I. Call to Order

A Regular Meeting of the Planning Board of the Town of Bethlehem was held on the above date at the Town Hall Auditorium, 445 Delaware Avenue, Delmar, NY. The Meeting was called to order at 6:00 PM.

<table>
<thead>
<tr>
<th>Attendee Name</th>
<th>Title</th>
<th>Status</th>
<th>Arrived</th>
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<tbody>
<tr>
<td>John Smolinsky</td>
<td>Chairman</td>
<td>Present</td>
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<tr>
<td>Brian Gyory</td>
<td>Board Member</td>
<td>Present</td>
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<tr>
<td>Gianna Aiezza</td>
<td>Board Member</td>
<td>Present</td>
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<td>Scott Lewendon</td>
<td>Board Member</td>
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<td>Kate Powers</td>
<td>Board Member</td>
<td>Present</td>
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<td>Mark Sweeney</td>
<td>Planning/Zoning Board Counsel</td>
<td>Present</td>
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<tr>
<td>Deborah Kitchen</td>
<td>Assistant to the Planning Board</td>
<td>Present</td>
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<tr>
<td>Robert Leslie</td>
<td>Director of Planning</td>
<td>Present</td>
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<td>Leslie Lombardo</td>
<td>Senior Planner</td>
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<tr>
<td>Nate Owens</td>
<td>Senior Planner</td>
<td>Present</td>
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II. Public Comment on Regular Agenda Items - 10 Minutes

Kathy Stipe, 10 Lincoln Ave
- comments related to 224 Delaware
- wondered if the Town was reimbursed for work and assessments done by the Town staff on behalf of the project
- were expenses paid by the taxpayer or the applicant?
- believes the project was politically motivated and the community had no choice, opinion, or chance to stop it
- does not think the Town took the concerns of the community into consideration
- still concerned about snow, drainage, oil tanks, oil pipes, lack of sprinklers, fire safety
- she requested that restrictions be placed on construction activity such as start and end times

George Harder, 15 Euclid Ave
- opposed to the 224 Delaware project
- believes that the process was illegitimate, invalid and the Planning Board ignored zoning regulations
- believes the Planning Dept actually conducted the due diligence research that was required of the applicant
- does not think the Planning Board cares what the residents say
- suggested that approval of the project be null and void
- suggested that the applicant donate the parcel at 224 Delaware as parkland property

Andrew Leja, Barclay Damon
comments on behalf of the neighbors opposed to the 224 Delaware project
-noted that the project has taken three years because the applicant was resistant / reluctant to do due diligence and delayed the outcome
-there has been tenacious persistence by the neighbors who invested their time to research, investigate, organize and voice complaints, over and over again
-if it had not been for the neighbors diligence and persistence some questions would have remained unanswerwed or would never have been asked; they should be congratulated for their efforts
-neighbors still have grave concerns about the project and its unresolved issues that relate to underground storage tanks, above ground pipes and archeological impacts
-Planning Board refused to compel the applicant to conduct a GPS sweep to identify what is underground
-applicant refused to install sprinklers in the buildings as recommended by Town staff and fire officials
-safe emergency access remains in question
-a recent, temporary, lane shutdown on Delaware caused total grid lock; what will happen when the road diet takes effect and the number of drive lanes is reduced from four to two
-the ACPB recommended that the Town consider cumulative impacts; but nothing was done in that regard
-residents are being asked to rely on the applicant's representation about various facets of the project, including light spillover, trash pickup and snow removal
-the applicant will be required to remove any snow accumulation over 4"; will it be done effectively and promptly
-neighbors expect that the landscaping would be replaced if it does not survive
-neighbors expect that the fencing would be installed properly and grass trimmed underneath to prevent rot
-neighbors will be watching the project to make sure the conditions of approval are met
-it is not time for self congratulations; it is a time for self reflection on how this process could have been done more expeditiously and fairly by requiring the applicant to do what he was supposed to do under the law
-decisions made tonight should not come at the peril of anyone else (renters or neighbors)

Neal Brady, 1 Ellsworth Pl
-opposed to the 224 Delaware project
-submitted handouts to the Board Members
-Realtor.com done by the National Realtor's Association indicates that the value of neighboring homes is reduced by 14% due to apartment complexes
-applicant owns a property at 269 Delaware Avenue where there was a drug raid last year that resulted in two arrests and confiscation of drugs in a School Zone
-the proposed apartments at 224 Delaware are also located in a School Zone
-there has not been a neighborhood benefit from the applicant's apartments
-13:40
-questioned the Town's determination regarding zoning
-why is the 16’ strip of land, located in a residential zoning district, being included in the calculation for the commercially zoned area of the parcel
-Zoning Law Section 128-48 relates to flag lots, shared driveways and panhandles which cannot be included in the calculation
-Section 128-48.2 of the Zoning Law states that; "only that portion of the lot having adequate width to meet the minimum lot width requirements and allow for provision of meeting the minimum yard and setback requirements of the district shall be counted as part of the minimum lot area. The access way (i.e., flagpole or panhandle) shall not be included in the calculation of minimum lot area."
- we have a residential land that does not meet the bulk requirements being added to commercial land which should not be added to the calculation
- Section 128 also states that the property should be congruent with the neighborhood
- the name for the proposed road (Kerrianne) does not fit in with the existing streets that were named for historic reasons
- Plymouth was named after Plymouth Rock, Snowden was named after an artist from the 1800's, Bedell was named after a family farm that existed 100 years before it was subdivided, Lincoln was named after President Lincoln, Booth was named after the man who shot President Lincoln, Ellsworth was named after Ellsworth Finkle, a family member on that plot of land who died in the 1st World War, who's name is on the memorial
- it's too big of a project; for too small of a lot

III. Minutes Approval

A. Tuesday, November 19, 2019

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Brian Gyory, Board Member
SECONDER: John Smolinsky, Chairman
AYES: Smolinsky, Gyory, Aiezza, Lewendon, Powers

B. Tuesday, December 03, 2019

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Kate Powers, Board Member
SECONDER: Brian Gyory, Board Member
AYES: Smolinsky, Gyory, Aiezza, Lewendon, Powers

IV. Action Items

A. Quality Holdings, LLC – Apartments at 224 Delaware Avenue, Delmar - Possible Action on SEQR Classification of Action and Determination of Significance / Negative Declaration Resolution - Site Plan Application 16-0100008

The project was before the Board for an update. Victor Caponera of The Caponera Law Firm, John Hitchcock of ABD Engineering and the applicant, Greg Biche of Quality Holdings, LLC, were present to provide information and answer questions.

Project discussed at the following meetings:
- Planning Board: 06/07/2016, 09/20/2016, 05/02/2017, 09/05/2017, 10/17/2017, 02/20/2018, 09/04/2018, 05/21/2019, 10/15/2019, 11/07/2019, 12/17/2019
- Zoning Board: 11/06/2019

Recused Board Member:
- Gianna Aiezza was not present when the project was discussed. She had recused herself from project related discussions because her firm had served as a consultant to the neighbors prior to her becoming a Planning Board Member.

Public Comment:
- comments were heard during the public comment period
**Project Information:**

-applicant seeking approval to construct a 9-unit apartment complex with four (4) buildings (one existing 3-unit apt bldg, three new 2-unit apartment bldgs), one new 10 x 25' shed, 18 parking stalls and a pad site for "residential totes", and gated dumpster enclosure located on an existing 1.9 acre with the majority of the parcel located in the Commercial Hamlet Zoning District and a portion located in the Core Residential Zoning District

-Mr. Leslie noted that SEQR was discussed at 10/15/2019 meeting

-the Site Plan Approval document was revised to reflect the work done by the Zoning Board of Appeals with regard to lot density calculations based on the total lot area 1.125 acres; which does not contain constrained land

-the ZBA determined that the Building Inspector's determination regarding maximum density of 9 units was correct

-site plan drawing will be revised to reflect the correct area of disturbance line on the plan

-construction activity would be suspended if human remains are uncovered, and a recovery plan would be made

-a variance application for access, submitted by the McEneny's in 1997, was denied because they did not have fee interest ownership of the 16' strip of land at the rear of the subject parcel and alternative solutions were not explored

-Mr. Smolinsky noted that Town Staff and Town Board Members are paid employees

-the regulations that pertain to construction noise are found in the Town's Zoning Law Section 81-5

-Mr. Leslie noted that all applications are subject to application, review and approval fees

-construction can occur between the hours of 6:00 a.m.-10:00 p.m.

-Mr. Gyory requested that a "set" date for the fence installation be included in the approval document

-the fence will be installed prior to the applicant's pre-construction meeting with Town staff

-the applicant would be required to maintain landscaping and fencing in accordance with the site plan approval

**Next Steps**

-applicant to revise drawings and provide legal documents related to conveyances & easements

-applicant to provide CAD files

-applicant to meet conditions of site plan approval

**PLANNING BOARD**

**TOWN OF BETHLEHEM**

**ALBANY COUNTY, NEW YORK**
WHEREAS, the Town of Bethlehem Planning Board has received a site plan application from Quality Holdings Delmar, LLC (Applicant/Owner) for a multi-family development project consisting of 6 new multi-family units within 3 new buildings (2 units per building) in addition to the existing 3-unit building on the site; and,

WHEREAS, the development parcel consists of 1.2 acres of land and said land is currently located in the Commercial Hamlet (CH) Zoning District where multi-family use is permitted subject to site plan review and approval by the Planning Board, up to a maximum density of 8 dwelling units per acre; and,

WHEREAS, the Planning Board has received a short Environmental Assessment Form ("EAF") for the project with Part I completed by the Applicant, and;

WHEREAS, the State Environmental Quality Review Act (SEQR) regulations found at 6 NYCRR Part 617.3(a) require that no agency may undertake, fund or approve an action until it has complied with the requirements of SEQR; and,

WHEREAS, the SEQR regulations at 6 NYCRR 617.6(a) require that as soon as an agency receives an application for approval of an action it shall determine: (1) whether the action is subject to SEQR; (2) whether the action involves a federal agency; (3) whether other agencies are involved; (4) the appropriate preliminary classification of the action; (5) whether a full or short environmental assessment form (EAF) is necessary; and (6) whether the action is located in an agricultural district and subject to applicable provisions of the Agriculture and Markets Law; and,

WHEREAS, the SEQR regulations at 6 NYCRR 617.6(b)(4) indicate that for uncoordinated review of an unlisted action the agency conducting the review may proceed as if it were the only involved agency; and,

WHEREAS, the Planning Board has independently reviewed and considered the subdivision application, the short Environmental Assessment Form (EAF) and supporting materials submitted by the applicant, and various staff memoranda prepared by the Town Designated Engineer, the Town Department Economic Development and Planning and the Town Engineering Division, which together address potential areas of environmental concern;

NOW, THEREFORE, BE IT RESOLVED,
that the Town of Bethlehem Planning Board hereby determines that: (1) the proposed action constitutes an action that is subject to SEQR; (2) the action does not involve a federal agency; (3) involved agencies may include the NYSDOT; (4) the proposed action is appropriately classified as an unlisted action; (5) the proposed action is not located within 500 feet of an Agricultural District and, therefore, is not subject to the provisions of the Agriculture and Markets Law; and (6) a short EAF is adequate for determining the significance of the proposed action; and,

BE IT FURTHER RESOLVED,

that the Planning Board hereby declares it is lead agency with respect to SEQR review of the proposed action; and,

BE IT FURTHER RESOLVED,

that based upon its review of the project, the EAF, review of the proposal by Town Engineering and Planning staff, and comparison with the Criteria for Determining Significance found at 6 NYCRR Part 617.7(c), the Planning Board hereby finds that approval of the 224 Delaware Avenue Multi-Family Development constitutes an action which will not have a significant impact on the environment and therefore, does not require preparation of a draft Environmental Impact Statement; and,

BE IT FURTHER RESOLVED,

that this determination of significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law; and,

BE IT FURTHER RESOLVED,

that the Town Department of Economic Development and Planning is hereby authorized to file any and all appropriate notices so that the intent of this Resolution is carried out; and,

BE IT FURTHER RESOLVED,

that this determination is based upon the following facts and conclusions:

1. **ZONING COMPLIANCE/LAND USE:** The site of the proposed action is located in a Commercial Hamlet Zoning District, where multi-family use is a permitted use subject to site plan approval. The proposed action involves retention of the existing 3-unit building with façade improvements and the construction of 3 new two-unit buildings, totaling 9 dwelling units on the site. The Commercial Hamlet zoning district permits multifamily at a maximum density of 8 units per acre. The site consists of 1.2 acres resulting in a maximum density of 9 units.

2. The proposed site plan is compliant with the front, side, and rear yard setbacks as required by Zoning Law 128-100 Area, Yard and Bulk Requirements. The two new buildings at the rear of the site (Buildings #2 and #3) are setback no less than 30-feet from the side yard line and 42-ft. from the rear yard line, exceeding the setback requirements. Building #1 is setback 18-ft. from the side yard line, exceeding the setback requirements. The additional
setbacks reduces impacts to neighboring properties and provides for landscaping areas that will serve as screening.

3. **NYS DOT REVIEW/SITE ACCESS/TRIP GENERATION:** Ingress and egress to the site will occur from the existing driveway along Delaware Avenue, a State roadway. The driveway has been designed to meet NYS DOT driveway design standards. Using the Institute of Transportation Engineers Trip Generation Rates, based on the addition of 6 dwelling units the site will generate an additional 3 vehicle trips during the AM Peak Hour and 4 vehicle trips during the PM Peak Hour. The addition of up to 4 additional vehicle trips is not significant to require off-site intersection improvements along Delaware Avenue. The site is located directly on CDTA Bus Route 18 providing public transportation to tenants of the project.

NYS DOT reviewed the plans and in an email dated 9/26/2019 stated they conceptually approve access for the development and the additional traffic volume from 6 additional apartments is not a concern. NYS DOT will require a highway work permit for the improvements to the commercial driveway.

4. **CUMULATIVE TRAFFIC ASSESSMENT:** The Planning Board considered the cumulative impacts to traffic on Delaware Avenue from recently proposed projects in the corridor including the proposed road diet for Delaware Avenue. The Planning Division memo, dated February 9, 2018, and presented at the February 20, 2018 Planning Board meeting, provides an assessment of traffic conditions resulting from proposed development in the corridor (including the 224 Delaware Avenue project) as it relates to the Delaware Avenue road diet project. The assessment concludes the Town Board’s December 2017 Resolution acknowledged the Full Road Diet alternative under future traffic volume conditions would result in some additional queuing at signalized intersections and an average increase in peak hour travel time (PM) of about 50 seconds, and further stated the road diet “will benefit the community by making Delaware Avenue more attractive for walking, cycling, and doing business in general.” Further support of the road diet project is founded in the Town’s awarded grant application for federal and state funding of the project by NYS DOT.

5. **PARKING COMPLIANCE:** The parking lot has been designed to provide 18 parking spaces, which includes an accessible parking space, where Town Zoning Law requires a total of 13 parking spaces for the multifamily use. No portion of the parking spaces are located in the side yard and rear yard. A small portion of one parking space is located within the front yard setback. This location will not detract from the aesthetic character of the area considering an existing parking lot is located on the parcels immediately to the east and west of the site.

The site has been designed to accommodate three snow storage areas, shown on the plans around the perimeter of the parking lot. Site grading has been designed to accommodate and direct water to the stormwater management areas (catch basins, piping and detention area) on the site. Additionally, a snow storage note is included on the site plans which indicates that snowfall accumulating in excess of 4” shall be removed from all parking areas/walkways within 48 hours and that snow shall be removed from the site when it impedes access/parking needs. This will be included as a condition of approval.
6. **FIRE-EMERGENCY ACCESS/SERVICE FEATURES:** The driveway entrance and drive aisles have been designed to meet the standards for a dead-end fire apparatus access road as outlined in Appendix D, §D103.4 of the 2015 International Fire Code. Further, Town Building Division, in correspondence dated May 19, 2019, has reviewed the fire service features at the site and determined the Fire Department access into and out of the site appears to be Code compliant.

   Based on the length of the access road (approximately 240’ from Delaware Avenue to the parking stalls in front of the rear building), the road must be constructed with a minimum road width of 20-ft. while the road width shown varies from 24-ft at Delaware Avenue to 26-ft immediately adjacent to the proposed fire hydrant. The layout also includes an approved turnaround as indicated in Appendix D Table D103.4 and Figure D103.1 of the Fire Code. The Applicant is proposing a 120’ hammerhead turnaround, which meets the dimensions as listed in the Fire Code. Correspondence from NYS Codes, dated March 22, 2018, confirms the 26-ft width is required only in front of the fire hydrant, not the entire access road.

   The applicant is proposing to install a private fire hydrant located internal to the site. To better understand water flow in the area, the Department of Public Works (DPW) conducted a hydrant flow test on June 2, 2017 on a hydrant located on Delaware Avenue adjacent to the project site. The results of the test indicated a flow of 1,605 gallons per minute. The Applicant’s Engineer, ABD Engineering, provided calculations for the head loss across the valve assembly for the private hydrant. According to ABD, the flow available with the 6” water line is 650 gpm at 40.5 psi. This exceeds the usual 500 gpm at 20 psi.

   Staff contacted the Albany County Fire Coordinator’s Office based on the Albany County Planning Board’s March 15, 2018 Advisory Note. After discussing the project with the Fire Coordinator, the Coordinator stated the project’s review by the Elsmere Fire District as the responding fire district is acceptable. The Town Building Inspector/Code Enforcement Officer is responsible for compliance with the NYS Fire Code.

7. **PEDESTRIAN FACILITIES:** The site has been designed to allow for pedestrian circulation interior to the site and connecting to the sidewalks on Delaware Avenue. Concrete sidewalks 5-ft. in width are provided in front of all buildings and along the access driveway leading to the existing sidewalk along Delaware Avenue.

8. **PUBLIC WATER/SANITARY SEWER:** The site is located within the public water district and sanitary sewer district. The three new buildings will be serviced by private water and sewer laterals connecting to the main water and sanitary sewer lines located along Delaware Avenue. There is sufficient capacity to serve the proposed units. A backflow prevention device will be installed on the water line within the existing building.

9. **STORMWATER MANAGEMENT/DRAINAGE:** Adequate provision has been made for the collection and discharge of stormwater from the site. The project land disturbance limits will consist of 0.91 acres (as shown on the Sediment Erosion Control Plan), which does not require post construction stormwater management practices (water quantity and quality
control measures) in accordance with the NYSDEC SPDES General Permit GP-0-15-002 for Stormwater Discharges. However, in accordance with Zoning Law 128-49 a Stormwater Management Report was prepared by ABD Engineers, LLP, dated December 13, 2016 and revised through September 6, 2019, to verify that the land disturbance would not alter or change the direction and/or quantity of water flow within any established drainage channel or that would not change the direction and/or quantity of water flow across neighboring properties. According to the Report, stormwater from the site will sheet flow to catch basin/closed pipe system that flows to a detention basin at the rear of the site. The storage volume provided onsite will retain the rainfall and the post developed peak flow rates from the 1, 10, and 100-year storm events to less that the predevelopment condition. The stormwater basin will discharge to an existing Town owned storm system that is within an easement on the property. The system discharges to the west where it connects to conveyance system on Lincoln Avenue. The Town Engineering Division and Clark Patterson Lee (Town Designated Engineer) have reviewed the report and site plans and determined the proposed stormwater management system to be acceptable.

During the review of the proposed project an adjacent property owner at 10 Lincoln Avenue commented that there are existing drainage issues on the rear portion of the property. The Planning Board was informed that ponding occurs during certain storm event in the southwest corner of the property including along adjacent properties (10 & 12 Lincoln Ave). To assess the current condition of the storm system along the west property line, the Department of Public Works (DPW) performed a flow test of the system in October 2017. The test consisted of pouring water (approximately 550 gallons) into the catch basin located on the southwestern corner of the property within the existing drainage easement. DPW staff followed the flow of the water through the storm system easement to the catch basin on Lincoln Avenue. The results of the test indicate the pipes are properly pitched and unobstructed.

To assess the extent of the ponding concern raised by 10 Lincoln Avenue, ABD Engineers conducted a hydraulics analysis of the rear yard drainage and localized water shed for the project area. The analysis documented the extent, limits and time durations of the existing conditions, along with the expected future conditions for the 1, 10, and 100-year storm events after full buildout of the proposed development. As a result of the proposed stormwater management system, under the 1 and 10-year storm events the ponding at the rear of the site will be eliminated. Under the 100-year storm event, the proposed stormwater management system will reduce the peak ponding depth by 0.06-ft. and the peak ponding surface area by 2,598sq.ft, and reduce the volume of water by approximately 1,165 gallons during the 100-year storm event. However, the ponding duration will increase by approximately 3 minutes.

The analysis further evaluated solutions to address the ponding condition during the 100-year storm event and determined that upgrading the pipe size of the existing stormwater system within the Town easement would completely eliminate the ponding. While the increase in duration of ponding may be considered negligible (when combined with the reduction of water volume) the Applicant has agreed to improve the existing stormwater system infrastructure within the easement on the site. Improvements will include stormwater structures and upgrading the storm pipe to a maximum size of 24-inches (pipe size to be determined by Town Engineer Division). Since these improvements will also address a predevelopment condition improvements to the stormwater system within the
existing easement off site will be the responsibility of the Town Highway Division. The Town Engineering Division will determine the appropriate pipe size along with inverts and elevations through the preparation of a storm sewer profile, which will be provided to the Applicant prior to commencement of construction.

10. NEIGHBORHOOD COMPATIBILITY: Consideration of the site plan design criteria contained in §128-71(E) of the Town Zoning Law, and the decision criteria contained in Section §128-71(K), including compatibility with the surrounding neighborhood, was applied to the proposed project. During the site plan review, the Planning Board determined that the initial project proposal of 20 dwelling units within two buildings was not compatible with the surrounding neighborhood and requested the applicant to revise the project density and building scale. As a result, the proposed project was reduced to 9 dwelling units with new building sizes reflective of building footprints found on Bedell Avenue and Lincoln Avenue.

A Compatibility Report, dated August 23, 2018, prepared by Harris A. Sanders, Architects, P.C. provides a comparison of the size, setback, scale, height, and architecture of the proposed site buildings (9 dwelling units) with the surrounding single-family, two-family, and commercial buildings on Lincoln Avenue, Bedell Avenue and Delaware Avenue. A building overlay plan, which provides for the proposed new building footprints in red overlaid onto the existing building footprints of buildings on Lincoln Avenue and Bedell Avenue was prepared by ABD Engineering. The overlay plan provides a useful visual comparison and confirmation of the site’s compatibility with existing neighboring buildings.

Building scale and massing was a key discussion item during the Planning Board site plan review. A building’s scale refers to its perceived size in relation to neighboring structures. The Board determined the scale and massing of the three new buildings are compatible with those of the surrounding neighborhood (as depicted on the building overlay plan and discussed in the Compatibility Report). Retention of the existing 3-unit building along Delaware Avenue maintains the streetscape view of the site from the roadway.

11. LANDSCAPING: A landscaping plan was prepared to minimize any impacts from the proposed development on neighboring properties. The side yards of the site will be planted with mixture of evergreen trees (species: Spruce and Fir) ranging in height from 8-ft. to 12-ft. A 6-ft high vinyl fence will also be installed along the side yard adjacent to the rear yard of 5 Bedell Avenue. There is existing solid fencing along the property side yard located on adjacent residential properties.

12. UNDERGROUND TANK: During the review of the project by the Planning Board, neighboring residents alleged there were underground storage tanks located on-site from a prior land use. Residents claim historical photographs of past petroleum tanks and present-day photographs of two pipes protruding aboveground are evidence of petroleum handling activity occurring on the project site in the 1950’s and 1960’s. During a site visit in September 2017, Town staff viewed the location of the pipes, which are located on the west property line of 224 Delaware Avenue and rear property line of 10 Lincoln Avenue. The pipes are located along an existing metal wire fence line and where an existing 15-ft. wide Town storm drainage easement is located, which was installed in 1987. Considering the
pipe is located along the boundary of the easement, Town staff finds that if an underground storage tank was located in this area of the parcel it would have been encountered during the excavation and installation of the storm drain in 1987.

Town staff contacted the New York State Department of Environmental Conservation (NYSDEC) to inquire if they have any spill data for the 224 Delaware Ave property. In an email dated May 22, 2017 the NYSDEC stated they have no record in their Petroleum Bulk Storage (PBS) and Spills database of any spills for the 224 Delaware Avenue site. The NYSDEC email identifies a spill at 222 Delaware (Spill #1206625). 222 Delaware Avenue is the commercial building at the front of the project site (Domino’s Pizza). Building Permit files found in the Town Building Department show two 500 gallon underground tanks were removed in 2012 by the owner of 222 Delaware Avenue (Permit No. 12-756). The DEC Spill database identifies the material spilled as #2 fuel oil, which is used for heating purposes. The Building Permit notes that two oil tanks were removed and witnessed by DEC personnel.

The NYSDEC email also identified spills and petroleum bulk storage at 220 Delaware Avenue (Spill# 8805639 and PBS#4-484717 and #4-485489). 220 Delaware Avenue is the current location of Valvoline Instant Oil Change and was previously a Sunoco gas station.

The NYSDEC email stated that if underground tanks are discovered during the construction project they would have to be registered and properly closed. If contamination is discovered it would need to be reported to the NYSDEC Spill Hotline.

The Applicant provided a report, dated July 15, 2015, prepared by LCS Inc. Environmental and Real Estate Consultants (Consultant) to identify recognized environmental conditions associated with environmental due diligence related to the proposed financing of the property. The report concluded no significant environmental concerns were identified and LCS assigned a low risk. No further action was recommended.

The Planning Board will include as a condition of any site plan approval that if underground tanks are discovered during the construction of the project the Applicant/Owner would contact the NYSDEC Spill Hotline and follow all NYSDEC regulations and protocols related to tank removal and soil remediation, if necessary, and as determined by NYSDEC.

13. NYS HISTORIC PRESERVATION OFFICE REVIEW: According to the NYS DEC EAF Mapper the site is located within an archaeological sensitive area. Correspondence from NYS Parks, Recreation, and Historic Preservation (SHPO), dated August 13, 2019, states no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project.

14. CEMETERY: During the review of the project by the Planning Board, neighboring residents claimed the site contains a cemetery. The claim was based on an “Amended Map of the Lincoln Avenue Subdivision”. The map appears to be have been modified from the original
filing (filed in the Albany County Clerk’s office on December 2, 1924) and reflects several hand written items including property owner names and general locations of what appear to be house footprints. Specific to the 224 Delaware Avenue lot, the modified map shows the location of the existing house footprint, driveway with circular turnaround, and a rectangle shape at the rear of the turnaround. The modified map provides no indication of what the rectangular shape represents and the map includes a hand drawn “X” through the rectangular shape. The neighbors claim the letters “C E M T” are located within the rectangular shape, and further these letters are an abbreviation for the word “cemetery” indicating there is a cemetery located on the site.

Planning Staff reviewed the map and advised the Planning Board that the markings within the rectangular shape are illegible. It is noted that all other hand written items on the modified map, including distance dimensions and property owner names are legible. The Planning Board reviewed two aerial photos of the site from 2001 and 2004, which reflect a building located adjacent to the turnaround area behind the existing 3-unit building. The building is located in the same vicinity the neighbors claim a cemetery is located as shown on the modified map. A conclusion could be made the rectangular shaped area on the map could have indicated the foot print of a building and not a cemetery and the alleged letters “CEMT” may have indicated a cement foundation for the building. Further, building permit plans for a building addition at neighboring parcel 228 Delaware Avenue show a garage located in the same area of the building reflected in the aerial photos.

Correspondence from James D. Kerr, representing the Applicant, dated September 13, 2017, summarizes the results of a title search related to the claim of the parcel’s use as a cemetery. The correspondence states: “The searcher examined 56 parcels (many originated as the Bedell farm), beginning the search as of 1920. There is no mention of a cemetery. This supports the results shown in the title commitment that was provided at the time of your purchase of the property. Reported restrictions are contained in the attached excerpt of that report (Meridian Research Group LLC Title Number MRG-2752). None pertains to a cemetery.”

Additional research was conducted by Town Planning Division Staff, who consulted with the Town Historian for possible family plots (Bedell and Milton) located on the parcel and the research showed no evidence of a cemetery (see Town Historian email correspondence dated September 11, 2017). Town staff also consulted with the Town Clerk who researched burial permits that may have been issued for the property and the research showed no evidence of permits being issued (see Town Clerk email dated September 26, 2017).

Town staff also contacted the NYS Department of State Division of Cemeteries, which provided the process that would have to be followed if human remains were to be discovered on a property. The process includes obtaining a court order to remove the human remains, using a coroner to remove the human remains, notifying the Albany County Department of Health and relocating the human remains to an incorporated cemetery.

The Planning Board also reviewed the “Human Remains Discovery Protocol” document, prepared by the State Historic Preservation Office/NYS Office of Parks, Recreation and Historic Preservation. The document outlines the procedures to be followed in the event human remains are encountered during construction activities.
As a result of the research conducted to date, coupled with the guidance provided by the Human Remains Discovery Protocol, the public comments concerning the presence of a cemetery can be addressed as a condition in the site plan approval document.

15. Review of the site in the field and with available environmental data revealed no other environmentally sensitive characteristics of the parcel or other areas requiring further study;

On a motion by Scott Lewendon, seconded by Brian Gyory, and by a vote of four (4) for, zero (0) against, zero (0) abstained, one (1) recused, and zero (0) absent, this RESOLUTION was adopted on December 17, 2019.

RESULT: APPROVED [UNANIMOUS]
MOVER: Scott Lewendon, Board Member
SECONDER: Brian Gyory, Board Member
AYES: Smolinsky, Gyory, Aiezza, Lewendon, Powers

B. Quality Holdings, LLC – Apartments at 224 Delaware Avenue, Delmar - Possible Action on Reservation of Public Parkland / Fee In Lieu Resolution Site Plan Application - Site Plan Application 16-0100008

PLANNING BOARD
TOWN OF BETHLEHEM
ALBANY COUNTY, NEW YORK

RESOLUTION
RESERVATION OF PUBLIC PARKLAND / FEE IN LIEU OF REQUIREMENT

MULTI-FAMILY DEVELOPMENT AT 224 DELAWARE AVENUE, DELMAR
QUALITY HOLDINGS DELMAR, LLC
SITE PLAN APPLICATION HTE # 16-00100008

WHEREAS, the Town of Bethlehem Planning Board has received an application from Quality Holdings Delmar, LLC for a site plan application at 224 Delaware Avenue in order to construct 6 new multi-family units, and façade improvements to an existing 3 unit building, for a total of 9 units on the site; and,

WHEREAS, approval of the site plan would result in 6 new multi-family units; and,

WHEREAS, Chapter 128 of the Code of the Town of Bethlehem provides the Town Planning Board with the authority to review and approve subdivision applications; and,

WHEREAS, Local Law No. 7 of 2001 adopted by the Town Board on June 13, 2001, and Local No. 2 of 2019 adopted by the Town Board on August 28, 2019 and §128-57 of the Town Code of the
Town of Bethlehem authorize the Town Planning Board to require the reservation of land for public park, playground, or recreation purposes, or the payment of a fee in lieu of parkland, as a condition of site plan approval for residential developments requiring such approval; and,

WHEREAS, said Local Laws were adopted by the Town Board after careful consideration of the impacts that new housing development is having on the Town’s park and recreation facilities, as outlined in a memorandum from the Town Planning Division dated May 15, 2001; and,

WHEREAS, the Planning Board has considered the project site and its potential for accommodating a park site for active recreation use;

NOW, THEREFORE, BE IT RESOLVED, that the Town Planning Board hereby finds that the proposed 224 Delaware Avenue Multi-Family development presents a proper case for the requirement of public parkland, but that a suitable park of adequate size, which meets the criteria outlined in Local Law No. 7 of 2001 and Chapter 128 of the Code of the Town of Bethlehem, cannot be properly located on the parcel; and,

BE IT FURTHER RESOLVED, that the Planning Board of the Town of Bethlehem hereby requires that a fee be paid in lieu of parkland reservation for the proposed development the amount and payment of which shall be made in accordance with Local Law No. 2 of 2019 and Chapter 128 of the Code of the Town of Bethlehem.

On a motion by Scott Lewendon, seconded by Brian Gyory, and by a vote of four (4) for, zero (0) against, zero (0) abstained, one (1) recused, and zero (0) absent, this RESOLUTION was adopted on December 17, 2019.

RESULT: APPROVED [4 TO 0]
MOVER: Scott Lewendon, Board Member
SECONDER: Brian Gyory, Board Member
AYES: John Smolinsky, Brian Gyory, Scott Lewendon, Kate Powers
RECUSED: Gianna Aiezza

C. Quality Holdings, LLC – Apartments at 224 Delaware Avenue, Delmar - Possible Action on Site Plan Approval (SPA 280) - Site Plan Application 16-0100008

PLANNING BOARD
TOWN OF BETHLEHEM
ALBANY COUNTY, NEW YORK

SITE PLAN APPLICATION APPROVAL

MULTI-FAMILY DEVELOPMENT AT 224 DELAWARE AVENUE, DELMAR
1. TYPE OF APPROVAL: Site Plan Approval

NAME OF PROPOSAL: 224 Delaware Avenue Multi-Family Development

DESCRIPTION OF PROPOSAL: Construct 6 new multi-family units within 3 new buildings (2 units per building) in addition to façade improvements to the existing 3-unit building on the site.

LOCATION OF SITE: 224 Delaware Avenue, Delmar, NY

TITLE OF DRAWINGS:

A. Site Plan drawings titled: “Proposed Apartment Buildings, 224 Delaware Avenue, Town of Bethlehem, County of Albany”, prepared by ABD Engineers, LLP, 411 Union Street, Schenectady, NY 12305.

   Sheet 1 of 9 - “Site Layout Plan”, dated December 19, 2018, and revised through 10/2/2019
   Sheet 2 of 9 - “Grading & Utility Plan”, dated December 19, 2018, and revised through 10/2/2019
   Sheet 3 of 9 - “Landscaping & Signage”, dated December 19, 2018, and revised through 10/2/2019
   Sheet 4 of 9 - “Lighting Layout & Photometric Plan”, dated December 19, 2018, and revised through 10/2/2019
   Sheet 5 of 9 - “Sediment Erosion Control Plans”, dated December 19, 2018, and revised through 10/2/2019
   Sheet 6 of 9 - “Site Details 1”, dated December 19, 2018, and revised through 10/2/2019
   Sheet 7 of 9 - “Site Details 2”, dated December 19, 2018, and revised through 10/2/2019
   Sheet 8 of 9 - “Existing Conditions”, dated December 19, 2018, and revised through 10/2/2019
   Sheet 9 of 9 - “NYSDOT Details”, dated December 19, 2018, and revised through 10/2/2019

B. Building Elevation drawings prepared by prepared by Harris A. Sanders Architects, P.C. 252 Washington Avenue, Albany NY 12210.

   Sheet No. 10 - Proposed Elevations, 224 Delaware Avenue (showing façade improvements to the existing 224 Delaware Avenue building), dated 9/13/2018
   Sheet No. 11 - Elevations, New Construction, Building 1 - 2 Family, Delmar, NY, dated 8/23/18
   Sheet No. 12 - Elevations, New Construction, Building 2 - 2 Family, Delmar, NY, dated 8/23/18
   Sheet No. 13 - Elevations, New Construction, Building 3 - 2 Family, Delmar, NY, dated 8/23/18

2. THIS WILL CERTIFY that the Planning Board, at a meeting held December 17, 2019, granted
Site Plan Approval for the development of the site described above, such approval being contingent upon compliance with the MODIFICATIONS (Item 9) and CONDITIONS (Item 11) which follow, and also with:

A. All standard specifications, requirements, and conditions pertaining to the development of the site as set forth in approvals of detailed plans granted by the Planning Board, the Bethlehem Sewer District, Water District of the Town of Bethlehem, the Albany County Planning Board and/or any other governmental authority having jurisdiction thereof.

3. Access to the site is provided via NYS 443 / Delaware Avenue, an existing State roadway.

4. The site is located in a Commercial Hamlet (CH) zoning district.

5. Prior to the granting of this Site Plan Approval the Board considered:

A. The potential environmental impacts of the proposed site development, declared the proposal an Unlisted action, conducted a uncoordinated SEQR review of the project and issued a Negative Declaration for compliance with SEQRA on December 3, 2019.

B. The following recommendation from the Albany County Planning Board dated March 15, 2018: *(Note that text included in italics below references the facts and conclusions identified in the SEQR Negative Declaration Resolution that address the ACPB recommendations and advisory notes.)*

Modify Local Approval to include:

1. The town stormwater management office should review the project drainage plans to ensure that proper drainage practices are used to control additional runoff from impervious surfaces. *(SEQR Item 8)*

2. The NYS DOT should review the proposed curb-cut design, which currently does not comply with NYS DOT standards. All work within the State Route 443 right-of-way will require a permit from NYS DOT. *(SEQR Item 2)*

3. The site plans should be updated to conform to all requirements for fire apparatus access roads identified in Appendix D, Section D103 of the 2015 International Fire Code of NYS. The minimum road width for a fire apparatus access road with a fire hydrant shall be 26 feet, exclusive of shoulders. *(SEQR Item 5)*

Following discussion of ACPB Recommendation #3 during several Planning Board meetings, and after consultation with the Town Building Inspector/Code Enforcement Officer (who is responsible for enforcing the Fire Code) and NYS Codes, it has been determined that this recommendation is not accurate. Correspondence from NYS Codes to the Building Inspector/Code Enforcement Officer, dated March 22, 2018, confirms the Building Inspector/Code Enforcement Officer’s determination that the 26-ft width is required only in front of the fire hydrant (for a distance of 40-ft.), not the entire access road. As a result of this confirmation, the Planning Board hereby over-rules the ACPB Recommendation #3. The Town’s response to the ACPB March 15, 2018 Notification will reflect this determination, along with agreement to Recommendations#1, 2, and 4.

4. The Town Planning Board should condition approval of the site plan with final review by the Elsmere Fire District and the Town Building Inspector to certify that all safety and emergency access concerns have been addressed, and to ensure that the site plans meet the 2015 International Fire Code of NYS requirements. *(SEQR Item 5)*

ADVISORY:

1. The site plan proposes 28 parking spaces, where 21 spaces are required for 14 dwelling units (1.5 spaces/dwelling unit). The Town Planning Board should determine if all the parking
spaces are needed for the proposed uses, and if not, banked parking should be encouraged. *(SEQR Item 4)*

2. The Town Planning Board should encourage the applicant to increase greenspace to reduce stormwater runoff, which could be achieved by reducing the number of proposed parking spaces. *(SEQR Item 8, 9, 10, 11)*

3. Snow storage areas should be sited and designed: i.e., swales, depressions with yard drains to divert water to the detention pond to minimize pollutants and runoff impacts to the adjacent residential sites. The applicant should consult with the town’s stormwater management officer for additional recommendations for locating and designing snow storage areas. *(SEQR Item 4, 8)*

4. The Town should consider enforcing snow removal on the property by imposing fines should the property owner fail to remove snow in excess of 4 inches, as proposed. Snow accumulation in excess of 4 inches poses serious public safety concerns and emergency access barriers. *(SEQR Item 4)*

5. The plan should be reviewed by the Albany County Fire Coordinator’s Office for additional comments on response time and emergency vehicle access. *(SEQR Item 5)*

6. The Town Planning Board should ensure that the property owner is aware of the regulations for construction activities that disturb one or more acres of land. The applicant proposes that .95 acres of land will be physically disturbed during the construction. The Albany County Planning Board recommends the applicant meet all necessary requirements for stormwater management should land disturbances exceed one acre, including of a Notice of Intent filed with the NYSDEC affirming that a Stormwater Pollution Prevention Plan has been prepared and is being implemented or submission of a SWPPP that is consistent with the requirements included in the NYS DEC SPDES General Permit for Stormwater Discharges (GP-0-15-002, January 29, 2015). Persons commencing work on such a project before obtaining the required permits, and any contractors engaged in such work, are subject to enforcement action by the DEC, which may include civil and/or criminal court action, fines and/or an order to remove structure or materials or perform remedial action. *(SEQR Item 8)*

7. A limit line of the proposed ground disturbances associated with construction should be indicated on the site plan map. *(SEQR Item 8)*

8. The Town Planning Board may want to consider the cumulative impacts to traffic on State Route 443 and stormwater drainage from all of the recently proposed projects in the corridor. While infill development may be desirable, piecemeal project proposals need to be balanced with overall impacts of proposed developments in this corridor in relation to the proposed road diet for Delaware Avenue. *(SEQR Item 3)*

9. The Town Planning Board should further consider the appropriateness of the proposed development’s density relative to the lot’s size and key-hole shape, as well as its compatibility with the density of surrounding land uses. *(SEQR Item 1, 9)*

10. In the event that human remains and/or a cemetery are discovered, the applicant should report their findings to the Albany County Department of Health and NYS Historic Preservation Office. *(SEQR Item 14)*

C. Prior to the granting of this Site Plan Approval the Board considered public comments related to the parcel’s appearance as a flag lot, zoning district designations, and the overall parcel size related to maximum density. The Building Inspector/Code Enforcement Officer in correspondence, dated October 9, 2019, determined the parcel does not meet the criteria of a flag lot but is considered a pre-existing non-conforming lot, and the total parcel size is 1.2 acres (gross acreage). The Zoning Board of Appeals in its November 6, 2019 decision (AV-1917) affirmed the Building Inspector’s determination that the maximum density for the
The site was 9 units based on a net acreage of 1.125 in stating the following (see page 5 in ZBA Resolution attached):

1. The Site does not contain any Constrained Land such that the Developable Acreage is 1.125 acres. Moreover, absent any Constrained Land, the net acreage of the Site is 1.125 acres and by its own terms, it is this figure that must be used to calculate the Buildable Areas and Buildable Yield. Given the Code restriction of 8 units per acre for the maximum density, multi-family and the net acreage of 1.125 acres, the Board hereby determines that the Building Inspector Harbinger’s determination of the maximum density for the Site at 9 units is correct in all respects and is hereby affirmed.

D. Prior to the granting of this Site Plan Approval the Board considered the compatibility of the multi-family development with the surrounding neighborhood. The proposed development is located in a Commercial Hamlet Zoning District, where multi-family use is a permitted use subject to site plan approval. Surrounding land uses consist of a mix of commercial, professional office, and residential uses, including multifamily apartments. To the east, west, and south uses consist of single-family and two-family homes. To the north residential uses consist of multifamily, and commercial uses consist of Dominos Pizza, Valvoline, vacant commercial space, Shear Simplicity Hair Salon, Buenau’s Opticians, and professional office businesses.

During the site plan review, the Planning Board determined that the initial project proposal of 20 dwelling units within two buildings was not compatible with the surrounding neighborhood and requested the applicant to revise the project density and building scale. As a result, the proposed project was reduced to 9 dwelling units (6 new and 3 existing) with building size (footprint, height, and square footage) reflective of those found on Bedell Avenue and Lincoln Avenue.

A Compatibility Report, dated August 23, 2018, prepared by Harris A. Sanders, Architects, P.C. provides a comparison of the size, setback, scale, height, and architecture of the proposed site buildings with the surrounding single-family, two-family, and commercial buildings on Lincoln Avenue, Bedell Avenue and Delaware Avenue. Design elements included on the new buildings include a compatible roofline, building facade materials, and window treatments that blend in with the general character of surrounding neighborhood. A building overlay plan, which provides for the proposed new building footprints [in red] overlaid onto the existing building footprints of buildings on Lincoln Avenue and Bedell Avenue was prepared by ABD Engineering. The overlay plan provides a useful visual comparison and confirmation of the site’s compatibility with existing neighboring buildings.

Building scale and massing was a key discussion item during the Planning Board site plan review. A building’s scale refers to its perceived size in relation to neighboring structures. The Board determined the scale and massing of the three new buildings are compatible with those of the surrounding neighborhood (as depicted on the building overlay plan and discussed in the Compatibility Report). Retention of the existing 3-unit building along Delaware Avenue maintains the streetscape view of the site from the roadway.

E. Prior to the granting of this Site Plan Approval the Board determined the project is consistent with the Comprehensive Plan’s goal of providing a variety of housing types in the Town, which can be accomplished on the lands zoned in the hamlet districts. (Comprehensive Plan Section 4 - Recommendations; p.4.2- Recommendations for Hamlets, p.4.6 “Town should allow for and promote mix of housing options in the hamlets”, Section 8 GEIS p.8.4 “Key recommendations regarding land use: Hamlet districts” - describes the purpose of the district; “these zones encourage a variety of housing types, scale of development and pedestrian connections to neighborhoods is important”, “different hamlet designations demonstrate the recognition that not all hamlets are the same”).
8. The site is within the boundaries of the Water District of the Town of Bethlehem and the Bethlehem Sewer District.

9. Approval of the Site Plan was granted with the following MODIFICATIONS to be shown on the plan set endorsed with the Planning Board's stamp of Approval.

A. Sidewalk improvements along Delaware Avenue should reflect a 5-ft. wide sidewalk. The sidewalk labeling on Sheet 1 should reflect a 5-ft sidewalk.

B. The driveway apron between the sidewalk and Delaware Avenue roadway pavement should consist of a concrete surface. The site plan and detail sheet should be revised accordingly.

C. Remove the label text “sub-units” from Sheet 1.

D. On Sheet 5 the limits of disturbance line should follow the 205 contour in the southeast corner of the site.

10. Any Site Plan submitted subsequent to the receipt of this approval by the Owner shall list the changes made to the plan since the last revision date October 2, 2019 with a corresponding date for each such change.

11. This Approval is granted subject to the following CONDITIONS:

A. Prior to the signing of the approved plans by the Planning Board Chairman, the Owner shall prepare or cause to be prepared the following items, and shall provide the following items to the Town for its review and approval as indicated below:

1. All modifications listed in item 9 above shall be provided on plans.

2. All CAD drawings associated with the site plan shall be placed on a CD and provided to the Town Engineering Division.

3. The Owner(s) shall submit to the Town Engineering Division for its review and approval draft metes and bounds descriptions and closure checks and all required recording documents for the land conveyance along Ellsworth Place to be granted to the Town as shown on the Site Plan (Sheet 1 of 9).

4. The Owner(s) shall submit to the Town Engineering Division for its review and approval draft metes and bounds descriptions and closure checks and all required recording documents for the utility easement associated with the waterline connection within Delaware Avenue to be granted to the Town as shown on the Grading and Utility Plan (Sheet 2 of 9).

B. The Owner/Applicant has agreed to improve the existing stormwater system infrastructure within the easement on the site. Improvements will include stormwater structures and upgrading the storm pipe to a maximum size of 24-inches (pipe size to be determined by Town Engineer Division). Since these improvements will also address a predevelopment condition, improvements to the stormwater system within the existing easement off site will be the responsibility of the Town Highway Division. The Town Engineering Division will determine the appropriate pipe size along with inverts and elevations through the preparation of a storm sewer profile, which will be provided to the Applicant prior to commencement of construction.

C. Snowfall accumulation in excess of 4-inches shall be removed from all parking areas/walkways within 48 hours. Snow shall be removed from the site when it impedes access/parking needs.

D. If during site construction of the project underground tanks are discovered the Applicant/Owner shall contact the NYSDEC Spill Hotline and follow all NYSDEC regulations and protocols related to tank removal and soil remediation, if necessary, and as determined by NYSDEC.
E. The Owner shall retain an archeologist on call during the site grading/excavation phase of construction activity. In the event any human remains are uncovered during site grading/excavation, the contractor shall suspend all site ground disturbance on the entire site and notify the Owner and archeologist. The parties in turn will notify and consult with the Town and NYS Historic Preservation Office, NYS Department of State Division of Cemeteries, and any other State agency having authority, to develop and implement an appropriate mitigation and/or recovery plan.

F. Prior to any land disturbance occurring on the site, a preconstruction meeting shall be scheduled and held with the Town Engineering Division.

G. Prior to any land disturbance occurring on the site, unless otherwise determined by the Town Engineer, orange construction fencing is required to be installed to indicate the limits of disturbance as identified on the Sediment Erosion Control Plan. Necessary land disturbance is permitted that would provide access to accomplish the installation of the construction fencing. Upon completing the construction fence installation, the Owner(s) shall provide to the Town a letter from a Professional Engineer or Surveyor certifying the orange construction fencing was installed in accordance with the area shown on the Sediment Erosion Control Plan.

H. Prior to any land disturbance occurring on the site, orange construction fencing is required to be installed around the dripline of the existing Spruce tree located at the front of the site as a protection measure, as indicated on the Grading and Utility Plan (Sheet 2 of 9).

I. Prior to the issuance of a Building Permit, a backflow prevention device shall be required for the project. A completed application form and engineering report for the backflow prevention device shall be submitted to the Town of Bethlehem Department of Public Works for review and approval. Site Plan (Sheet 1 of 9) shows this device to be installed within the existing building.

J. Prior to the issuance of a Building Permit, all necessary sewer and water permits shall be applied for and received from the Department of Public Works.

K. Prior to the issuance of a Building Permit, the Owner(s) shall obtain a highway work permit from New York State DOT Region 1 for work within the New York State DOT right of way.

L. Prior to the issuance of a Building Permit, the Owner(s) shall pay the required fee in lieu of parkland in accordance with Local Law No. 2 of 2019 and §128-57 of the Town of Bethlehem Zoning Law. Parkland fees shall be paid prior to the issuance of a Building Permit for each building.

M. Prior to the issuance of a Certificate of Occupancy as built drawings of the stormwater management areas along with a certification from a Professional Engineer shall be provided to the Town Engineering Division to confirm the stormwater management areas were constructed compliant to the approved plans and drainage report.

N. Prior to the issuance of a Certificate of Occupancy as built drawings of the improvements made to the stormwater system within the existing Town drainage easement on the site shall be provided to the Town Engineering Division to confirm the improvements were constructed compliant to the approved plans.

O. The installation of the 6-ft high white vinyl fence along the side yard shall be installed prior to a preconstruction meeting.

12. The site delineated on the Approved Site Plan shall be developed in accordance with:

A. The detailed plan for development shown on the Final Approved Site Plan.

B. The following additional requirements:
1. Landscape plantings shall be as shown on the Approved Landscaping Plan, with the quantity of plants to be not less than as shown on the plan;

2. All plants shall not be less than the minimum size, as specified on the plan, and shall conform to, and be planted in accordance with, the standards recommended by the American Nursery and Landscape Association;

3. Grading of the site shall be as shown on the Approved Plan;

4. The installation of utility services shall be made in accordance with the requirements of such governmental authorities, as may have jurisdiction thereof;

5. The development of the proposed site shall be performed in a manner such that (1) soil loss due to wind and water erosion is held to a minimum, and (2) healthy trees of desirable species are protected from damage;

13. In rendering its decision to approve this site plan application, the Planning Board has considered the standards of §128-71(E) of the Town Zoning Law, the applicable design standards of §128-34(E) of the Town Zoning Law and the decision criteria contained in Section §128-71(K) of said law.

14. Upon submission of revised Site Plan drawings reflecting those MODIFICATIONS specified in ITEM 9, and upon satisfying those CONDITIONS specified in ITEM 11.A herein, the Chairman of the Planning Board is empowered to endorse the Site Plan with his signature, such Site Plan shall be known henceforth as the FINAL APPROVED SITE PLAN.

BY ORDER OF THE PLANNING BOARD

John Smolinsky, Chairman

NOTE: Expiration of Approval

Site Plan Approval in respect to a particular lot, plot, site or parcel shall expire 180 days following the date of such approval by the Planning Board unless all conditions and requirements established by the Board as a prerequisite to endorsement of the site plan have been satisfied and said site plan has been endorsed by the Planning Board stamp and signature. Prior to expiration and upon request of the applicant, the site plan approval may be extended by the Planning Board for up to two additional 90 day periods.

Site plan approval shall be void if construction is not started within one year of endorsement of the site plan as noted above, and completed within two years of said endorsement. Prior to expiration and upon request of the applicant, the site plan approval may be extended by the Planning Board for up to two additional 90 day periods.

**Building Permits Required**

A building permit is required for all work in and to any structure and for any proposal for a change of use or occupancy, new signs, and demolition of existing structures.
RESULT: APPROVED AS AMENDED [4 TO 0]
MOVER: Scott Lewendon, Board Member
SECONDER: Kate Powers, Board Member
AYES: John Smolinsky, Brian Gyory, Scott Lewendon, Kate Powers
RECUSED: Gianna Aiezza

D. McDonald's USA, LLC, Glenmont Plaza, 376 Feura Bush Road, Glenmont - Project Update and Possible Site Plan Approval (SPA 60 A17) on Proposed Improvements - Site Plan Amendment Application 18-00100015

The project was before the Board for an update. Steve Wilson of Bohler Engineering was present on behalf of the applicant, McDonald's USA, LLC, to provide information and answer questions. Staff comments were provided by Leslie Lombardo. To date, the project was placed on the following agendas: 03/05/2019, 11/19/2019, 12/17/2019

Public Comment:
- there were no comments during the public comment period

Project Information:
- site plan application for proposed facade improvements and ADA compliance for McDonald's at 376 Feura Bush Rd, Glenmont
- Mr. Smolinsky agreed that it is difficult to get a view of McDonald's and the strip mall in one photo
- Ms. Lombardo noted that the applicant provided a photo simulation and elevation drawings showing the proposed colors
- Mr. Wilson noted that the color was changed from grey to neutral tones to compliment the adjacent plaza
- cornice and railing details were added to the elevation drawing
- In response to Ms. Powers question, Mr. Wilson stated that it was customary for McDonald's to have an American flag on site

Next Steps
- applicant to meet conditions of site plan approval

PLANNING BOARD
TOWN OF BETHLEHEM
ALBANY COUNTY, NEW YORK

SITE PLAN AMENDMENT APPLICATION APPROVAL

FAÇADE CHANGES AND ADA IMPROVEMENTS TO THE PARKING LOT
MCDONALD'S RESTAURANT / MCDONALD'S USA, LLC
376 FEURA BUSH ROAD, GLENMONT
1. TYPE OF APPROVAL: Amendment to Previously Approved Site Plan - Façade Renovations and ADA Improvements to the Parking Lot

NAME OF PROPOSAL: McDonald’s Remodel - McDonald’s USA, LLC

DESCRIPTION OF PROPOSAL: Amendment to Site Plan for facade changes to include remodeling the exterior of the building including a new roof line, exterior siding type and color changes, new menu board, painting the existing monument sign, replacing directional signage and renovation of signage on the building for McDonald’s Restaurant

LOCATION OF SITE: 376 Feura Bush Road, Glenmont, New York

TITLE OF DRAWINGS:

“McDonald’s”, Town of Bethlehem, NY, dated 8/01/18, revised 10/11/19, prepared by Bohler Engineering, 17 Computer Drive West, Albany, NY 12205.

Sheet C-1 of 7 - “Cover Sheet”, dated 8/01/2018, and revised through 10/11/2019
Sheet C-2 of 7 - “Site Plan”, dated 8/01/2018, and revised through 10/11/2019
Sheet C-3 of 7 - “General Notes Sheet” dated 8/01/2018, and revised through 10/11/2019
Sheet C-4 of 7 - “Demolition and Erosion Control Plan”, dated 8/01/2018, and revised through 10/11/2019
Sheet C-5 of 7 - “Grading & Drainage Plan” dated 8/01/2018, and revised through 10/11/2019
Sheet C-6 of 7 - “Detail Sheet”, dated 8/01/2018, and revised through 10/11/2019
Sheet C-7 of 7 - “Detail Sheet”, dated 8/01/2018, and revised through 10/11/2019

“McDonald’s Site No. 031-16351”, 376 Feura Bush Road, Glenmont, NY 12077, dated 2/20/19, revised 10/17/19 and with required modification as per 5B., prepared by Hoffman & Riley Architects, 1735 Central Avenue, Albany, NY 12205, Sheet 1.

“McDonald’s USA, LLC”, 376 Feura Bush Road, Town of Bethlehem, NY, dated 7/30/18, prepared by Control Point Associates Inc., PC, 17 Computer Drive West, Albany, NY 12205, Sheet 1 of 1.

2. THIS IS TO CERTIFY THAT the PLANNING BOARD of the Town of Bethlehem, Albany County,
New York, at a meeting held November 19, 2019 AMENDED a previous Site Plan Approval by APPROVING façade renovations and ADA improvements to the parking lot of the McDonald’s Restaurant located at 376 Feura Bush Road, Glenmont, New York.

3. This Amendment modifies the original Site Plan Approval granted by the Planning Board in April 1995, as documented in Certificate No. S.P.A. 60 A5, dated April 4, 1995, and by Site Plan Amendment granted by the Planning Board, as documented in Certificate No. S.P.A. 60 A6 and A7.

4. More specifically, this amendment consists of the approval of the revised building elevation drawing as cited above, which shows a remodel of the exterior of the building, including a new roof line, new menu board and exterior siding type, and color changes as well as signage on the building.

5. Approval of the Site Plan was made with the following MODIFICATIONS to be shown on the plan set endorsed with the Planning Board’s stamp of Approval:

A. Provide a Planning Board Approval Stamp box in the lower right hand corner above the title block on every plan sheet including the architectural elevation sheet and survey sheet.

B. The “McDonald’s Site No. 031-16351” plan, dated 2/20/19, revised 10/17/19, prepared by Hoffman & Riley Architects, will be revised to depict the colors and facade revisions as shown in the photo simulation provided for the meeting on 12/17/2019; including a fence between the patio and the driveway in front of the building.

6. Prior to the granting of this Amendment, the Planning Board:

a. Classified the proposal as a Type II action in compliance with SEQR

7. Approval of the site plan was made with the following conditions:

a. No conditions.

8. Except as modified by this Amendment, all other provisions, requirements and conditions of Site Plan Approval for McDonald’s Restaurant, 376 Feura Bush Road, Glenmont, as outlined in Certificate of Site Plan Approval No. S.P.A. 60 A5 and S.P.A. 60 A6 and A7 shall remain in full force and effect.

BY ORDER OF THE PLANNING BOARD

John Smolinsky, Chairman
RESULT: APPROVED [UNANIMOUS]
MOVER: Brian Gyory, Board Member
SECONDER: Gianna Aiezza, Board Member
AYES: Smolinsky, Gyory, Aiezza, Lewendon, Powers

E. Port Road South / Beacon Island / Albany Port District Commission Expansion Project / Industrial Park - Possible Action to Approve the Resolution to Accept the Supplemental Draft Generic Environmental Impact Statement as Complete and Establish Public Comment Period - Site Plan Application 19-00100001, previously 18-00100012

The project was before the Board for an update concerning the Final Generic Environmental Impact Statement (FGEIS). The applicant's representatives (listed below) were present to provide information and answer questions. Staff comments provided by Robert Leslie. The Town's Economic Development Coordinator, Elizabeth Staubach, was also present.

To date, the project was discussed at the following meetings:

Individuals Present on Behalf of the Applicant:
-McFarland Johnson (Steve Boisvert, Ashley Erdmann)

Recused Board Member:
-Kate Powers was not present when the project was discussed. She recused herself from project related discussions to avoid potential conflict, or the appearance of a conflict, with her position at the NY Attorney General's office.

Public Comments:
-there were no comments during the public comment period

Project Information:
-Project involves the development of a 81.7 acre property referred to as Beacon Island. Project is generic in nature with no specific tenants identified, therefore environmental impacts will be analyzed for a 1,100,000 sf industrial park, consisting of warehouse space, laydown areas, access roads, employee parking, trailer parking, utility extensions, bridge over the Normans Kill for access road and railroad extension / modification and wharf / bulkhead along the Hudson River for maritime use and on / off loading of equipment & materials.

-Mr. Leslie noted that the project was before the Board to determine if the Supplemental Draft Generic Environmental Impact Statement (DGEIS) was complete and acceptable for public comment and also to schedule a public meeting for 01/06/2020 to be conducted by the applicant

-it was determined that a supplemental DGEIS was necessary following public comment on the DGEIS related to addressing comments about Environmental Justice, particularly the project's potential impact on the Ezra Prentice Community
Mr. Smolinsky noted that the public meeting would be conducted by the applicant and a meeting record would be included in the Final GEIS.

Mr. Boisvert stated that notice of the public meeting would be mailed to individuals residing in the Ezra Prentice Community.

A presentation would be made at the public meeting before the meeting would be opened for public comment.

A stenographer would record the public "meeting" and generate a transcript.

The applicant would address the public comments in a Final GEIS.

Written comments would be accepted thru 01/17/2020.

Following the public meeting, the applicant will be looking to have a dialog with the Town related to comments and responses received on the Draft GEIS and Supplemental.

Ms. Aiezza noted that the applicant should be conducting a public meeting as opposed to a public hearing so that there will be dialog between the applicant and the people who attend the meeting; as opposed to a public hearing where there would be no interaction.

Mr. Boisvert noted that the meeting will be publicized using mailers, posted at various locations, published in the Times Union newspaper and on the Town’s website, and ENB notices will be sent to the involved / interested agencies and community leaders listed in the participation plan.

The applicant has also reached out to the City of Albany Planning Dept to discuss coordination.

Mr. Leslie noted that the 01/06/2020 public meeting is not a Planning Board meeting.

The public meeting will be conducted by the applicant and is not subject to open meeting law.

**Next Steps:**

- Public "meeting", conducted by the applicant, will be held on 01/06/2020.
- Public comment period will end on 01/17/2020.

**PLANNING BOARD**

**TOWN OF BETHLEHEM**

**ALBANY COUNTY, NEW YORK**

**SEQR RESOLUTION**

**DETERMINATION OF SIGNIFICANCE**

**AMENDED POSITIVE DECLARATION**

**ALBANY PORT DISTRICT COMMISSION INDUSTRIAL PARK PROJECT (PORT OF ALBANY EXPANSION)**

**SITE PLAN APPLICATION #19-00100001, FORMERLY 18-00100012**
WHEREAS, the Planning Board of the Town of Bethlehem has received a site plan application from the Albany Port District Commission, for the Albany Port District Industrial Park Project for the industrial development of 81.57 +/- acres of land located on the east side of Route 144 (River Road) between the Normans Kill and PSEG with the Hudson River located to the east; and,

WHEREAS, the Planning Board has (1) classified the application as a Type 1 action, (2) established itself as Lead Agency, (3) issued a Positive Declaration, (4) determined a Generic Environmental Impact Statement (GEIS) is appropriate for the project, (5) provided notice of said Positive Declaration, (6) received and accepted a Draft GEIS Scope, (7) adopted the Final Scope for the GEIS; (8) determined Draft GEIS was complete on August 6, 2019, (9) held a public hearing on September 3, 2019, and (10) established a public comment period between August 6, 2019 and September 14, 2019; and

WHEREAS, during the public comment period, the Planning Board received multiple comments regarding the inclusion of an analysis of the project’s potential impacts on the Ezra Prentice Homes in the City of Albany, including but not limited to environmental justice issues and consideration of alternatives to mitigate or eliminate impacts on the Ezra Prentice community. Impacts on the Ezra Prentice community including environmental justice was not an environmental topic identified in the GEIS scope; and

WHEREAS, identified areas of environmental impact on the Ezra Prentice Homes may include, but not limited to, environmental justice, climate and air quality, traffic and transportation, water service (potable and fire protection), sanitary sewer, historical, cultural and archeological resources, aesthetic and visual resources, land use and zoning, community character and compatibility with comprehensive plan, emergency services, school district, fiscal and economic impact, recreation and open space; and

WHEREAS, the proposed action has potential to create one or more significant adverse environmental impacts related to the Ezra Prentice community and preparation of a Supplemental Draft Generic Environmental Impact Statement, for which the applicant has consented, will enable the Planning Board as Lead Agency to consider the potential effects on the Ezra Prentice Homes.

NOW, THEREFORE, BE IT RESOLVED, by the Bethlehem Planning Board, as follows:

1. That, based upon its review of the DGEIS and supporting materials, as well as the full EAF Parts 1 and 2, and its own independent analysis and comparison with the Criteria for Determining Significance found at 6 NYCRR 617.7, the site plan application for the Albany Port District Commission Industrial Park constitutes an action which may have a significant adverse effect on the Ezra Prentice Homes and therefore requires preparation of a Supplemental Draft Generic Environmental Impact Statement to address impacts on the Ezra Prentice community including environmental justice concerns;
2. That the scope of the Supplemental DGEIS shall be as set forth in the attached memorandum from the Director of Economic Development and Planning to the Planning Board dated November 14, 2019;

3. that this Determination of Significance shall be considered a Positive Declaration made pursuant to Article 8 of the Environmental Conservation Law; and,

4. the Department of Economic Development and Planning is hereby authorized and directed to prepare, file and publish notice of this Determination as prescribed at 6 NYCRR 617.12.

On a motion by Brian Gyory, seconded by Scott Lewendon, and a vote of four (4) for, zero (0) against, zero (0) abstained, one (1) recused, and zero (0) absent, this RESOLUTION was adopted on November 19, 2019.

RESULT: APPROVED [4 TO 0]
MOVER: Brian Gyory, Board Member
SECONDER: Scott Lewendon, Board Member
AYES: John Smolinsky, Brian Gyory, Gianna Aiezza, Scott Lewendon
RECUSED: Kate Powers

F. Port Road South / Beacon Island / Albany Port District Commission Expansion Project / Industrial Park - Possible Action to Schedule a Public Meeting 01/06/2020 at 5:30PM at the Albany Housing Authority, 200 South Pearl Street, Albany, to be conducted by the Applicant, to Solicit Public Comment on the Supplemental Draft Generic Environmental Impact Statement - Site Plan Application 19-00100001, previously 18-00100012 - PLEASE NOTE: THIS IS NOT A PLANNING BOARD MEETING, NOR A PUBLIC HEARING. THIS IS A PUBLIC MEETING.

NOTICE OF PUBLIC MEETING

A Public Meeting will be held on 01/06/2020, at 5:30 p.m., at the Albany Housing Authority, 200 South Pearl Street, Albany, NY to solicit public comment on the Supplemental Draft Generic Environmental Impact Statement (GEIS) for the Albany Port District Commission (APDC) Port Expansion Project. All interested persons are invited to attend and provide comments on the Supplemental Draft GEIS.

Documentation related to the application can be viewed in the Town of Bethlehem, Planning Dept., 445 Delaware Ave, Delmar, M-F, 8:30 a.m. - 4:30 p.m. A copy of the Supplemental Draft GEIS is available for viewing in the Bethlehem Town Clerk’s Office, the Bethlehem Public Library and Albany Housing Authority. Notice of public meeting to be posted on the Town’s website and published in the Times Union Newspaper. Questions and written comments related to the project can be directed to Robert Leslie, Director of Planning at rleslie@townofbethlehem.org and will be accepted through 01/17/2020.

Description of Action: A Draft GEIS was accepted as complete and adequate for public review on 08/06/2019. As a result of public comments, a Supplemental Draft GEIS has been
prepared that includes an environmental justice analysis of the project’s potential impact on the Ezra Prentice Homes in the City of Albany.

Albany Port District Commission (Port) is proposing to construct an industrial park with 5 conceptual layouts that range from 1.13 million square feet to 160,000 square feet of industrial use facilities (warehouse space and laydown area). Each concept would include associated access roads, employee parking, trailer parking, utility extensions, rail access from the north over Normans Kill and a bulkhead along Hudson River for on and offloading of equipment and materials.

SITE MAP - PORT ROAD SOUTH, GLENMONT

The image (above) is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Notice of the Public Meeting to be conducted by the applicant will be published in the Times Union Newspaper and on the Town’s website [link] http://bethlehemtownny.iqm2.com/citizens/legalnotice.aspx

RESULT: PUBLIC MEETING [4 TO 0]
MOVER: Brian Gyory, Board Member
SECONDER: Scott Lewendon, Board Member
AYES: John Smolinsky, Brian Gyory, Gianna Aiezza, Scott Lewendon
RECUSED: Kate Powers

V. New Business

A. Comprehensive Plan Update Committee - Meeting #2 - 01/15/2020

Mr. Leslie announced that the next meeting of the Comprehensive Plan Update Committee, will be held on Wednesday, 01/15/2020, from 6:00 - 8:00 p.m. in the meeting room at the Delmar-Bethlehem EMS Building, 114 Adams Street, Delmar. Monthly meetings are open to the public.
VI. Adjournment

Motion To: Adjourn

RESULT: ADJOURN [UNANIMOUS]
MOVER: Brian Gyory, Board Member
SECONDER: Scott Lewendon, Board Member
AYES: Smolinsky, Gyory, Aiezza, Lewendon, Powers

Next Meeting - Tuesday, January 21, 2020, 6:00 p.m.
The January 7, 2020 Planning Board meeting was cancelled.

The first Planning Board meeting in 2020 will take place on January 21st.