REGULAR MEETING OF THE
TOWN OF EVANS PLANNING BOARD
WEDNESDAY, OCTOBER 25, 2023

MEMBERS PRESENT: Chairwoman A. Sellers, L. Szewczyk, D. Schiedel, J. Wilson, J. Mesi

MEMBERS EXCUSED: J. Pinter

ALSO PRESENT: William Smith, Director of Planning & Community Development
Brittany Penberthy, Deputy Town Counsel

APPLICANT/REPRESENTATIVE: David Zippelli, Benderson Development

Chairwoman Sellers: Opened the Public Meeting immediately following the Work Session at 6:30pm.

There were no in-person or online attendees at the meeting, therefore it was a more informal public meeting.

FOR THE RECORD*:*

The only item on the agenda this evening is a:
Site Plan Review – For the proposed construction of two new concrete paver patios for two restaurant tenants within the existing available building space within the Tops plaza at 6914 – 6940 Erie Road, Derby, NY 14047, SBL# 206.07-2-32.2. Petitioner: Benderson Development Company, LLC, 570 Delaware Avenue, Buffalo, NY 14202

PROJECT BACKGROUND:

- The applicant met with the Planning Director on September 13th and subsequently filed a formal Site Plan Review Application on September 26, 2023; it was reviewed by Planning Board at Work Session prior to this meeting.
- The applicant is before us this evening seeking Site Plan approval.

INTERDEPARTMENTAL REVIEWS:

- **Planning Director, Bill Smith:** Has no objections to the project.
- **Code Enforcement Officer, John Flading:** Has no objections to the project.
- **Deputy Attorney, Brittany Penberthy**:

Chair: OUTSIDE AGENCY REVIEWS:

- **Erie County Department of Environment and Planning:** offered no comment.

SEQR: The Planning Board has reviewed the site plan application and have found no significant environmental concerns.

Planning Director, Bill Smith invited David Zippelli from Benderson Development, 570 Delaware Ave., Buffalo to present the Benderson project.

David presented the project plans and discussed the project with the Board. Much discussion ensued in regards to such things as patio furniture, umbrellas, noise from piped in music, possible landscaping and the time frame of the project.

Dave addressed the questions stating the plans include two patios, one for the Bagel Jar and one for a possible second restaurant. There would be traffic grade bollards and additional landscaping around the patio. Furniture would be aluminum powder coated with bench table seating for six, umbrellas may be a consideration. The project would begin in the Spring season.

Bill: There being no further questions or comments from the Board and no public or online presence, may I have two motions; one regarding SEQR and one regarding Approval.

L. Szewczyk: SEQR Motion

WHEREAS, the Planning Board of the Town of Evans has been declared Lead Agency for the SEQR process for the proposed construction of two new outdoor customer seating patios at 6914-6940 Erie Rd., Derby, NY 14047, SBL# 206.07-2-32.2; and

WHEREAS, in compliance with part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQRA) OF THE Environmental Conservation Law, the Evans Planning Board has reviewed the proposed project; and

WHEREAS, the Planning Board carefully considered all of the criteria for Determination of Significance listed in the SEQR regulations (6NYCRR 617.11), and has found that the proposed action is not anticipated to result in any significant adverse impacts on the environment.

NOW, THEREFORE, BE IS RESOLVED, that the Planning Board hereby issues a Negative Declaration, thereby concluding that the project will not adversely affect the natural resources of the State and/or health, safety and welfare of the public and is consistent with social and economic considerations.

A. Sellers: Second.

Roll Call Vote: All in Favor…Carried

L. Szewczyk: Site Plan Approval Motion

WHEREAS, the Planning Board of the Town of Evans has carefully reviewed the proposed construction of two new outdoor customer seating patios at 6914-6940 Erie Rd, Derby, NY 14047, SBL# 206.07-2-32.2 and determined that the applicant has met all requirements for site plan approval.

NOW, THEREFORE, BE IT RESOLVED, the Planning Board approves the project based, in part, on the following reasons:

- The application and plans are in accordance with the Town's design standards;
- The project is not expected to result in any significant adverse impacts;
- And the retention and continuation of these businesses in the Town will provide a benefit to the local community and surrounding area.

J. Wilson : Second.

Roll Call Vote: All in Favor…Carried

Chair - NEXT STEPS: We will send a letter to the Code Enforcement Office advising them of our action this evening; please continue to work closely with their office as you continue through the building process which is under their jurisdiction. Good luck and best wishes to you.

There being no further agenda items before us this evening, I will move the motion to adjourn.

D. Schiedel: Second.

Roll Call Vote: All in Favor…Carried

Chair: Good night.

Respectfully submitted,
Debra L. Wilson
Secretary