussing design criteria and risk factors associated with access points without traffic controls, which can exacerbate safety issues near curves.

Determination of the Offset Distance Between Driveway Exits and Downstream U-Turn Locations for Vehicles Making Right Turns Followed by U-Turns.¹¹ *Summary:* This research evaluates the impacts of the offset distance between driveway exits and downstream U-turn locations on vehicles' safety and operational performance, providing insights into optimal driveway placement relative to curves.

⁷ *Access management (driveways).* U.S. Department of Transportation Federal Highway Administration. (n.d.). <https://highways.dot.gov/safety/other/access-management-driveways>

⁸ Research, Development, and Technology Turner-Fairbank Highway Research Center. (2018, April). *Safety Evaluation of Horizontal Curve Realignment on Rural, Two-Lane Roads.* U.S. Department of Transportation Federal Highway Administration. <https://www.fhwa.dot.gov/publications/research/safety/17066/17066.pdf>

⁹ Research, Development, and Technology Turner-Fairbank Highway Research Center. (2004, January). *A review of pedestrian safety research in the United ...* U.S. Department of Transportation Federal Highway Administration. https://rosap.nsl.bts.gov/view/dot/16111/dot_16111_DS1.pdf

¹⁰ Perri, G., & Vaiana, R. (2022, December 10). *Road safety management of uncontrolled access points: Design criteria and insights into risk factors.* MDPI. <https://www.mdpi.com/2076-3417/12/24/12661>

¹¹ Lu, J. J., Liu, P., & Pirinccioglu, F. (2005, November). *Determination of the Offset Distance between Driveway Exits and Downstream U-turn Locations for Vehicles making Right Turns Followed by U-turns.* Kentucky Transportation Cabinet. <https://transportation.ky.gov/Congestion-Toolbox/Documents/Median%20Opening%20Research.pdf>

All of these facts highlight the safety challenges posed by opposing entrances/exits near S-curves, emphasizing the importance of careful driveway placement and design to mitigate potential hazards. For these reasons, the Application would exacerbate already dangerous traffic and safety conditions at the S curve on the Property. The Planning Board should consider these adverse impacts on the public welfare in reviewing the Application.

Next, Preserve Penfield FOILed all incident reports from the Penfield Central Schools related to safety issues, which we expect will include a video demonstrating the existing traffic and safety problems at the S curve at this Property, and the reported use of this neighborhood in key training materials.

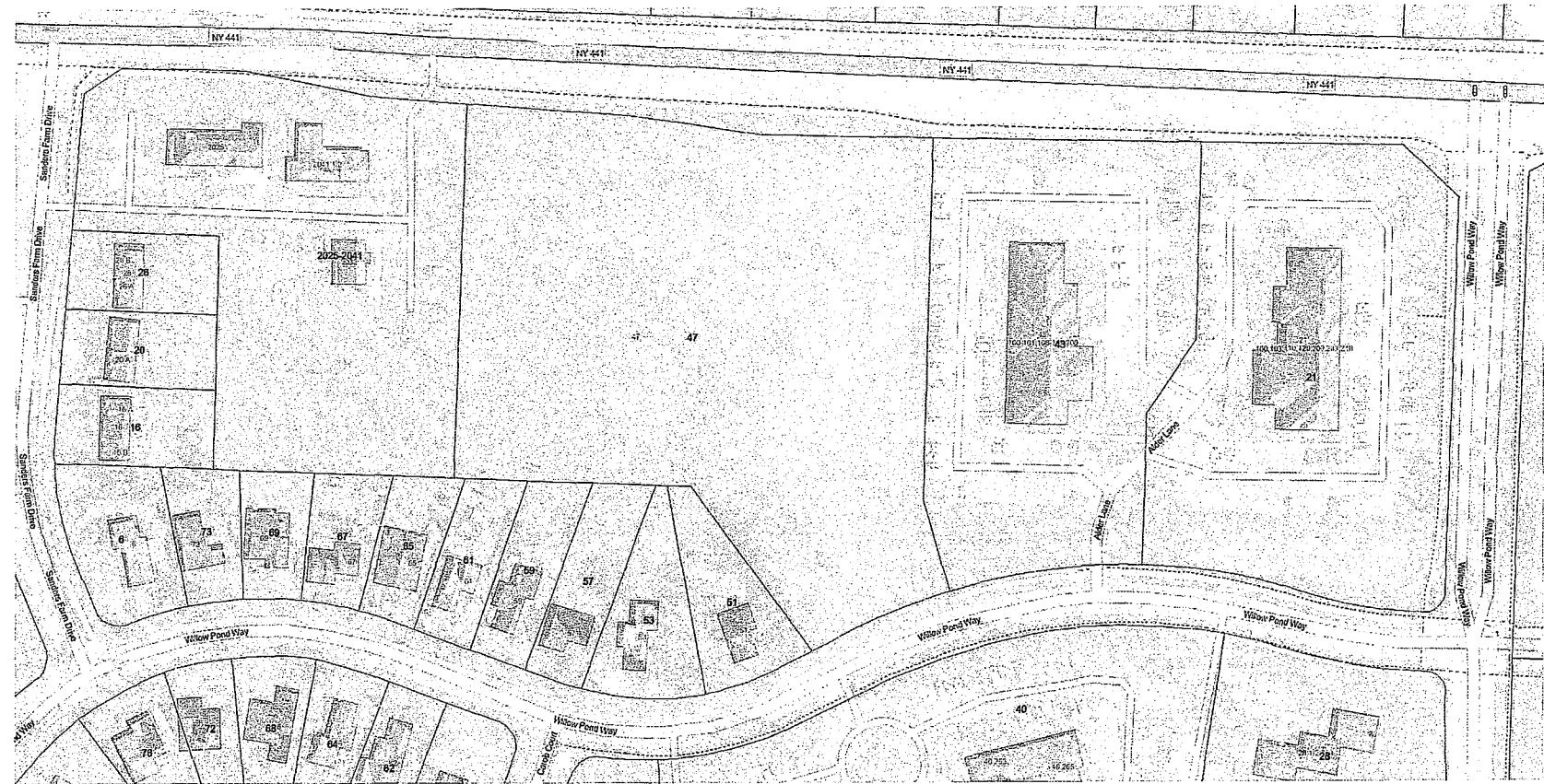
We will provide that data to you when we receive it.

Sincerely,
Anthony Perrone, President
Dr. Laura Payne-Bourcy, Vice President
Mary Carroll, Secretary
Aimee Rinere, Treasurer
Daniel Moore, Parliamentarian

Preserve Penfield Inc.
8 Parham Drive
Penfield, NY 14526
tperrone@preservepenfield.org

CC Jeff Leenhouts, Town Supervisor
Penfield Town Board
Peter J. Weishaar, Esq.
Jacob H. Zoghlin, Esq.
Penfield Planning Department
Mark Valentine, Town Engineer

Map: Willow Pond Way S-Curve



<https://penfieldny.maps.arcgis.com>
Willow Pond Way, Penfield NY

February 5 – Penfield Town Board Meeting – L. Payne-Bourcy (8 Parham Drive)

I want to share my concern about the Town Board meeting on January 22nd.

- I heard yet again – this time not from our Town Attorney but from our Town Engineer – that Mark IV could go “pull permits” at any time for Assisted Living.
- Yes, they can – we all know that. It’s the construction and perpetuation of such narratives that I find troubling as they become “tag” lines meant to convince listeners that the issue is a foregone conclusion.
- And whether they could pull permits for a prior project - that they no longer want to build - is irrelevant to the question of whether a special use permit can and should be granted for the proposed change in use.
- It contributes to the false narrative of “there is nothing more we can do.”

So, I decided to do something. We foiled the Town to obtain historical records showing that the Town Board can consider the issues raised by the public and can deny the special use permit.

- 1) In 1983, based on a letter written by James Costello, the Town Board informed Mark IV that they would be opposed to a special use permit pursuant to Article III-3-49-C of the Zoning Ordinance to deviate from the approved use of elder care or senior living.
- 2) On August 6, 1992, the Town of Penfield received a different application from Mark IV Construction to allow them to build a 64-unit apartment complex for adults, on 4.33 acres, at 34-40 Willow Pond Way. This is where the Addison now sits, and the units were described as “luxury.”

The response to this request by Mark IV was written by [Supervisor] Irene L. Gossin (and I quote),

The town board has directed me to inform you that it does not favor multiple-residential development rather than Senior Citizen housing as originally planned in the Willow Pond PUD. The Town Board has determined that the original plan for 90 Senior units must be adhered to and would not grant a “special permit” pursuant to Article III-3-49-C of the ordinance. This affirms the decision of the Planning Board that the proposed change does NOT meet the intent of the original approval granted Stanndo in 1972.

So, a point of record.....this PD dates to 1972 not the 2000s as was put into the public record on January 22nd.

I request an amendment or clarification be made to those meeting notes.

Related, we now have it on the public record that denials of the same request before you now – occurred in 1983 and 1992.

Let's consider what this means.

Not only can this Town Board tell Mark IV no to a "special permit" for change of use, the Penfield Town Board told them no in 1992 for fewer luxury units than they are requesting now simply because those units did NOT comply with the intended/approved use – specifically, Senior or Assisted Housing.

And, it told them no in 1983 for any departure from Senior or Assisted Living.

The story doesn't end there.

In 1996 Mark IV came back and asked to build a 150-bed assisted living facility, an 89-unit independent living facility and ONE office building for medical purposes.

In resolution, Linda Kohl wrote, "The Board is supportive of the applicant's proposal for a combination of senior housing in the form of assisted care and independent living as such uses are generally considered to be **low traffic generators, particularly during peak traffic morning and evening hours**".

In that detailed resolution, the Town Board affirmed the consistency with the original, approved PD intent and called out rationale – specifically, **low traffic generation with the targeted population/intent or use.**

In 2002 – Mark IV was back with another application.....asking for the 2nd office building. Legislator Kohl wrote in a resolution approving a second two-story office building and 150 Assisted Living Beds.

The 89 independent living units were out the window – but the proposal was still approved as (and I quote from that resolution) - "the project, as now modified, complies with the purpose and intent of the PD District."

Now – in 2024, they ask to depart completely from the purpose and intent of that PD district upheld in the Town of Penfield for 52+ years.

Not only do we now have evidence that they were told NO in 1992 to luxury apartments and no to a departure from approved use in 1983.... the exact same ask before the town now, but we now can affirm that multiple Boards since have held them to that original intent and even documented WHY that intent matters.

Four different instances – that "more" can be done.

If you want to vote yes to this change of use.....do it – but do it for the right reason, not because you think] "there is nothing more we can do."

[If you approve the application, and I hope you don't, please recognize the implications for future requests in other PDs.

[Simply put, the Town Board can consider the issues raised, and can deny the special use permit, which there is no need for]

- As the Record shows, the project will have significant impacts on traffic, safety, and other areas] for this neighborhood which includes the 441 corridor.
- [Moreover,] a 3-story complex is [not] in keeping with the character of this neighborhood.

Your predecessors showed you that you have the authority and discretion to deny this application. I encourage you to follow their precedent and deny the change in use.

They showed you four times:

- With this exact PD
- With this same developer.

January 10, 2024

Town of Penfield
Amy M. Steklof
3100 Atlantic Ave
Penfield, NY 14526

Ms. Steklof,

This letter and the accompanying documents address the Clark Road Barn and Clark House projects on the Shadow Pines property. I am aware of where the process stands. However, until contracts are awarded the projects do not proceed, hence this letter.

I did not become aware of the two projects until a few days before Thanksgiving. Since then I have been gathering information, asking questions and taking notes daily. Please understand that some information is incomplete, unknown or seemingly contradictory. Sometimes the information I get turns out to be incorrect but I have done my best. I come to this with a long history of travel in the eastern half of the country as well as photographing it. Now something in my own backyard draws my attention.

I am a strong believer in historic preservation. It can serve as physical roadmap to our past and a guide to the future. Clark House and its barn are on that map.

A brief history is in order. Daniel Penfield purchase a large tract of land in 1795 part of which later became the Town of Penfield in 1810. In 1800 Calvin and Ruth Clark along with their six children came here from somewhere along the New York and Connecticut border. They made their way here the hard way. There were no roads, no trains and no Erie Canal. Calvin is generally recognized as the first resident of Penfield (10 years before Penfield was legislated into existence) and shows up in the 1800 census. He purchased 50 acres of land from Daniel Penfield north of what is now Atlantic Avenue and built a home.

Daniel Penfield later sold a tract of land all or part of which became the Shadow Pines property to a Gideon Granger. He later sold 100 acres of this tract to Abraham Johnston who in 1829 sold his land to Alpheus Clark the oldest son of Calvin and Ruth. In 1832 Alpheus built the house we know now as Clark House. He lived there with his family and farmed the land until 1854 when his son George W. bought the property from him. Alpheus continued on there until his death. Later circa 1921 George's daughter Dora and her husband bought the property and lived there. This is valuable history and lineage and the history is a paramount consideration for both Clark House and barn.

Enclosed please find one 2-page document, 1 architects side elevation and one direct overhead view of the site footprint reprinted in black and white. The document combines 3 separate texts edited for space, relevance and paper savings. The first two paragraphs are taken from 2 pages on the town website. The third section (numbered and lettered) is from town code. It is edited but not meant to hide anything. Highlighted sections are important to upcoming text.

Regarding the barn I have heard discussions by the barn committee and opinions are varied. I believe:

- The barn should be refurbished/rebuilt on the original site. The farmer built it there.
- Do consult with Dolomite. I can't imagine them having a problem with this—the barn has been there for at least 100 years and you aren't building new from scratch. Choose the "right" words.
- The site is well traveled with good access. There shouldn't be parking there.
- Accommodate the elderly and disabled—there are paved walkways, appropriate landscaping and maybe even a small pull-off roadside. Pull off, drop off, park.
- If electrification is desired a utility pole with transformer sits directly across the road but why not be rustic and operate during daylight—it is a farm.
- There are numerous potential activities and uses. Rebuild first and work out the details later.
- The Amish barn builders should have been consulted.** The town has to play by a different set of rules I believe that any conflicts are reconcilable and you owe it to the town to find out what the costs are. I heard a \$ amount for the Torcia firms analysis. What do you think the Amish would charge?

Regarding Clark House:

- There are 27 designated landmarks in the town. It is my understanding that only one is unoccupied—Clark House. This fact provides us with a unique opportunity.
- There are some beautiful historic homes in Penfield but none sits like Clark House. Alpheus Clark could not have chosen a better spot to build. The house sits on a gentle rise, south facing over an exceptional landscape. The Landmark Society classifies the house as Classical Revival, a style unique to this area.
- Clark House is the centerpiece—the star of the property. The only thing crowding it is the dead weight attached to the back of it.
- The house should be restored to its original configuration eliminating the add-on wing to the west end. It is not original to the house.
- A paved sidewalk shows on the site plan. It would detract from the beautiful front lawn. Adding a stone walk going west like the one from the east would be appropriate for the age.
- Most important is separating the house from the new event facility.** This can be accomplished by moving the new facility due north approximately 100yds. The structures are distinct and serve different purposes.
- Clark House is a 192 year old, HISTORIC structure and should stand alone. Its presence is unique to this property and the town of Penfield.
- Any changes like modifying utilities should not be difficult and be made quickly.
- Build the new facility as designed**—simply move it due north on the existing plateau. The parking would probably be better because the lot(s) could partially surround the facility.
- Allow existing contract bidders to adjust their bids if necessary **without** additional charges or fees.
- Postpone the vote for 30 days in order to make adjustments.

Important Factors:

- I call your attention to the enclosed architects side elevation. Look at the west (bottom) view. Look

- at the **disparity** in size between the house and the long-roofed section (*LRS*). Yes that is the short side of the house but the comparison is **far** more than viable. It looks like a small dog taking a hippopotamus for a walk on leash.
- Here are a couple architect provided numbers. The *LRS* is 96ft 3in long. Including the intermediary structures between the house and *LRS* the total length is 118ft 4.5in.
The *LRS* roofline height is not given.
The house length is not given.
- The total width of the new facility from the west wall to the farthest wall east is 64ft 7in. Including the large canopied west patio the distance is 83ft.
- Using *architect supplied* square footages here are some illuminating numbers:
For the house I used 2nd floor numbers. The 1st floor included the west addition which should be removed and demolished (its not original). I didn't include 1st and 2nd floor totals because the exterior house dimensions remain the same. House square footage is **854 sq ft**
The new facilities total square footage minus the hallway (not given) is **4,965 sq ft**
That is **5.81 times larger** than Clark House.
- The new facility **DWARFS** Clark House.
- The new facility **OVERWHELMS** Clark House.
- In the Bergmann firm's Jan. 2023 work session site plan pg. 12 titled "Current Scope" item four states "Design should compliment original Clark House but **NOT OVERWHELM**".
- That's almost **6 TIIMES** LARGER. What do *you* think??
- I now call your attention to the direct overhead view of the planned footprint (in black & white). Locate the house at the south end, discount the 2 end attachments (not orig.) and now compare the House to the large *LRS*. How many times do you think Clark House will fit between those four walls?
- Not only will the new facility **OVERWHELM** Clark House it will **DIMINISH** it and **DENIGRATE** it. It will be made secondary—an afterthought. Build it but separate it.
- I'm told that the house can't be opened to the public. It is not ADA compliant and there are code issues. I am NOT satisfied that it can't be opened to the public at all except for major alterations.
- I'm told the house may be used for storage. Do we really want to turn a beautiful 192 yr. old house into a **BROOM CLOSET....A ONE-LEGGED STEPCHILD?**
- Lost in all of this is Alpheus Clark and his family. If not for him we might not be doing any of this. I will speak for him if no one else will. I wonder what he would think?
- In the town's own words, we profess a respect and caring for our history and its structures. The Current plan is in contradiction to that. The preservation board and town code mention **impairment, Injury and appropriateness**. The house is already injured and impaired. To proceed with the current plan would continue and/or re-injure and impair Clark House.
- Appropriate is the **LAST** thing that this plan is. That certificate should **NEVER** have been issued.
- We hold the residents accountable especially with historic houses. **WHERE** is the town's Accountability?
- We must look back and ask what those who can no longer speak for themselves might think and forward to those yet to have their say. **SAVE and PROTECT** what has been given to us and for those to come. **THAT** is historic preservation at work. It is the **RECOGNIZING and PRESERVING**----It is the **RESPECT** for our heritage.

--Imagine these international icons—especially the free-standing ones.

- The Statue of Liberty
- The Washington Monument
- Cape Hatteras Light
- The Eiffel Tower
- The Acropolis
- The Colosseum

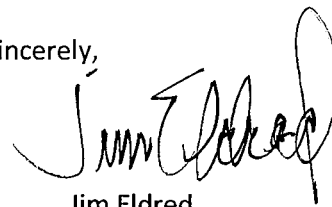
You might say that I can't compare Clark House to any of those...I would say Penfield isn't New York City, Washington D.C. or the Outer Banks of North Carolina. It's Certainly not Paris, Athens, or Rome. But what Penfield is----is----US----***You, me and all of our neighbors.***-----Clark House is OUR GEM. It is OUR HATTERAS LIGHT on a point of land overlooking OUR world!

--You are on the verge of an important decision. If contract bids are deemed acceptable you will soon be asked to vote on them. Please don't repeat the mistake made in the 1980's.

--We may well be remembered by future generation for making what could be one of the best decisions The town had ever made by purchasing the Shadow Pines property. Don't leave a *black mark* on that great addition to our heritage by making a bad decision.

I am available to one and all and am happy to discuss any of this with you. I'm interested in all opinions. I'll gladly meet with you whether over coffee, at the Town Hall or by phone call. My number is 381-7469.

Sincerely,



Jim Eldred

Historic Preservation Board

The Historic Preservation Board (HPB) designates Penfield landmarks and oversees Historic Preservation Districts. The Historical Preservation Ordinance of the Town of Penfield was adopted by the Town Board on September 4, 1973. The Historic Preservation Board was formed to provide an implementation of the Ordinance. The Purpose of the Ordinance is to preserve the historical and architectural character of designated structures or districts within the town; to prevent the impairment of or injury to their historical, architectural, and cultural value to the community.

Criteria and procedures for designation on landmarks

The Historic Preservation Board may, with the consent of the property owner, after a public hearing, designate an individual property as a landmark if it possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic, or social history of the locality, Town, state or nation, or if it is identified with historic persons or events, or if it embodies the distinguishing characteristics of an architectural style, or is the work of a designer whose work has significantly influenced an age, or, because of unique location or physical characteristics, represents an established and familiar visual feature of the neighborhood. In making its determination, the Board may also consider staff reports, public comments and other evidence obtained outside of the public hearing in addition to all evidence presented at the public hearing.

Criteria for issuance of certificate of appropriateness.

(1)

In making a decision on a certificate of appropriateness, the Historic Preservation Board shall not consider changes to interior spaces unless evidence of such changes appears on the exterior. The Board's decision shall be based on the following elements:

(a)

Any alteration of existing properties shall be compatible with their historic character, as well as with the surrounding properties.

(b)

Properties which contribute to the character of the Historic Preservation Overlay District shall be retained with their historic features altered as little as possible.

(d)

Consideration shall be given to approved municipal plans affecting the property(ies).

(2) In applying the principle of compatibility, the Historic Preservation Board shall consider the following factors:

(a)

The general design, character and appropriateness to the property of the proposed alteration or new construction.

(b)

The scale and size of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood.

(e)

The importance of historic, architectural, or other features to the significance of the property.

Controls on Penfield landmarks and structures within historic districts.

(4)

New structures in Historic Preservation Overlay Districts and on landmark sites shall harmonize with the general character of the structures in the district or with the landmark. However, new structures shall not be required to comply with any particular style or architectural period unless required by an approved Town plan.

Permits allowing commercial uses.

(1) The Town Board may, in any district of the Town, grant a permit allowing a commercial use or uses in a Penfield landmark, provided that:

(a)

The Historic Preservation Board has made a recommendation to the Town Board.

(b)

The Town Board, after a public hearing, finds that:

[3]

The proposed use does not diminish the historical character of the structure.

(c)

The Town Board shall be responsible for site plan review in conjunction with any proposed site improvements that are necessary to support the specially permitted use(s).

(d)

In granting the permit and site plan approval, the Town Board may impose reasonable conditions.

CLARK HOUSE

SITE DEVELOPMENT



B

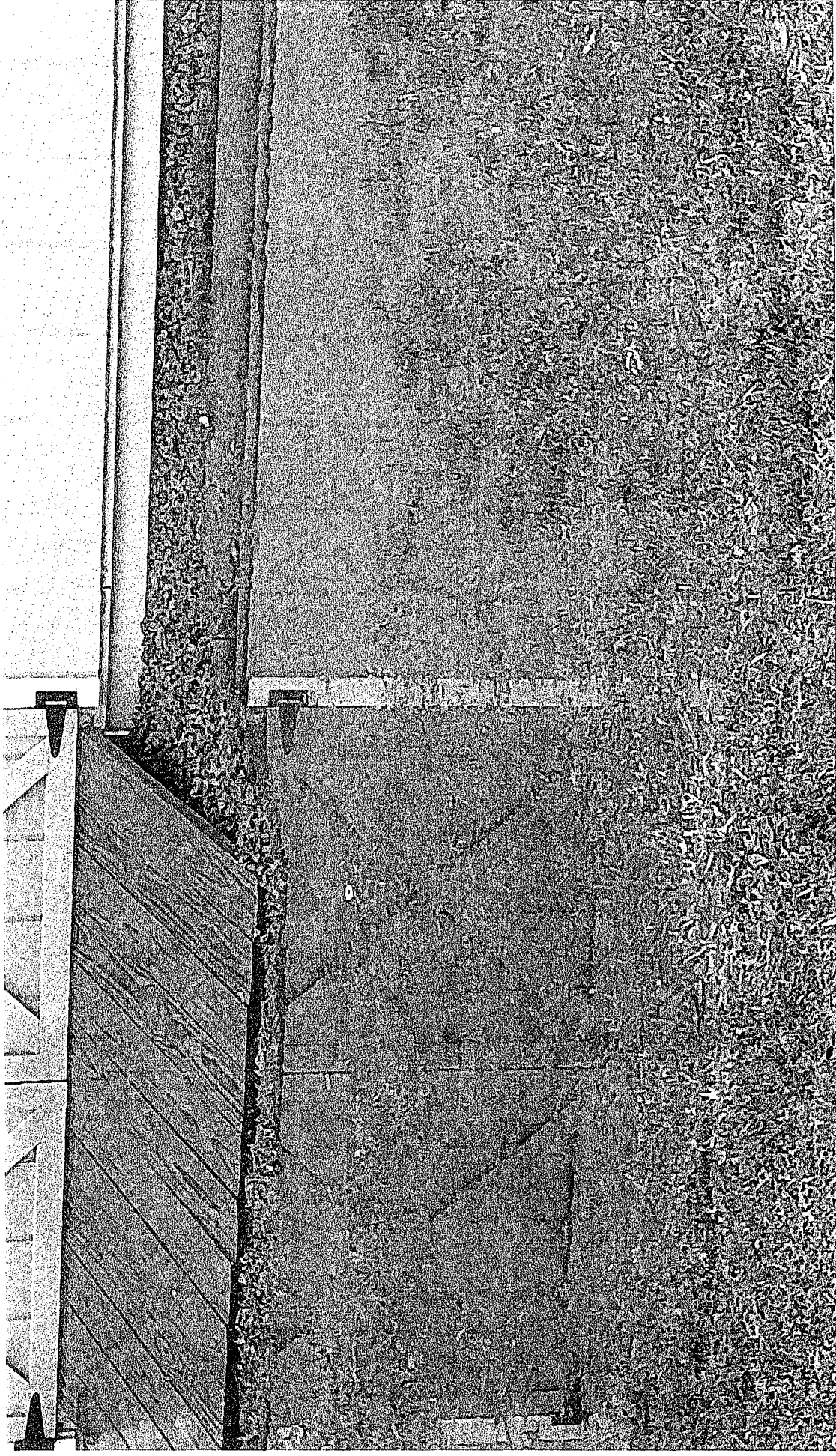
67 Willow Pond



607 willows bend



67 Willow Pond



Steklof, Amy

From: Linda Schriever <lsschriever@gmail.com>
Sent: Friday, January 31, 2025 10:05 PM
To: Steklof, Amy
Subject: Public Hearing on Firearm Discharge Map

*In receipt of email
Supporting*

PH#3

Hello,

Unfortunately, I am unable to attend the legislative session on February 5 to participate in the Public Hearing regarding the Firearm Discharge Map.

Could you please read the following comments to the board?

Dear Board members,

I have lived at 1420 Jackson Rd for over 20 years. Until recently, the property to the north and east of my home was vacant and hunting was allowed there. Hunting season was always a stressful time when I would be awakened by gunshots nearby. The shooting also caused anxiety and stress for my dogs and horses. It's very sad that I didn't feel safe to be outside during hunting season for fear that a stray bullet might come my way.

Now that Rocco Pines has been developed, the PCSD bus garage has moved to this area, and development of the land at Rt 250 and Atlantic Ave is in progress, it would seem appropriate to move the Firearm discharge line further to the east to insure the safety of the people who are living between Jackson Rd and Rt 250. The increase in population density (families with children) and increased traffic on Jackson Rd should certainly justify a re-alignment of the Firearm Discharge Map.

[I support adopting the recommendations from the Penfield Residents for Safety Team.]

Sincerely,
Linda Schriever
1420 Jackson Rd
Penfield, NY 14526

Steklof, Amy

*In receipt 2 emails in oppoisy
willow pond project will be made part of record*

From: Susan Kleeh <suzabasketcase@aol.com>
Sent: Wednesday, February 5, 2025 3:00 PM
To: Linda Teglash; Ockenden, Robert; Kevin Berry; Steklof, Amy
Subject: Fw: apartments in willow pond

To All Town of Penfield "ELECTED" Board Members.
You are elected to represent our community, not represent a multi million dollar corporation.
Please see below.
We are counting on you to do the right thing for Willow Pond residents

----- Forwarded Message -----

From: Susan Kleeh <suzabasketcase@aol.com>
To: lee@penfield.org <lee@penfield.org>
Sent: Wednesday, February 5, 2025 at 02:53:23 PM EST
Subject: apartments in willow pond

Dear Ms. Lee,

My name is Sue Kleeh and I live at 2 Devonshire Circle in Willow Pond. I have come to 2 meetings at the town hall and I am also the president of the Devonshire Homeowners association. Many of our residents have already signed a petition opposing the Mark IV plans to add in 88 apartments in a 4 acre area of Willow Pond. We all feel that the Town of Penfield is just selling us out in this neighborhood. I grew up in Penfield and have lived here for 58 years. I know this is the most heavily traffic neighborhood in all of Penfield. We already have 2 apartment complexes, a senior living building, a 236 unit townhome community (Devonshire Circle/Courtshire Lane/Camberly Place) as well as many single family homes. Not to mention Concord Square and Windsor Square that also use our roads for ingress and egress. I am appalled that the Town of Penfield is more interested in letting a large corporation make money in our neighborhood than what the actual residents want. They presented a traffic report that is a blatant lie. 88 apartments will add a lot more traffic at the corner of Willow Pond and Crown Oak. My backyard backs up to this corner and there are so many accidents and near accidents. It is already not safe.

I'm sure if any of you lived in this neighborhood, this would not be approved. You already have a huge tax base from this neighborhood. Being all about the money is not serving your current residents. Renters don't care about their community as they are in and out all the time. We do care. You have already stopped snowplow services to our sidewalks after 35 years of plowing them. This neighborhood has a stench of sewage which many of us have called and complained about and were told, "it's a sulfur spring". It seems you don't really care about this neighborhood or it's residents. I think it's shameful to approve these apartments. We already have higher crime from Crown Oak apartments due to being low income housing. Again, people who rent don't care. You can check this out with the Monroe County Sherrif's office and ask how many times they are over there. I see it because it's in my backyard.

I, along with many of our residents at Devonshire HOA (many who are senior citizens) are totally opposed to approving this project just for more money for the Town of Penfield and Mark IV. It is shameful on your part. Start listening, caring and protecting your residents that already pay high taxes. Penfield used to be a wonderful community of people.....not greed.

Susan Kleeh
President, Devonshire HOA
2 Devonshire Circle

Steklof, Amy

From: mmcd0826 <mmcd0826@frontier.com>
Sent: Wednesday, February 5, 2025 5:35 PM
To: Clerk
Subject: 47 Willow Pond Way

Dear Ms. Steklof,

I am opposed to the Town of Penfield granting Special Use Permit to Mark IV for the development of 88 apartments at 47 Willow Pond Way.

- While Mark IV's offer is to cover cost of crosswalk striping, sidewalks, and speed feedback mechanism - the addition of 88 living units and parking for 176 vehicles will have a negative impact on the safety and welfare of the surrounding neighborhood. Accidents and traffic violations of excessive speed and drive-through stop signs already are a menace to pedestrians and drivers in Willow Pond. Adding a potential of 176 more vehicles can only spell trouble. No amount of striping will compensate for the lack of traffic enforcement in Penfield. The main entrance to the proposed apartments is close to a blind curve on Willow Pond Way, where cars currently speed down the center of that roadway. I've had many close calls, both on Willow Pond Way and approaching the two-way entrance by the traffic light.
- Can the DOT change the traffic light timing such that there is more of a delay between the light on 441 turning red and the Willow Pond exit light turning green? This would be helpful now, as many cars are travelling 55 mph heading East on 441 and blow through the red traffic light.
- The property was already approved some forty years ago for Senior Assisted Living. While that may not be profitable enough for the Mark IV corporation to pique interest, perhaps there is a compromise. It is a fact that Penfield currently has insufficient independent housing opportunities for retirees and seniors. Many of us would welcome the addition of senior apartments, townhouses or patio homes - as a means to downsize and at the same time, sell our current homes to young families moving into Penfield. Would the Mark IV group consider that option? I propose a 40 to 50 unit apartment building instead of the 88 unit.
- We do appreciate the Planning Board and Town Board making the effort for due diligence on this project. What we don't understand is why the town is so willing to grant special permits, change zoning or use permits for properties? And why is a project of this impact not put to a public vote?

Thank you for entering this into record.

Best,
Mary and Timothy McDonough
28 Jacaranda Ct. (in Willow Pond)