

# **DRAFT...DRAFT...DRAFT**

The regular meeting of the Town of Porter Planning Board was called to order at 7:00 p.m. Thursday February 4, 2016. All members were present in addition to Supervisor Wiepert, Assessor Driscoll, Attorney Dowd and Code Enforcer Rogers. Chairman Jeffrey welcomed everyone to the meeting and announced that he has been appointed Planning Board chairman and Amy Freiermuth has been appointed Secretary. Jipp Ortiz has resigned from the Planning Board and a search is being held to fill the vacant spot.

## **APPROVE MINUTES OF JANUARY 6, 2016 PLANNING BOARD MEETING**

Chairman Jeffrey read over the minutes of the January 6, 2016 Planning Board meeting. Chairman Jeffrey announced that he will be attending the Association of Town meeting in New York City this month to represent the Planning Board. Although a Vice Chairman was elected last month, that has changed and a new Vice Chairman will have to be appointed tonight. With no additions or corrections Anthony Collard made a motion to approve the minutes as submitted. John Bis seconded the motion. With all in favor the motion was unanimously carried.

## **APPOINT VICE CHAIRMAN**

Chairman Ortiz resigned after the January meeting last month. Peter Jeffrey has been appointed Chairman. The Planning Board is in need of a new Vice Chairman. Mark Fox nominated Anthony Collard. John Bis seconded the motion. With Anthony Collard abstaining, the motion was carried.

## **CHRIS GUARD ZONING BOARD OF APPEALS REQUEST UPDATE**

Chris Guard attended the Planning Board two months to ask for a referral to the Zoning Board of Appeals. Mr. Guard was looking to put docks up on the river prior to building a house. This action requires a variance. Based on what Mr. Guard told us at the meeting the Planning Board recommended that the Zoning Board of Appeals approve the request.

The Zoning Board of Appeals minutes from January were distributed to the Planning Board members for their review. At this point, Mr. Guard had told the Zoning Board of Appeals that he has changed his mind and is looking to go in another direction. In January Chairman Jeffrey, Duffy Johnston and Irene Myers met with Mr. Guard. He is in the process of purchasing about 100 acres of property that will have 300 feet of frontage on the Niagara River. His plans have changed. If he subdivided that into three 100 foot parcels he could have up to four docks per parcel if those lots were attached to a home lot. Mr. Guard would like to have the docks accessible to 20 homes as opposed to three, he is going to continue on with this development.

Mr. Guard has a developer and a lawyer working on this project. Mr. Guard was advised that before he could get a permit for a dock he has to have a building permit for a house and a house started. Susan Driscoll showed the area on the overhead map. A concept that is being looked into is to possibly build 20 upscale homes on the site. Twenty homes would constitute a major subdivision.

## **CWM CHEMICAL SERVICES, LLC SITE PLAN REVIEW REGARDING THE RMU-2 SITE PLAN APPLICATION**

Chairman Jeffrey is hoping to assemble a list of questions that the Planning Board has so that at the next meeting Mr. Mahar and his representatives can come in and answer any questions that we have for them. Chairman Jeffrey has put together a list of questions he has (most of which are relatively minor) and Mark Fox has submitted questions as well.

Starting on page 12 of the Application, Chairman Jeffrey has gone through the book item by item and feels that the Planning Board needs to go through the process item by item and compare ultimately what they have as to what the Town's code requires. Ultimately, a checklist will be useful to make the comparisons. Attorney Dowd feels that putting together a list of questions to propose to CWM is appropriate and they expect it. The Zoning Board of Appeals is supposed to be doing this as well.

The Planning Board needs to decide if you want to have a meeting with the Engineer and CWM representatives to work through the questions and respond to the questions you have and update the document being it back to the board. This would be done prior to the Planning Board holding a Public Hearing for Site Plan Review. Chairman Jeffrey asked Attorney Dowd how in-depth the Planning Board has to go into regarding background research at the Public Hearing. Mr. Dowd suggests that the Planning Board put a notice in the paper prior to the Public Hearing notifying the public that the application is available to review at the Town Hall. Copies should be available at the Ransomville Library, Youngstown Library and Lewiston-Porter School. The public is free to look at the application. This is the final application document and could possibly be made available on line by CWM. The copies being made available should be the responsibility of CWM. Jason Brydges, the engineer representing the town in this matter, is willing to meet with the Planning Board whenever necessary.

Mark Fox spoke about concerns he has with the application. The question he has is regarding the set back. Chairman Jeffrey is in agreement with this concern. CWM contends this is an existing use. The town does not believe or accept CWM's position that the set back is a prior non-conforming use. CWM is aware that if the site plan approval is given there will be a condition on it that there will be no activity within the 150 foot buffer. The Planning Board needs to place conditions on the final site plan approval. Mr. Dowd will talk to CWM regarding the conditions that will most likely be imposed on the final site plan approval.

The Planning Board feels that fifty (50) foot setback is not acceptable. It must be a one hundred fifty foot (150) buffer. The Planning Board must request that CWM affirmatively state they will comply with the town's requirement that there will be no disturbance closer than 150 feet to the property line. New York State can trump any local ordinance that the town puts into law. It is imperative the Planning Board goes on the record with any concerns they have regarding the Site Plan.

Attached is the Site Plan Review Checklist that has been compiled by Chairman Jeffrey. The items listed on the excel spreadsheet were discussed at the meeting tonight.



plnbdCWMrmu-2.xlsx

SEE BELOW

### **CODE ENFORCER ROGERS REPORT**

Roy Rogers, Code Enforcer, submitted his monthly reports for the Planning Board to peruse. He has spent a fair amount of his time at State-mandated Code School this month. There are twelve (12) "zombie" homes in the town of Porter. Bailey Brothers Inc were sent a letter requesting their landscaping operation be moved by spring 2016.

Mr. Rogers reported Chris Guard is in the process of demolishing a building that is in disrepair.

Mr. Rogers has been meeting with the contractor of Dollar General. Mr. Rogers stated Dollar General is intending to open in mid-February 2016.

### **ATTORNEY DOWD REPORT**

Mr. Dowd has nothing to report

It is noted one student from the Economics class at Lewiston-Porter was in attendance at tonight's meeting along with her teacher.

With no further business to come before the Planning Board tonight John Bis made a motion to adjourn the meeting. Mark Fox seconded the motion. With all in favor the meeting was adjourned at 8:45 p.m.

Respectfully submitted

Pamela F. Parker, Secretary

Town of Porter Planning Board

reference/ page number	reference/ page number	code requirement	actual/provided
cwm Application	Porter Zoning Law	Porter Zoning Law	cwm Application
X §3.1/p.12	§16/p.24	M-3 Heavy Industrial Zone	
X §3.1.1/p.12	§16/p.24	minimum lot width = 200 ft.	4,225 ft.
X §3.1.1/p.12	§16/p.24	minimum lot area = 2.5 acres	478 acres
X §3.1.2/p.12	§16/p.24	front yard setback = 100 ft.	greater than 300 ft.
X §3.1.2/p.12	§16/p.24	side yard setback = 50 ft.	greater than 50 ft.
X §3.1.2/p.12	§16/p.24	rear yard setback = 50 ft.	greater than 50 ft.
X §3.1.3/p.12	§16/p.24	maximum building height = 50 ft.	30 ft. @ Drum Management Building
X §3.1.3/p.12	§16/p.24	maximum Accessory USE/Structure	119 ft. Landfill RMU-2
§3.1.4/p.13	§16.D/p.24	Buffer Requirements (modified by §16.E.b) = 150 ft. surrounding facility	greater than 150 ft. except at south property line
X §3.1.5/p.13	§16.E.2/p.24	Permitted use = *Storage, Processing and Disposal of Hazardous and Industrial non- hazardous Waste	same
X §3.1.5/p.13	§16.E.2.a/p.24	300 ft. setback from any residence	at least 800 ft. to nearest residence
§3.1.5/p.13	§16.E.2.b/p.24	Buffer strips of 150 ft. min. surround such activity/facility	±50' at South property line - not accepted
X §3.1.5/p.13	§16.E.2.c/p.24	consideration for Perpetual care of Facility (see also Host Agreement)	Host Agreement' Stipulations/contract § 6 NYCRR part 373 Permit
X §3.1.6/p.14	§16/p.25 Prohibited Uses	No noxious or injurious by reason of dust, smoke, refuse matter, odor, gas, fumes, noise, vibration, or toxic substances or conditions	TOWN OF PORTER IS SUPERCEDED BY: NYSDEC & USEPA
X §3.1.7/p.15	§16.G.1/p.25 Design Standards	Fencing shall be placed between buffer and Buildings	the entire Model City Facility is enclosed with a chain link Fence to prevent accidental or unauthorized access at Active portions of Facility
X §3.1.7/p.15	§16.G.2/p.25 Design Standards	All Blank walls shall be Buffered	Entire Facility is to be Buffered
X §3.1.7/p.15	§16.G.3/p.25 Design Standards	Parking Shall be located behind the front façade and screening	Parking is entirely behind Buffered perimeter thereby Screened from public view

X	§3.1.7/p.15	§16.G.4/p.25 Design Standards	Exterior Finish materials on Façade(s) shall be approved by planning Board	Planning Board agrees that all Building facades are not visible to public view/public roads therefore Building code requirements are satisfied the materials are at owners discretion.
X	§3.1.7/p.15	§16.G.5/p.25 Design Standards	All permeable surfaces of the development shall be covered with grass or vegetative ground cover	All permeable surfaces will be (upon completion) or are covered with required materials
X	§3.1.7/p.15	§16.G.6/p.25 Design Standards	A minimum of one street tree per 35 ft. of road frontage shall be provided	the facility is Surrounded by a NATURAL TYPE Buffer at its perimeter, which satisfies the tree requirements.
X	§3.1.7/p.15	§16.G.7/p.25 Design Standards	All Planting materials shall be permanently maintained in good condition	cwm will maintain all Planted materials in good condition.
X	§3.2.1/p.15	§65/p.75 Address Number	Address Number Requirements; location, size, color, etc.	the current Front Entrance Address Number appears to satisfy the requirements
X	§3.2.2/p.15	§66/p.75 HVAC Equipment	Ground mounted and Rooftop mounted HVAC Equipment shall be concealed from public streets	Proposed New Building/ HVAC Equipment are not visible from public streets
X	§3.2.3/p.15	§67/p.75 Air Quality	Air Quality shall be maintained with no readily discernable (to the senses) on Neighboring property	Air Quality is Regulated by a 6 NYCRR Part 201 Air State Facility Permit and 6 NYCRR part 373 RCRA permit ; both administered by NYSDEC.
X	§3.2.4/p.16	§69/p.76 Excavation, Site Grading, & Fill	all Excavation, Grading, & Fill shall be approved by the 'Town Engineer' and shall be required as part of the Building Permit Process.	See page 16-17 of CWM Application for Details ---New York State issued Permits for all phases of the RMU-2 Landfill and Site work SUPERCEDE/are regulating the Excavation, Grading, & Fill, however said work shall be stipulated adjacent to New Buildings by the Town Engineer.
X	§3.2.5/p.17	§70/p.77 Fences and Walls	Fence Requirements for Height, Placement, and surface materials are indicated here.	the entire Model City Facility is enclosed with a chain link Fence to prevent accidental or unauthorized access at Active portions of Facility. No new permanent perimeter Fencing is needed or proposed.
X	§3.2.6/p.17	§72/p.78 Junk Vehicles	Junk Vehicle Requirements & regulations are detailed in this section.	No Junk Vehicles are currently nor will in the future be stored at the Model City Facility

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X	§3.2.7/p.15	§73/p.78 Landscaping & Buffering	Landscaping and Buffering Requirements & regulations are detailed in this section.	The Landscaping & Buffering of the Entire Model City Facility is 'Natural Type' and details of CWM's intent for such are indicated to maintain/ satisfy the town's requirements
X	§3.2.8/p.15	§74/p.79 Lighting	Lighting Requirements & regulations are detailed in this section.	Any new Lighting for the Facility will be designed in conformance with §74 of Town's Zoning Law. The Details of such shall be provided and verified in the Building permit process.
X	§3.2.9/p.18	§75/p.80 Noise Limitations	Noise Limitation Requirements & regulations are detailed in this section.	Construction activity will occur between the hours of 7:00 am - 9:00pm M-F, and 8:00am - 9:00pm on Saturdays and Sundays in accordance with Town Zoning Law. Operation of Facility Noise Limitation are mandated in DEIS appendix M permits.
X	§3.2.10/p.18	§76/p.82 Off-Street Parking Requirements	Off-Street Parking Requirements are Detailed in this section; 1 Parking space per employee on the largest shift is required for Industrial uses	currently Parking for site operation personnel is provided at CWM Locker Room. An additional eleven (11) parking spaces will be provided at the new Drum Management Building --- upon its completion.
X	§3.2.11/p.18	§77/p.85 Off-Street Staking Requirements	Off-street Staking Requirements are to be Determined by the Planning Board in conformance with the "Host Agreement"	Waste Truck Management Plan (NYSDEC Requirement) will be provided prior to RMU-2 opening for use. Adequate areas for off street stacking at the permitted maximum waste truck volume of 220 trucks per day are available. Planning Board would like a diagram/drawing of where and how this is provided on CWM facility!
X	§3.2.12/p.19	§78/p.86 Outdoor Parking Requirements	Outdoor Parking Requirements are detailed in this section.	all New Parking is at the Drum Management Building which is surfaced, graded, and storm water retention basin is provided per Town Requirements.
X	§3.2.13/p.19	§79/p.87 Property Maintenance	Property Maintenance Requirements and Regulations are detailed in this section	CWM performs Maintenance and Housekeeping as a best management practice -- meaning regularly and as required.

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X	§3.2.14/p.19	§80/p.91 Recreational Vehicles/ Utility trailers	Recreational vehicles/ utility trailers must not be stored in front yards for more than 7 days and must not be used for living/residential purposes	No Recreational Vehicles/ utility trailers will be stored at the Facility nor lived in.
	§3.2.15/p.20	§81/p.91 Refuse Storage Areas	Office Waste/ personel generated waste requirements are detailed in this section.	Dumpster locations and containment is to be indicated and Detailed in the application.
X	§3.2.16/p.20	§82/p.91 Sewage Disposal Facilities	Sewage Disposal Facilities Requirements and Regulations are detailed in this section	Sanitary Waste is managed in Holding tanks and pumped out as necessary and transferred to the Lewiston POTW. No commercial Storage or disposal of said sewage is done on facility.
X	§3.2.17/p.20	§83/p.92 Signs	Signs Requirements and Regulations are detailed in this section	No new Signs visable to public streets are included in the RMU-2 Proposal
X	§3.2.18/p.20	§84/p.96 Stormwater Management	Stormwater Management Requirements and Regulations are detailed in this section	Stromwater is regulated and managed according to facility's Individual State Pollutant Discharge Elimination System (SPDES) -- SPERCEDES TOWN LAW
	§4.1/p.22	§106.E.1/p.132 Site Plan Review Application/ Submission Requirements	Town of Porter Site Plan Review Application completed Form	submitted to Roy Rodger - Code Enforcement Officer
	§4.2/p.22	§106.E.2/p.132 Statement of Financial Capability	a Statement of financial capability of the applicant to carry out the proposed development is required.	not yet provided by CWM
	§4.3/p.22	§106.E.3/p.132 Enviromental Assessment Form	Enviromental Assessment Form is ssuperceded by the SEQRA process	The town of porter has been delegated as an involved Agency with respect to SEQRA. NYSDEC is Lead Agency and therefore implement this process. Town of Porter Planning Board requires a copy of the completed SEQRA Form priop to approval of Site Plan Review.
X	§4.4.1- 4.1.16/p.23-34*	§106.E.4.a- dd/p.132- 134Design Drawings*	10 copies of Indicated Plat meeting the requirements of this section are required note: except vehicle traffic - see subsequent enrty*	indicated documents are provided as certified by Roy Rogers - Code Enforcement Officer

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	*§106.E.4.2/p.1 34 vehicle Access for Ingress and Egress	show all traffic routes, Stacking, ingress, and egress diagrams/drawings and coordinate with "Host Agreement"	further data and Drawings with complete Truck/ vehicle routes, stacking, ingress, and egress is required by Planning board
§4.4.14/p.30			
	§106.E.4.00/p.13 4 Phase/Sequence of Development EXPERATION	Time line Schedule for Phases/sequences with projected time schedule for completion of each of the several phases is required.	a variance related to this sections Phase/completion schedule is being sought. A Reasonable Time schedule is to be determined and then a variance is to be applied for. The Planning Board would like input on the amount of time a Special Use Permit should be extend in this application EXPERATION DATE
§4.4.17/p.34			
X §	§106.E.5/p.134 Application Fees	Aapplication fees per Town of Porter's Fee Schedule for Site Plan Review	Fee has Been Paid according to Roy Rogers - Code Enforcement Officer