

# **APPROVED**

**CRAIG PAEPRER**  
*Chairman*

**ANTHONY GIANNICO**  
*Vice Chairman*

## **BOARD MEMBERS**

**KIM KUGLER**  
**RAYMOND COTE**  
**ROBERT FRENKEL**  
**MARK PORCELLI**  
**VICTORIA CAUSA**

## **TOWN OF CARMEL** **PLANNING BOARD**



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**MICHAEL CARNAZZA**  
*Director of Code  
Enforcement*

**RICHARD FRANZETTI, P.E.**  
*Town Engineer*

**PATRICK CLEARY**  
**AICP, CEP, PP, LEED AP**  
*Town Planner*

## **PLANNING BOARD MINUTES** **NOVEMBER 24, 2020**

**PRESENT:** CHAIRMAN, CRAIG PAEPRER, VICE CHAIRMAN, ANTHONY GIANNICO,  
KIM KUGLER, RAYMOND COTE, ROBERT FRENKEL, MARK PORCELLI

**ABSENT:** VICTORIA CAUSA

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<b><u>APPLICANT</u></b>	<b><u>TAX MAP #</u></b>	<b><u>TYPE</u></b>	<b><u>PAGE</u></b>	<b><u>ACTION OF THE BOARD</u></b>
Rudovic Bridal Shop	55.6-1-12	P.H./Reso.	1	Public Hearing Closed & Resolution Adopted.
Stillwater Business Park	75.17-1-53 86.5-1-25,26	P.H.	1-7	Public Hearing Left Opened.
Old Forge Estates	75.15-1-19-40	Resolution	7	Resolution Adopted.
Itzla Subdivision	55.14-1-6	Resolution	7	Resolutions Adopted.
14 Nicole Way LLC (Zakon)	65.6-1-22	Resolution	7	Resolutions Adopted.
DP 53, LLC (Spins Bowl)	55.7-1-1	A. Site Plan	8-9	No Board Action.
Hillcrest Commons – Lot E-2.2	44.10-2-4.2	Bond Return	9-10	Public Hearing Scheduled.

The meeting was adjourned at 7:50 p.m.

Respectfully submitted,

Rose Trombetta

**RUDOVIC BRIDAL SHOP – 1707 ROUTE 6 – TM – 55.6-1-12 – PUBLIC HEARING & RESOLUTION**

The consultants had no comments.

Chairman Paepre asked if anyone in the audience wished to be heard on this application.

Hearing no comments from the audience, Mr. Cote moved to close the public hearing. The motion was seconded by Mrs. Kugler with all in favor.

Mr. Cote moved to adopt Resolution #20-18, dated November 24, 2020; Tax Map #55.6-1-12 entitled Rudovic Bridal Shop Final Site Plan Approval. The motion was seconded by Vice Chairman Giannico with all in favor.

**STILLWATER BUSINESS PARK – 105 STILLWATER ROAD – TM – 75.17-1-53, 86.5-1-25,26 – PUBLIC HEARING**

Mr. Carnazza read his memo which stated a notice of violation (NOV) was issued on this property in February of 2016. Shortly after the NOV was issued, an architect came in and met with me to discuss the pending violations. We discussed the legalization process and he checked in from time to time regarding the site plan. Almost a year later, a second Engineer contacted me to tell me he was now doing the Engineering for this site. We met to discuss the legalization process. Again time passed and we did not get a submission. I contacted the attorney for the applicant to see why there was no submission and they changed to Insite Engineering, the current design team. Insite engineering was working on this plan for several months and made submission earlier this year. A variance was granted by the ZBA for the rear storage building and is noted on the plat. They provided a rendition of the tree buffer from Stillwater Rd. As requested by the neighbors, the westerly access is now entrance only. This is helpful as it will minimize the headlights glaring into the houses across the street.

Mr. Franzetti read his memo which stated the applicant has noted the referrals:

**I. General Comments**

1. The following referrals would appear to be warranted:
  - a. Putnam County Department of Health
  - b. Mahopac Fire Department
  - c. Town of Carmel Highway

Applicant has noted these referrals.

2. Permits from the following would appear necessary:
  - a. Town of Carmel Highway Driveway permit
  - b. New York State Department of Environmental Conservation (NYSDEC) – Coverage under General Permit GP-0-20-001

Applicant has noted these permits.

- c. New York City Department of Environmental Protection per the Watershed Rules and Regulations, permits are required within limiting distance to reservoirs and reservoir stems and selective clearing along right of way.

3. The area of disturbance for the work has been provided as 1.8 acres. The threshold criteria of disturbances for the NYSDEC stormwater regulation are between 5,000 square feet and one (1) acre and over one (1) acre. The project will require coverage under the NYSEC SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001) and the development of Stormwater Pollution Prevention Plan (SWPPP) that has permanent controls.

Applicant has noted this comment. A SWPPP has been provided and is under review.

4. Traffic and Vehicle Movement Plans should be provided which provide the following:
  - a. Sight distances and proposed clearing at each driveway have been specified on the plan.

All calculations should be provided.

The applicant noted that the proposed driveway on the west side of the property has been converted one-way (enter only) so the site distance exiting the proposed driveway will not be a concern.

The applicant will need to provide the site distance calculations for the other driveways on the site.

5. The applicant may be required to supply a stormwater maintenance agreement and maintenance guarantee per Town Code (§156-85 and §156-87 B respectively).

Applicant has noted this comment.

6. Should any public improvements be deemed necessary as part of the development of the tract, a Performance Bond and associated Engineering Fee must eventually be established for the work.

Applicant has noted this comment and has stated that the only work to be done in the public right of way is the driveway connection to Stillwater Road which will be done under a Highway Work Permit.

The applicant should note that a Performance Bond and associated Engineering fee is minimally required for the stormwater management practices, erosion and sediment control drainage features, landscaping etc., installed on the site. Please see §156-61 J and K of the Town Code for additional information.

## **II. Detailed Comments**

1. Grading and Utilities Plan Sheet SP-2

- a. Drainage system profiles must be provided.

Applicant will provide in a future submission.

2. Erosion and Sediment Control Sheet SP-3

- a. This minimally includes the depth to groundwater in the area where the unit is installed.

Applicant has noted these comments and will provide a SWPPP that addresses these comments. The SWPPP is currently under review.

Mr. Adam Thyberg of Insite Engineering, representing the applicant addressed the board and stated we have heard from the NYCDEP and that dialog is ongoing. Drainage profiles and those items will be provided.

Mr. Franzetti stated for the resolution I need the performance bond numbers and engineering fees calculated and reviewed before the resolution is approved.

Mr. Thyberg stated since the last meeting we included additional trees, specifically on the west end near the proposed driveway. We also added the stone masonry wall along the front of the relocated building. At which time, Mr. Thyberg displays rendering showing the stonewall and the plantings behind it.

Chairman Paeprer stated has been several improvements to the site. The yard has been cleaned up significantly and the added buffer is a big improvement.

At which time, Chairman Paeprer asked if anyone in the audience wished to be heard on this application.

Mr. Robert Bohlmann of 96 Stillwater Road approached the podium and read his letter which stated Daniel Moloney has a project in front of a board seeking all-inclusive approval for things that have already been in place for years, in fact almost 2 decades. Let's not mince words here, I can provide minutes from meetings where residents raised concerns of excavations on these properties. But the only things raised through the years were the ground and buildings in violation of Town of Carmel zoning codes. Applications or site plans were never submitted per Carmel zoning code 156-43D application procedure for the row of buildings on the southern border of these properties, nor for the 5,000 square foot building he wants to relocate towards Stillwater Road in place of the currently existing house. These buildings have been erected for years. Under the guise of adding an additional 60,000 square foot building, Mr. Moloney is seeking to have these structures approved after the fact. If you look at the board, document #1 (points to map) is a copy of a portion of the original subdivision plat submitted to the town in 1973 by Richard Gorr. This portion is the southwest corner of parcel 86.5-1-26. If you look at the elevation lines, the elevation of the corner of this parcel is shown to be approximately 518 feet. Document #2 is a copy of the same area from the site plan currently in front of the Planning Board. Notice the elevation above this wall is 540 feet. So, this ground has been raised over 20 feet, in violation of the Town of Carmel zoning code 156-43D concerning having the approval to perform excavations or regrading. An interesting item on this site plan is this wall with a sharp drop off that is shown here (points to map). I asked the surveyor from Insight to see the specifications on the wall and was told there aren't any and that this is an existing wall. I can tell you this is not the case. If you look at Document #3, not only will you see the unauthorized building that currently exists, but you will also notice that there is no wall here only a railing and a few rocks. So there is no wall with an abrupt drop off to ground level as depicted on the site plan. Instead there is an actual slight downgrade to ground level which goes right across the wetlands buffer and to the edge of the actual wetlands. So not only did Mr. Moloney violate crossing the

property line in order to produce this downgrade, he encroached on a wetland buffer with the potential of runoff from his property being dumped directly into the wetlands which contain water that is directed to a reservoir for consumption by people. I'm sure the New York Department of Environmental Protection will be interested to learn that runoff from this parcel is potentially being dumped directly into drinking water, and I am perplexed why this was not realized during the environmental impact study. If it is Mr. Moloney's intent to construct this wall in order to reinstate the wetlands buffer, basically admitting and correcting his mistake, then I demand that prior to approval of this site plan that the construction of this wall be a precondition, to include drawings and structural evaluations of this wall since it is going to be at least 20' high. Because once you approve this site plan as is, I can almost guarantee you this wall will never happen, at which point I would expect the town and DEP to force Mr. Moloney to correct this potential contamination issue. Another issue with the raising of the ground is that a drainage easement was violated. As plain as day on the survey map as it pertains to the drainage easement along the south border of these properties, it states and I quote "no fill to be added in this area". Another major issue I have with this site plan is the proposed driveway on the west side of parcel 75.17-1-53 as depicted on Document #4 on the board. In a previous meeting, one of the members of the Planning Board had concerns about this driveway being an annoyance to residents across the street. I wholeheartedly agree and don't see this driveway as anything else but an annoyance to residents, especially when there is more than enough road frontage on the east side of the relocated building that will impact fewer residents. When this site plan was first submitted weeks ago, I notified Mr. Carnazza that a flatbed truck was leaving the property like clockwork, 3 times a week between the hours of 3:30 and 4:00 am. They have stopped since I notified Mr. Carnazza, but still get the occasional departures at 5:00 am. Imagine what it would be like to have a tractor trailer chugging down this proposed driveway with its headlights shining on residential houses in the middle of the night. I would like to see this driveway located to the east side of parcel 86.05-1-26 and have traffic depart east on Stillwater Road in order to disturb less residents and get to Route 6 quicker, instead of the longer residential route of going down Route 6N. I would not be opposed to have the proposed relocated 5,000 square foot building moved a little further west, so as to block the unsightly mess that still exists. In fact, the original site plan with the longer proposed 60,000 square foot building would have made a nice L shape to block noise and light coming from the area. The light emitted from the light fixtures coming down from these parcels and the main building on the adjoining parcel shine directly down on the neighborhood, making it appear like a full moon is out every night. I would like to see some deflectors on these lights or have fixtures that are installed pointing down instead of outward. And the lighted sign is 5 times larger than zoning ordinances allow. I would also like the Planning Board make it a condition that no vehicles or clutter are stored on the west side of the proposed 60,000 square foot building and the north side of the relocated 5,000 square foot building along Stillwater Road. Only trees for buffering are to be in these areas. It would also be nice if the trucks and trailers parked along the fence on Stillwater Road be moved somewhere else further back on the property as this is still an eyesore. My last concern is that every fence and wall bordering Stillwater Road does not have the proper setback from the road in accordance with zoning ordinances. If you look at pictures 5 & 6, you will see that some of the fencing is not even 3 feet from the road and 2 utility poles are actually located inside the fence line. Again, I'd like to thank the board for allowing me to speak and do hope you take these concerns into consideration. It has been challenging residing across the street from these properties, especially when projects are done without approval and without consideration for the residents. With some

assistance from the Planning Board and regard to the residents from Mr. Moloney, perhaps this project can become a little more bearable.

Chairman Paepfer asked if the letter had been submitted.

Mr. Franzetti stated it hasn't been submitted to the Planning Office.

Chairman Paepfer stated the letter should be submitted to the town, so we could better respond to it.

Mr. Charbonneau stated it is up to the applicant if he wants to submit his documents to the board and make it part of the record.

At which time, Mr. Bohlmann handed Mr. Carnazza all of the documents for the record.

Mr. Charbonneau stated the record should be clear that based on the testimony at the public hearing, Mr. Bohlmann is submitting not only his oral statement, but the boards with his exhibits.

Mr. Thyberg addressed the board and stated anything that is currently proposed on our plan with the exception of the variance that was received in October meets zoning. We are not seeking any other variances. Everything that is proposed here is part of this specific project and meets zoning requirements. He said the comment about the driveway; we are showing that as one way in, so that should alleviate any concerns of headlights coming down the driveway at early hours. As far as moving the driveway to the east, it doesn't really work from a circulation standpoint. The purpose of the driveway on the west end is to alleviate the tightness in that area and to create a smoother circulation pattern through the site. With respect to lighting, we submitted a photometric plan that shows any new proposed lighting as staying within the site and all the fixtures that are shown are full cut off, dark sky fixtures. He said there is an existing fence along the frontage on Stillwater Road, and in our most recent submission, we are showing that to be relocated. We are putting it behind the plantings (points to map). He said the purpose of this project is to increase capacity for storage, but also to take a lot of what he heard frequently described as a mess and screen it, store it in a more appropriate way.

Mr. Porcelli asked are the trees shown on the plan to scale?

Mr. Thyberg stated the planting schedule will have the specified size, which is about 8 to 10 feet. The trees are mostly spruces and evergreens that will grow relatively quickly.

Mr. Cote asked about the changes made to the grading and the height of the property.

Mr. Thyberg stated Insite Engineering was brought into the project earlier this year. Anything that happened on site prior to that, I can't speak to. We have a survey that we have been working off on.

Mr. Frenkel asked Mr. Charbonneau if it is in our purview with regards to fill being brought in and how the property was built up and it created a run off condition that didn't exist before into the wetlands. Should this board be concerned with this?

Mr. Charbonneau stated it is absolutely in your purview. At some point, this matter is going to be referred to the ECB as well. Those issues that were just raised can certainly be analyzed by our consultants, but it's difficult to address them as we sit here.

Chairman Paeprer was in agreement with Mr. Charbonneau. We all listened to the comments. It's hard to address right now, without looking at them. There have been a lot of improvements made, such as the buffer and driveway. He said the truck that is parked there, should not be there in the future even with the buffer.

Vice Chairman Giannico asked if there are any outstanding issues (violations) on this property.

Mr. Carnazza replied there are alleged violations on this property.

Vice Chairman Giannico asked Mr. Thyberg if he is aware of the violations.

Mr. Thyberg replied yes we are aware of the violations.

Mr. Charbonneau stated one of the reasons the applicant is here is to address the concerns that have been raised over the years by the Building Department. There have been allegations of violations of the town code. Notice of Violations have been written and issued. Mr. Carnazza has worked with previous consultants on behalf of the applicant with respect to this project in effort to clean up this site. So this is a global effort to clean up the site and make sure there are no town code violations. So, when we are done, there shouldn't be a single town code violation on that site.

Mr. Bohlmann approached the podium again and stated he didn't have a problem with relocating the 5,000 square foot building a little further west and get rid of the driveway. He said it will also block a lot of the sight lines and the lights shining down on the neighborhood.

Mr. Thyberg stated the purpose of having two entrances and two access points essentially right next to each other is not helpful. The idea with the other proposed entrance would be to create a smoother and safer circulation flow through there. He said we have taken a lot of measures, such as adding more plantings and a lot of features to mitigate the view. We reduced the two way drive to a one way drive. To shift the driveway next to another driveway isn't really helping the circulation on the site and that's one of the objectives of the site plan. We have shown vehicle maneuvers of typical vehicles that would come through the site and with some of those maneuvers we would have to look back and see what would be possible.

Mr. Bohlmann approached the podium and stated he didn't understand the circulation maneuvers on the site and doesn't understand why there has to be an entrance right in front of the houses and an exit on the other side. He said why can't they put another one next to the existing driveway, maybe a little further over.

Chairman Paeprer stated we will look at what you submitted tonight and we will keep the public hearing open also.

Chairman Paepre asked if anyone else in the audience wished to be heard on this application. He stated we are keeping the public hearing open tonight, so we could look and analyze the new information that was submitted.

**OLD FORGE ESTATES – BALDWIN PLACE ROAD – TM – 75.15-1-19-40 – RESOLUTION**

The consultants had no comments.

Vice Chairman Giannico moved to adopt Resolution #20-15, dated November 24, 2020; Tax Map #75.15-1-19-40 entitled Old Forge Estates Amended Preliminary Subdivision Approval. The motion was seconded by Mr. Cote with all in favor.

**ITZLA SUBDIVISION – 9 MECHANIC ST. – TM – 55.14-1-6 – RESOLUTION**

The consultants had no comments.

Mr. Cote moved to adopt Resolution #20-16, dated November 24, 2020; Tax Map #55.14-1-6 entitled Itzla Subdivision SEQR Determination of Significance Negative Declaration. The motion was seconded by Vice Chairman Giannico with all in favor.

Vice Chairman Giannico moved to adopt Resolution #20-17, dated November 24, 2020; Tax Map #55.14-1-6 entitled Itzla Subdivision Approval. The motion was seconded by Mr. Cote with all in favor.

**14 NICOLE WAY LLC – (ZAKON) – 14 NICOLE WAY – TM – 65.6-1-22 – RESOLUTION**

Mr. Porcelli recused himself and left the dais.

Mr. Carnazza stated their submission showed a row of trees at the area of concern with the neighbor on the Nicole Way side of the fenced enclosure for the propane area.

Mr. Franzetti stated all his comments have been addressed.

At which time, a map showing the trees was displayed to the board members.

Mr. Cote asked how tall are the trees?

Mr. Franzetti stated the trees will be 6 to 7 feet tall and expect to grow a couple of feet a year.

Mr. Cote moved to adopt Resolution #20-13, dated November 24, 2020; Tax Map #65.6-1-22 entitled Zakon (14 Nicole Way LLC) SEQR Determination of Significance Negative Declaration. The motion was seconded by Mrs. Kugler with all in favor.

Vice Chairman Giannico moved to adopt Resolution #20-14, dated November 24, 2020; Tax Map #65.6-1-22 entitled Zakon (14 Nicole Way LLC) Final Site Plan Approval. The motion was seconded by Mr. Cote with all in favor.

Mr. Porcelli returned to the dais.



## **DP 53 LLC (SPINS BOWL) – 23 OLD ROUTE 6 – TM – 55.7-1-1 – AMENDED SITE PLAN**

Mr. Carnazza read his memo which stated the applicant propose to add an outside entertainment area at the Spins Bowling Alley in Carmel. They wish to add picnic tables, an area for corn-hole (or other outdoor games), a removable refreshment truck/trailer, an axe throwing enclosure and rearrange the parking area to add accessible parking spaces. The code allows fully enclosed eating and drinking establishments by right and outdoor dining as an accessory use. In addition, the code allows commercial entertainment establishments by right. The addition of this outdoor area does comply with the zoning code; however, I recommend conditions that limit the hours of operation and possibly noise. Provide floor plans and elevations for the existing building and a parking calculation so I can insure compliance with code. There is a bar/restaurant on this site. The parking calculation for that area is not 1 ps/200 s.f. I would like to meet with the architect to discuss.

Mr. Franzetti read his memo which stated the applicant proposes to convert a 100' x 75' area of an existing parking area into an outdoor entertainment/recreation area. No building additions are proposed. There are minor site improvements proposed for this project. This Department does not have any additional comments related to this project as long as there are no changes being made to the site

The following referrals would appear to be warranted – Carmel Fire Department. Additional details should be provided on how the proposed work will take place (construction sequence); proposed plantings should be provided. Provide a legend on the drawing.

Mr. Franzetti read Mr. Cleary's memo which stated the following:

- The site is located in the C – Commercial zoning district. The proposed outdoor entertainment area would be classified as an accessory use to the principal bowling alley use.
- The proposal involves re-using a portion of the existing Spins Bowl parking lot. The parking requirement for the site is 136 spaces, and currently 163 spaces exist. The area of the proposed outdoor entertainment area only supports parking along its perimeter. New designated handicapped parking spaces (no handicapped spaces currently exist on the site) are now proposed along the front of the fenced enclosure. In total, 169 parking spaces are proposed, considerably exceeding 136 spaces required.
- The parking stalls in the parking lot should be re-striped.
- Clarify the distance between the concrete planter boxes.
- Ornamental grass is proposed in the planter boxes. It is recommended that more substantial plantings – seasonal flowers for example – be used to avoid the planters being neglected and used as trash receptacles.
- Outdoor lighting should be restricted to that depicted on the site plan. Over-illuminating the area should be avoided.
- Clarify if amplified outdoor public address or music systems are proposed.
- Clarify the "Refreshment Truck/Trailer." Will this be a single vendor, or will the vendor change periodically?
- It is noted that a "bar cart" will be utilized. Clarify this use and operation.
- How will the outdoor entertainment area operate in conjunction with the existing bowling alley? Will they operate independently?
- A dog run is referenced, but is not shown on the site plan. Clarification is required.

- The primary issue related to this proposal concerns its operational aspects. The Planning Board may wish to impose appropriate and reasonable operational conditions; such as:
  - Hours of operation.
  - Restrictions on “entertainment” (such as live performances).
  - Limits on capacity.
  - Seasonal limitations

Mr. Bill Diamond, president of Spins Bowl addressed the board and stated we are proposing to take some of the under-utilized outdoor space at the end of the parking lot. We would like to repurpose it for outdoor entertainment, primarily gaming, such as corn-hole and axe throwing. He stated the bowling alley is very busy during the winter and as soon as the weather gets warmer it gets very quiet. This will be targeted during our off season, the spring, summer and early fall.

Chairman Paeprer asked about the food truck.

Mr. Diamond stated it's not a food truck, it's more of a bar cart. We have a kitchen in the inside, and we don't anticipate running two kitchens. He said instead of building a bar, we are going to take a trailer and convert it into a bar.

Chairman Paeprer asked about hours of operation.

Mr. Diamond stated we do not operate any of our venues into the late hours. We typically close around midnight.

Mr. Frenkel asked what kind of sound can the neighbors anticipate from the operation.

Mr. Diamond stated we would like to have outdoor music, speakers for background music. We are located in a very commercial area. We do not have residential neighbors bordering us.

Vice Chairman Giannico asked about live entertainment.

Mr. Diamond stated we would like to keep open that idea, not as a regular occurrence, but maybe on a summer weekend, but that's not the primary motive of what we are trying to do here.

Chairman Paeprer stated there were numerous comments from the consultants and to work on those comments and come back in two weeks.

#### **HILLCREST COMMONS – LOT E-2.2 – CLAPBOARD RIDGE ROAD – TM – 44.10-2-4.2 – BOND RETURN**

Mr. Carnazza had no comments on the bond return.

Mr. Franzetti read his memo which stated in response to the attached request by the above applicant, a representative of the Engineering Department performed a field inspection of the referenced property on November 17, 2020 to evaluate the current status of the site construction, for the purpose of determining whether a bond return is warranted. The results of our investigation are presented below.

The original bond amount posted was \$1,956,725.00. That amount was reduced to \$770,000.00 by Resolution of the Town Board on February 20, 2013. Our field inspection indicates that all work is complete and in accordance with the approved Site Plan. We therefore recommend that the remaining Bond amount of \$770,000.00 be released.

Mr. Cleary had no comments.

Vice Chairman Giannico moved to schedule a public hearing. The motion was seconded by Mr. Cote with all in favor.

Mr. Cote moved to adjourn the meeting at 7:50 p.m. The motion was seconded by Vice Chairman Giannico with all in favor.

Respectfully submitted,

Rose Trombetta