

**RESOLUTION NO. 2021 -062: SETTING A PUBLIC HEARING ON A PROPOSED
LOCAL LAW THAT WOULD CHANGE THE LANGUAGE FOR THE
CENTERPOINTE PUD AND SEQR INTENT TO DECLARE LEAD AGENCY**

WHEREAS, the Town Board of the Town of Canandaigua (herein after referred to as “Town Board”) is considering a Local Law to amend the language in the Centerpointe PUD to amend the setback requirements to be more in keeping with the proposed Uptown Plan; and

WHEREAS, the Town Board has received a proposal from Ziebart for a portion of the PUD and would like to hear from residents about the proposed Local Law; and

WHEREAS, the Town Board wishes to refer the proposed Local Law to the Town of Canandaigua Planning Board, Environmental Conservation Board, and Zoning Board of Appeals; and

WHEREAS, the Town Board intends to determine said proposed Local Law is classified as an Unlisted Action under the SEQR Regulations per §617 of the NYS Department of Environmental Conservation Law; and

WHEREAS, the Town Board intends to declare itself as the Lead Agency on the proposed action; and

NOW THEREFORE BE IT RESOLVED, the Town Board of the Town of Canandaigua hereby establishes a public hearing for the proposed Local Law to be held on April 19, 2021 at 6:00 pm via Zoom videoconferencing and/or at the Canandaigua Town Hall located at 5440 Route 5 & 20 West, Canandaigua, NY 14424; and

BE IT FURTHER RESOLVED, the Town Board directs the Town Manager to refer the proposed Local Law to the Town of Canandaigua Planning Board, Environmental Conservation Board, and Zoning Board of Appeals; and

BE IT FINALLY RESOLVED, the Town Clerk is directed to provide notice of said public hearing.

(Attachment # _____)

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of CANANDAIGUA

Local Law No. _____ of the year 20²¹

A local law TO AMEND THE FRONT SETBACK REQUIRMENTS FOR THOSE PORTIONS OF
(Insert Title)
THE CENTERPOINTE PLANNED UNIT DEVELOPMENT THAT FRONT ON
ROUTE 332 OR THOMAS ROAD

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of CANANDAIGUA as follows:

SEE ATTACHMENT "A"

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**(Complete the certification in the paragraph that applies to the filing of this local law and
strike out that which is not applicable.)**

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2021 of the (County)(City)(Town)(Village) of CANANDAIGUA was duly passed by the TOWN BOARD on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local *(Elective Chief Executive Officer*)* law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

(Seal)

Date: _____

TOWN OF CANANDAIGUA

LOCAL LAW # ____ OF 2021

ATTACHMENT "A"

SECTION ONE. It is the intent of this local law to amend the Planned Unit Development ("PUD") standards set forth by the Town Board for the Centerpointe Project PUD in 1986, 2005, and 2012 so as to allow the construction of a Motor Vehicle Service Station in accordance with the Town's Comprehensive Plan and Uptown Study.

SECTION TWO. The Town Board's Resolution of PUD Approval for the Centerpointe Project, adopted on October 28, 1986, shall be amended as follows:

1. Section II(C)(2)(a) shall be replaced in its entirety with the following:

From Rout 332 – 35 feet from the right-of-way line in accordance with the Town's Uptown Study, dated March, 2019, provided that any development be in compliance with the design and other guidelines set forth in said Uptown Study as determined by the Planning Board.

2. A new Section II(C)(2)(c)(iv) shall be added as follows:

Except that from the right-of-way line of Thomas Road the minimum front setback shall be 35 feet from the right-of-way line in accordance with the Town's Uptown Study, dated March, 2019, provided that any development be in compliance with the design and other guidelines set forth in said Uptown Study as determined by the Planning Board.

SECTION THREE. Invalidation. If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

SECTION FOUR. Effective Date. This local law shall take effect immediately upon filing with the Secretary of State.

TOWN OF CANANDAIGUA

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§ 220-28. PUD Planned Unit Development District.

A. Legislative intent.

- (1) The intent of this planned unit development (PUD) provision is to encourage a greater degree of flexibility for development and to provide a variety of residential and nonresidential activities in a planned, controlled environment in a manner blending all land uses into a functionally and aesthetically complementary whole, within the framework of the Comprehensive Plan. A planned unit development proposal may contain both individual building sites and common property which are proposed for development as an integrated land use unit. A mix of light manufacturing/research development and commercial uses may also be included to provide employment opportunities and enhancements to the tax base. Retail and service uses may be included to provide for shopping needs.
- (2) These regulations are further intended to encourage a coordinated development review process that includes adequate input from all involved agencies to ensure that resulting PUDs represent practical plans for development that continue to meet the intent of the Town's adopted plans and this chapter.

B. General requirements.

- (1) PUD zonings approved by the Town Board shall replace the use, dimensional and other Town Code requirements as specified in the individual rezoning determinations and shall become the basis for continuing land use controls within the specified PUD district.
- (2) Minimum area. The minimum area required to qualify for a Planned Unit Development District (PUD) shall be 100 contiguous acres, but where the applicant can demonstrate that the characteristics of the subject property will meet the objectives of this section, the Town Board may approve projects with less acreage.
- (3) Common open space.
 - (a) Permanently protected open space shall be provided and shall not be less than 20% of the gross area of a proposed planned unit development.

- (b) The developer shall have as many dwelling units (all types) as is feasible abut or be near an open space area.
- (c) Such common open space may be retained in private ownership or received in dedication by the Town.
- (d) If the open space remains in private ownership, arrangements for the operation, maintenance, improvement and liability of such common property and facilities must be approved by the Town Board.

C. Permissible uses.

- (1) This section sets forth the uses that the Town Board may approve for a planned unit development. Such uses include and shall be limited to the following:
 - (a) Single-family detached dwellings.
 - (b) Townhouses.
 - (c) Apartment buildings.
 - (d) Office uses.
 - (e) Retail sales and service uses.
 - (f) Light manufacturing/research and development.
 - (g) Public uses.
 - (h) Common, public or private open space, park or recreation areas, but which may not include any such uses detrimental to existing or prospective development of the neighborhood.
 - (i) Accessory and temporary uses customarily incidental to any of the foregoing uses.

D. Mix of uses, area density and design standards.

- (1) The mix, scale, density, and general design of permitted uses shall be determined by the Town Board.

E. PUD application procedure.

- (1) Pursuant to the requirements of this section, applicants seeking PUD approval shall first secure rezoning from the Town Board based on a submitted plan for development to establish use and bulk density requirements.

- (2) The applicant shall first make presentation to the Town Board requesting that they consider the PUD zoning request. The request shall describe the area to be zoned as well as the subsequent proposed development. If the Town Board agrees to consider the request, the matter shall be referred to the Planning Board for a sketch plan review and recommendation.
- (3) Concept proposal discussion and recommendation.
 - (a) Before submittal of a formal PUD zoning application for Town Board consideration, the developer shall meet with the Town Planning Board to discuss a concept sketch in compliance with Town Code § 220-66.
 - (b) The Planning Board shall make a recommendation regarding said sketch plan to the Town Board no more than 30 calendar days after receipt of said proposal.
 - (c) Upon recommendation by the Planning Board, the developer may proceed to prepare the planned unit development (PUD) zoning application for submission to the Town Board.
- (4) Contents of PUD zoning application. The application shall contain the following information:
 - (a) Location and extent of all proposed land use, including open space, and area map showing parcel under consideration and all properties, subdivisions, streets, zoning classifications and easements within 500 feet of the parcel.
 - (b) All interior streets, roads, easements and their planned public or private ownership, as well as all points of access and egress from existing public rights-of-way.
 - (c) Specific definition of all uses, indicating the number of residential units and the density of each residential housing type, as well as the overall project density.
 - (d) The overall water and sanitary sewer system with proposed points of attachment to existing systems; the proposed stormwater drainage system and its relation to existing systems.
 - (e) Description of the manner in which any areas that are not to become publicly owned are to be maintained, including

open space, streets, lighting and others, according to the proposals.

- (f) If the development is to be phased, a description and graphic representation of the phasing of the entire proposal in terms of length of time, type and number of units or activities completed per phase.
 - (g) A description of any covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings or structures, including proposed easements for public utilities.
 - (h) A written statement by the applicant setting forth the reasons why the proposal would be advantageous to and in the best interests of the entire Town of Canandaigua.
 - (i) PUD applications shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the State Environmental Quality Review Act.¹
- (5) The Town Board, upon receipt of the proposal, shall send one copy to the Town of Canandaigua Planning Board, the Environmental Conservation Board the Town Engineer and others as required for further review and recommendation.
- (6) Town Board decision and applicant acceptance.
- (a) The Town Board shall, as part of a resolution granting PUD approval, specify the drawings, specifications and performance guaranty that shall be required to accompany any subsequent application for site plan and/or subdivision approval.
 - (b) Within 30 days of a Town Board approval, the applicant shall notify the Town Board of the acceptance of or refusal to accept all specified conditions.
 - (c) If the developer refuses to accept the specified conditions, the Town Board shall be deemed to have denied PUD zoning approval. If the developer accepts, the proposal shall stand as granted.
- (7) Application for site plan and/or subdivision approval.

1. Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

- (a) After approval of the PUD zoning by the Town Board, the applicant must secure site plan and/or subdivision approval as required by this chapter and Chapter 174, Subdivision of Land.
- (b) A Planning Board decision on the site plan may require revisions. Said revisions shall be limited to siting and dimensional details within general use areas and shall not significantly alter the PUD plan as it was approved by the Town Board.
- (c) Request for changes in PUD zoning plan. If, during site plan/subdivision review, it becomes apparent that certain elements of the PUD plan, as it has been approved by the Town Board, are unfeasible and in need of significant modification:

- [1] The applicant shall have an opportunity to present a proposed solution to the Planning Board as part of the site plan/subdivision.

- [2] The Planning Board shall then determine whether or not the modified plan is still in keeping with the intent of the PUD zoning resolution.

- [3] If a negative decision is reached, the applicant may further modify the proposal or request a formal amendment of the PUD zoning from the Town Board.

- [4] If an affirmative decision is reached, the Planning Board shall notify the Town Board stating all of the particulars of the matter and its reasons for feeling the project should be continued as modified. Planning Board approval may then be given only with the consent of the Town Board.

- (8) Phasing. For PUDs to be developed in phases, individual phases shall have an integrity of use and function so that if the entire PUD would not be completed, those portions of the PUD already constructed will not present a threat to the public health, safety and welfare.

F. Other regulations applicable to planned unit developments.

- (1) Regulation after initial construction and occupancy. For the purposes of regulating development and use of property after initial construction and occupancy, any changes other than use changes shall be processed as a special permit request to

the Planning Board. Use changes shall be in the form of a request for Town Board approval. Properties lying in Planned Unit Development Districts are unique and shall be so considered by the Planning Board or Town Board when evaluating these requests, and maintenance of the intent and function of the planned unit shall be of primary importance.

After discussion the following resolution was offered by Supervisor Holden, seconded by Councilman LaCrosse and unanimously adopted:

(EXHIBIT D - SEQRA FINDINGS FOR CENTERPOINTE)

RESOLVED THAT, the SEQRA Findings for CENTERPOINTE, in the form attached, be and hereby are adopted as the Findings of the Town Board.

Attorney Madden explained the next resolution that is before the board for consideration concerns approval of the creation of the Centerpointe Planned Unit Development and appropriate changes on the Town Zoning Map.

The following resolution was offered by Supervisor Holden, seconded by Councilman La Crosse and unanimously carried.

(EXHIBIT E - PUD Approval of the CENTERPOINTE PROJECT)

Supervisor Holden thanked the Planning Board and Town Board and Town Consulting Team for their interest and efforts in reviewing and helping to refine such an important project proposal. This is the largest project ever considered in the Town of Canandaigua and it will have a major economic impact on this area as it is developed.

After audit of the bills by members of the Town Board, Abstract # 20 in the amount of \$21,219.41 from Highway Department, \$10,977.74 from General Fund, \$1,402.59 from Water Department, \$848.24 from Pump Station., Councilman Boyce made the motion that the bills be paid, seconded by Councilman Outhouse. Carried.

Supervisor Holden asked Roger McDonough, Watershed Inspector to attend tonight's meeting to discuss reinforcement procedures with the Canandaigua Lake Watershed and also questions he may have concerning the newly adopted town wide Watershed Ordinance. The Supervisor commented that the board has expressed its sincere interest in protecting the lake as evidenced partly by Canandaigua Town being the first Town in the County to develop and enact a Watershed Local Law. Since the Town has enacted the law, several questions have arisen, one of them being who has specific responsibility for various areas within the Town. One of the factors the Town modified in the law was to expand the Watershed area to cover the entire Town, not just Canandaigua Lake Watershed. As Supervisor Holden pointed out only 40% of the Town is in Canandaigua Lake Watershed, while 60% exist in other watersheds. While the board's stated commitment is to focus on protection for Canandaigua Lake, the concern exists for the entire Town and the main objective is to get the job done right. They are not presently satisfied that this is satisfactorily being done.

Roger McDonough explained there are two separate jurisdictions:

1. State Public Health Law dictates that a Watershed Inspector be appointed by the municipalities surrounding the lake.
2. Town of Canandaigua Watershed Local Law which Mr. McDonough says does not repeal the State Law.

Mr. McDonough said the Town can not enact anything less than the State Regulations (Blue Book). The Town can have its own inspector, which in Mr. McDonough's opinion is in addition to his inspection. In order to have a legal septic system in the Watershed, according to Mr. McDonough two inspectors must approve the system. (State & Town).

Mr. McDonough presented copies of letters from the State Health Dept. and City of Canandaigua reference NYS Public Health Law and rules and regulations of the Canandaigua Lake Watershed. Supervisor Holden advised Mr. McDonough that all Town Board members, have previously been provided with copies of all of these documents.

Mr. McDonough reported that the City of Canandaigua states he is their employee with his activity financed through the water fund which comes from metered water sales.

**TOWN BOARD RESOLUTION
(FINDINGS)**

RESOLVED THAT the SEQRA Findings for **CENTERPOINTE**, in the form attached, be and hereby are adopted as the Findings of the Town Board.

**SEQRA FINDINGS FOR CENTERPOINTE
(KANANDAQUE) PROJECT**

DATE: October 28, 1986

LEAD AGENCY: Town Board
Town of Canandaigua
2 North Main Street
Canandaigua, New York 14424

**CONTACT FOR
FURTHER
INFORMATION:** Attention: M. James Holden, Supervisor
Telephone: (716) 394-1120

**PROJECT
DESCRIPTION:** The **CENTERPOINTE (KANANDAQUE) DEVELOPMENT** is a multi-use, planned unit development proposed for a 425 acre site located in the Town of Canandaigua. The project site is bounded by Thomas Road on the south, Brickyard Road on the west, Yerkes Road on the north and New York State Route 332 on the east. It is presently planned that at full development, the project would include: improvement and retention of existing 174 acre golf course; retention of existing 60 acre wetland and buffer area; construction of commercial, office and hotel space of approximately 485,000 square feet; construction of office, light industrial/research and development space of approximately 790,000 square feet; construction of approximately 340 multi-family apartment units; construction of approximately 231 townhouse units.

**AGENCY ISSUING
FINDINGS:** Town Board of the Town of
Canandaigua

DOCUMENTS: These Findings are based upon the environmental review contained in the Draft Generic Environmental Impact State ("DGEIS") and Final Generic Environmental Impact Statement ("FGEIS") for **CENTERPOINTE**.

FINDINGS: The Town Board as Lead Agency hereby finds and concludes that:

- (a) It has given consideration to the DGEIS and FGEIS.

- (b) The requirements of SEQRA have been met.
- (c) Consistent with applicable social, economic and other essential considerations, from among the reasonable alternatives thereto, the PUD plan for Centerpointe is one which minimizes or avoids adverse environmental effects to the maximum extent practicable.
- (d) To the maximum extent practicable, adverse environmental effects revealed in the DGEIS and FGEIS will be minimized or avoided as a result of modifications made to the original PUD plan, the mitigation measures identified in the FGEIS and as a result of conditions to be incorporated by the Town Board to any PUD approval.

**FACTS, CONCLUSIONS
AND STANDARDS:**

The following facts, conclusions and standards form the basis for these Findings:

General Background

1. The Town Board of the Town of Canandaigua has acted as Lead Agency for State Environmental Quality Review Act ("SEQRA") review purposes for a proposed Planned Unit Development rezoning in the Town of Canandaigua known as the Centerpointe Project (formerly known as Kanandaque).
2. The Applicant for the Planned Unit Development ("PUD") approval is The Farash Corporation, Rochester, New York.
3. The site which is the subject of the PUD application and which has been the subject of SEQRA review is an approximately 425 acre site located in the Town of Canandaigua and bounded by Thomas Road on the south, Brickyard Road on the west, Yerkes Road on the north, and New York State Route 332 on the east.
4. The PUD application requests approval for a mix of land uses including: improvement and retention of existing 174 acre golf course; retention of existing 60 acre wetland and buffer area; construction of commercial, office, and hotel/motel space of approximately 485,000 square feet; construction of office, light industrial/research and development space of approximately 790,000 square feet; construction of approximately 340 multi-family apartment units and construction of approximately 231 townhouse units.

5. The Applicant is an experienced developer, builder and operator of residential units, commercial, office, light industrial/research and development properties. Recent projects in Ontario County the Applicant has been involved in include development and construction of light industrial/research and development projects in the Towns of Farmington and East Bloomfield.

6. The Applicant initially submitted a Concept Development Plan for the Project to the Town of Canandaigua Planning Board on May 14, 1985. Subsequent to that date, and in connection with the environmental review process, certain modifications to the proposed Project have been developed and submitted by the Applicant. The present proposal is represented by a plan dated June 30, 1986 and identified as Drawing 7486FS.

Land Use Planning and Zoning

7. The predominant zoning designation on the Project site is R-1 Residential (387 acres). Approximately 38 acres of the site is zoned C-1 Commercial. The C-1 Commercial zoning includes approximately 4,400 feet of frontage along Route 332 and is 500 feet deep and parallel to that road.

8. The Town of Canandaigua PUD Ordinance (as revised July 22, 1986) encourages the coordinated development of large blocks of land.

9. The Ontario County Planning Board has endorsed the concept of a PUD development at this site.

10. The Town's Planning Consultants have advised that the type of development represented by the PUD Project is consistent with the proposed master plan update presently being developed.

11. The PUD application appears to be consistent with the density and design requirements of §74-6 the Town of Canandaigua PUD Ordinance with the exception that the Applicant must devote additional acreage to the multi-family apartment use to justify 340 apartment units (see PUD Law, §74-6(c)(4)). Specifically, the Town Board finds that development of this land as a PUD will meet the objectives of the PUD Law, §74-3, which are:

- A. A maximum choice in the types of environment, occupancy tenure (e.g., cooperatives, individual, condominium, leasing), types of housing, lot sizes and community facilities available to persons at all economic levels.
- B. Provision of usable open space and recreation areas and convenience in location of sales and service areas.
- C. A development pattern which preserves trees, outstanding natural topography and geographic features and prevents

soil erosion.

- D. A creative use of land and related physical development which allows an orderly transition of land from rural areas.
- E. An efficient use of land resulting in smaller networks of utilities and streets.
- F. A development pattern in harmony with the objectives of this chapter and the Comprehensive Plan.
- G. A more desirable environment than would be possible through the strict application of other articles of the Zoning Ordinance.
- H. A mixture of land uses to enhance job creation, retention, increase of tax base, and variety of settings.

12. Pursuant to the Town's PUD Ordinance, the Applicant will be required to submit detailed site plans to the Town Planning Board and to obtain Town Planning Board approval before any specific development may occur on the site. The Applicant will also be required to receive any and all permits necessary from State, County or local agencies having jurisdiction. The PUD process provides a vehicle for controlled, orderly growth and development of this site.

13. The Draft Generic Environmental Impact Statement ("DGEIS") and Final Generic Environmental Impact Statement ("FGEIS") prepared for the Project fully describe the environmental setting, potential impacts and appropriate mitigation measures for the Project. Many of the mitigation measures proposed have been incorporated into and made part of the most recent PUD plan.

14. The social and economic impacts of the Project have been identified and reviewed.

Wetland Impacts and Mitigations

15. The wetland resource on the site, possible impacts and appropriate mitigation measures are all discussed in the DGEIS. The benefits of the wetland can, with proper planning and mitigation measures, be preserved while permitting development of the site. It is proposed that there would be only limited encroachments in buffer areas for such purposes as storm water detention, parking, possible building encroachment, drainage structures, possible nature trails and a possible encroachment required to mitigate traffic impacts by constructing an internal roadway at the most westerly portion of the wetland area. Development will be clustered on non-wetland areas to preserve wetland values and to maximize efficiency in the construction and use of roads and other utilities.

16. The Town Engineers have made certain recommendations regarding mitigation measures which can be incorporated into the Project to mitigate impacts on the wetland and buffer area.

Drainage

17. The DGEIS identifies existing drainage patterns and recognizes that the drainage off-site is controlled by an existing culvert under Route 332. Provisions for drainage control are also identified in the DGEIS.

Transportation

18. New York State Route 332 is the primary artery serving the proposed development. The other three roads bounding the site are Town roads.

19. The Project when fully constructed will add additional traffic to surrounding roads. The DGEIS identifies road improvements and controls which will be necessary to mitigate traffic impacts. These include limiting points of access on to Route 332; signalization; and road improvements to enhance the function and safety of Route 332. The most recent PUD plan has been revised to incorporate the internal roadway system and access points on Route 332 as proposed by the DGEIS.

Utilities

20. The DGEIS identifies the necessity for extending utilities to the site. There is adequate treatment capacity in the City of Canandaigua Water Treatment Plant, but complete development of the site would require improvements in the distribution system. Such improvements are anticipated to be completed in 1988 or 1989 and the City's Coordinator of Public Works has reported that he does not foresee any difficulties with supplying the proposed Project with the required volumes of water.

21. Sanitary sewer services would have to be extended to the site. Two alternatives for such service extension are identified and discussed in the DGEIS. The additional flows created by the Project, however, would be well within the County's allotment of the City of Canandaigua Waste Water Treatment Plant capacity.

Community Services

22. The existing level of services, possible impacts from the Project and related matters are discussed in the DGEIS. Additional public services such as school, police services, fire and emergency services will be required as a result of the completion of the Project and completion of other projects proposed in the area. The DGEIS indicates that tax revenues generated will more than offset the additional cost of added services.

Energy

23. The proposed structures would be built in conformity with the New York State Energy Conservation Construction Code and New York State Building Code.

24. Energy would be consumed in the construction of improvements.

Alternatives

25. Alternatives to the proposed Project including the "no action alternative" were discussed and evaluated in the EIS. Development of the site under existing zoning would result in equal or greater environmental and social impacts, but would yield fewer social and economic benefits than the PUD development.

Proceedings To Date

26. Proceedings prior to June 24, 1986 are set forth at Pages 1 and 2 of the DGEIS. These proceedings include the early and active involvement of numerous involved agencies and the public in scoping the DGEIS.

27. On June 24, 1986, the Town Board, as Lead Agency, accepted the DGEIS for scope, content and adequacy, set a public hearing on the DGEIS and PUD plans; referred the latest PUD plans to the County Planning Board and Town Planning Board; and established a public comment period on the DGEIS.

28. On July 29, 1986, a duly noticed public hearing was held for the purpose of receiving comments on the DGEIS and for the purpose of receiving public comments on the proposed PUD.

29. On August 4, 1986, the DGEIS comment period ended.

30. An FGEIS was prepared by the Town Consulting Engineers.

31. On September 9, 1986, the FGEIS was accepted for filing by the Lead Agency and copies of the FGEIS and Notice of Completion were duly filed, posted, published and distributed.

32. Subsequent to the adoption of these findings, the Town Board will take action on the PUD application. The Board can approve, disapprove or approve with modifications and conditions.

33. If the Town Board approves the PUD plan, the Applicant would then be free to prepare detailed site plans for development of portions of the Project as they become commercially viable. The Applicant and Planning Board would be bound by any and all conditions attached to the Town Board's PUD approval.

**TOWN OF CANANDAIGUA
CENTERPOINTE PROJECT**

**TOWN BOARD RESOLUTION
OF
PUD APPROVAL**

WHEREAS:

1. An application has been made by The Farash Corporation pursuant to the Planned Unit Development Code ("PUD") of the Town (Chapter 74 as revised July 22, 1986) for the **CENTERPOINTE Project**.

2. The **CENTERPOINTE (KANANDAQUE) DEVELOPMENT** is a multi-use, planned unit development proposed for a **425 acre site** located in the Town of Canandaigua. The project site is bounded by Thomas Road on the south, Brickyard Road on the west, Yerkes Road on the north and New York State Route 332 on the east. It is presently planned that at full development, the project would include: improvement and **retention of existing 174 acre golf course**; retention of existing 60 acre wetland and buffer area; construction of commercial, office and hotel space of approximately 485,000 square feet; construction of office, light industrial/research and development space of approximately 790,000 square feet; **construction of approximately 340 multi-family apartment units**; **construction of approximately 231 townhouse units**. Approximately 191 acres of the 425 acre site would be selectively cleared for development. Approximately 55% of the project area would remain essentially undisturbed.

3. A complete environmental review of the Project has been conducted pursuant to the State Environmental Quality Review Act ("SEQRA"). The Findings required by the SEQRA regulations have been adopted by the Town Board and such Findings are hereby incorporated by reference.

4. Duly noticed public hearings have been held concerning the PUD application.

5. The PUD application as originally submitted has been modified to reflect comments or suggestions made during the environmental review process.

6. The PUD application is represented by a plan dated June 30, 1986 and further identified as **Planned Unit Development, Drawing 7486FS**, which document is on file in the Town Clerk's Office.

NOW THEREFORE BE IT RESOLVED THAT:

- I. The Town Board, pursuant to Chapter 74 of the Code of the Town of Canandaigua does hereby approve the creation of the Center-

pointe Planned Unit Development as represented by the drawings referenced above.

II. This PUD zoning approval shall be subject to the following terms and conditions:

(A) Uses. The mix of uses shown on the plans is hereby approved.

(B) Scale. The maximum scale or density of the respective uses shall be:

(1) Commercial, office and hotel space - 485,000 square feet net leasable space.

(2) Office, light industrial/research and development - 790,000 square feet net leasable space.

(3) Apartment and townhouse units - 571. The developer shall have flexibility in the actual mix between townhouse and apartment units provided that neither type of unit shall comprise more than 65% of the 571 residential units. The maximum density shall be 15 units per acre apartments and 10 units per acre townhouses.

571
371 Apts
200 Townhouse

(4) The wetland area and wetland buffer area comprising approximately 60 acres shall be retained as open space subject to such limited and necessary encroachments identified on the PUD Plan including utilities; storm drainage; parking; possible building encroachment to buffer area; nature trails; and the internal road connection between the portions of the Project located north and south of the wetland area. These encroachments shall be subject to receipt of all necessary DEC permits.

(5) The existing 174 acre golf course shall be retained and improved. The developer shall have the flexibility to alter or relocate the existing golf course layout in order to better accommodate the proposed townhouse and apartment units so long as the resulting golf course total acreage is substantially similar to the present golf course area.

(C) Rights-Of-Way, Setbacks:

(1) The internal road system to be constructed shall be designed to Town standards and shall have a right-of-way width of 50 feet except that the Town reserves the right to require a right-of-way width of up to

75 feet within 500 foot depth from the intersections of the internal road with Route 332 (2 points) and/or Yerkes Road (1 point).

(2) The minimum front setbacks shall be:

- (a) From Route 332 - 100 feet from the expanded (99 foot) right-of-way line. No structures, or parking, shall be placed within this setback area and provision shall be made in site plans for the landscaping of the setback area. This setback is a specific variance from the 332 corridor plan and is granted because there will be no frontage road developed; no individual access from Route 332 except via the internal road; and the site plan provides for the reverse frontage road concept.
- (b) From the internal road system - 50 feet from the right-of-way line. A minimum 20 foot strip of the setback shall be landscaped, and the remaining 30 feet of the setback area may be utilized for parking where the height of the structure to be served is 35 feet or less. For structures greater than 35 feet, the Planning Board, upon site plan review, may require more than a 20 foot landscaped area.
- (c) From the right-of-way line of Thomas Road; Brickyard Road, or Yerkes Road:
 - i) 100 feet for any commercial, office, light industrial/research development, hotel or similar use.
 - ii) 60 feet for any apartment use.
 - iii) 40 feet for any townhouse use.

The details of landscaping, parking, and access within the setback areas from Thomas, Brickyard or Yerkes Roads shall be established by the Planning Board upon site plan review.

(3) Other Setbacks:

- (a) No apartment building shall be closer than 60 feet from any boundary line of the designated apartment area or zone.

- See
ZBA decision
dated 5/21/13

- (b) The minimum width of any side yard abutting a street, driveway or parking area within a townhouse zone shall be 40 feet.

(c) Height Restrictions. Maximum building height above finished grade shall not exceed:

- i) 35 feet for townhouses; or other structures fronting on Thomas Road, Brickyard Road, except for a possible apartment use (maximum 45 foot height) located on land at intersection of Brickyard and Yerkes Roads.
- ii) 60 feet for hotel.
- iii) All other uses abutting on Route 332 and Yerkes Road shall not exceed a height of 35 feet above the elevation at the center line of pavement for said Roads at a point opposite the mid-point of the width of the proposed structure or building.
- iv) 60 feet for all office/industrial structures abutting the wetlands portions of the site.
- v) 45 feet for all other office/industrial structures.
- vi) 45 feet for all apartment structures.

(d) Parking. The existing zoning district parking requirements shall not apply. Subject to the following, the Planning Board is directed to establish appropriate parking requirements on a site specific basis taking into consideration the proposed use of the site; feasibility of designated compact car parking areas; preservation of open space and a campus-like setting; and any current planning literature. Minimum parking required shall be:

- i) Two spaces per residential unit (townhouse or apartment).
- ii) One space per 1000 square feet of net leasable building area for non-residential uses. Actual parking required shall be determined by the Planning Board.

(D) Phasing:

1. Not later than the time of the submission of the first

site plan to the Town Planning Board, the developer shall submit a proposed phasing plan indicating tentative timing for the extension and installation of necessary sewer, water or other utilities to serve the site and indicating the proposed sequence of development on the site. A revised or updated phasing plan shall be submitted with each subsequent site plan submission to the Town Planning Board. Each site plan submission to the Town Planning Board shall comply with the requirements of Chapter 74 of the Town Code and shall also specify the manner in which the development phase proposed by such site plan complies with the overall PUD approval hereby granted and how such development will specifically incorporate the mitigation measures identified in the DGEIS and FGEIS for the Project.

2. The residential units to be constructed shall be developed in a phased manner such that no more than 35% of the total residential units shall be constructed in any one of the first five years following the approval of initial site plan containing residential uses. The purpose of this condition is to mitigate an identified potentially adverse impact to the school system and other public service functions.
3. The developer is encouraged to make efforts to market the Project such that the office, light industrial/research and development uses will occur in the earliest possible phases of the overall Project.

(E) Open Space Preservation:

The wetland and buffer area and the golf course shall be retained as open space and recreation areas. Upon submission of final site plans for each section of the overall PUD, the developer shall submit covenants running with the land or other evidence such as property owners association, in form acceptable to the Town legal advisor and such covenants shall be filed or recorded.

(F) Internal Road Connection:

1. A major mitigating factor identified during the SEQRA process and incorporated into the plan is the link connecting the internal road system on both sides of the wetland area. The Town Board has made a finding that this road link does justify any limited encroachment of the wetland area and buffer.

2. The internal road system shall be completed to provide such link not later than the date construction is completed on a total of 600,000 square feet of any structures within the PUD zone other than townhouses. Any combination of apartment, commercial, hotel, office, light industrial/research and development uses exceeding this square footage shall require the completion of internal road link.
3. The developer shall have the flexibility to extend a private drive from the internal road to the golf club facility; and shall also have the flexibility of extending the internal road to service hotel, commercial, office uses that may develop in the vicinity of the northwest corner of Route 332 and Thomas Road.

(G) Other Conditions:

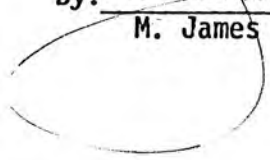
1. The Town Board reserves the right to establish and to require such appropriate financial security as it may deem necessary for the construction and completion of improvements which are to be offered to the Town for dedication.
2. The mitigation measures identified in the DGEIS and FGEIS shall be incorporated into specific site plan.
3. The developer shall, within 30 days, notify the Town Board of its acceptance of these conditions and if the conditions are not accepted, the PUD approval will be deemed denied.

III. Upon receipt of the developer's acceptance, the Town Clerk shall make appropriate notations on the Town Zoning Map; a legal notice shall be published; and thereafter the development of the site shall be controlled by Chapter 74, the approved plan and this resolution rather than the Zoning Ordinance provisions.

34. It is anticipated that if future site specific plans submitted to the Town Planning Board for review are consistent with the design parameters set forth in the DGEIS and with conditions of the Town Board's PUD approval, that no further environmental impact statements will be required. See the SEQRA regulations at §617.15(c).

BY ORDER OF THE TOWN BOARD

By: 


M. James Holden, Town Supervisor

DISTRIBUTION:

- 1 Town Board Minute Book
- 1 Project File
- 1 Posted on Town Bulletin Board
- 1 Each Involved Agency



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

November 29, 2005

Town of Canandaigua
5440 Route 5 & 20 West
Canandaigua, NY 14424

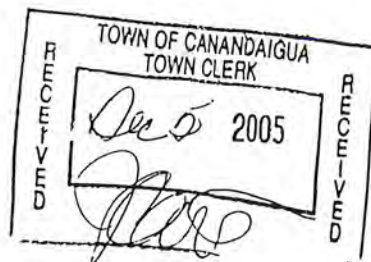
RE: Town of Canandaigua, Local Law 10, 2005, filed on 10/31/2005

To Whom It May Concern:

The above referenced material was received and filed by this office as indicated. Additional local law filing forms will be forwarded upon request.

Sincerely,
Linda Lasch
Principal Clerk
State Records & Law Bureau
(518) 474-2755

LL:cb



AFFIDAVIT OF PUBLICATION

LEGAL NOTICE

LEGAL NOTICE

Notice of Public Hearing

A public hearing will be held before the Town of Canandaigua Town Board on Monday, October 24, 2005, beginning at 7:00pm to consider an amendment to the official Planned Unit Development (PUD) resolution to allow single-family attached dwelling units. The hearing will be held in the Canandaigua Town Hall at 5440 Routes 5 & 20 West, Canandaigua. All interested persons will be heard at that time and place. Written comments will be accepted prior to the hearing. Supporting documentation may be examined at the Town Clerk's Office weekdays from 8:00am to 4:00pm.

By order of the Town of Canandaigua Town Board
Jean MacKay, Deputy
Town Clerk

Oc 13 06516914

ss:

Leslie Smith, being duly sworn, deposes and says that she is the foreman of CANANDAIGUA MESSENGER, INC., publisher of the Daily Messenger, a public newspaper published daily except Saturday, in the City of Canandaigua, N.Y., in the County of Ontario, and that the notice of which the annexed is a true copy, clipped from said newspaper, was regularly published in said Daily Messenger on the following dates:

October 13 2005

Leslie Smith
Foreman of the Publisher

Subscribed and sworn to before me

this 18th day of Oct. 2005

Linda G. Allen

Notary Public in and for New York State

LINDA L. ALLEN

Notary Public, State Of New York
Ontario County Reg #0141400-04
Commission Expires 02/28/09

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of Canandaigua

Local Law no. 11 of the year 2005

A local law amending the Official Planned Unit Development Plan Map for the Centerpointe Planned Unit Development District.

Be it enacted by the Town Board of the

Town of Canandaigua as follows:

Section 1: Purpose.

The purpose of this local law is to amend the Official Planned Unit Development Plan Map for the Centerpointe Planned Unit Development District, located within the confines of the area surrounded by State Route 332, Thomas Road, Brickyard Road and Yerkes Road, in the Town of Canandaigua, New York.

Section 2: Proposed Planned Unit Development Plan Map amendment.

The PUD/Planned Unit Development -Town of Canandaigua Planned Zoning District - Kanandaque Map, the Official Planned Unit Development Plan Map for the former Kanandaque Site, prepared by MRB Group, P.C., and dated May 14, 1985 is hereby amended as follows:

- a. The remaining undeveloped lands located along the north side of Thomas Road, the east side of Brickyard Road, between Thomas Road and Yerkes Road, which were originally to be townhouses are hereby approved for single family detached dwellings on a total of 37 lots to be subdivided and approved by the Planning Board, in accordance with the provisions of Chapter 74, Section 74-15. E. of the Town of Canandaigua Municipal Code; and
- b. The total 571 residential dwelling units approved as part of the original Planned Unit Development Plan Map shall be reduced to 461 dwelling units with the further breakdown of dwelling types:
 - 1) the total number of residential dwelling units shall be 461; and
 - 2) the total number of apartments shall be 368 (or 80% of the total number of residential dwelling units); and
 - 3) the total number of town homes shall be 56 (or 12% of the total number of residential dwelling units); and

(1)

- 4) the total number of single family dwelling units shall be 37 (or 8% of the total number of residential dwelling units).

c. The following amendments, which apply only to the single family dwelling units portion of the existing PUD Site, are made to the conditions of approval to the original Planned Unit Development Plan Map for the Centerpointe site:

- 1) the minimum lot width shall be 90 feet; and
- 2) the minimum lot depth shall be 150 feet; and
- 3) the minimum lot area shall be 13,500 square feet; and
- 4) the minimum front setback shall be 40 feet; and
- 5) the minimum side setback shall be 10 feet; and
- 6) the minimum rear setback shall be 30 feet; and
- 7) the maximum building height for the single-family dwelling unit shall be 35 feet; and
- 8) the maximum lot coverage shall be 20%; and
- 9) accessory structures shall be located in the rear yard portion of the lot; and
- 10) a sidewalk network shall be constructed, commencing at the easterly boundary of the apartment complex located on the south side of Yerkes Road and extending westerly to connect to a sidewalk to be constructed as part of the single-family dwelling units along the east side of Brickyard Road and the north side of Thomas Road extending across the frontages of the existing townhouse dwelling units on Thomas Road to the intersection of Thomas Road and NYS Route 332 and providing a connection across Thomas Road to the sidewalk along the west side of NYS Route 332.

Section 3: Official Planned Unit Development Plan Map.

The Centerpointe Properties Amended PUD Plan Map, as adopted by the Canandaigua Town Board as part of this Local Law and further certified by the Town Clerk on said Plan Map, shall be attached to and made a part of this Local Law. Upon the filing of this Local Law with the Secretary of State, the Town Clerk shall note upon the Official Zoning Map for the Town of Canandaigua, the existence of the amended Plan Map, as approved by the adoption of this Local Law.

Section 5: If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgement shall have been ordered.

Section 6: All Ordinances, Local Laws and parts thereof inconsistent with this local law and parts thereof inconsistent with this Local Law are hereby repealed.

Section 7: This local law shall take effect immediately upon filing with the Secretary of State

(2)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law number 18 of 2005 of the Town of Canandaigua was duly passed by the Town Board on March 24 2005, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law number _____ of 2005 of the Town of Canandaigua was duly passed by the _____

On _____ 2005, and was (approved) (not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 2005, in (Elective Chief Executive Officer*) accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law number _____ of 2004 of the Town of Canandaigua was duly passed by the Canandaigua Town Board on _____ 2004, and was (approved) (not approved) (repassed after disapproval) by _____ on _____ 2004. Such local law was (Elective Chief Executive Officer*)

submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 2004, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law number _____ of 2004 of the Town of Canandaigua was duly passed by the Canandaigua Town Board on _____ 2004, and was (approved) (not approved) (repassed after disapproval) by the _____ on _____ 2004. Such local law

(Elective Chief Executive Officer*)
was subject to permissive referendum and no valid petition requesting such
referendum was filed as of _____ 2004, in accordance with the
applicable provisions of law.

- Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

(9)

5. (City local law concerning Charter revision proposed by petition.)

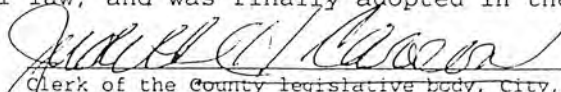
I hereby certify that the local law annexed hereto, designated as local law number _____ of 2004 of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 2004, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law number _____ of 2004 of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 2004, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.


Clerk of the County legislative body, City, Town
or Village Clerk or officer designated by local
legislative body

(Seal)

Date: Oct 29, 2005

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ONTARIO

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Paul B. Smalley
Signature

Attny for the Town of Canandaigua
Title

Town of Canandaigua

Date: 10/28/05

(10)

Draft – Last revised 10_19_12

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of Canandaigua
Local Law 5 of the year 2012

Amending the Centerpointe Planned Unit Development Local Law
Increase in Leasable Space for Office, Light Industrial/Research and Development

Section 1: Description

Be it enacted that Centerpointe Planned Unit Development PUD local law adopted on October 28, 1986 and amended on October 25, 2005 is hereby further amended to read as follows:

- II. This PUD zoning approval shall be subject to the following terms and conditions:
- (B) The maximum scale or density of the respective uses shall be:
- (1) Commercial office and hotel space – 485,000 square feet net leasable space.
 - (2) Office, light industrial/research and development – ~~790,000~~ 908,200 square feet net leasable space. The purpose of this allowance is to establish a maximum limit for such development within the general use areas shown on the map attached to this local law and titled "Smart System Technology and Commercialization Center – Site Master Plan June 22, 2012". The Planning Board shall establish the acceptable layout and design of individual buildings and appurtenances through the subsequent site plan review.

The following language shall be inserted in Section II, Part (C), (3) "Other Setbacks" of:

(c) The minimum side and rear setback for office/industrial buildings shall be 30'

Section 2: Invalidation.

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 3: Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law number of 2009 of the Town of having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on , became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law number of of the County of State of New York, having been submitted to the electors at the General Election of November 2009, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript there from and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Clerk of the Town

(Seal;

Date:



STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

May 10, 2013

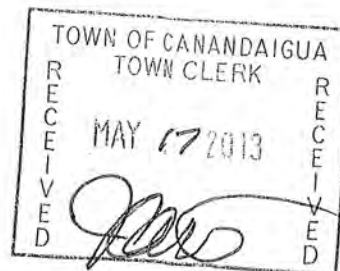
Town Clerk
5440 Route 5 & 20 West
Canandaigua NY 14424

RE: Town of Canandaigua, Local Law 5 2013, filed on May 9, 2013

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 474-2755



Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village

(Select one:)

of Canandaigua

Local Law No. 5 of the year 20 13

A local law to amend the Centerpointe PUD zoning to allow a maximum of 109 townhouses

(Insert Title)

on land currently zoned for 37 single family homes.

Be it enacted by the Town Board of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village

(Select one:)

of Canandaigua as follows:

Section 1. Title

This law will be known as "Amendment to Centerpointe PUD to Allow a 109 Townhouses on TMP's 56.000-1-54.115 & 55.116"

Section 2. Legislative Purpose and Intent

The purpose of this local law is to amend the existing Planned Unit Development Zoning for the Centerpointe PUD to allow residential development of parcels located along Brickyard Road and Thomas Road in a manner consistent with existing development patterns and the PUD zoning approved in 1986.

The intent of this local law is to:

1. Amend the existing Centerpointe PUD to allow development of 109 townhouses on land currently approved for 37 single family dwellings.
2. Reserve the full authority of the Town of Canandaigua Planning Board as described in Town Code and NYS Law to, through the subsequent development review process, require a layout and design consistent with the requirements and intent of Town Code.

Section 3. Amended Language

The existing Centerpointe Planned Unit Development zoning for the following parcels is hereby amended to allow development of a maximum of 109 townhouses on two parcels, the boundaries of which are described as follows:

TAX MAP PARCEL 56.00-1-54.116

ALL THAT TRACT OR PARCEL of land situated in part of Town Lot 103, Town of Canandaigua, County of Ontario, State of New York and being more particularly described as follows:

BEGINNING AT A POINT, on the easterly right-of-way line of Brickyard Road (66' wide right-of-way), at its intersection with the northerly right-of-way line of Thomas Road (66' wide right-of-way) said point also is southwest corner of Lot R 1 D as shown on map filed in O.C.C.O. Map #31280, thence;

- 1) N 27° 24' 45" W, along the easterly right-of-way line of Brickyard Road, a distance of 1391.56' feet to the northwesterly corner of Lot R1D; thence,
- 2) N 62° 35' 15" E, along the northerly line of Lot R1D, a distance of 150.00' feet to the northeasterly corner of Lot R 1 D; thence,
- 3) S 27° 24' 45" E, along the easterly line of Lot R1D, a distance of 1157.23' feet to a point of angle; thence,
- 4) N 78° 10' 52" E, along the northerly line of Lot R1D, a distance of 287.95' feet to a point of angle; thence,
- 5) N 61° 39' 44" E, along the northerly line of Lot R1D, a distance of 842.00' feet to the northeasterly corner of Lot R 1 D; thence,
- 6) S 28° 20' 15" E, along the easterly line of Lot R1D, a distance of 150.00' feet to the southeasterly corner of Lot R1D and on the northerly right-of-way line of Thomas Road; thence,
- 7) S 61° 39' 44" E, along the northerly right-of-way line of Thomas Road, a distance of 1271.83' feet to the POINT OF BEGINNING.

CONTAINING: 387,997 Square Feet or 8.907 Acres of land, more or less.

TAX MAP PARCEL 56.00-1-54.115

ALL THAT TRACT OR PARCEL of land situated in part of Town Lot 103, Town of Canandaigua, County of Ontario, State of New York and being more particularly described as follows:

BEGINNING AT A POINT, on the easterly right-of-way line of Brickyard Road (66' wide right-of-way), N 27°24'45" W, along the easterly right-of-way line of Brickyard Road, a distance of 1700.94' feet its intersection with the northerly right-of-way line of Thomas Road (66' wide right-of-way) said point also is southwest corner of Lot R 1 F as shown on map filed in O.C.C.O. Map #31280, thence;

- 1) N 27° 24' 45" W, along the easterly right-of-way line of Brickyard Road, a distance of 1837.85' feet to the northwesterly corner of Lot R 1 E and the southwesterly corner of Lot R 1 F; thence,
- 2) N 62° 35' 15" E, along the northerly line of Lot R 1 E, a distance of 150.00' feet to the northeasterly corner of Lot R 1 E; thence,
- 3) S 27°24' 45" E, along the easterly line of Lot R 1 E, a distance of 1837.85' feet to the southeasterly corner thereof; thence,
- 4) S 62° 35' 15" W, along the southerly line of Lot R 1 E, a distance of 150.00' feet to the POINT OF BEGINNING.

CONTAINING 275,677 Square Feet or 6.329 Acres of land, more or less.

Additional requirements:

1. Except as provided below the Planning Board shall have the authority to require such changes in the proposed layout and design of the development as they determine are necessary to minimize the visual impact of this development on Brickyard Road, Thomas Rd and adjacent properties. This shall include the authority to require modifications and/or variations to proposed siding, colors and other exterior design elements.
2. The minimum front setback shall be 40 feet. (From Brickyard Rd and Thomas Rd r-o-w)
3. The minimum rear setback shall be 10 feet.
4. The minimum side setback shall be 20 feet.
5. The maximum lot coverage shall be 65%.
6. Each townhouse dwelling unit shall have a minimum of one one-car garage.
7. For each unit the applicant shall identify on the floor plans, a minimum of 200sf of interior floor space designated for storage. per dwelling unit this could include laundry room
8. Each lot shall have a permanent deed restriction that prohibits onsite storage of boats, trailers and recreational vehicles and limits onsite storage of personal vehicles to two licensed, registered, and inspected vehicles/townhouse.
9. There shall be no accessory structures allowed.
10. Minimum habitable floor area per dwelling unit shall be:

- (a) Townhouse unit, three bedrooms: 1,000 square feet.
 - (b) Townhouse unit, two bedrooms: 850 square feet.
11. No exterior wall shall exceed 50 feet in length unless there is a lateral offset of at least four feet in its alignment not less frequently than along each 50 feet of length of such exterior wall.
 12. Each townhouse dwelling unit grouping shall contain not more than eight dwelling units with a minimum 20' separation between each dwelling unit grouping.
 13. Parking requirements. Requirements for off-street parking as provided in Town Code, Chapter 220 Article VIII shall be met, except that the location of off-street parking lots may be modified to conform with the approved site plan, provided that such lots shall not be located within the front yard or the required side yard setback. Paved pedestrian walkways, with appropriate lighting, shall be provided from off-street parking areas to all living units each parking area is intended to serve. In addition to the standards required in Chapter 220 Article VIII, the following standards shall be met:
 - (a) In addition to the one car garage required in paragraph 6, one paved parking space shall be provided for each dwelling unit.
 - (b) Screening, as may be required by the Planning Board shall be provided to prevent glare from headlights onto adjoining properties.
 14. Along the entire Brickyard Road frontage of lot 56.00-1-54.115 and 56.00-1-54.116, the applicant shall provide a 10' wide easement to the Town of Canandaigua. Within that easement the applicant shall install an 8' wide asphalt trail which shall be built to specifications approved by the Town Engineer. Along the entire Thomas Road frontage for lot 56.00-1-54.116 the applicant shall install a 5' wide sidewalk which shall comply with specifications in the Town's Site Design and Development Criteria.
 15. Each lot shall have a minimum of two trees/townhouse, which shall be canopy trees with a minimum caliper of 2½" or evergreen canopy trees with a minimum height of 5' and shall be planted prior to the issuance of a certificate of occupancy. Upon a determination by the Town Code Enforcement Officer that weather conditions would prohibit planting prior to issuance of a certificate of occupancy, said trees may be planted within six months of the issuance of a temporary certificate of occupancy.
 16. Parking areas and on-site storm water facilities shall be adequately landscaped.
 17. The Planning Board may require such additional landscaping they feel is necessary to further reduce negative visual impacts
 18. Each townhouse dwelling group shall either have mailboxes attached to the front of each structure, or a common mailbox area in a location approved by the Planning Board. There shall be no mailboxes allowed along the side of a street.
 19. The development shall contain street lighting spaced at each intersection, at any cul-de-sac or dead-end street and any common parking area. Street lighting shall be dark sky compliant as further regulated in § 220-77 of the Town Code.
 20. Street names shall be in compliance with the Ontario County 911 Street Naming Regulations.

21. Provisions shall be made with the local school district for the use of an acceptable off-street area to be used for the loading and unloading of school children. Each such area shall have a well-designed all-weather structure for use by students awaiting pickup or drop off. Each such area shall be adequately illuminated in accordance with Town lighting standards.

Section 4. Invalidation.

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 5. Effective Date

This Local Law shall become effective immediately upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2013 of the (County)(City)(Town)(Village) of Canandaigua was duly passed by the Town Board on April 29, 2013, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 2013, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

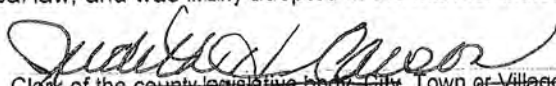
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.


Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: May 1, 2013

(Seal)

STATE OF NEW YORK
Ontario County

AFFIDAVIT OF PUBLICATION

LEGAL NOTICE

Public Notice

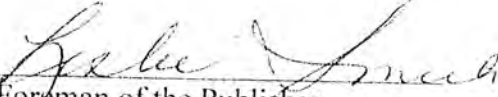
Please take notice, that the Canandaigua Town Board will be conducting a public hearing on a draft local law to amend the existing Centerpointe Planned Unit Development Zoning to allow a maximum of 109 townhouses on land, that is located along Thomas and Brickyard Roads and currently approved for development of 37 single family homes. The public hearing will be held on Monday, April 29, 2013 commencing at 7:00 p.m. in the public meeting room, lower level of the Town Hall, 5440 Routes 5 & 20 W Canandaigua, New York. All persons present will be heard at this time and date. A copy of the draft local law is posted on the Town's website and may be viewed during normal hours, 7:30 a.m. to 4:00 p.m., Monday through Friday, in the Canandaigua Town Clerk's Office. By order of the Town Board,
April 8, 2013
Judith H. Carson
Town Clerk

2537612

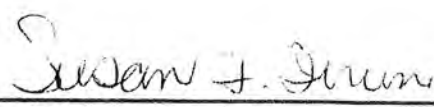
Leslie Smith being duly sworn, deposes and says that she Is the foreman of the publisher of the **THE DAILY MESSENGER**, a Public newspaper published daily except Saturday, in the City of Canandaigua, New York in the County of Ontario, and

That notice, of which the annexed is a true copy, clipped From said newspaper was regularly published in said Daily Messenger on

APRIL 17, 2013


Foreman of the Publisher

Subscribed and sworn on before me, this 17th day
Of APRIL 2013


Notary Public, State of NY

Susan J. Irvine
Notary Public, State of New York
Qualified in Ontario County
My Commission expires April 6, 2015



- CENTERPOINTE! key
- GOLF COURSE
 - COMMERCIAL
 - HIGH-TECH PARK
 - MULTI-FAMILY
 - RESIDENTIAL

PLANNED UNIT DEVELOPMENT
TOWN OF CANANDAIGUA, N.Y.

SCALE 1"=200'
DATE 6-30-86
DRAWN BY JLD
REVIEWED

the FARASH corp.

SITE PLAN 4 7/4/86FS