

Planning Board

TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD AUGUST 15, 2024

PRESENT were LINDA STANCLIFFE, ACTING CHAIRPERSON, DONALD HENDERSON, J. EMIL KREIGER, DAVID TARBOX, and KEVIN MAINELLO.

ABSENT were RUSSELL OSTER and ANDREW PETERSEN.

ALSO PRESENT were MICHAEL McDONALD, Brunswick Building Department, and WAYNE BONESTEEL, P.E., Review Engineer to the Planning Board.

Acting Chairperson Stancliffe reviewed the agenda for the meeting, as posted on the Town sign board and Town website.

The draft minutes of the August 1, 2024 regular meeting were reviewed. Upon motion of Member Henderson, seconded by Member Mainello, the draft minutes of the August 1, 2024 regular meeting were unanimously approved without amendment.

The first item of business on the agenda was the applications for site plan and minor subdivision submitted by Maries Muse, LLC for property located at 727-737 Hoosick Road and 4 Mohawk Avenue. Tim Freitag, from Bohler Engineering, was present to review the applications. Mr. Freitag stated that traffic and stormwater were the primary issues remaining with the applications, and that that a State Environmental Quality Review Act (SEQRA) determination needed to be made by the Planning Board before a public hearing could be held. Mr. Freitag stated that the applicant was coordinating with the Town and NYS Department of Transportation (DOT), and was incorporating the full traffic intersection mitigation plan. Mr. Freitag stated that the

applicant had responded to Mr. Bonesteel's comments on the project's stormwater plan, and that additional comments on the stormwater plan had been received earlier that day and would be responded to. Mr. Bonesteel stated that he had reviewed the SEQRA record for the project, including the potential significant impacts listed in Part 2 of the Environmental Assessment Form (EAF). Mr. Bonesteel stated that there were two outstanding items that the Planning Board needed further information on before it could make a determination as to the environmental significance of the project. Mr. Bonesteel stated that the first outstanding item was stormwater, that several items concerning stormwater analysis must be addressed before stormwater impacts can be fully assessed, and that both he and Bill Bradley, from the Town Water Department, had outstanding comments that needed to be addressed. Mr. Bonesteel noted that the current stormwater analysis only considered the project site itself when discussing drainage, but that the property north of the project site should also be included in the drainage area and considered in the stormwater analysis due to the downward sloping nature of the site. Mr. Bonesteel stated that questions remained concerning the water table on the site. Mr. Bonesteel reported that Mr. Bradley had noted that there were areas proposed for significant soil cut, but that test pits on the site had not adequately analyzed the locations of the projected soil cuts. Mr. Bonesteel stated that the applicant had not yet submitted a stormwater pollution prevention plan (SWPPP), and that at least a draft SWPPP would be necessary to make a SEQRA determination. Mr. Bonesteel stated that the site would be a difficult site for stormwater management. Mr. Freitag agreed that it was a difficult site due to topography and groundwater, then discussed the site characteristics and existing conditions. Mr. Freitag stated that multiple test pits had been dug at the site, but that some areas of the site were inaccessible due to being too close to adjacent homes, that it would cost \$40,000 to \$50,000 to further investigate the site and analyze stormwater issues, and that the applicant needed to balance the need for

construction-level detail with the SEQRA status. Mr. Freitag stated that the Planning Board needed to specify the level of detail that was needed for a SEQRA determination. Acting Chairperson Stancliffe confirmed that the Planning Board needed to determine whether stormwater could be managed at the site, that the applicant must coordinate with NYS DOT on stormwater facilities on Hoosick Road, and that the Planning Board must know if the project's stormwater plan is achievable on the site. Mr. Freitag asked what specific stormwater details and level of design would be required by Mr. Bonesteel and the Planning Board. Mr. Bonesteel suggested that the applicant's engineer coordinate with him and set up a meeting to discuss all the outstanding stormwater issues. Mr. Freitag agreed to help set up that meeting, and stated that Mr. Bradley should be included at that meeting as well. Mr. Bonesteel stated that the site's water table elevation was critical and that further information would be required on it. Mr. Bonesteel also stated that there were other ways to test for groundwater other than test pits, such as boring tests. Mr. Freitag stated that boring tests would be difficult as it would be very difficult to get equipment for those tests onto the site. Mr. Bonesteel stated that the second outstanding item was traffic, stating that the applicant had hired a traffic engineering firm, and that the Planning Board had retained Creighton Manning Engineering to review the applicant's traffic impact studies, then began reviewing the record on traffic analysis. Mr. Bonesteel stated that he attended a meeting in February 2024 with representatives from NYS DOT, the Rensselaer County Highway Department, Creighton Manning's engineer, and the applicant's traffic engineer, at which many topics were discussed, including traffic signals, adding a turn lane on Hoosick Road, adding a right turn lane onto McChesney Avenue with a dedicated left-only lane, improved level of service existing conditions, and that there would be no impact to the level of service on main line Hoosick Road. Mr. Bonesteel noted that Creighton Manning's traffic study did not adequately analyze short-term

traffic impacts at the site, and that two other Chick-fil-A locations nearby have shown heavy initial traffic impacts at and near the site for weeks after the locations opened. Mr. Bonesteel stated that the applicant's traffic study also did not discuss the retail building and second drive-thru restaurant proposed for the site, both of which would be traffic generators. Mr. Bonesteel asked if the applicant was still planning a single-phase build-out for the site. Mr. Freitag confirmed that the applicant was still planning a single-phase build-out, but that it had not been finalized. Mr. Bonesteel stated that additional information would be needed concerning short-term traffic impacts, specifically a detailed plan on traffic management at opening, including real data from other Chick-fil-A locations, as the Planning Board must consider short-term traffic impacts. Mr. Freitag stated that Chick-fil-A employs a grand opening team when opening a new location, which stays in the area for two or more weeks after opening to train employees. Mr. Freitag stated that Chick-fil-A also partners with local law enforcement and off-duty police to serve as traffic control, and that the applicant could submit a general plan layout and traffic control plan. Mr. Bonesteel stated that he would need specifics on the traffic control plan. Mr. Freitag stated that the applicant could submit a more specific traffic control plan, but that it would need to be a working document due to what may be happening at the time of opening. Acting Chairperson Stancliffe stated that the Town had received a letter dated August 12, 2024 from Sue Vitolins of 10 Miller Road, and that the letter was entered into the record. Mr. Freitag asked if there were any other issues under Part 2 of the EAF that needed to be discussed. Mr. Bonesteel stated that there were no further issues at this time, and that he had not identified any other moderate to large impacts. Attorney Gilchrist stated that if a single-phase build-out is not planned, then the short-term traffic control plan should address the option of stacking cars within the project site. This matter is tentatively placed on the September 5, 2024 agenda for further deliberation.

The second item of business on the agenda was the Brunswick Acres Planned Development District major subdivision application submitted by Brunswick Road Development, LLC for property located along NYS Route 2. Anthony Casale was present to review the application. Ronald Laberge, P.E., of Laberge Group, the Town-designated review engineer for this project, was also present. Mr. Laberge stated that the Planning Board had requested that he and Attorney Gilchrist review the record for the project and draft a resolution of conditional approval for the Board to review. Attorney Gilchrist reviewed the prior history of the project, stating that the prior Planning Board approval in 2022 had considered the issue of the applicant receiving Rensselaer County Department of Health approval and the need to grade the site for that approval, and so conditions had been included in the prior approval to address grading work prior to the plat being signed. However, the current application will be approved by the Rensselaer County Department of Health without the need for initial grading being completed. Attorney Gilchrist stated that the conditions on the current application had been modified to address that change, and that now, no work on the site would be allowed until all approval conditions are satisfied and the plat is stamped, signed, and filed. Mr. Laberge then reviewed the conditions for approval of the current application. Member Tarbox asked if payment of the Town parks and recreation fee was included as a condition. Attorney Gilchrist confirmed that paying the parks and recreation fee was a Town Board condition, and that the conditions for Planning Board approval included meeting all Town Board conditions. Member Mainello asked if the project's Planned Development District had been extended. Attorney Gilchrist confirmed that the Planned Development District had been extended at the last Town Board meeting, and now extended through August 18, 2025, which was the date by which construction must begin. Member Mainello asked if there was a required completion date for the project, and that he did not want the project rushed due to difficult construction issues

associated with the project's retaining walls. Attorney Gilchrist stated that there was no required completion date, only a date by which construction must start. Acting Chairperson Stancliffe asked if the SEQRA determination made in 2022 as part of the previous approval remained in place, and Attorney Gilchrist confirmed that it did. The Resolution granting conditional final subdivision approval was offered by Member Tarbox, and seconded by Member Henderson. The Planning Board voted unanimously to adopt the Resolution. A copy of the Resolution is attached hereto.

The third item of business on the agenda was a waiver of subdivision application on property located at 25 Penny Royal Lane, and a minor subdivision application for property located on Plante Lane, both submitted by Henry Reiser. Henry Reiser was present to review the applications. Mr. Reiser confirmed that he had submitted two applications simultaneously. Mr. Reiser stated that the waiver of subdivision application was a lot line adjustment for Lot 1 on the Greyledge subdivision on Penny Royal Lane, and that he was proposing adding 1.5 acres to a remainder lot to provide frontage on Plante Lane. Mr. Reiser stated that the minor subdivision application was to create 3 lots on Plante Lane, of 5 acres, 11 acres, and 19 acres, each having adequate frontage on a public road. Member Mainello asked if lot line shown on the site map was an older lot line. Mr. Reiser confirmed that it was the original lot line for the parcel. Attorney Gilchrist stated that the applications should be reviewed by Mr. Bonesteel and the Planning Board members for regulatory requirements. Mr. Reiser handed up a draft private road maintenance agreement connected to the minor subdivision. Acting Chairperson Stancliffe stated that the applicant needed to obtain letters from all property owners listed on the deed that are part of the proposed lot line adjustment and subdivision lots consenting to the action. Mr. Reiser stated that he would obtain those letters. This matter is tentatively placed on the September 5, 2024 agenda for further deliberation.

The fourth item of business on the agenda was application for site plan and a special use permit submitted by Justin Haas for property located at the corner of NYS Route 7 and Carrolls Grove Road. Matt Bond, P.E., of Hart Engineering, was present to review the application. Mr. Bond handed up a new full plan set and the list of conditions on the approval of area variances from the Zoning Board. Mr. Bond reviewed the general site layout, which was mostly the same as the previous presentation before the Planning Board. Mr. Bond stated that the building square footage had been reduced, that the stormwater areas had been finalized, that the site would use solar-powered lighting, that no utilities were proposed for the site, that the site would be surrounded by fencing, and reviewed the conditions for approval of the area variances by the Zoning Board and how the current site plan met those conditions. Member Mainello asked if there would be security lighting on the site. Mr. Bond stated that there would not be, and that the solar-powered lights at the site would be motion activated. Acting Chairperson Stancliffe asked about the trees proposed to be planted on the site. Attorney Gilchrist stated that the options of trees to be planted that had previously been submitted to the Zoning Board should be shown to the Planning Board as well. Mr. Bond stated that he would submit the tree options being considered by the applicant. Member Tarbox noted that there was a 5-6 foot retaining wall at the rear of the site, and asked if material would be taken off the site. Mr. Bond stated that no material would be taken off the site, and that the applicant would be balancing the site and that there would be grading to level the site. Member Mainello asked if there would be gated access to the site. Mr. Bond stated that there would be a gate at the entrance to the site, which would be opened by a code, and that the gate would be only electricity used on the site, as the remaining lighting would be solar-powered. Acting Chairperson Stancliffe asked what the timeframe was for paving. Mr. Bond stated that there would be crusher run on the paths through the site for 2-3 years, then the paths would be paved

afterwards. Mr. Bonesteel asked if there would be lighting within the storage units. Mr. Bond stated that there would not be. Mr. Bonesteel stated that he had just received the project's SWPPP and needed time to review it. Member Tarbox asked if a public hearing would be required for this application. Attorney Gilchrist confirmed that a public hearing would be required. Member Tarbox asked if the applications were ready for a public hearing. Mr. Bonesteel confirmed that the applications were complete for the purpose of holding a public hearing. Member Mainello asked if colored renderings of the buildings could be provided. Mr. Bond stated that he would provide the renderings that had been submitted to the Zoning Board. Member Mainello asked if there were further details on the retaining walls proposed for the site. Mr. Bond stated that there were currently no details on the retaining walls as they would be designed by an engineer and submitted to the Building Department with a building permit application. Attorney Gilchrist stated that the plans must be sent to Rensselaer County. Acting Chairperson Stancliffe asked if the plans had been referred to the fire department. Mr. McDonald confirmed that they had been. A public hearing on this application is scheduled for September 5, 2024 at 7:00pm.

The fifth item of business on the agenda was an initial site plan submittal, which did not yet constitute a full application, submitted by Sol Source Power, LLC for property located at 61-63 Gypsy Road. No one was present for the applicant. This matter is tentatively placed on the September 5, 2024 agenda for further deliberation.

The Planning Board discussed one item of new business.

The one item of new business was a waiver of subdivision application submitted by Todd Boomhower and Cathy Boomhower for property located at 103 Kreiger Lane. No one was present for the applicant. Mr. McDonald stated that the applicant had previously purchased two lots on Kreiger Lane, combined them, and was now seeking to re-subdivide them into two lots. Attorney

Gilchrist asked if the application should be considered a waiver of subdivision or a minor subdivision, and that he would review that issue with Mr. Bonesteel. This matter is placed on the September 5, 2024 agenda for further deliberation.

The index for the August 15, 2024 regular meeting is as follows:

1. Maries Muse, LLC – site plan and minor subdivision (September 5, 2024).
2. Brunswick Acres – major subdivision (approved with conditions).
3. Reiser – waiver of subdivision and minor subdivision (September 5, 2024).
4. Haas – site plan and special use permit (September 5, 2024).
5. Sol Source Power – site plan (September 5, 2024).
6. Boomhower – waiver of subdivision (September 5, 2024).

The proposed agenda for the September 5, 2024 regular meeting is as follows:

1. Haas – site plan and special use permit (public hearing to commence at 7:00pm).
2. Maries Muse, LLC – site plan and minor subdivision (tentative).
3. Reiser – waiver of subdivision and minor subdivision (tentative).
4. Sol Source Power – site plan (tentative).
5. Boomhower – waiver of subdivision.
6. CVE North America – waiver of subdivision, site plan, and special use permit (tentative).

**TOWN OF BRUNSWICK PLANNING BOARD
REGULAR MEETING**

AUGUST 15, 2024

**RESOLUTION GRANTING CONDITIONAL FINAL SUBDIVISION APPROVAL FOR
BRUNSWICK ACRES PLANNED DEVELOPMENT DISTRICT**

WHEREAS, the Town Board of the Town of Brunswick (hereinafter “Town Board”) granted approval subject to conditions concerning the Brunswick Acres Planned Development District (hereinafter “Brunswick Acres PDD”) through Resolution No. 84 of 2019, and as extended by Resolution No. 56 of 2024; and

WHEREAS, the Planning Board of the Town of Brunswick (hereinafter “Planning Board”) previously granted conditional final subdivision approval for the Brunswick Acres PDD at its regular meeting held August 18, 2022; and

WHEREAS, Brunswick Road Development, LLC, the owner and applicant of the Brunswick Acres PDD, failed to satisfy all conditions of such final subdivision approval within the applicable legal timeframes, and such conditional final subdivision approval expired as a matter of law; and

WHEREAS, Brunswick Road Development, LLC has submitted a new application to the Planning Board, received by the Town of Brunswick on June 5, 2024, for major subdivision approval for the Brunswick Acres PDD; and

WHEREAS, such application includes a subdivision plat and project plans in substantial conformance with the Brunswick Acres PDD approval and prior Planning Board conditional final subdivision approval; and

WHEREAS, the Planning Board scheduled a public hearing on such application for July 18, 2024 at 7:00pm; and

WHEREAS, public notice of the public hearing, to be held July 18, 2024, was duly published, posted, and mailed by the Planning Board in compliance with the Brunswick Zoning Law; and

WHEREAS, the Planning Board held a public hearing on such application at its regular meeting held July 18, 2024; and

WHEREAS, the Planning Board closed its public hearing on such application at its regular meeting held July 18, 2024; and

WHEREAS, Brunswick Road Development, LLC was required to respond to all public comments made at the public hearing in writing in compliance with the Brunswick Zoning Law; and

WHEREAS, the Planning Board received written responses from Brunswick Road Development, LLC to comments made at the public hearing via letter dated July 30, 2024; and

WHEREAS, the Planning Board reviewed the written responses to comments made at the public hearing at its August 1, 2024 regular meeting, and finds such responses to be complete; and

WHEREAS, the Planning Board hereby incorporates and makes a part of the record considered in review of the current subdivision application received by the Town of Brunswick on June 5, 2024 the full record supporting the prior Planning Board conditional final subdivision approval through resolution duly adopted August 18, 2022; and

WHEREAS, the Planning Board finds that there has not been any substantial change in the project or environmental conditions, and therefore the State Environmental Quality Review Act (SEQRA) Negative Declaration for this action remains in effect; and

WHEREAS, the Planning Board has considered all record information, has duly deliberated, and is prepared to render a determination on the major subdivision application.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Town of Brunswick that conditional final subdivision approval for the Brunswick Acres PDD is **GRANTED**, subject to the following conditions which must be fully satisfied and completed prior to the subdivision plat being stamped or signed by the Town of Brunswick:

1. All conditions included in the Town of Brunswick Town Board PDD approval, Resolution No. 84 of 2019 duly adopted on December 12, 2019, a complete copy of which is attached hereto as Appendix "A", and as extended by Resolution No. 56 of 2024 duly adopted on August 8, 2024, are and remain applicable and mandatory conditions of the Brunswick Acres PDD project, and are hereby established as conditions to final subdivision approval as supplemented hereinafter, except to the extent that Town Board Condition No. 7 shall apply to Lot No. 9 of the final plat, and further, except to the extent that Town Board Condition No. 15 shall also include the New York State Department of Environmental Conservation.
2. In compliance with Brunswick Zoning Law Section 160-101, and in addition to the requirements set forth in the Town Board PDD approval, the Applicant shall be required to establish at the Town of Brunswick an inspection fee escrow account in an amount to be determined by the Town of Brunswick to cover all Town designated review engineer and MS4 Officer inspections of site grading work. The Applicant must submit an estimate for projected grading costs, together with an estimated schedule for all grading activities. Such estimate and schedule shall be of sufficient detail to determine the reasonableness of the proposed estimate and schedule. This information will be used by the Town in considering an appropriate inspection fee escrow amount, which amount shall be a minimum of five percent (5%) of the total estimated grading costs. All fees for inspections during the grading of the Brunswick Acres PDD project site shall be the

responsibility of the Applicant, and shall be paid out of the escrow account established pursuant to this paragraph. The amount of such inspection escrow account shall be subject to review from time to time by the Town of Brunswick during grading activities on the Brunswick Acres PDD project site. At no time shall such account be in an amount less than \$5,000.00. In the event the applicant fails to maintain such inspection fee escrow account in a minimum balance of \$5,000.00, a Stop Work Order shall be issued by the Town of Brunswick Building Department and/or Town of Brunswick MS4 Officer on all grading activities at the project site. The Applicant shall be entitled to an accounting of all inspection fees. At the conclusion of the grading of the Brunswick Acres PDD project site through rough grading phase, and upon a final accounting of all inspection fees, all funds remaining in the grading inspection escrow account shall be returned to the Applicant.

3. All site grading work must be performed in compliance with the Brunswick Acres PDD site grading plan and slope stability analytical report.
4. All grading work in the vicinity of the spoils area proposed on Lots 6, 7 and 8, including but not limited to slope preparation and fill placement shall be performed under the supervision of a qualified geotechnical engineer. All costs associated with the geotechnical engineer shall be at the Applicant's sole cost and expense. Periodic reports shall be prepared by such geotechnical engineer on no less than a weekly basis and shall be submitted to the Town of Brunswick Building Department, Town of Brunswick MS4 Officer and Town designated review engineer on the same weekly interval. The report shall include, but not be limited to, a description of the work completed, any deviations from the plans, any corrective actions required and the geotechnical engineer's professional opinion as to the overall integrity of the work performed. At the completion of the work, the geotechnical engineer shall provide a certification to the Town of Brunswick that the work was performed in accordance with the plans and geotechnical recommendations and that the slope is secure and stable. Prior to commencing any work on site, a preconstruction conference shall be held including the project owner, contractor, geotechnical engineer, Town of Brunswick Building Department, Town of Brunswick MS4 Officer and Town designated review engineer to review the contractor's approach to the work and clearly identify the area of concern as it pertains to the geotechnical engineer's responsibility.
5. All site grading work must be performed in compliance with erosion and sediment control requirements of the project SWPPP under the supervision of the Town of Brunswick MS4 Officer. The Applicant must comply with all New York State and Town of Brunswick stormwater compliance requirements for all site grading work, and the Applicant shall be required to obtain a waiver, if necessary, from New York State Department of Environmental Conservation and/or the Town of Brunswick for all open graded areas in excess of five (5) acres prior to stabilization.

- 6.** New York State Department of Transportation work permit/approval for the subdivision road intersection with NYS Route 2; such permit/approval must be filed with the Town of Brunswick Building Department.
- 7.** Rensselaer County Health Department approval of septic design for all residential building lots.
- 8.** Rensselaer County Health Department approval of the extension of public water supply for the project.
- 9.** The plan for extension for public water supply is subject to final comments of the Town Designated Review Engineer and Town of Brunswick Water Department.
- 10.** The plan for erosion and sediment control and SWPPP are subject to final comments of the Town Designated Review Engineer and Town of Brunswick MS4 Officer.
- 11.** No further subdivision or re-subdivision of any residential lot in the Brunswick Acres PDD that would increase the total number of residential lots for this project to greater than twenty-four (24) lots.
- 12.** All driveways must include a two percent (2%) negative pitch for ten (10) feet from the proposed public subdivision roadway, or comply with a driveway drainage plan acceptable to the Town Designated Review Engineer, Town of Brunswick MS4 Officer, and Town of Brunswick Highway Department.
- 13.** An easement for utilities over the lands now or formerly of Liporace and National Grid, in recordable form, must be filed with the Town of Brunswick Building Department and Town of Brunswick Water Department.
- 14.** Easements for utilities and drainage over the lands now or formerly of Benevino, in recordable form, must be filed with the Town of Brunswick Building Department and Town of Brunswick Water Department.
- 15.** Subject to comments of Town designated review engineer dated August 1, 2024.

The foregoing Resolution, offered by Member Tarbox and seconded by Member Henderson, was duly put to a roll call vote as follows:

CHAIRMAN OSTER	VOTING	absent
MEMBER MAINELLO	VOTING	aye
MEMBER KREIGER	VOTING	aye
MEMBER PETERSEN	VOTING	absent
MEMBER HENDERSON	VOTING	aye
MEMBER TARBOX	VOTING	aye
MEMBER STANCLIFFE	VOTING	aye

The foregoing Resolution was thereupon declared duly adopted.

August 15, 2024

Appendix A

RESOLUTION NO. 84, 2019

**TOWN OF BRUNSWICK
REGULAR MEETING**

DECEMBER 12, 2019

**RESOLUTION APPROVING APPLICATION FOR
BRUNSWICK ACRES PLANNED DEVELOPMENT DISTRICT**

WHEREAS, the Town of Brunswick Building Department received from Brunswick Road Development LLC, (hereinafter “Applicant”) under cover letter dated February 4, 2019, a site layout map and plan, a project narrative, and a Full Environmental Assessment Form, requesting the establishment of a Planned Development District (hereinafter “PDD”) in accordance with Article 12 of the Zoning Law of the Town of Brunswick, on a 44.1±-acre parcel of land located along the north side of Brunswick Road (NYS Route 2) just west of Heather Ridge Road, in the Town of Brunswick, consisting of 26 single-family home building lots and one stormwater management lot, to be known as the “Brunswick Acres Planned Development District”; and

WHEREAS, the application was first presented to the Town Board of the Town of Brunswick (hereinafter “Town Board”) at its meeting on February 14, 2019; and

WHEREAS, the Town Board stated that, upon initial review, said application constituted the PDD sketch plan required under Brunswick Zoning Law Section 160-99(A) to initiate the application review process for the establishment of a PDD; and

WHEREAS, the Town Board reviewed and acknowledged receipt of the PDD sketch plan submission, scheduled a sketch plan conference for a special meeting to be held March 14 at 6:30 P.M., appointed Gilchrist Tingley P.C. as legal counsel, and appointed Laberge Group as engineering review consultants on behalf of the Town at its February 14 meeting; and

WHEREAS, the Town Board, upon due public notice, held its special meeting on March 14, 2019 for the purpose of conducting a sketch plan conference pursuant to Brunswick Zoning Law Section 160-99(A)(2) with respect to a sketch plan submittal, including site layout map and plan, project narrative, and environmental assessment form; and

WHEREAS, upon review of the sketch plan submittal materials, Laberge Group presented review comments to the Town Board at said special meeting; and

WHEREAS, the Town Board determined that additional materials needed to be presented to the Town Board before the Board could make a sketch plan decision, and whether the application should move forward to the Town of Brunswick Planning Board (hereinafter “Planning Board”) for review and recommendation; and

WHEREAS, the Applicant thereafter submitted additional information to the Town Board; and

WHEREAS, the Town Board again reviewed and considered the application, the additional information submitted by the Applicant, and additional review comments from Laberge Group at its April 11, 2019 meeting; and

WHEREAS, the Town Board adopted a preliminary determination on the PDD sketch plan at its April 11, 2019 meeting, and referred the application to Planning Board and Rensselaer County Department of Economic Development and Planning; and

WHEREAS, the application was presented to the Planning Board at its April 18, 2019 meeting and placed on the agenda for its next meeting for deliberation; and

WHEREAS, the Planning Board reviewed and considered the application at its May 2, 2019 meeting and placed the action on the agenda for its next meeting for further deliberations; and

WHEREAS, at its meeting held May 9, 2019, the Town Board determined to undertake a coordinated environmental impact review on the application pursuant to 6 NYCRR Section 617.6(b)(3); and

WHEREAS, at its meeting held May 9, 2019, the Town Board directed that coordination of lead agency designation with all involved agencies on the application be completed through the service of a notice of intent to establish lead agency, indicating that the Brunswick Town Board sought to be designated as lead agency for the action; and

WHEREAS, the Rensselaer County Department of Economic Development and Planning transmitted its recommendation to the Town Board on May 9, 2019, stating that the project did not have a major impact on County plans and that local consideration shall prevail; and

WHEREAS, the Planning Board further reviewed and considered the application at its May 16, 2019 meeting and placed the action on the agenda for its next meeting for further deliberations; and

WHEREAS, the Planning Board further reviewed and considered the application at its June 6, 2019 meeting; and

WHEREAS, the Planning Board reviewed a draft recommendation on the application at such meeting; and

WHEREAS, at such meeting, the Planning Board approved a positive recommendation on the application, subject to a number of conditions, and referred the application back to the Town Board; and

WHEREAS, the Town Board designated itself as lead agency pursuant to the State Environmental Quality Review Act (hereinafter “SEQRA”) with respect to the application at its June 13, 2019 meeting; and

WHEREAS, the Town Board, serving as SEQRA lead agency on this action, found that holding a public hearing on the application prior to the completion of SEQRA would assist the Town Board in performing its environmental review of this action, allow the public to provide comments on potential environmental impacts of the action for the Town Board’s consideration, and was in the overall public interest, and scheduled a public hearing on the application for July 11, 2019 at 6:30 P.M.; and

WHEREAS, the Town Board, upon due public notice, opened its public hearing on July 11, 2019 with respect to the Brunswick Acres PDD application and received public comment; and

WHEREAS, the Town Board, upon receipt of final public comment, closed the public hearing with respect to the Brunswick Acres PDD application on July 11, 2019; and

WHEREAS, the Town Board noticed a written comment period with respect to the Brunswick Acres PDD application running through and including July 31, 2019, with all comments to be directed to the Town of Brunswick Town Board; and

WHEREAS, the Town Board, through correspondence dated August 16, 2019 by Laberge Group, transmitted to the Applicant all comments received at the public hearing held on July 11, 2019, and directing that responses be provided; and

WHEREAS, the Town Board, through correspondence dated August 22, 2019 by Laberge Group, directed the Applicant to provide additional information on the potential environmental impacts from this action; and

WHEREAS, the Town Board received a letter dated August 22, 2019 from the Applicant requesting that the period of time allowed to render a decision on the application be increased from 62 days to 126 days in order for the Applicant to properly address all public comments; and

WHEREAS, the Town Board confirmed the extension of time for the Town Board to render a decision on the PDD application from 62 days to 126 days in a letter dated September 12, 2019; and

WHEREAS, the Applicant thereafter submitted written responses to public comments and Town Board review comments through submittals dated November 5, 2019; and

WHEREAS, the Applicant agreed to a further extension of time for the Town Board to render a decision on the PDD application to December 31, 2019 to allow adequate time for the Town Board and its professional consultants to review the November 5, 2019 submittals; and

WHEREAS, the Town Board has reviewed all application materials, including the site layout map and plan, the project narrative, the Full Environmental Assessment Form, public comments, agency comments, Applicant responses to comments, Planning Board recommendation, and recommendation of the Rensselaer County Department of Economic Development and Planning; and

WHEREAS, the Town Board has adopted a Negative Declaration pursuant to SEQRA for this action; and

WHEREAS, the Town Board has duly considered all record information and has followed the procedural requirements set forth at Brunswick Zoning Law Section 160-99(B)(2), and has considered the standards set forth at Brunswick Zoning Law Section 160-99(B)(2)(g), and upon such due deliberation and consideration is prepared to render a determination on the Brunswick Acres PDD application;

NOW, THEREFORE BE IT RESOLVED by the Town Board of the Town of Brunswick in regular session duly convened as follows:

- A. The Town Board of the Town of Brunswick approves the Brunswick Acres Planned Development District submitted by Brunswick Road Development LLC, subject to the following conditions:
 1. The Brunswick Acres Planned Development District project shall encompass 44.1 acres located on Tax Map Parcel No. 102.00-1-36, and shall allow up to 26 residential building lots, with a subdivision road to be dedicated to the Town of Brunswick as a public road, the extension of public water supply, installation of private septic disposal systems, construction and operation of stormwater management facilities, and conservation of natural areas, all as depicted on a general site layout map titled "Site Layout, Brunswick Acres Planned Development District", prepared by CT Male Associates, identified as Sheet C-101, dated February 4, 2019, with last revision date 10/30/19 (hereinafter "PDD Map"), subject to the conditions as set forth herein. The PDD Map includes a table of proposed area and bulk standards. The lot width and frontage figures as set forth on the PDD Map are approved, but all other area and bulk requirements for building lots set forth in the Brunswick Zoning Law, including but not limited to front yard setbacks, side yard setbacks, and rear yard setbacks, are applicable and binding on the Brunswick Acres Planned Development District, and the Brunswick Acres PDD Map must be amended accordingly.

2. A deed restriction shall be required for each lot of the Brunswick Acres PDD subdivision, inclusive of the lot on which the stormwater facilities (detention pond and bioretention pond) are constructed. The deed restriction shall be in form and content acceptable to the Town of Brunswick, and shall restrict the use of land included in the area depicted as “Conservation of Natural Area” on the PDD Map, noted as a green cross-hatched area on such PDD Map, excepting that portion of lot 15 on which a cemetery is located. The deed restriction covering the “Conservation of Natural Area” shall, at a minimum, preclude clearing, cutting, or destruction of any vegetation (excepting the removal or trimming of vegetation hazardous to person or property or invasive, non-native species, or of timber downed or damaged due to natural disaster); grading, filling, or otherwise changing the grade or elevation of the land; construction or erection of buildings or structures; and use of motorized recreation vehicles, including but not limited to motorcycles, all-terrain vehicles, and snowmobiles. The Applicant must submit the proposed deed restriction to the Town of Brunswick for review and approval prior to the subdivision plat being stamped and signed by the Town of Brunswick Planning Board.
3. The Applicant must file with the Town of Brunswick a petition for the extension of a public water district, including the filing of a map, plan, and report, in compliance with municipal and state requirements and standards, which petition shall be subject to full municipal review by the Town of Brunswick Town Board.
4. All improvements constructed in conjunction with providing a system of water supply and distribution to the Brunswick Acres PDD subdivision will be, upon satisfactory completion by the Applicant, dedicated to the Town of Brunswick for operation and maintenance without cost to the Town of Brunswick. Such water supply system shall be subject to review and approval by the Town of Brunswick Water Department. The Applicant shall execute an irrevocable offer of dedication of such public water supply infrastructure, and shall be required to record such irrevocable offer of dedication in the Office of the Rensselaer County Clerk.
5. The Applicant shall construct a public water supply connection between the Brunswick Acres Planned Development District public water supply and the existing public water supply system located on and along Heather Ridge Road, creating a loop public water system, and thereafter dedicate such public water connection infrastructure to the Town of Brunswick for operation and maintenance without cost to the Town. Such water supply infrastructure connection shall be subject to review and approval by the Town of Brunswick Water Department. The Applicant shall execute an irrevocable offer of dedication of such public water supply infrastructure, and shall be required to record such irrevocable offer of dedication in the Office of the Rensselaer County Clerk.

6. The Applicant shall provide to the Town of Brunswick a utility easement for access to all public water facilities to be dedicated to the Town of Brunswick. Such easement shall be a minimum width of thirty (30) feet, and be of sufficient area to allow for repair and maintenance activities. The location and area of the utility easement shall be subject to approval by the Town of Brunswick Water Department, and the terms and conditions of such access easement shall be subject to approval by the Town of Brunswick.
7. The Applicant shall provide to the Town of Brunswick a 30-foot wide utility easement running from the proposed public road right-of-way in the Brunswick Acres PDD subdivision and extending to the western-most lot line of lot 11 as depicted on the PDD Map. The location and area of the utility easement shall be subject to approval of the Town of Brunswick Water Department, and the terms and conditions of such utility easement shall be subject to approval of the Town of Brunswick.
8. All private septic disposal systems are subject to approval of the Rensselaer County Department of Health.
9. The Brunswick Acres PDD subdivision road is designed to be a public roadway. Upon construction of said roadway in compliance with the approved specifications, the Applicant shall dedicate such roadway as a public roadway to the Town of Brunswick. The Applicant shall execute an irrevocable offer of dedication of the subdivision roadway, and shall be required to record such irrevocable offer of dedication in the Office of the Rensselaer County Clerk.
10. The Applicant shall comply with all requirements of the Town of Brunswick for dedication and acceptance of public utility infrastructure and public roads.
11. Required financial security pursuant to Brunswick Zoning Law Section 160-101 shall be provided for all public infrastructure improvements. A bonding security agreement for the public water infrastructure, stormwater infrastructure, and subdivision road in a form and content acceptable to the Town of Brunswick must be executed by the Applicant, and a bond or other financial security in form and amount acceptable to the Town of Brunswick shall be provided to the Town, prior to the final subdivision plat being stamped or signed by the Town of Brunswick Planning Board.
12. Until the subdivision road within the Brunswick Acres PDD is completed and accepted by the Town of Brunswick, the Applicant shall be responsible for all subdivision roadway maintenance, including paving, repairing, and snowplowing, for the benefit of all lot owners within the Brunswick Acres

PDD, to ensure that the subdivision roadway is open, passable, and accessible to NYS Route 2 (Brunswick Road), and further that such roadway is open, passable, and accessible to and by emergency vehicles. In addition, until such time as the subdivision roadway is accepted by the Town of Brunswick, the Applicant shall be responsible for the maintenance of a sign at the entrance of the Brunswick Acres PDD project providing the following:

“NOTICE: This subdivision road is being maintained by the developer. Upon completion and final inspection, the road will be taken over by the Town of Brunswick”.

13. The Applicant must comply with all NYS Department of Environmental Conservation stormwater regulations and Town of Brunswick local laws concerning stormwater compliance. In addition to any mandatory notice of intent to commence construction activities, the Applicant must complete a full erosion and sediment control plan and stormwater pollution prevention plan in compliance with NYSDEC stormwater regulations. The Applicant shall supply a copy of the erosion and sediment control plan and the stormwater pollution prevention plan to the Town of Brunswick, and shall not commence any grading or construction activities on the Brunswick Acres PDD site until such time as the Town has executed the NYSDEC notice of intent to commence construction activities in its capacity as a MS-4 community.
14. All stormwater management facilities for the Brunswick Acres PDD project shall be constructed in compliance with the approved stormwater pollution prevention plan. The Applicant must file with the Town of Brunswick a petition for the creation of a drainage district for this subdivision pursuant to Article 12 of the New York Town Law, including the filing of a map, plan and report, which petition shall be subject to full municipal review by the Brunswick Town Board. The subdivision lot on which the stormwater facilities are constructed (the detention pond and bioretention pond) shall be transferred in fee to the Town of Brunswick at no cost. The Applicant shall execute an irrevocable offer of dedication of such stormwater lot, and shall be required to record such irrevocable offer of dedication in the Office of the Rensselaer County Clerk.
15. The Applicant must comply with all requirements of the United States Army Corps of Engineers concerning wetlands and wetland buffers.
16. The Applicant shall pay the sum of \$500 per lot as a park and recreation fee. This amount shall be required to be paid in full by the Applicant prior to the final subdivision plat for the Brunswick Acres PDD subdivision being stamped or signed by the Town of Brunswick Planning Board.

17. The final location and specifications of fire hydrants shall be coordinated with the Brunswick No. 1 Fire Company and the Town of Brunswick Planning Board during subdivision review.
18. Minimum square footage of all homes to be constructed in the Brunswick Acres PDD shall be 1,800 square feet.
19. All site work and construction activities on the Brunswick Acres PDD site shall be limited to the following hours of operation: Monday – Friday, 7:00 a.m. – 7:00 p.m.; Saturday, 7:00 a.m. – 5:00 p.m.; no site work or construction activity shall be permitted on Sundays or legal holidays.
20. The following note shall be placed on all plans and specifications for the Brunswick Acres PDD project:

The undersigned Applicant for the property and undersigned owner of the property state that they are familiar with all conditions of the Town Board of the Town of Brunswick on the Brunswick Acres Planned Development District, and consent to all said conditions.

_____	_____
Applicant	Date
_____	_____
Owner	Date

21. The Applicant shall provide the Town of Brunswick with GIS data, including but not limited to property boundary area, roads, utilities, control points, and drainage elements.
22. The Applicant shall pay all consulting review fees incurred by the Town Board of the Town of Brunswick and Planning Board of the Town of Brunswick in connection with the review of the Brunswick Acres PDD project.
23. In compliance with Brunswick Zoning Law Section 160-101, the Applicant shall be required to establish at the Town of Brunswick an inspection fee escrow account in an amount to be determined by the Town Board. The Applicant must submit an estimate for projected infrastructure costs, including public water, road, and stormwater facilities; and further, the Applicant must submit an estimated construction schedule. This information will be used by the Town in considering an appropriate

inspection fee escrow amount, which amount is anticipated to be five (5) percent of the total estimated infrastructure construction costs. All fees for inspections during the construction of the Brunswick Acres PDD project shall be the responsibility of the Applicant, and shall be paid out of the escrow account established pursuant to this paragraph. The amount of such inspection fee escrow account shall be subject to review from time to time by the Town Board during construction activities on the Brunswick Acres project site. At no time shall such account be in an amount less than \$5,000. In the event the Applicant fails to maintain such inspection fee escrow account in a minimum balance of \$5,000, a Stop Work Order shall be issued by the Town of Brunswick Building Department on all construction activities at the project site. The Applicant shall be entitled to an accounting of all inspection fees. At the conclusion of construction and completion of inspection activities, and upon a final accounting of all inspection fees, all funds remaining in such inspection fee escrow account shall be returned to the Applicant.

24. In light of the proximity of the project detention pond and bioretention pond to NYS Route 2, landscaping around these stormwater facilities shall be required and subject to review and approval by the Planning Board during subdivision review.
25. The Applicant shall include an access easement in the deed to lot 15, allowing access to the cemetery located on lot 15 from the subdivision road.
26. The Brunswick Acres PDD project shall be subject to full review by the Town of Brunswick Planning Board pursuant to the subdivision regulations of the Town of Brunswick, and the Applicant must file a major subdivision application as set forth in paragraph (B) hereof.
27. Copies of all necessary permits and/or approvals for potable water must be filed with the Town of Brunswick prior to issuance of any building permit or other work permit for any structure to which public water will be connected.
28. All rock, including bedrock, is to be removed by mechanical means. In the event mechanical means are not able to remove rock and blasting is required, notice to the Town Building Department and consulting engineer must be made, both verbally and in writing, prior to any blasting activities. The following best management practices for blasting must be complied with:
 - (i) All blasts will be designed and implemented in accordance with all applicable state and federal regulations.
 - (ii) A licensed expert blaster will perform all blasting.

(iii) Blasting will be scheduled to avoid adverse weather conditions such as strong, low level thermal inversions and thunderstorms.

(iv) All blast holes will be loaded and implemented under the direct supervision of an expert licensed blaster.

(v) The blast area will be secured prior to each blast.

(vi) Blasting will be done between 10:00 a.m. and 5:00 p.m. Monday through Friday. No blasting will occur on weekends.

(vii) All blasts will be monitored with a properly calibrated seismograph.

(viii) Records of all blasts, including seismograph data, will be prepared and maintained by the Applicant and/or blasting expert, and made available to the Town upon request.

(ix) The Applicant will promptly and professionally respond to and investigate all complaints. Applicant shall make all necessary repairs to homes and property if it is determined that such damage is causally related to the blast.

(x) In addition, the Applicant shall offer to all property owners within 1500 feet of the blasting areas, or as directed by the Town's consulting engineer and Town Building Department, the opportunity to have a pre-blast survey conducted by the Applicant for all structures located within such area. This offer must be made in writing, with records of such written offer and/or pre-blast survey to be maintained by the Applicant and made available to the Town upon request.

(xi) Prior to engaging in any blasting activity at the project site, the Applicant shall secure and maintain a policy of general liability insurance issued by a company or companies lawfully authorized to do business in New York in an amount no less than five million (\$5,000,000.00), which in addition to providing general liability coverage shall also cover all risks and claims associated with blasting activities on or about the project site. The Town of Brunswick shall be named as additional insured on such policy, and a certificate of such insurance shall be filed with the Town of Brunswick prior to any blasting activity at the project site.

(xii) The Applicant shall execute a Hold Harmless and Indemnification Agreement with the Town of Brunswick for all liability and damages arising out of all blasting activities at the project site. Such Hold Harmless and Indemnification Agreement shall be fully executed prior to any blasting activities occurring at the project site.

29. Compliance with all blasting requirements of Rensselaer County.

- B. The Applicant is required to file a major subdivision application with the Town of Brunswick Planning Board pursuant to the subdivision regulations of the Town of Brunswick. Such application must include payment of all application and consulting review fees.
- C. A Local Law shall be prepared to amend the official Zoning Map of the Town of Brunswick to add the Brunswick Acres PDD project site as an approved Planned Development District. Such Local Law shall be subject to all applicable legal requirements associated with amendment to the official Zoning Map of the Town of Brunswick. All consulting fees incurred by the Town of Brunswick in connection with the preparation and adoption of such Local Law shall be paid by the Applicant.

The foregoing Resolution, offered by Councilman Sullivan and seconded by Councilman Christian, was duly put to a vote as follows:

COUNCILMAN CHRISTIAN	VOTING <u>AYE</u>
COUNCILMAN SULLIVAN	VOTING <u>AYE</u>
COUNCILMAN CASALE	VOTING <u>AYE</u>
COUNCILMAN BALISTRERI	VOTING <u>AYE</u>
SUPERVISOR HERRINGTON	VOTING <u>AYE</u>

The foregoing Resolution was thereupon declared duly adopted.

December 12, 2019