**Minutes**

**Village Planning Board**

**January 22, 2024**

A meeting of the Village of Horseheads Planning Board was held on the above date at 4:00 p.m. in Village Hall.

Present were:

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| **Planning Board and Staff** | |
| Chairperson Mike Stenpeck  Dave Helsing  Doug Baker  Bob Young  Tom Rupp  Marc Terpolilli, Alt.  **ABSENT:** Don Murphy, Alt. | Village Mayor Kevin Adams  Deputy Mayor Bill Goodwin  Village Manager Nathan Nagle  Village Atty. John Groff |
| **Others:** | |
| Matt Buzzetti, Esq.  Elliott Blauvelt  Kevin McFall  News Media | Dale Cole  Genia Cole  George Koliwasky |

Motion by Dave Helsing, seconded by Bob Young, to approve the Planning Board Minutes of October 23rd and November 27th, 2023.

Roll Call Vote:

Bob Young Aye

Dave Helsing Aye

Doug Baker Aye

Tom Rupp Aye

Chairman Stenpeck Aye

**3312 S. Main St., Special Use Permit, Cannabis Cultivation – Continued Review**

Chairman Stenpeck: The Village Board of Trustees referred this application back to us, stating that the minutes from the November meeting were not complete. He added that this is not a meeting on a personal opinion on cannabis. This is for a special use permit to operate a greenhouse in a C3 zone. Cannabis growing/sales has been approved by New York State.

Atty. Groff – reason you are here is that the minutes of the November meeting were not sufficient to give the Board of Trustees the direction they need from this Board. It’s not due to the actions of this Board, but recent staffing changes resulted in the minutes being incomplete, they do not provide detail of the factors and criteria considered by this Board. That was the initial reason for reconsideration request. Additionally, your records may have a letter I sent to Atty. Buzzetti where I asked for info and clarify from his client. Reason was for I felt there were questions on the materials in the file and how they addressed certain issues. I requested Mr. Buzzetti review these with his client. We received info from him responding to those queries. Those should be part of the materials you are considering, another element is to urge you to use Article XIX of Chapter 245 as your road map for your review of this application.

Atty. Groff noted that on the Short Form SEQR, Item #12B – is the proposed action in an archaeological sensitive area, - it is blank, should be checked NO.

Chairman Stenpeck reviewed answers in the letter received from Atty. Buzzetti. All answers are regarding preliminary site plan.

Mr. Buzzetti – the way that the Village ordinance is written specifically carves out a special use permit for greenhouses. That is exactly what my clients are proposing on a small scale. Operating a small scale indoor greenhouse, in line with zoning regulations. My letter outlined the other issues, how much of this parcel would be used, under 1000 sq ft., no signage. No changes to entrances/exits. Footprint will remain the same. This area of the Village is a mixed use. The operation will be located in the back of the building. Don’t need landscaping as a shield since this will be on the inside. Will be a two-person operation. There are 3 steel doors, and no windows on the building.

**At this time the Planning Board reviewed the application for 3312 S. Main St. relative to Chapter 245 of the Village Code: Zoning, Article XIX. Special Uses and Site Plan Review**

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| 245-120. Preliminary application and approval.  A. Preliminary application. Application for preliminary site plan approval shall be made, in writing, to the Code Enforcement Officer, who shall refer the application, when complete in all respects, to the Planning Board for its review and recommendation.   1. All applications shall be accompanied by the following information:   (a) A certified or notarized economic analysis of the project indicating the profit and loss of the project and including, but not limited to, the following: income, costs, rentals, taxes, market area and utilities. In addition, the applicant shall provide a full disclosure statement concerning the project.  (b) For proposed projects exceeding $100,000 in construction costs, documented evidence shall be provided of the applicant's financial ability to undertake and successfully complete the proposed project within the specified project construction period. Such evidence may be in the form of bank deposits, financing commitments, or the like.  (c) An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, their ownership and uses thereon, subdivisions, streets, zoning districts, easements and adjacent buildings within 500 feet of the applicant’s property.  (d) If grades exceed 3% or portions of the site have a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding and ponding, a topographic map showing contour intervals of not more than two feet of elevation, with an overlay outlining the above susceptible areas, if any.  (e) A preliminary site plan, to include the following information:  [1] The title of the drawing, including the name and address of the applicant.  [2] The North point, scale and date.  [3] The boundaries of the project, plotted to scale.  [4] Existing watercourses.  [5] The location of proposed land uses and their area, in acres, and the location,  proposed use and height of all buildings.  [6] The location of all existing or proposed site improvements, including streets, drains, culverts, retaining walls, fences and easements, whether public or private.  [7] The location of all parking and truck loading areas with access and egress drives thereto. There shall be adequate parking spaces for each professional and his or her clientele, plus staff. Adequate off-street parking (see § **245-113)** will be of significant consideration for site plan approval.  [8] Description of the sewage disposal and water systems and the location of such facilities.  [9] The location, design and size of all signs and outdoor lighting facilities.  [10] The location and proposed development of buffer areas and other landscaping.  [11] Existing vegetation.  [12] Existing and proposed contours at intervals of not more than two feet of elevation.  [13] Delineation of the various residential areas, if applicable, indicating for each such area its general extent, size and composition in terms of total number of dwelling unit types, a general description of the intended structure and a calculation of the residential density, in dwelling units per gross acre, for each such area.  [14] When applicable, a general description of the provision of other community facilities, such as schools, fire protection services and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.  2.In addition, the following documentation shall accompany the preliminary site plan:   1. Evidence of how the developer's particular proposal or mix of land uses meets existing community needs. 2. Evidence that the proposal is compatible with the goals of the Comprehensive Plan of the   Village.   1. If the development is to be staged, a general indication of how the staging is to proceed.   Whether or not the development is to be staged, the preliminary plan shall show the intended total project. Any project that requires more than 24 months to complete shall be staged.  3. The Planning Board and/or Board of Trustees may require such additional information as appears necessary for a complete assessment of the project.  B. Preliminary Approval.  **. . . . .**  2. The Planning Board's review of a preliminary site plan shall include but is not limited to the following considerations:  (a) Adequacy and arrangement of vehicular traffic access and circulation.  **Lake Road is a county road, and since this won’t be open to the public it is adequate. All**  **agreed.**  (b) Adequacy and arrangement of pedestrian traffic access and circulation.  **There are no sidewalks on this side of the road, however there are sidewalks on the site,**  **around the building.**  (c) Location,arrangement, appearance and sufficiency of off-street parking and loading.  **A lot of parking spaces here already. At the most they will utilized 2 spaces.**  (d) Location,arrangement, size and design of buildings, lighting and signs.  **This was answered in the letter from Buzzetti. There will be no signs.**  (e) Relationship of the various uses to one another and their scale.  (f) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a  visual and/or noise-deterring buffer between adjacent uses and adjoining lands.  **Landscaping already existing, its fine.**  (g) Adequacy of stormwater and sanitary waste disposal.  **Pre-existing structure, no increase in stormwater discharge.**  (h) Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and pending and/or erosion.  (i) Any other matter which may affect the health, welfare or safety of our community as a whole or the neighborhood affected in particular. | **Comments**  **Yes**  **N/A**  **Yes**  **N/A**  **Yes**  **“**  **“**  **“**  **None**  **Yes**  **“**  **“**  **“**  **“**  **“**  **“**  **Waived**  **Yes**  **N/A site is already improved**  **Yes**  **“**  **N/A**  **Checkmark with solid fill**  **Checkmark with solid fill**  **Checkmark with solid fill**  **Checkmark with solid fill**  **Checkmark with solid fill**  **Checkmark with solid fill**  **Checkmark with solid fill**  **Checkmark with solid fill**  **Checkmark with solid fill** |

Discussion on security – this information has been provided by the applicant.

Mr. Buzzetti – through the legislation enacted regarding our additional security measures, NYS would have to inspect and make sure it meets their requirements to get their license from NYS. My clients also installed a camera on the inside after the incident of New Years Eve, plus something on the outside. There is an enhanced safety step or procedure that they will have to do to get license.

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Resolution by Dave Helsing, seconded by Bob Young

WHEREAS, Upstate Craft Cannabis, LLC has applied for a special use permit to construct, operate and maintain an indoor greenhouse plant nursery for licensed cannabis cultivation at 3312 S. Main Street, Horseheads, NY and

WHEREAS, the owner of said premises, Lantz Holdings LLC, has consented to such application, and

WHEREAS, the site is located in a C3 Highway Commercial District which allows greenhouses and plant nurseries as a Special Use, which are governed by Village Code Chapter 245-Zoning, Article XIX, and

WHEREAS, this Planning Board has received and reviewed materials from the applicant including but not limited to materials entitled “Upstate Craft Cannabis’ Special Use Permit request, Dated November, 2023”, and

WHEREAS, this Board has been requested to accept such materials as an application for a special use and final site plan approval, waiving application for preliminary site plan approval, and

WHEREAS, this Board notes that the site in question is a fully developed and improved parcel of real property, while Article XIX is written from the perspective that parcels subject to special use applications and site plan approval are generally undeveloped, consequently certain criteria for this Board’s consideration may be inapplicable , or preestablished, etc.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The application is accepted as submitted for final site plan review, waiving preliminary site plan review and approval.

2. Regarding §245-120A: the application was accompanied by a certified and notarized economic analysis of the project, proposed construction costs do not exceed $100,000, the area map shows the entire holding of Lantz Holdings LLC, and grades do not exceed 3%.

3. With respect to the elements of a preliminary site plan, noted in Section 245 -120A (e) this Board finds that the collective materials submitted by the applicant comprise such a plan and is compliant with Village regulation with the exception of the following notes and observations:

a. Address of the applicant is missing, and is waived.

b. There are no existing water courses effecting this site.

c. Approx. height of the existing building is one story.

d. There are no proposed site improvements. The existing site improvements are shown in the materials, there will be no material changes to same.

e. The site contains existing adequate parking, loading areas and access for ingress and egress.

f. The site is improved with existing sewer and water facilities, there will be no changes to same.

g. There will be no outdoor signs and/or outdoor advertising of the applicant’s name or business

enterprise on the entire site.

h. There will be no changes to existing landscaping or vegetation.

i. Contours are waived as the site is already developed and is essentially flat.

j. There is no need for provision of schools or other community facilities as the site is a pre-

existing fully developed commercial property .

4. The Planning Board has considered the above and the following considerations in its review of the final site plan and makes the following findings:

a. Adequacy and arrangement of vehicular traffic access and circulation – satisfactory

b. Adequacy and arrangement of pedestrian traffic access and circulation - minimal and

satisfactory.

c. Location, arrangement, appearance and sufficiency of off street parking and loading –

satisfactory.

d. Location, arrangement, size and design of buildings, lighting and signs – already developed,

no change, satisfactory

e. Relationship of the various uses to one another and their scale – satisfactory.

f. Adequacy, type and arrangement of trees, shrubs and landscaping – existing, no change,

satisfactory.

g. Adequacy of storm water and sanitary waste disposal – no change to existing, satisfactory.

h. Adequacy of structures, roads and landscaping in areas susceptible to flooding, ponding or

erosion – no change to preexisting conditions, satisfactory.

i. Any other matter which may effect the health, safety, and welfare of the community –

satisfactory.

5. On the basis of the foregoing and this Board’s review, this Board finds that the site is located in a C3 zone, such zone permits greenhouses and plant nurseries as a special use. The proposed operation is indoors, and subject to licensure by the Office of Cannabis Management.

On the basis of the above, this Board recommends the ***approval*** of the application for a Special Use Permit to the Village Board of Trustees, subject to the following conditions:

1. Applicant’s receipt and continuous maintenance of a valid license from OCM for indoor

cannabis cultivation and sales only to NYS licensed retail locations for consumption off-premises.

2. There shall be no retail sale or unlawful consumption of cannabis on the premises.

Roll Call Vote:

Bob Young Aye

Dave Helsing Aye

Doug Baker Aye

Tom Rupp Aye

Chairman Stenpeck Aye

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**950 Chemung St., Special Use Permit, Cannabis Dispensary**

Mr. McFall , applicant, came forward. He said he wants to open a NYS licensed dispensary at 950 Chemung St., the former Denny’s restaurant. He stated he has purchased the building already. I was going to put a restaurant there, but changed my mind due to issues with the Arnot Mall and decided to put in a dispensary for cannabis. I already own over 15 Mooney’s restaurants. He stated that he has already started the application process for the license with NYS. However they put a hold on new applications until March.

Atty. Groff noted that the official use name, according to OCM, is “adult use retail cannabis dispensary”.

Mr. McFall noted that the property is now vacant, has been for four years. It will require HVAC repairs, parking lot, etc. Will be renovating it entirely inside and out.

Chairman Stenpeck noted that we need the notarized Economic Analysis, with profit and loss statement. Bob Young stated he had it, and submitted this to the Chairman.

Chairman Stenpeck asked how the applicant came up with the $5-10Million dollars of annual income.

Mr. McFall stated that he visited a dispensary in Syracuse. It is based on its numbers.

Dave Helsing inquired about the licensing from the state. Mr. McFall stated that they temporarily stopped applications. They have hundreds of licenses for people with no locations. They want to see legit locations, no sticker shops.

Dave Helsing – we have heard only 2 allowed in Chemung County.

Village Manager Nagle said that was only a guideline used during the beginning of this process. Nothing about that since then.

Tom Rupp inquired about security employees. Mr. McFall stated that considering the amount of annual sales, this would warrant security. Depends on how busy it gets. Won’t know till it starts. Will have armed guards I think.

Chairman Stenpeck noted that since this project is exceeding 100K in construct costs, applicant has to produce documented evidence of financial ability.

Mr. McFall said he will get that to this Board tomorrow.

**At this time the Planning Board reviewed the application for 950 Chemung St. relative to Chapter 245 of the Village Code: Zoning, Article XIX. Special Uses and Site Plan Review**

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| 245-120. Preliminary application and approval.  A. Preliminary application. Application for preliminary site plan approval shall be made, in writing, to the Code Enforcement Officer, who shall refer the application, when complete in all respects, to the Planning Board for its review and recommendation.  (1) All applications shall be accompanied by the following information:  (a) A certified or notarized economic analysis of the project indicating the profit and loss of the project and including, but not limited to, the following: income, costs, rentals, taxes, market area and utilities. In addition, the applicant shall provide a full disclosure statement concerning the project.  (b) For proposed projects exceeding $100,000 in construction costs, documented evidence shall be provided of the applicant's financial ability to undertake and successfully complete the proposed project within the specified project construction period. Such evidence may be in the form of bank deposits, financing commitments, or the like.  (c) An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, their ownership and uses thereon, subdivisions, streets, zoning districts, easements and adjacent buildings within 500 feet of the applicant’s property.  **Bounded by M1 and C3 zones, and located within the Village’s Cannabis Overlay zone**  (d) If grades exceed 3% or portions of the site have a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding and ponding, a topographic map showing contour intervals of not more than two feet of elevation, with an overlay outlining the above susceptible areas, if any.  (e) A preliminary site plan, to include the following information:  [1] The title of the drawing, including the name and address of the applicant.  [2] The North point, scale and date.  [3] The boundaries of the project, plotted to scale.  [4] Existing watercourses.  [5] The location of proposed land uses and their area, in acres, and the location,  proposed use and height of all buildings. **Bldg is less than 50 ft. tall, and on 1.1 acres**  [6] The location of all existing or proposed site improvements, including streets, drains, culverts, retaining walls, fences and easements, whether public or private.  [7] The location of all parking and truck loading areas with access and egress drives thereto. There shall be adequate parking spaces for each professional and his or her clientele, plus staff. Adequate off-street parking (see § **245-113)** will be of significant consideration for site plan approval.  **Parking at a retail shop requires 1 spot for 300 sq. ft. Application shows 4,550 sq ft.**  **Required spots would be 16. Already exceeds that.**  [8] Description of the sewage disposal and water systems and the location of such facilities.  [9] The location, design and size of all signs and outdoor lighting facilities.  **Existing lighting on the site, light poles.**  **Signs are prohibited per the Village’s Local Law on Cannabis Overlay District, except as**  **permitted by the Cannabis Control Board.**  [10] The location and proposed development of buffer areas and other landscaping.  [11] Existing vegetation.  [12] Existing and proposed contours at intervals of not more than two feet of elevation.  [13] Delineation of the various residential areas, if applicable, indicating for each such area its general extent, size and composition in terms of total number of dwelling unit types, a general description of the intended structure and a calculation of the residential density, in dwelling units per gross acre, for each such area.  [14] When applicable, a general description of the provision of other community facilities, such as schools, fire protection services and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.  2.In addition, the following documentation shall accompany the preliminary site plan:  (a) Evidence of how the developer's particular proposal or mix of land uses meets existing community needs. **Will not be a sticker shop. NYS approved products and licensed.**  (b) Evidence that the proposal is compatible with the goals of the Comprehensive Plan of the  Village.  **In a C3 zone and in the Cannabis Overlay Zone**  (c) If the development is to be staged, a general indication of how the staging is to proceed.  Whether or not the development is to be staged, the preliminary plan shall show the intended total project. Any project that requires more than 24 months to complete shall be staged.  3. The Planning Board and/or Board of Trustees may require such additional information as appears necessary for a complete assessment of the project.  B. Preliminary Approval.  **. . . . .**  2. The Planning Board's review of a preliminary site plan shall include but is not limited to the following considerations:  (a) Adequacy and arrangement of vehicular traffic access and circulation.  **This borders Route 14, and Chemung St. which is a county road. Good circulation**  **around building.**  (b) Adequacy and arrangement of pedestrian traffic access and circulation.  **Not a lot of pedestrian traffic expected. But is walkable from Chemung St.**  (c) Location, arrangement, appearance and sufficiency of off-street parking and loading.    (d) Location,arrangement, size and design of buildings, lighting and signs.    (e) Relationship of the various uses to one another and their scale.  (f) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a  visual and/or noise-deterring buffer between adjacent uses and adjoining lands.  **Landscaping already existing, its fine.**  (g) Adequacy of stormwater and sanitary waste disposal.  **Pre-existing structure, catch basin onsite. No history of flooding**  (h) Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and pending and/or erosion.  (i) Any other matter which may affect the health, welfare or safety of our community as a whole or the neighborhood affected in particular. | **Comments**  **Yes**  **No-applicant to submit**  **Yes**  **N/A**  **Yes**  **“**  **“**  **None**  **Yes**  **Preexisting**  **Yes**  **“**  **Yes**  **Yes**  **Existing**  **Existing**  **N/A**  **N/A**  **N/A**  **Yes**  **Yes**  **N/A**  **Checkmark with solid fill**  **Checkmark with solid fill**  **Checkmark with solid fill**  **Checkmark with solid fill**  **Checkmark with solid fill**  **Checkmark with solid fill**  **Checkmark with solid fill**  **Checkmark with solid fill**  **Checkmark with solid fill** |

Chairman Stenpeck noted that on the Short Form SEQR, the applicant didn’t check 12B which is whether the proposed action is located in an archaeological sensitive area – answer is no. Additionally, #14 on that form – identify typical habitats – nothing is checked, you should say “suburban”.

Atty. Groff – also on the SEQR form, I draw attention to #2. Does action require a permit from any other agency, box says No. It should be Yes. NYS OCM is one.

The application meets all the requirements of this section, except for §245-120 A.(1)(b) – Documented evidence of the applicant’s financial ability to complete the proposed project. After brief discussion, Mr. McFall stated he could bring in something tomorrow from his bank.

Discussion ensued regarding tabling the application until we received proof of financial capability.

Resolution by Bob Young, seconded by Tom Rupp, that action on this application be tabled until the February 26th Planning Board Meeting so applicant can produce evidence of financial ability.

Roll Call Vote:

Bob Young Aye

Dave Helsing Aye

Doug Baker Aye

Tom Rupp Aye

Chairman Stenpeck Aye

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**Referral from Village Board of Trustees - Draft Local Law on Signs**

Chairman Stenpeck stated that he was involved in redrafting this law in 2013. Purpose was to make signs more uniform. This new draft has information even on murals. Then in 2018 another sign committee formed.

Chairman Stenpeck noted some of the areas that have updates in the draft law: sign table was removed from old law, electronic signs, murals, brightness standard, size limits, political signs, three-year compliance.

Bob Young – put a lot of time into this law, with Atty. Groff, after many meetings we came up with draft. We feel this is a good direction to go for signage. Hopefully to clean up some of the sign issues we do have. Political signs are our biggest problem. Location, sizes, no removal, etc.

Deputy Mayor Goodwin - been a few years since we did this. Established limited time for political signs. Homeowners will put them closer to the street where they are illegal. I think we took care of that. Other issue was size of signs for businesses, had to do with sq ft of the façade. Not doing that anymore.

Bob Young – Area of the sign would be smaller. Instead of max dimension of 250 sq ft., its now 150 .

Discussion ensued.

Mayor Adams – Regarding the political signs, I do see the frustration that the signs are removed for mowing or whatever, then not put back in the right place.  As far as the written permission from owner to place sign there, this requirement would weaponize the law.  The law should be written to stop the placement of temp signs in vacant and abandoned lots.

Bob Young – also for vacant properties, they have been historically a target for political signs, or on the medians.

Resolution by Chairman Stenpeck, seconded by Doug Baker, that this Board hereby recommends ***approval*** to the Village Board of Trustees of the Draft Local Law on Signs.

Roll Call Vote:

Bob Young Aye

Dave Helsing Aye

Doug Baker Aye

Tom Rupp Aye

Chairman Stenpeck Aye

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**Referral from Town of Horseheads – Proposed Changes to Town Code Regarding Setbacks**

Bob Young reported that they are actually defining the setbacks. They didn’t have setbacks before.

Motion by Bob Young, seconded by Dave Helsing, to return for local determination.

Roll Call Vote:

Bob Young Aye

Dave Helsing Aye

Doug Baker Aye

Tom Rupp Aye

Chairman Stenpeck Aye

Next mtg. 2/26 at 4pm

Adj. at 5:30pm

/rmb