

Present: Gerald Putman, Chairman
Greg Matyas
Marcia Ward

Also Present: Keegan Coughlin, Attorney for the Village
Marina Lane, Town of Union Senior Planner
Trustee John Walker

Absent: Mary Jacyna, Vice Chairman
Matthew Cunningham
Kim Cunningham, Planning Board Clerk

A brief work session was held at 7:00pm. The board discussed the agenda and reviewed the applications.

Ms. Lane advised the Board there will be a drive through job fair at the mall. It has been approved for a one-time event.

Ms. Lane stated, "At the moment, we have nothing for an agenda for the meeting on July 28, 2020."

Gerald Putman, the Planning Board Chairman, called the meeting to order at 7:30pm. He took roll call and attending Planning Board members acknowledged their presence. Chairman Putman confirmed there was a quorum.

Chairman Putman welcomed Trustee Walker, Attorney Keegan Coughlin and Marina Lane.

Chairman Putman read the Recommended Procedure and Executive Order regarding virtual meetings.

PRIVILEGE OF THE FLOOR

Chairman Putman opened the privilege of the floor to the public and the attendees present at the Zoom meeting. There being no one who wished to speak, Chairman Putman closed the privilege of the floor.

UNFINISHED BUSINESS – None

NEW BUSINESS

601 & 629 Harry L Drive – Outdoor/Drive-In Entertainment

SEQRA Determination, Public Hearing for a Special Permit for outdoor/drive-in entertainment,
Decision at Planning Board's discretion.

Site Plan Review for the Expansion of Transient Retail



Chairman Putman asked the Board if they had any questions on Parts 1 or Part 2 of the SEQRA. He read Part 3 Determination of Significance of the Short Environmental Assessment Form.

The Oakdale Mall II, LLC applied for a Special Permit to hold a variety of outdoor entertainment drive-in events, and for the expansion of the previously approved outdoor retail area. The events and retail area would take place on paved parking lots and would not disturb any ground area.

The entertainment uses, such as a drive-in movie, small bands, wrestling and comedy shows, will not conflict with or impair the quality of adjacent residential uses. The movie sound will be transmitted via low signal FM radio transmission so there will be no impacts to noise. There may be a temporary minor localized impact to air quality if vehicles run their engines. The screen is an inflatable screen in a solid black frame that will not permit light to penetrate through, so there will be no impact on drivers on Reynolds Road. Hours will be limited.

The proposed action will not have any significant effects on existing traffic patterns, solid waste production or disposal. The parking lots have limited, delineated parking spaces and lanes, trash will be handled by Mall personnel, and each event will have a specific plan for traffic control.

The proposed action will not result in adverse impacts to aesthetic, agricultural, historic or other natural or cultural resources; or community or neighborhood character.

There will not be any significant impacts to any Critical Environmental Area, or endangered or threatened vegetation or animals; nor create a hazard to environmental resources or human health.

The proposed project will not adversely impact the use of energy, nor have adverse impacts on subsequent development. The proposed action will not result in any adverse effects on the community's existing plans or goals, or change in use or intensity of use of land.

The proposed project will not have any significant negative impacts on the environment.

Chairman Putman stated, if the Board is in agreement with that, it would be appropriate a motion be made for a negative declaration with respect to SEQRA determination.

A motion for a negative declaration with respect to the SEQRA determination was made by Mr. Matyas and seconded by Ms. Ward.

Motion Carried - Vote:

Yes – 3 (Matyas, Ward, Putman) No – 0 Absent – 2 (Jacyna, Cunningham)

Chairman Putman opened the Public Hearing for a Special Permit for outdoor/drive-in entertainment. He asked if anyone wished to speak on behalf of the applicant or the public regarding the Special Permit.

Chairman Putman read the areas for consideration for the Special Use Permit:

Specific Locations on Application: The mall has selected five areas for consideration:

Special Use Permit: The Special Use Permit application has three locations proposed for outdoor/drive-in entertainment, all on 601 Harry L Drive:



1. North end of 601 Harry L Drive: would have movies with the sound transmitted via low frequency FM signal to participating radios. The screen would face westward so as to not interfere with drivers on Reynolds Road. (2.5-acres)
2. West side of former Macy's: small-scale outdoor entertainment including wrestling exhibitions, and other such entertainment shows. No loudspeakers shall be used after 6:00 pm, and no electronic music. Acoustic musical shows permitted until 8:00 pm. (0.38-acre)
3. East side of former Macy's: small-scale outdoor entertainment including wrestling exhibitions, and other such entertainment shows. Electronic music permitted until 9:30 pm. (0.65-acre)

Transient Retail Areas: Two additional areas:

4. 629 Harry L Drive at the south end of the former Macy's, between the building and the area previously approved for transient retail uses. (0.81-acre)
5. 601 Harry L Drive, to the east of the former Bon Ton, limiting this area to no more than two events per year. (1.8-acres)

The properties are zoned General Commercial; outdoor sales and display is permitted by right, and outdoor entertainment and drive-through events require a Special Use Permit from the Planning Board.

Chris Nizamis of Oakdale Mall II, LLC and Jonathan Musok of Xcite Wrestling were present on behalf of the application.

Jonathan Musok stated the problem with the drive-in is that it is something they have never done before. They are still finalizing the details. For the wrestling, everything they do is commissioned through the New York State Athletic Commission. They have not allowed events up to this point, but told him if they got it to pass through a vote, they would allow them to do a show. They have done outdoor shows before, and don't see it as being an issue. The area (in the parking lot) they spoke about is where most of the staff and talent park anyway because they lease a space in the mall for shows. It is in all the areas they are accustomed to.

The drive-in aspect has taken off in New Jersey and they have started doing that along with some wrestling shows.

Mr. Musok feels they will be able to utilize the space properly.

Ms. Lane informed the attendees the layout came about after meeting with Courtney Rozen, Attorney Coughlin, Attorney Sacco and Daria Golazeski of Town of Union Code. Ms. Lane came up with the proposed times for the noise. She stated if the Board is not agreeable to the times, they can further restrict them, but she would not recommend the Board expand them.

Mr. Musok questioned the end time for the drive-in theater. The wrestling will be a day time event.

Chairman Putman stated with a two-hour movie, he would think you would need to go to 11:00pm. It will be difficult to show movies of any length with end time of 11:00pm.

Mr. Musok agreed with Chairman Putman. He thinks Sunday through Thursday may not be as big of a night like Friday or Saturday would. They are not planning on doing movies every night at this time.



They would need to get their own equipment if it was more frequent. Right now, they are renting equipment.

Mr. Matyas asked how many movies a week are they anticipating and what nights?

Mr. Musok responded this year Friday nights were his plan due to availability of the equipment. He was looking at a very narrow time frame for this year. For next year, it would be easier to plan a whole season of movies. He would definitely want to look at getting their own equipment and look at a bigger entertainment space.

Mr. Matyas questioned the board as to limiting the nights to two or three nights from Sunday to Thursday.

Ms. Lane suggested not limiting the nights.

Chairman Putman asked the hours for Beer Tree. Ms. Lane answered they close the bar at 10:00pm. The Board limited outdoor music to 9:30pm.

Trustee Walker informed the Board he has done outdoor movies, and at the peak of the season, in July, the movies aren't started until after 9:00pm. His movies have gone as late as 11:30 – 11:45pm.

Mr. Musok confirmed if you go into September or October, the movies could start earlier.

Chairman Putman closed the public hearing.

Chairman Putman read the Staff Recommendations.

Staff Recommendations:

The Planning Department recommends approval of the special permit for Outdoor Entertainment/Drive-through uses and the site plan for the expanded Outdoor Sales in specified locations with the requirements from Code Enforcement, the Fire Department, the Broome County Health Department, and the following stipulations:

1. All events shall be in compliance with any and all NYS Laws, regulations and executive orders, including, but not limited to, having Social Distancing Rules in place.
2. For each outdoor entertainment event, the Code Enforcement Office shall be consulted to determine whether an Amusement license is required from the Village Board.
5. It is recommended that pre-show tickets be sold to limit the number of vehicles so as to maintain an empty parking space between each vehicle.
6. Adequate staff shall be present to guide vehicles into and out of the property and the indicated parking spaces.
7. Traffic circulation and traffic control arrangements shall ensure safe passage for emergency vehicles, motor vehicles and pedestrians to and from the main event space.
8. No Adult Entertainment movies, as defined by the Code book, shall be shown.
9. Movies shall end at 10:00 p.m. Sundays through Thursdays, and 11:00 p.m. Fridays and Saturdays.
10. The property owner shall be responsible for all activities that occur on the property.
11. No alcohol shall be brought on site from attendees.



12. For each transient retailer, the retail business shall apply for a transient retail permit from the Code Enforcement Official prior to setting up on site. Food trucks, unless they are fundraising for a not-for-profit, must obtain a Transient Retail License. For-profit food trucks require a transient license. Code issues these licenses.
14. The outdoor events and retail and display areas shall not block automotive traffic, fire lanes, or other travel lanes.
17. Per Chapter 300-66.11. Transferability of Special Permits
 1. A special permit is not transferable except upon approval by resolution of the issuing board.
 2. A special permit shall authorize only one special use and shall expire if the special use ceases for more than three months for any reason.

The Board agreed 10:00pm is unrealistic and agreed to the recommendation of Midnight.

A motion to approve the Special Permit for the Outdoor Entertainment/Drive-Through at 601 & 629 Harry L Drive with Department Head Comments, Staff Recommendations and the amendment of changing the end time of the movies to Midnight, was made by Ms. Ward and seconded by Mr. Matyas.

Motion Carried - Vote:

Yes – 3 (Matyas, Ward, Putman) No – 0 Absent – 2 (Jacyna, Cunningham)

Chairman Putman reviewed the Site Plan which shows five outdoor entertainment/drive-in locations and expansion of the outdoor sales which is included on the Site Plan Review document. They are the same items as when he read the Special Permit locations. Are there any other further questions of Chris or Jonathan?

There being no other questions, Chairman Putman read the Department Head Comments.

Environmental Review and Department Head Comments:

The applicant's proposal is an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA). The Planning Department recommended a Negative Declaration. The project was subject to a 239-Review as it is within 500 feet of State Route 201. The following comments are from Department Heads and the 239-Review.

- **Code Enforcement:** All signage shall be reviewed by Code Enforcement as a part of any amusement permit or transient retailer's permit. Signs that blink, rotate, or move are not permitted. All signage shall conform to Code.
- **Fire Dept.:** Layouts of each event shall be reviewed by the fire department prior to each event taking place. Access to fire hydrants shall not be blocked.
- **Police Dept.:** No compelling interest.
- **Public Works & Water:** No compelling interest.



- **NYS DOT:** Nothing may be placed in the State right-of way, including advertising signage for these various activities; and the applicant should ensure that the activity locations and parking areas are configured in a manner that ensures safe pedestrian access to the sites.
- **B. C. Planning:** found no significant county-wide or inter-community impacts associated with the project. Recommend that approved activities should not conflict with each other, while accommodating compliant social distancing practices.
- **B.C. Health Dept.:** Food service vendors at these events not already under permit from the Health Department should contact Matt Laine at (607) 778-2814 for more information on Broome County requirements.
- **BMTS:** Did not identify any issues related to traffic impacts or site access. Ensure safe pedestrian access to and throughout the outdoor entertainment areas that does not conflict with vehicular traffic.
- **B.C. Dept. Public Works:** No comments. If any future events were to potentially impact Broome County infrastructure, BC DPW should be included on that future review.

Staff Recommendation: The Planning Department recommends approval of the special permit for Outdoor Entertainment/Drive-through uses and the site plan for the expanded Outdoor Sales in specified locations with the requirements from Code Enforcement, the Fire Department, the Broome County Health Department, and the stipulations Chairman Putman read before also apply and the additional stipulations for the Site Plan follow:

3. For each outdoor entertainment event, a layout showing the location of the stage, appropriate restroom facilities, trash cans or dumpster facilities, and methods of audience containment shall be provided to Code Enforcement no less than two weeks prior to each event.
4. For each outdoor entertainment event, a layout showing traffic flow into, within, and exiting the event shall be provided.
13. The transient sales area shall be restricted to the locations identified on the submitted site plan.
15. Depending on the size of any tent or canopy, a separate permit may be required and shall conform to the NYS Uniform Fire Prevention and Building Code.
16. Items for display are for sale and said area shall not be used for storage purposes.
18. The applicant shall be required to acknowledge all of the above conditions, in writing, prior to any Outdoor Event or Transient Retailer setting up at 601 and 629 Harry L Drive. The applicant shall agree to follow stipulations of approval in strict accordance with the site plan approved by the Planning Board. Changes to the site plan following approval may require a minor site plan review or resubmittal to the Planning Board, depending on the degree of change per Section 300-63.2. Applicability.

A motion to approve the site plan including Department Head Comments, Staff Recommendations and all the Stipulations was made by Mr. Matyas and seconded by Ms. Ward.

Motion Carried - Vote:

Yes – 3 (*Matyas, Ward, Putman*) **No** – 0 **Absent** – 2 (*Jacyna, Cunningham*)



ADJOURNMENT

A motion to adjourn the Planning Board Meeting was made by Mr. Matyas and seconded by Ms. Ward. The motion passed with all those present voting in the affirmative.

The meeting was adjourned at 8:05pm.

Respectfully submitted,

Kim Cunningham
Planning Board Clerk

