



# TOWN OF SOUTHPORT

1139 Pennsylvania Avenue • Elmira New York 14904

## PLANNING BOARD

### Meeting Minutes

Monday, July 1, 2024

7:00 pm

Board Members Present:            John Hastings  
   Liv Lovejoy, Alternate  
   Penny Page  
   Trish Peterson, Chairwoman  
   Rick Petzke  
   Tracy Warner, Vice Chairwoman

Board Members Absent:            Jackie French  
   Chris Parsons

Others Present:                        Peter Rocchi, Code Enforcement Officer  
   Michelle Murray, Secretary  
   Megan Dorritie, Town Attorney  
   Dan Hurley, Town Council Member  
   Dan Williams, Town Council Member

Chairwoman Peterson called the meeting to order on or about 7:00 pm. She asked if the Board Members had any comments, questions, concerns, or corrections about the June 3, 2024 meeting minutes. Hearing no comments, Vice Chairwoman Warner made a motion to accept the minutes of June 3, 2024 as presented; Board Member Page seconded the motion. All were in favor. The Board accepted the minutes as presented.

**Public Hearing -** Site Plan of Casey Root to operate a tanning and wellness studio in an existing building located at 964 Pennsylvania Avenue, Elmira, New York, tax map 109.06-3-19, zoned Commercial Regional

Casey Root explained that she will operate a tanning and spray tan studio along with Red Light Wellness Therapy.

It was noted that the publication was in order, then the public hearing was opened for comment at 7:01 p.m.

No one wished to be heard, the public portion of the meeting was closed at 7:01 pm and was turned back over to the Planning Board.

Hearing no comments from the Board, Board Member Petzke made a motion to accept the Site Plan as presented; Chairwoman Peterson seconded the motion. There was no discussion on the motion. The project is classified as a Type II Action under the SEQRA thus no further action is required pursuant to SEQRA.

**Resolution No. 006-2024 PB**

**SITE PLAN GRANTED TO CASEY ROOT TO OPERATE A TANNING AND WELLNESS STUDIO IN AN EXISTING BUILDING LOCATED AT 964 PENNSYLVANIA AVENUE, TOWN OF SOUTHPORT, COUNTY OF CHEMUNG, STATE OF NEW YORK, TAX MAP #109.06-3-19 ZONED COMMERCIAL REGIONAL**

**Resolution by: Petzke**  
**Seconded by: Peterson**

WHEREAS, on or about May 14, 2024, Casey Root submitted an application to the Code Enforcement Officer for Site Plan approval from the Town of Southport Planning Board to operate a tanning and wellness studio in an existing building located at 964 Pennsylvania Avenue, Town of Southport, tax map # 109.06-3-19, zoned Commercial Regional; and

WHEREAS, the application was submitted to the Town Planning Board and defined as a Personal Service Establishment per the Town Code Chapter 525-5 Definitions; and

WHEREAS, the Town Planning Board held a duly noticed meeting on June 3, 2024 at which the Applicant presented information about the project; and

WHEREAS, the Town Planning Board conducted a public hearing on July 1, 2024 at 7:00 p.m., and after due posting and publication of the same was made, was in compliance with the Town of Southport Municipal Code; and

WHEREAS, at that public hearing, any and all individuals wishing to be heard were then and there given the opportunity to do so; and

WHEREAS, it was determined that this was a Type II action under SEQRA 6NYCRR617.5.18 reuse of commercial structure for permitted use; and after due deliberation, investigation, and consideration it is

RESOLVED, that the Town Planning Board hereby grants approval for the Site Plan of Casey Root to operate a tanning and wellness studio in an existing building located at 964 Pennsylvania Avenue. Failure to make significant progress on the project within one (1) year from granting approval of this site

plan will render the site plan null and void. Conditions shall be completed within one year unless otherwise stated.

**AYES: Hastings, Lovejoy, Page, Peterson, Petzke, Warner**

**ABSENT: French, Parsons**

**NOES: None**

**MOTION CARRIED.**

**Public Hearing -** Site Plan of Dan Williams on behalf of Ariel Beahm to operate a medical spa in an existing building located at 1141 Broadway, Elmira, New York, tax map 109.10-2-24.1, zoned Commercial Regional

Delaney Williams presented the application on behalf of Dan Williams and Ariel Beahm. She explained that Ariel Beahm is a licensed Nurse Practitioner who will operate a medical spa in suite 6. She will offer cosmetic enhancements such as facials and Botox injections by appointment only. The sign will be installed per Town Code.

It was noted that the publication was in order, then the public hearing was opened for comment at 7:05 p.m.

No one wished to be heard, the public portion of the meeting was closed at 7:05 pm and was turned back over to the Planning Board.

Hearing no comments from the Board, Vice Chairwoman Warner made a motion to accept the Site Plan as presented; Board Member Page seconded the motion. There was no discussion on the motion. The project is classified as a Type II Action under the SEQRA thus no further action is required pursuant to SEQRA.

**Resolution No. 007-2024 PB**

**SITE PLAN GRANTED TO ARIEL BEAHM TO OPERATE A MEDICAL SPA IN AN EXISTING BUILDING LOCATED AT 1141 BROADWAY, TOWN OF SOUTHPORT, COUNTY OF CHEMUNG, STATE OF NEW YORK, TAX MAP #109.10-2-24.1 ZONED COMMERCIAL REGIONAL**

**Resolution by: Warner**

**Seconded by: Page**

WHEREAS, on or about May 15, 2024, Dan Williams, on behalf of Ariel Beahm, submitted an application to the Code Enforcement Officer for Site Plan approval from the Town of Southport Planning Board to operate a medical spa

in an existing building located at 1141 Broadway, Town of Southport, tax map #109.10-2-24.1, zoned Commercial Regional; and

WHEREAS, the application was submitted to the Town Planning Board and defined as a Personal Service Establishment per the Town Code Chapter 525-5 Definitions; and

WHEREAS, the Town Planning Board held a duly noticed meeting on June 3, 2024 at which the Applicant presented information about the project; and

WHEREAS, the Town Planning Board conducted a public hearing on July 1, 2024 at 7:00 p.m., and after due posting and publication of the same was made, was in compliance with the Town of Southport Municipal Code; and

WHEREAS, at that public hearing, any and all individuals wishing to be heard were then and there given the opportunity to do so; and

WHEREAS, it was determined that this was a Type II action under SEQRA 6NYCRR617.5.18 reuse of commercial structure for permitted use; and after due deliberation, investigation, and consideration it is

RESOLVED, that the Town Planning Board hereby grants approval for the Site Plan of Ariel Beahm to operate a medical spa in an existing building located at 1141 Broadway. Failure to make significant progress on the project within one (1) year from granting approval of this site plan will render the site plan null and void. Conditions shall be completed within one year unless otherwise stated.

**AYES: Hastings, Lovejoy, Page, Peterson, Petzke, Warner**  
**ABSENT: French, Parsons**  
**NOES: None**  
**MOTION CARRIED.**

**Public Hearing -** Site Plan of Arbor Housing and Development to develop 60 units of senior apartments located at 1205 Plymouth Avenue, Elmira, New York, tax map #109.08-2-51, zoned Commercial Regional.

Brian Grosse, with Fagan Engineers, presented updates to the application on behalf of Arbor Housing and Development.

The building will be a two-story building with 44 units and there will be four four-unit town homes. They are proposing 60 parking stalls. He discussed stormwater management and drywells. There will be two enclosed dumpster areas. He presented a landscaping and lighting plan. The parking study done by Jamie Gensel shows 60 parking stalls. It was compared to the Senior Apartments on Pennsylvania Avenue in the Town, stating that not all Seniors drive.

Mr. Grosse asked if LaBella would be reviewing the Stormwater plan. Attorney Dorritie explained that the Planning Board will refer the Stormwater review to the Chemung County Stormwater Coalition Engineer that the Town already has contracted with.

Attorney Dorritie discussed the quote for engineering assistance. She advised the Board to make a motion to contract with LaBella for the review and refer it to the Town Board so that the Town Board can set up an escrow account for the applicant to pay for the fees.

Chairwoman Peterson made a motion recommending that the Town Board open an escrow account in the amount of \$7,500 for the applicant for site plan review to pay the necessary fees and/or cost of the engineer to review the application and accept the contract with LaBella Associates for those services as proposed in the Town Code §525-65 Professional assistance to assist with the site plan review for Arbor Housing and Development (“the applicant”) to develop 60 units of senior apartments located at 1205 Plymouth Avenue, Elmira, NY tax map #109.08-2-51 zoned Commercial Regional; Board Member Lovejoy seconded the motion.

**AYES: Lovejoy, Page, Peterson, Petzke, Warner**  
**ABSTAIN: Hastings**  
**ABSENT: French, Parsons**  
**NOES: None**  
**MOTION CARRIED.**

It was noted that the publication was in order, then the public hearing was opened for comment at 7:16 p.m.

David Cleary of 59 Crestview Drive West, Pine City, stated that the Board has never made a 60-unit or a great investment like this put money in an escrow, but you allow an outside company like Byrne Dairy to come in at the tax-payers expense and you pay for that and thinks they are being very unfair.

No one else wished to be heard, the public hearing will remain open for additional information.

**Continued**

**Public Hearing -** Site Plan Amendment of Aces & Eights, David Cleary, to designate existing store as a Convenience Food Mart located at 1156 Broadway, Elmira, New York, tax map #109.10-1-25, zoned Commercial Regional

David Cleary, owner of Aces & Eights General Store, asked that his public hearing be tabled until a decision is made by the Planning Board and other Boards about hours of operation. He is against the Byrne Dairy application and

their 24/7 hours of operation. He would like the Town to restrict hours of operation. He does not know what size sign he would like to install until he knows what sign Byrne Dairy will install.

Attorney Dorritie explained that there is missing information on Mr. Cleary's application for the Board to make a determination. Chairwoman Peterson explained the parts of the Public Hearing. Mr. Cleary asked to table his application.

**Continued**

**Public Hearing -** Site Plan of Sonbyrne Sales Inc. to construct and operate a Convenience Food Mart located at 1151 Broadway, Elmira, New York, tax map #109.10-2-21, zoned Commercial Regional

Chairwoman Peterson explained that the Public Hearing was closed on May 24, 2024 for public comment.

Christian Brunelle, Senior Executive Vice President with Byrne Dairy, presented updates to the Site Plan. On Friday, June 7, 2024 changes were made and sent to LaBella Associates. The black fence in between the "park" will be 42 feet long. There will be mountable curbing. They will install an oil/water separator. They have been working with Chemung County Stormwater Coalition (CCSWC) and agreed to add three additional drywells. These are not requirements, but chose to add drywells.

Attorney Dorritie asked about the hours of operation and deliveries. Mr. Brunelle stated they would restrict the hours of all truck deliveries to be from 7:00 a.m. to 9:00 p.m. There will be no deliveries from 9:00 p.m. to 7:00 a.m.

Attorney Dorritie asked about the video and audio displays on the fuel pumps. Mr. Brunelle stated that none of the Byrne Dairy fuel pumps will have video nor audio displays. They do not play music at their fuel pumps.

Jen Vaughn, LaBella Associates, discussed the SEQR Part 2 with the Board.

Attachment to Part III EAF – Reasons Supporting Determination

Name of Action: Southport Byrne Dairy

Project Location: 1151 Broadway Street, Southport, NY 14904; Chemung County;

Parcel Information: Tax Map #109.10-02-21

Project Description: The project involves the construction of a 4,232 square foot convenience store, gasoline fueling facilities (3 fueling dispensers) along with associated parking, utilities, landscaping, and stormwater management system.

SEQR Status: Unlisted Action

Anticipated Approvals and Permits:

- Chemung County DPW – Driveway Permits
- Chemung County Public Health – Plumbing Permit & BFP Program
- NYS DEC – PBS Tank Registration

Submission: A Short Part 1 Environmental Assessment Form was prepared for the proposed action dated on May 3, 2024 and signed by Christian Brunelle with Sonbyrne Sales, Inc., Senior Executive Vice President.

**REASONS SUPPORTING THE SEQR DETERMINATION:**

Classification of Action: The project does not meet any of the Type I thresholds identified in 6 NYCRR Section 617.4 (b) of the SEQRA regulations. The project does not meet any of the Type II qualifiers as identified in Section 617.5.

Magnitude of the impact should be determined based on the facts provided in Part 1 and on the scale and context of the project. The following definitions apply:

**No Impact:** No impact will occur if the proposed action is consistent with the community's adopted plan and zoning, does not cause a change in the intensity of land use in the area, does not change the quality of the existing community or its character, does not change or impact any environmental resource or infrastructure, or create a hazard to human health as identified in Part 1.

**Small Impact:** These are impacts that are minor in magnitude and that have small or limited effects on environmental resources. Small impacts may also occur when an impact is limited to a small area. Small impacts are usually isolated, of minimal size, intermittent or short in duration (days to weeks), and do not affect rare or unusual species, habitats, or other resources. Small impacts include those that would generally be considered negligible and minor. These are often impacts from activities or resources that are not regulated or protected by any local, State or national agency.

**Moderate Impact:** These are impacts that are moderate in magnitude and that have more impact on environmental resources. Moderate impacts can also occur when the impact affects a larger part of the parcel or even a small area extending just beyond the parcel. Moderate environmental impacts may be either isolated (only in one location), or of regional concern. They generally are longer lasting (moderate in duration in weeks or several months), are largely reversible and can be readily addressed through mitigation measures or project changes. The resources affected often have broader local or regional concern and often are activities or resources that are regulated or protected by some local, State, or national agency.

**Large Impact:** These are impacts that are severe in magnitude or cover larger areas in the neighborhood or community. The environmental impacts anticipated could be irreversible, challenging to mitigate, of wide regional scale, or of long duration. A large impact may also be unlikely to occur, but if it does, would be very damaging to the environment. The resources affected often have broader local or regional concern and often are activities or resources that are regulated or protected by some local, State, or national agency.

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

Review EAF Part 1 Questions 1, 4, and 5.

**Scale:** The proposed action is less than 1-acre.

**Context:**

Area is zoned Commercial Regional, permitted uses include:

Convenience food mart – S – Permitted under Site Plan Approval by Planning Board

Town of Southport Final Comprehensive Plan was adopted March 2014. The proposed Action does not appear to be in conflict with stated vision, goals, and objectives. The project aligns with Goal 1: Generate Economic Development Opportunities.

The Chemung County Agricultural and Farmland Protection Plan was adopted in April 2011. The proposed Action is not located within an agricultural district. The proposed action does not appear to be in conflict with the adopted plan.

The Town of Southport does not have an adopted open space plan or local waterfront revitalization plan.

The existing site is an underutilized and neglected paved area. The proposed Action is similar in relation to adjacent parcels, the neighborhood, and the community as a whole.

**Measuring Impact:**

Negligible to small impact as the impact is limited to a small area and consistent with Zoning and neighboring land use, generally to be considered negligible and minor.

2. Will the proposed action result in a change in the use or intensity of use of land?

Review EAF Part 1 Questions 3, 4, 6, 8, 10, 11, 14, 17, and 18.

This question asks the lead agency to review two related but different aspects of the proposed action: a change in the use of the land, and a change in the intensity of the use of the land.

**Scale:** The existing site size is 0.77 acres and has one vacant building, former restaurant, and nearly complete asphalt. The proposed site size is 0.77 acres, removes old building, adds new 4,232 SF Convenience Food Mart and 3 fueling dispensers (consisting of 6 pumps, 1 pump on each side of the dispenser).

**Context,** the following questions are considered:

Are there similar land uses in the surrounding area, or will the project introduce a new land use that does not currently exist?

There are similar land uses in the surrounding area. The proposed action is consistent with the predominant character of the existing built environment.

Are there proposed changes to existing buildings?



There is a proposed change to remove the existing vacant building (approximately 3,000 SF) and redevelop site with new 4,232 SF convenience food mart.

Will the existing road system be able to handle the increase in traffic, or the type of vehicles the project will need to accommodate?

The existing road system's ability to manage the increase in traffic was evaluated through the Traffic Impact Assessment, and includes:

- Vehicle trips generated by the proposed Byrne Dairy
- Level of Service (LOS) and vehicle queues at the proposed site driveways and intersection of South Broadway Street and Pennsylvania Avenue
- Gaps in traffic for vehicles turning in and out of the site
- Sight distance at the proposed driveways
- Crash history in the project area

LaBella Associates found the following with regard to the GTS Consulting Traffic Impact Assessment: 1) The intersection of South Broadway Street and Pennsylvania Avenue as well as the new site driveways at both streets will operate with an acceptable level of service and delay, and vehicle queues from the signalized intersections of South Broadway Street and Pennsylvania Avenue are not expected to affect operation of the proposed site driveways; 2) The gap data collected indicates there are sufficient gaps in traffic to accommodate the number of vehicles projected to be turning in and out of the site; 3) Both proposed driveways would have sight distances greater than AASHTO recommended values facing in both directions; and 4) Five crashes were documented between August 2020 and July 2023, and the study indicates the calculated crash rate at the South Broadway Street and Pennsylvania Avenue intersection is less than the statewide average rate for similar intersections.

Will there be a higher level of noise or light generated?

Given there are other similar land uses in the general vicinity of the proposed project, and the proximity to larger volume traffic corridors, noise produced from the proposed project is not anticipated to be elevated above existing ambient background noise levels.

The applicant provided a lighting plan which demonstrates minimized light trespass and detail of lighting fixtures which provide full cutoff performance. The proposed action is similar to neighboring businesses.

**Measuring Impact:**

Negligible Impact to Small Impact in reference to the use or the intensity of the use of land. Moderate to Large Impact is not anticipated based on the type of operation and planned deliveries.

***3. Will the Proposed Action impair the character or quality of the existing community?***

Review EAF Part 1 Questions 6 – primary, 1, 3, 4, and 5.

Community character is defined by all the man-made and natural features of the area. It includes the visual character of a town, village, or city, and its visual landscape; but also

includes the buildings and structures and their uses, natural environment, activities, town services, and local policies that are in place.

**Scale:** The action is consistent with the predominant character of the existing built environment. The scale of impact is negligible or small.

**Context:**

Will there be a change to the visual or architectural character of the broader landscape or streetscape, or will it introduce a different sized structure than currently exists?

The proposed action is visually and architecturally consistent with the predominant character of the existing built environment in the immediate neighborhood. The structure is similar in size to existing structures, 1-story.

Does it create a change in the nature or intensity of land uses in the area?

The proposed action changes a parcel with a vacant building and parking lot to a convenience food mart consistent with zoning. The proposed action includes 24 hour operation which is inconsistent with neighboring land uses.

Does it create the need for more public services such as parks, recreation facilities, police, or fire protection?

The proposed action is not anticipated to create the need for more public services.

The public comment received concerning the potential effect on local emergency services relates to a different municipality entirely. The Planning Board does not feel that the information is analogous to the present application so as to be useful and relevant.

**Measuring Impact:**

Negligible Impact, Small Impact in reference to the character or quality of the existing community.

**4. *Will the Proposed Action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area.***

Review EAF Part 1 Question 7 – primary, 4, 12, 13, 14, and 15.

The area is not established as a Critical Environmental Area. No Impact is determined.

**5. *Will the Proposed Action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?***

Review EAF Part 1 Question 8 – primary, and 2.

Evaluating the impact of increased traffic levels must be done in terms of the scale and context of the project. Impacts need to be determined through an understanding of the number of new vehicles that will be added as a result of the project, the number of cars already on the road, and the capacity and physical condition of the road.

**Scale:** The scale of the Proposed Action is small in relation to existing traffic loads as based on the Traffic Impact Analysis.

**Context:**

Will the proposed action result in any change in traffic?

Applicant provided Traffic Impact Analysis which was reviewed by LaBella Associates. Small Impact is Assessed.

Do the roads have the capacity to hold the expected level of additional traffic?

Applicant provided Traffic Impact Analysis which was reviewed by LaBella Associates. Small Impact is Assessed.

Are there any safety concerns? Are existing and proposed sight distances adequate, is there adequate emergency vehicle access, are there known or anticipated collision problems?

The Proposed Action limits vehicle traffic to newly defined locations and grass median, an improvement of the existing condition which allows for broad entry/exit. No concern regarding emergency vehicle access. No known or anticipated collision problems.

**Measuring Impact:**

Negligible or small impact to the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway.

**6. *Will the Proposed Action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities.***

Review EAF Part 1 Question 9.

Exceeding the requirements of the state energy code or including renewable energy into the project design could make a proposed project more environmentally compatible, reduce greenhouse gases, and be more consistent with the municipality's environmental goals.

**Scale:** The applicant states that the project will meet or exceed the state energy code requirements. The scale of energy impact is therefore negligible to small.

**Context:**

The Town of Southport has not adopted the Climate Smart Communities Pledge, nor developed a Local Climate Action Plan. Proposed projects that include land uses similar to those in the surrounding area, and that follow the NYS Energy Code, are likely to have only a small impact.

**Measuring Impact:**

Negligible or small impact to the use of energy.

**7. *Will the Proposed Action impact existing public/private water supplies?***

***Public/private wastewater treatment utilities?***

Review EAF Part 1 Question 10 and 11.

Proposed projects that will connect to an existing public water supply with adequate capacity, and adequate plans for growth, will likely only have a small impact on the water supply.

**Scale:** The convenience food mart is anticipated to have similar demands on the public water supply and sanitary sewer as the previous restaurant use.

**Context:**

The Proposed Action will require supply of public water and disposal to public wastewater. The existing public water supply and public wastewater facilities are capable of handling the proposed project needs.

**Measuring Impact:**

Negligible or small impact on existing public/private water supplies and public/private wastewater treatment utilities.

***8. Will the Proposed Action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?***

Review EAF Part 1 Questions 4, 7, 13, 14 and 15.

**Scale:** The Proposed Action is of similar character to the existing surrounding buildings.

**Context:**

The New York State Parks, Recreation and Historic Preservation reviewed the project, it is the opinion of OPRHP that 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.

**Measuring Impact:**

Negligible or small impact to the character or quality of important historic, archaeological, architectural or aesthetic resources.

***9. Will the Proposed Action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?***

Review EAF Part 1 Questions 4, 7, 13, 14, and 15. Questions 10, 11, 17, 19, and 20 indirectly provide information on groundwater impacts.

**Scale:** The Proposed Action area of disturbance is +/-0.89 acres, the site is previously disturbed and includes minimal natural resource habitat to support flora and fauna.

**Context:**

Natural resources on the site are limited. Direct connection to waterways off-site are interrupted by Chemung County stormwater management. There are no regulated wetlands on the project site. The nearest waterway is approximately 430 LF to the south, separation is provided by Pennsylvania Avenue and Clemens Center Parkway. Runoff and impact to groundwater are proposed to be controlled by stormwater management practices.

**Measuring Impact:**

Negligible or small impact in reference to natural resources.

***10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?***

Review EAF Part 1 Questions 16 and 17.

The project is located outside of the 100-year floodplain. The proposed action will create storm water drainage. Rooftop drainage will be directed to drywells, allowing flows to be infiltrated into the ground.

**Scale:** The Proposed Action area of disturbance is +/-0.89 acres.

**Context:**

Land disturbance on previously disturbed lands is planned. Management of stormwater from the site will be approved by Chemung County Stormwater Coalition. The project will disturb less than 1-acre and will not require a Stormwater Pollution Prevention Plan and coverage under the stormwater general permit. There are no important surface drinking water supplies nearby. An Erosion and Sediment control plan is provided and will be adhered to during construction.

**Measuring Impact:**

Negligible or small impact in reference to potential for erosion, flooding, or drainage problems.

***11. Will the proposed action create a hazard to environmental resources or human health?***

Review EAF Part 1 Questions 18, 19, and 20.

This question evaluates hazards that include any solid or hazardous waste. Hazards may result from previous land uses.

**Scale:** The Proposed Action area of disturbance is +/-0.89 acres.

**Context:**

The DEC Info Locator does not identify inactive landfills, vehicle dismantling facilities, petroleum bulk storage, chemical bulk storage, environmental easements, remediation parcels at the project site.

The Proposed Action does include bulk storage of petroleum, the applicant will submit a Petroleum Bulk Storage application and be subject to applicable regulations.

The Proposed Action is not anticipated to generate hazardous air pollutants. The applicant has indicated understanding of the DEC Hotline and reporting and remediation requirements should any solid or hazardous materials be identified on site where none are indicated.

**Measuring Impact:**

Negligible or small impact in reference to creation of a hazard to environmental resources or human health.

**Resolution No. 008-2024**

**SEQRA RESOLUTION OF DETERMINATION  
TOWN OF SOUTHPORT**

**SOUTHPORT BYRNE DAIRY SITE PLAN**

At the meeting of the Town of Southport Planning Board held on July 1, 2024, Chairwoman Peterson moved adoption of the following resolution; Board Member Page seconded the motion and was passed.

WHEREAS, Sonbyrne Sales, Inc. (the “Applicant”) submitted a site plan application on or about February 20, 2024, supplemented on or about May 6, 2024 (the “Application”), which proposes redevelopment of an approximate 0.77-acre parcel located at 1151 Broadway Street, Tax Map Number 109.10-02-21, Town of Southport, Chemung County, New York (the “Property”); and

WHEREAS, the Application proposes redevelopment of the Property to consist of a 4,232 square foot convenience food mart, defined in the Southport Town Code as a commercial retail use that combines two principal uses on a single parcel: the sale of motor vehicle fuel and accessory substances, as well as the sale of groceries. Other site improvements include but are not limited to the proposed convenience food mart’s associated parking, fueling islands, site lighting, utilities, stormwater management, signage and landscaping, as more fully depicted and described within the Applicant’s submission materials including, but not limited to site plan drawings prepared by Plumley Engineering dated May 2024, last revised June 25, 2024, Sonbyrne Sales Inc. Letter of Intent dated February 21, 2024, Sonbyrne Sales Inc. twelve- (12) page information packet, Lighting Plan set and detail sheets prepared by Red Leonard Associates, last revised May 9, 2024, and revised Part I Environmental Assessment Form dated May 3, 2024, (the “Project”); and

WHEREAS, the Applicant has prepared Part I of the Short Environmental Assessment Form (SEAF) for the Project in accordance with 6 NYCRR 617.6(a)(3) for Unlisted Actions; and

WHEREAS, on March 4, 2024, in accordance with the New York State Environmental Quality Review Act (“SEQRA”) , the Town of Southport Planning Board (“Planning Board”) announced its intent to serve as lead agency with respect to the site plan application submitted on behalf of the Applicant to develop and construct the Project, and the Planning Board preliminarily determined that the Project is classified as an Unlisted Action as defined under SEQRA and its implementing regulations 6 NYCRR Part 617 (collectively “the SEQRA Regulations”); and

WHEREAS, the Town of Southport Planning Board is conducting an uncoordinated review in accordance with 6 NYCRR 617.6(b)(4); and

WHEREAS, the Planning Board recognizes that the Chemung County Planning Department and Chemung County Department of Public Works may proceed with conducting their own review pursuant to the SEQRA Regulations for an uncoordinated review of unlisted actions; and

WHEREAS, the Town of Southport has received Notice of Chemung County Planning Board (“CCPB”) Referral Recommendation, Referral #: 24-03-TS1 stating that *“On 03/28/24 the Chemung County Planning Board reviewed the following proposal from the Town of Southport concerning a Byrne Dairy Site Plan and CCPB gave the following recommendation on the proposal: No significant County-wide impact, local determination,”* and provided the reasoning and additional comments: *“Q8b, 15, and 16 of the SEQR should be “Yes”. The Town is advised to confirm lot coverage accuracy, consider a traffic analysis on the lack of a left turn lane on Broadway St., consider interior traffic patterns especially regarding tractor trailers, ensure that the applicant’s use classification is correct in not applying as a fueling station, consider sign placement and landscaping around the sign, consider proposed dumpster location for vehicles pulling out of Broadway, and reconsider 24 hour operation;”* and

WHEREAS, the Applicant submitted a modified Part I SEAF to identify “Yes” for Questions 8b and 15; moreover, the Town of Southport has reviewed Question 16 and finds the project is located in FEMA Zone B, an area outside the 100-year floodplain, and an area protected by levee from the base flood, and

WHEREAS, with the assistance of its consultants, including the consulting Engineer (LaBella Associates), the Town Attorney, as well as Town staff, the Planning Board has carefully examined the SEAF, the Application, all materials accompanying the Application, and all other materials related thereto, including information and comments offered at its meetings; and

WHEREAS, at the request of the Planning Board, the Town's consulting Engineer, LaBella Associates, has prepared Part 2 of the SEAF as well as Part 3 of the SEAF for the Planning Board's consideration, including the attachment thereto entitled "Reasons Supporting Determination".

NOW THEREFORE BE IT RESOLVED, that in accordance with the SEQRA Regulations, the Town of Southport Planning Board hereby reaffirms its status as Lead Agency, and affirms classification of the Project as an Unlisted Action; and

BE IT FURTHER RESOLVED, the Town of Southport Planning Board, as Lead Agency, has reviewed and considered Part 1 of the SEAF, Application materials, public comments and environmental record concerning the Project, and has carefully reviewed and considered Part 2 of the SEAF and finds that although potential environmental impacts were identified, none of the impacts were found to be significant; and

BE IT FURTHER RESOLVED that in using the criteria for determining significance identified in 6 NYCRR § 617.7(c)(1) and in accordance with 6 NYCRR § 617.7(c)(2) and (3), the Planning Board finds that the Application and related Project will not cause a significant adverse environmental impact that would otherwise necessitate the preparation of an environmental impact statement, and the Town of Southport Planning Board hereby issues a Negative Declaration of Environmental Significance, as indicated in the attached SEAF Part 3 – Evaluation of the Magnitude and Importance of Project Impacts and Determination of Significance, including attachment thereto entitled Reasons Supporting Determination, which is hereby approved; and

BE IT FURTHER RESOLVED, that the Planning Board's adoption of the Negative Declaration has been prepared in accordance with Article 8 of the Environmental Conservation Law of the State of New York and implemented under 6 N.Y.C.R.R. Part 617; and

BE IT FURTHER RESOLVED, that notice of this resolution and the Notice of Negative Declaration shall be filed to the extent required by the applicable regulations under SEQRA and/or any other relevant statute or regulation; and

BE IT FURTHER RESOLVED, the Chair of the Planning Board be and hereby is authorized to execute further documents that may be required to complete the issuance of the Negative Declaration authorized herein.

**AYES: Hastings, Lovejoy, Page, Peterson, Petzke, Warner**  
**ABSENT: French, Parsons**  
**NOES: None**  
**MOTION CARRIED.**



**Resolution No. 009-2024**

**Town of Southport**

**SOUTHPORT BYRNE DAIRY PRELIMINARY AND FINAL SITE PLAN**

At the meeting of the Town of Southport Planning Board held on July 1, 2024, Chairwoman Peterson moved adoption of the following resolution; Vice Chairwoman Warner seconded the motion and was passed.

WHEREAS, Sonbyrne Sales, Inc. (the “Applicant”) submitted a site plan application on or about February 20, 2024, supplemented on or about May 6, 2024 (the “Application”), which proposes redevelopment of an approximate 0.77-acre parcel located at 1151 Broadway Street, Tax Map Number 109.10-02-21, Town of Southport, Chemung County, New York (the “Property”); and

WHEREAS, the Town of Southport Zoning Map depicts the subject Property as being within the CR (Commercial Regional) Zoning District, and Attachment 1, Use Table, of Chapter 525 of the Southport Town Code identifies that a Convenience Food Mart is a permitted use within the Commercial Regional Zoning District, subject to site plan review; and

WHEREAS, the Southport Town Code (the “Town Code”) does not limit the hours of operation of a Convenience Food Mart, and the Town Code permits the proposed project to operate 24-hours per day, 7-days per week (“24/7”);

WHEREAS, the Application proposes redevelopment of the Property to consist of a 4,232 square foot convenience food mart, defined in the Southport Town Code as a commercial retail use that combines two principal uses on a single parcel: the sale of motor vehicle fuel and accessory substances, as well as the sale of groceries. Other site improvements include but are not limited to the proposed convenience food mart's associated parking, fueling islands, site lighting, utilities, stormwater management, signage and landscaping, as more fully depicted and described within the Applicant's submission materials including, but not limited to site plan drawings prepared by Plumley Engineering dated May 2024, last revised June 25, 2024, Sonbyrne Sales Inc. Letter of Intent dated February 21, 2024, Sonbyrne Sales Inc. twelve- (12) page information packet, Lighting Plan set and detail sheets prepared by Red Leonard Associates, last revised May 9, 2024, and revised Part I Environmental Assessment Form dated May 3, 2024, (the “Project”); and

WHEREAS, the Planning Board retained an independent Professional Engineer, LaBella Associates, to assist with the review of the Application, and LaBella Associates provided comment letters dated May 2, 2024, and June 3,

2024 that provided technical expertise to assist the Planning Board and comments to be addressed by the Applicant; and

WHEREAS, Section 525-61 Paragraph A of the Southport Town Code authorizes the Planning Board to, when reasonable, waive certain requirements of Article VIII, Site Plan Review and Approval; and where the Planning Board finds that concept plan submission requirements, as otherwise required per Section 525-54 of the Southport Town Code, would not provide more substantive information or consultation between the Applicant and the Planning Board than if the Planning Board were to simply request detailed information as part of the preliminary and final site plan application; and

WHEREAS, the Town of Southport Planning Board (the "Planning Board") opened a public hearing for the Application on May 6, 2024, as required by Section 525-57, Paragraph D of the Southport Town Code, affording the public an opportunity to comment on the proposed Project, and the public hearing was closed on May 24, 2024, and the Planning Board's consulting Engineer inventoried written and verbal comments issued from the time the Application was received on or about February 20, 2024 through May 24, 2024 to aid the Planning Board's review and consideration of public comments; and

WHEREAS, the Application was referred to the Chemung County Planning Board under General Municipal Law, Section 239-m, and the Chemung County Planning Board ("CCPB") responded to the Town of Southport referral on March 29, 2024, indicating *"On 03/28/24 the Chemung County Planning Board reviewed the following proposal from the Town of Southport concerning a Byrne Dairy Site Plan and CCPB gave the following recommendation on the proposal: No significant County-wide impact, local determination,"* and provided the reasoning and additional comments: *"Q8b, 15, and 16 of the SEQR should be "Yes". The Town is advised to confirm lot coverage accuracy, consider a traffic analysis on the lack of a left turn lane on Broadway St., consider interior traffic patterns especially regarding tractor trailers, ensure that the applicant's use classification is correct in not applying as a fueling station, consider sign placement and landscaping around the sign, consider proposed dumpster location for vehicles pulling out of Broadway, and reconsider 24 hour operation;"* and

WHEREAS a Traffic Impact Assessment dated April 5, 2024 prepared by GTS Consulting was submitted as part of the Application that was reviewed by the Town's consulting Engineer, LaBella Associates, who have found the following: 1) The intersection of South Broadway Street and Pennsylvania Avenue as well as the new site driveways at both streets will operate with an acceptable level of service and delay, and vehicle queues from the signalized intersections of South Broadway Street and Pennsylvania Avenue are not expected to affect operation of the proposed site driveways; 2) The gap data collected indicates there are sufficient gaps in traffic to accommodate the

number of vehicles projected to be turning in and out of the site; 3) Both proposed driveways would have sight distances greater than AASHTO recommended values facing in both directions; and 4) Five crashes were documented between August 2020 and July 2023, and the study indicates the calculated crash rate at the South Broadway Street and Pennsylvania Avenue intersection is less than the statewide average rate for similar intersections; and

WHEREAS, Attachment 2, Bulk and Density Control Schedule, of Chapter 525 of the Southport Town Code limits the maximum lot coverage to 70% in the Commercial Regional Zoning District, and the Applicant's site plan does not meet this limitation due to the proposed 86% lot coverage, the Applicant applied for and obtained an area variance from the Town of Southport Zoning Board of Appeals on April 29, 2024, that allows for the Project and Property to be constructed in a manner that allows for 86% lot coverage; and

WHEREAS, the Application was considered under the State Environmental Quality Review Act ("SEQRA"), and was classified by the Planning Board as an Unlisted Action, and the Planning Board conducted an uncoordinated review of the project, and found that environmental impacts from the Project may be anticipated with regard to: land use, traffic and transportation, surface water runoff, noise, light and community character, but the impacts do not rise to a level of being large or significant, as more fully described in Part 2, Part 3 and attachments to the Short Environmental Assessment Form, and as the impacts were not found to rise to a level of having the potential to be significant adverse environmental impacts, the Planning Board issued a Negative Declaration on July 1, 2024, the substance thereof is incorporated herein for purposes of the Planning Board's consideration of the site plan application;

NOW THEREFORE BE IT RESOLVED, that the Planning Board waives the need for the Applicant to submit the concept plan documentation generally required by Section 525-54 of the Southport Town Code due to the Property being previously developed and underutilized, and the surrounding properties are also developed or surrounding property is already an existing public right-of-way; and

BE IT FURTHER RESOLVED, that the Planning Board has provided necessary consideration for the physical elements of the proposed Project, including the area designated as the loading berth, that might be improved by treatment of natural landforms, man-made features, landscaping and buffering that could screen or effectively separate the proposed land use from adjoining land uses, and the Planning Board hereby finds that a loading berth that would be used by a 35-foot straight truck (box truck) a few times per week for a duration of approximately one hour per instance does not cause undue harm to the character of the immediate neighborhood given the similar commercial land uses in the immediate vicinity of the subject Property as well as the nature of the transportation corridors on either side of the project parcel, and that

buffering and landscaping requirements that are generally required for loading berths by Section 525-86 of the Town Code have been thoughtfully considered by the Planning Board and are hereby waived pursuant to the authority provided to the Planning Board in Section 525-61, Paragraph A of the Town Code; and

BE IT FURTHER RESOLVED, that the Planning Board was not presented with substantial evidence that the proposed 24/7 operation would cause significant adverse effects to the neighborhood; and

BE IT FURTHER RESOLVED, that the Site Plan Application by Sonbyrne Sales, Inc. for the proposed convenience food mart at 1151 Broadway Street, site plan set drawn by Plumley Engineering, last revised June 25, 2024, along with the Lighting Plan set prepared by Red Leonard Associates, last revised May 9, 2024 be CONDITIONALLY APPROVED, and

BE IT FURTHER RESOLVED, the Town of Southport Planning Board hereby requires, as conditions of site plan approval, the following:

1. All deliveries to the facility can only be made between the hours of 7:00 a.m. and 9:00 p.m.
2. Fuel pumps shall not have any video or audio displays.
3. Applicant must obtain all necessary permits from Chemung County.

**AYES: Hastings, Lovejoy, Page, Peterson, Petzke, Warner**

**ABSENT: French, Parsons**

**NOES: None**

**MOTION CARRIED.**

Next the Board discussed the change order from LaBella Associates. No one anticipated the volume of comments and work that would go into this one site plan. The increase would cover some of the time spent on this project.

Chairwoman Peterson made a motion accepting the June 21, 2024 change order from LaBella Associates; Board Member Page seconded the motion.

**AYES: Hastings, Lovejoy, Page, Peterson, Petzke, Warner**

**ABSENT: French, Parsons**

**NOES: None**

**MOTION CARRIED.**

No other business to come before the Board. Chairwoman Peterson made a motion to adjourn the meeting; Board Member Lovejoy seconded the motion. All were in favor. The meeting was adjourned at 8:16 pm.

Respectfully submitted,

Michelle Murray  
Planning Board Secretary

Original on file with Town Clerk

cc: Planning Board  
Town Board  
Town Clerk  
Town Attorney