

# TOWN OF PENFIELD

3100 Atlantic Avenue, Penfield, NY 14526-9798

## TOWN BOARD LEGISLATIVE AGENDA

Wednesday, October 4, 2023, 6:30PM

Supervisor Debbie Drawe, presiding

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- I. Call to Order - Pledge of Allegiance - Roll Call
- II. Communications and Announcements
- III. Public Hearing: Town of Penfield 2024 Preliminary Budget and 2024 Special Districts Budget
- IV. Public Participation
- V. Additions and Deletions to Agenda
- VI. Approval of Minutes - September 6, 2023
- VII. Petitions
- VIII. Resolutions by Function

### Law and Finance

- 23T-194 Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Sign within a Utility Easement at 400 YMCA Way
- 23T-195 State Environmental Quality Review Act (SEQRA) Review Associated with the Adoption of the 2023 Comprehensive Plan Update
- 23T-196 Adoption of the Town of Penfield's 2023 Comprehensive Plan Update
- 23T-197 Approving a Special Permit and Preliminary/Final Site Plan Approval to Allow the Use of the Existing Property Located at 1225 Empire Blvd. for Support Operations and Ancillary Parking for K2 Bros. Brewery
- 23T-198 Setting a Public Hearing to Consider the Creation of the Highland Estates Subdivision Special Improvement District
- 23T-199 Setting a Public Hearing to Consider a Local Law to Amend the Town Code to Establish a "Town Tree Law"

### Public Works

- 23T-200 Authorization for Supervisor to Sign a Contract with Bergmann PC for Professional Design Services for the Clark House
- 23T-201 Advertising for Bids for Exterior Stairwell Replacement at Penfield Town Hall
- 23T-202 Advertising for Bids for Interior Painting Services in the Library at the Penfield Community Center
- 23T-203 Authorization to Sign an Intermunicipal Agreement for Snow and Ice Control Services Between the Town of Penfield and the Monroe County Department of Transportation

### Public Safety - None

### Community Services

- 23T-204 Authorization for Supervisor to Sign Recreation Contracts

- IX. Old Business
- X. New Business
- XI. Executive Session
- XII. Next Meeting: November 1, 2023

**TOWN BOARD LEGISLATIVE AGENDA**

XIII. Adjournment

*This meeting will be video recorded and broadcast LIVE via the town's website [www.penfield.org](http://www.penfield.org)  
and the Town's Government Access Cable Channel 1303.*

*Questions regarding video coverage contact Penfield TV at (585) 340-8661.*

PENFIELD TOWN BOARD RESOLUTION NO. 23T-194

DATE: 10/04/2023

BY: Councilperson Kohl

COMMITTEE: Law Finance

NAME: Authorization for Supervisor to Sign a License and Hold Harmless Agreement to Allow a Sign Within a Utility Easement at 400 YMCA Way – SBL#125.01-1-25.32

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BE IT RESOLVED, that the Town Board of the Town of Penfield hereby authorizes the Supervisor to sign a License and Hold Harmless Agreement with Episcopal SeniorLife Communities, owners of property of 400 YMCA, to permit a portion of a sign to encroach into the utility easement to the Town of Penfield located at 400 YMCA Way in a form and substance acceptable to the Town Attorney.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:	Drawe	_____
	Kohl	_____
	Lee	_____
	Ockenden	_____

PENFIELD TOWN BOARD RESOLUTION NO. 23T-195                      DATE: October 4, 2023  
BY: Councilperson Kohl    COMMITTEE: Law and Finance

NAME: State Environmental Quality Review Act (SEQRA) Review Associated with the Adoption of the 2023 Comprehensive Plan Update.

WHEREAS, the Town of Penfield has completed process of updating its comprehensive plan and wishes to formally adopt the 2023 Comprehensive Plan Update; and

WHEREAS, the adoption of the Comprehensive Plan Update was classified as a Type I Action pursuant to SEQRA’s enabling regulations, thus requiring a coordinated review before the Town Board could take any further action; and

WHEREAS, the Town of Penfield Town Board declared its intent to serve as lead agency at the Town Board Legislative meeting held on April 5, 2023 (Resolution #23T-103); and

WHEREAS, Town staff circulated the Town Board’s intent to serve as lead agency to involved and interested agencies, in conformance with SEQRA requirements. More than thirty (30) days elapsed following notification of the Town Board’s intent to serve as lead agency, and all written responses received by the Town affirmed the Town Board’s intent to serve as lead agency; and

WHEREAS, the Town Board has considered the proposed action, carefully reviewed the Parts 1, 2 and 3 of the Full Environmental Assessment Form (attached,) thoroughly analyzed any relevant areas of environmental concern associated with this action and determined that no significant adverse environmental impacts will result from the foregoing proposed action of adopting the 2023 Comprehensive Plan Update.

NOW, THEREFORE, BE IT RESOLVED, the Town Board formally declares itself Lead Agency, makes a negative declaration for the purposes of SEQRA, authorizes the Supervisor to sign Part 3 of the EAF, and directs staff to file the Negative Declaration with the NYSDEC, thus concluding the environmental review.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: \_\_\_\_\_

Drawe \_\_\_\_\_

Kohl \_\_\_\_\_

Lee \_\_\_\_\_

Ockenden \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 23T-196                      DATE: October 4, 2023  
BY: Councilperson Kohl    COMMITTEE: Law and Finance

NAME: Adoption of the Town of Penfield's 2023 Comprehensive Plan Update.

WHEREAS, the Town Board previously adopted a resolution to appoint members of a Comprehensive Plan Steering Committee and directed town staff to prepare a comprehensive plan update; and

WHEREAS; a draft 2023 Comprehensive Plan Update was prepared for the public's review and comment pursuant to the applicable provisions of New York Town Law; and

WHEREAS, the Town Board held public hearings on the draft 2023 Comprehensive Plan Update on July 5, 2023 and again on September 6, 2023 to review revisions made to the draft plan document; and

WHEREAS, the Town Board served as lead agency in conformance with the requirements of the State Environmental Quality Review Act (SEQRA) and has issued a negative declaration, concluding the review process associated with the proposed adoption of the 2023 Comprehensive Plan Update.

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Penfield Town Board adopts the 2023 Comprehensive Plan Update;

AND BE IT FURTHER RESOLVED, that the Town Board directs Town staff to file the plan in the office of the Penfield Town Clerk and provide a copy to the Monroe County Planning and Development Department. Additionally staff will publish a copy of the adopted plan on the Town's website and circulate electronic and hard copies of the adopted plan in a manner in keeping with best practices.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: \_\_\_\_\_

Drawe \_\_\_\_\_

Kohl \_\_\_\_\_

Lee \_\_\_\_\_

Ockenden \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 23T- 197

DATE: October 4, 2023

BY: Councilperson Kohl

COMMITTEE: Law and Finance

NAME: Approving a Special Permit and Preliminary/Final Site Plan Approval to Allow the Use of the Existing Property Located at 1225 Empire Blvd. (Tax ID #:108.06-1-18) for Support Operations and Ancillary Parking for K2 Bros. Brewery

WHEREAS, an application was received by the Penfield Town Board for the issuance of a Special Permit and Site Plan approval pursuant to Section 250-5.9 of Town Code, which would allow the use of the existing structures and site located at 1225 Empire Blvd (Tax ID #:108.06-1-18), located in the LaSalle's Landing Development (LLD) zoning district; and

WHEREAS; the Penfield Town Board previously classified the application as a Type II Action pursuant to Section 617.5(C)(18) of the State Environmental Quality Review Act (SEQRA), which concluded the review requirements under the State Environmental Quality Review Law; and

WHEREAS, a public hearing was held on July 5, 2023, at 6:30 PM, to consider the said application and to hear all persons interested in providing comment in the matter; and

WHEREAS, the Town Board has reviewed all submitted application materials, including, but not limited to, the most recently updated site plans prepared by Costich Engineering, memos to Town Board, and the Waterfront Application Form (WAF); and

WHEREAS, the Town Board has also reviewed information and memos prepared by Town Staff including Project Review Committee (PRC) memos and the Waterfront Consistency Review memo.

NOW, THEREFORE, BE IT

RESOLVED, the Town Board has reviewed the proposed action and finds it to be consistent with the applicable Local Waterfront Revitalization Program ("LWRP") policy standards, and hereby authorizes the Town Supervisor to accept and sign the Waterfront Consistency Review Memo which shall be annexed hereto and made a part hereof; and

AND BE IT FURTHER RESOLVED, that the applicant's request for a SPECIAL USE PERMIT and PRELIMINARY/FINAL SITE PLAN to allow K2 Brothers Brewing to use 1225 Empire Boulevard for ancillary parking and operations is hereby GRANTED subject to the following conditions:

1. The applicant shall obtain a SPECIAL USE PERMIT from the Town Clerk and pay the appropriate fee. The SPECIAL USE PERMIT is non-transferable. Any subsequent owner/operator or use shall be required to apply for and obtain a new SPECIAL USE PERMIT from the Town Board to operate a business at this location.
2. The applicant shall finalize plans in accordance with the Town's PRC memo(s) and final plans must be approved by the Town Engineer before mylars can be signed by the Town and filed by the applicant or applicant's agent at the Monroe County Clerk's Office.

3. Any legal agreement(s) required to allow access and use of Wilbur Tract Drive, a private road located on 1211 Empire Boulevard (Tax ID: 108.05-2-8.331) will be subject to the review and approval of the Town Attorney and will be filed in the Monroe County Clerk's Office.
4. No building or ground-mounted signage was proposed in this application. Any signage proposed for the site will require administrative approval by the Town Board prior to the issuance of a sign permit through the Building and Zoning Department.
5. The applicant shall obtain any permits required by the Penfield Building Department and comply with the occupancy requirements established for the property by the Penfield Fire Marshal in accordance with the New York State Uniform Code.
6. The applicant shall obtain any permits required by Monroe County and/or New York State agencies.
7. The use and operation of the site will conform with approval granted by the Town Board and all applicable provisions of the Penfield Town Code.
8. The applicant shall modify the site in conformance with all aspects of the approved plans, including landscaping.
9. This business operation shall comply with all Federal, State, County and Town laws, regulations and codes.
10. Failure to comply with the conditions set forth hereinabove may result in the revocation of this Special Permit pursuant to the requirements of Chapter 250 of the Penfield Town Code.

AND BE IT FURTHER RESOLVED, that the Town Board, in granting the Special Use Permit, Preliminary/Final Site Plan approval, and LWRP consistency determination does so based on its following findings:

1. This is a previously developed property; the proposed project will utilize the existing primary structure, install landscaping and berms, and perform site maintenance and clean up as needed, all of which will enhance the aesthetic quality of the property.
2. The proposed use of the building supports an existing successful business located next door and is compatible with adjacent land uses.
3. The proposed site enhancements include a new cross access to Wilbur Tract Drive, a private road, which will provide safe vehicular and pedestrian connection to the adjacent private drive and the primary K2 Brothers Brewing establishment, which is also served by that private drive.



4. The applicant will conform with all requirements of the New York State Department of Transportation (NYSDOT).
5. The project intends to utilize an existing structure and maintain existing gravel parking areas to support an existing thriving business establishment in the Town of Penfield.
6. The applicant's proposed landscaping and maintenance plan will improve the aesthetic quality of the corridor.
7. The proposal is consistent with, and furthers the goals and objectives of, the requirements for issuing a Special Use Permit in this district.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:	Drawe	_____
	Kohl	_____
	Lee	_____
	Ockenden	_____

PENFIELD TOWN BOARD RESOLUTION NO. 23T-198      DATE October 4, 2023

BY Councilperson Kohl

Law & Finance Committee

NAME Setting a Public Hearing to Consider the Creation of the Highland Estates Subdivision Special Improvement District

WHEREAS, a petition has been received by the Penfield Town Board, and having been presented to and filed with the Town Board of the Town of Penfield, Monroe County, New York, for the establishment of a Special Improvement District; and

WHEREAS, the proposed improvements shall consist of the maintenance of the stormwater treatment area and other such items as deemed appropriate within the Highland Estates Subdivision, that solely benefits the residents thereof; and

WHEREAS, the boundaries of said improvement district and general layout of facilities within are shown on the Map and Plan attached to and made a part of said Petition which is filed in the office of the Penfield Town Clerk; and

WHEREAS, the cost of the installation of the improvements associated with the Highland Estates Subdivision Special Improvement District, shall be borne by the petitioner of said District; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the said Town of Penfield shall hold a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on November 1, 2023, at 6:30 PM on said date, to consider the said application and to hear all persons interested on the question of the creation of a special improvement district for Highland Estates Subdivision.

AND BE IT FURTHER RESOLVED, that a copy of this Resolution, certified by the Town Clerk, shall be published at least once in the official newspaper of the Town, the first publication thereof to be not less than ten (10) nor more than twenty (20) days before the date set for said hearing as aforesaid. A copy of this Resolution shall be posted on the official signboard of the Town as prescribed by Law.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:

Drawe \_\_\_\_\_

Kohl \_\_\_\_\_

Lee \_\_\_\_\_

Ockenden \_\_\_\_\_

BY Councilperson Khol

Law & Finance COMMITTEE

NAME Setting a Public Hearing for to Consider a Local Law to Amend Town Code to Establish a “Town Tree Law”

WHEREAS, the Town Board of the Town of Penfield wishes to consider adopting a proposed Local Law (Attachment A) which would establish legislation to regulate how Town-owned trees are preserved and maintained; and

WHEREAS, the Town of Penfield Energy and Environmental Conservation Committee has recommended the Town of Penfield adopt the Town Tree Law and pursue Tree City USA status; and

WHEREAS, the Town Board of the Town of Penfield, acting as lead agency pursuant to the requirements of the State Environmental Quality Review Act (SEQRA) has classified this proposal as an unlisted action; and

WHEREAS, the Town Board of the Town of Penfield requests public input regarding the proposed Town Tree Law; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Penfield will hold a public hearing at the Penfield Town Hall, Penfield 3100 Atlantic Avenue, Penfield, New York, 14526 on November 1, 2023, at 6:30 PM to consider adoption of the proposed Town Tree Law; and

BE IT FURTHER RESOLVED, that the Town Clerk be and hereby directed to post and publish a notice of said public hearing, together with a copy of the summary thereof, pursuant to law.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote: Drawe \_\_\_\_\_

Khol \_\_\_\_\_

Lee \_\_\_\_\_

Ockenden \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 23T-200

DATE: October 4, 2023

BY: Councilperson Lee

COMMITTEE: Public Works

NAME: Authorization for Supervisor to Sign a Contract with Bergmann PC for Professional Design Services for the Clark House

BE IT RESOLVED, that the Supervisor is hereby authorized to sign a contract, not to exceed \$450,000.00 for services with Bergmann PC, 280 East Broad Street, Suite 200, Rochester, NY 14604, to provide professional design services for the Clark House rehabilitation project. This resolution and the proposal submitted by Bergmann PC shall constitute the contract. This agreement to be reviewed and approved by the Town Attorney.

BE IT FURTHER RESOLVED, the Town Board approves appropriation of \$450,000.00 from the Assigned General Fund Balance as an amendment to the 2023 budget for these design services.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:

Drawe \_\_\_\_\_

Kohl \_\_\_\_\_

Lee \_\_\_\_\_

Ockenden \_\_\_\_\_

PENFIELD TOWN BOARD RESOLUTION NO. 23T-201

DATE: October 4, 2023

BY: Councilperson Lee

COMMITTEE: Public Works

NAME: Advertising for Bids for Exterior Stairwell Replacement at the Penfield Town Hall

BE IT RESOLVED, that the Director of Public Works, be and hereby is authorized to advertise in the manner prescribed by law for sealed proposals to furnish the Town of Penfield with the following:

Exterior Stairwell Replacement at the Penfield Town Hall

NOW THEREFORE, BE IT FURTHER RESOLVED, the service contract shall be in accordance with specifications prepared by the Director of Public Works. Sealed proposals are to be received in the office of the Town Clerk until October 27, 2023 at 11:00am local time and there and then to be opened and read publicly by the Town Clerk.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:	Drawe	_____
	Kohl	_____
	Lee	_____
	Ockenden	_____

PENFIELD TOWN BOARD RESOLUTION NO. 23T-202 DATE: October 4, 2023

BY: Councilperson Lee

COMMITTEE: Public Works

NAME: Advertising for Bids for Interior Painting Services in the Library at the Penfield Community Center

BE IT RESOLVED, that the Director of Public Works, be and hereby is authorized to advertise in the manner prescribed by law for sealed proposals to furnish the Town of Penfield with the following:

Interior Painting Services in the Library at the Penfield Community Center

NOW THEREFORE, BE IT FURTHER RESOLVED, the service contract shall be in accordance with specifications prepared by the Director of Public Works. Sealed proposals are to be received in the office of the Town Clerk until October 27, 2023 at 11:00am local time and there and then to be opened and read publicly by the Town Clerk.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:	Drawe	_____
	Kohl	_____
	Lee	_____
	Ockenden	_____

PENFIELD TOWN BOARD RESOLUTION NO. 23T-203 DATE: October 4, 2023

BY: Councilperson Lee

COMMITTEE: Public Works

NAME: Authorization to Sign and Intermunicipal Agreement for Snow and Ice Control Services between the Town of Penfield and the Monroe County Department of Transportation

WHEREAS, the Monroe County Department of Transportation owns, operates, and maintains a highway system in the Town of Penfield; and

WHEREAS, the County desires to enter into an agreement with the Town for snow removal and for salting and treating County roads for the purpose of removing the danger of snow and ice; and

WHEREAS, the Town has appropriate snow and ice removal equipment and sufficient snow and ice control personnel to contract with the County for snow and ice control services;

NOW, THEREFORE, BE IT RESOLVED, that the Supervisor be and hereby is authorized to sign an intermunicipal agreement for snow and ice control services between the Town of Penfield and Monroe County Department of Transportation for the dates October 1, 2023 through September 30, 2028. This agreement to be reviewed and approved by the Town Attorney.

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:	Drawe	_____
	Kohl	_____
	Lee	_____
	Ockenden	_____

PENFIELD TOWN BOARD RESOLUTION NO. 23T-204

DATE 10/4/2023

BY Councilperson Lee

COMMUNITY SERVICES COMMITTEE

NAME AUTHORIZATION FOR SUPERVISOR TO SIGN RECREATION CONTRACTS

BE IT RESOLVED, that the Town Board authorizes the Town Supervisor to sign the following recreation contracts:

Brooklyn Robot Foundry Rochester, 90 Airpark Dr., Suite 224, Rochester, NY 14624, instructor for youth robot building programs, 10/9 – 12/30/23, for a fee of 70% of total program revenues. Vouchers to be submitted at the conclusion of each program.

Allison Chipman, 53 Denishire Drive, Rochester, NY 14624, Director of the Penfield Pops Community Band, 9/11/23 - 12/18/23, for a fee of \$100 per rehearsal/performance session. Vouchers to be submitted on a monthly basis at the beginning of each month (based on band rehearsal/performance dates).

Moved: \_\_\_\_\_

Seconded: \_\_\_\_\_

Vote:

Drawe \_\_\_\_\_

Kohl \_\_\_\_\_

Lee \_\_\_\_\_

Ockenden \_\_\_\_\_



2777  
MRP  
4/13/22

Proposed Description of a Storm Water Management Facility (SWMF) Parcel  
To be dedicated to the Town of Penfield

ALL THAT TRACT OR PARCEL OF LAND containing 0.966 acres more or less, situate in the Phelps and Gorham Purchase, Township 13, Range 4, Town Lot 2, Town of Penfield, County of Monroe, and State of New York, as shown on the drawing entitled "Highland Estates, Phase 1, Dedication Plan SWMF" prepared by BME Associates, having drawing number 2777-12, dated April 13, 2022, being more particularly bounded and described as follows:

Beginning at the northeasterly corner of lands now or formerly of Tricia M. & Randall J. Fox (TA. No. 141.01-1-19); thence

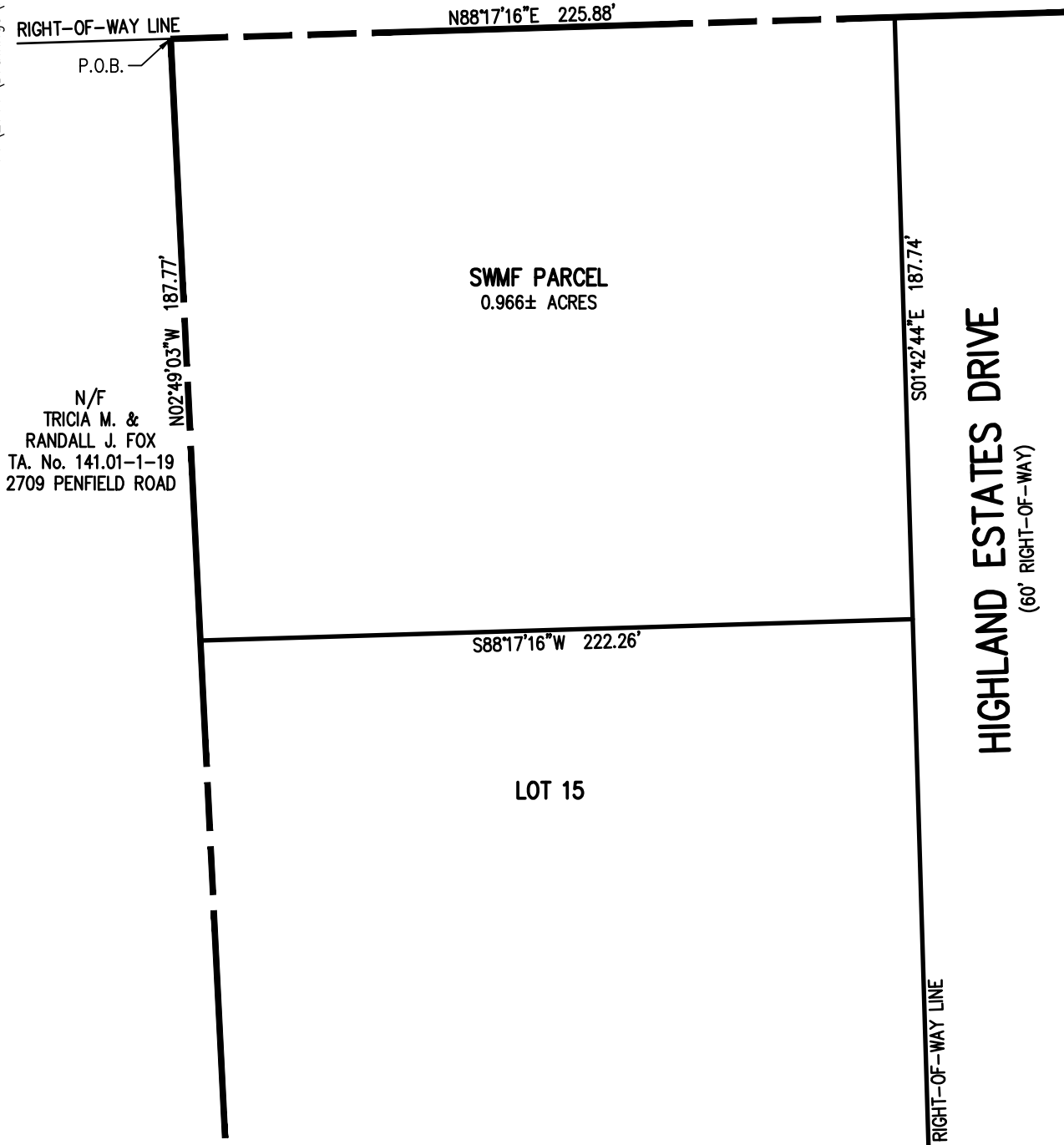
1. N 88°17'16" E, along the southerly right-of-way line of Penfield Road – N.Y.S. Route 441 (66' right-of-way), a distance of 225.88 feet to a point; thence
2. S 01°42'44" E, a distance of 187.74 feet to a point; thence
3. S 88°17'16" W, a distance of 222.26 feet to a point on the easterly boundary line of the aforementioned lands of Fox; thence
4. N 02°49'03" W, along said easterly boundary line of Fox, a distance of 187.77 feet to the Point of Beginning.

DEDICATION PLAN SWMF

PENFIELD ROAD – N.Y.S. ROUTE 441  
(66' RIGHT-OF-WAY)



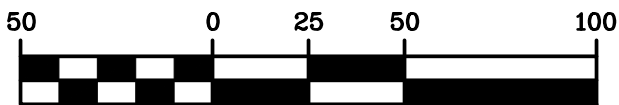
P:\2777\Drawings\Prelim\2777 Layout Base.dwg



REFERENCES:

1. A PLAN ENTITLED "HIGHLAND ESTATES, PHASE 1" PREPARED BY BME ASSOCIATES, DRAWING No. 277-06, LAST REVISED JANUARY 18, 2022.

GRAPHIC SCALE



( IN FEET )  
1 inch = 50 ft.

PHELPS AND GORHAM PURCHASE, TOWNSHIP 13, RANGE 4, TOWN LOT 2

COPIES OF THIS SURVEY MAP NOT BEARING THE LAND SURVEYOR'S ORIGINAL INKED SEAL OR EMBOSSED SEAL SHALL NOT BE CONSIDERED TO BE A VALID TRUE COPY.  
"UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY MAP IS A VIOLATION OF SECTION 7209, OF THE NEW YORK STATE EDUCATION LAW."

**BME ASSOCIATES**

ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS  
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FAIRPORT, NEW YORK 14450  
PHONE 585-377-7360

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HIGHLAND ESTATES, PHASE 1 DEDICATION PLAN SWMF  
TOWN OF PENFIELD MONROE COUNTY NEW YORK

DRAWN BY: MRP  
DATE: 4-13-22

SCALE: 1"=50'  
DWG NO: 2777-12



**Attachment A**

**Town of Penfield**

**Local Law No. \_\_\_\_ of 20\_\_**

**Town Trees**

Be it enacted by the Town Board of the Town of Penfield as follows:

**Section 1. Title**

This local law shall be known as the “Town Tree Law” of the Town of Penfield.

**Section 2. Legislative Intent and Purpose**

It is the intent and purpose of this local law to enhance the quality of life and the present and future health, safety, and welfare of all residents, to enhance property values, and to ensure proper planting and care of trees on public property. The Town Board herein delegates the authority and responsibility for managing Town trees, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of Town trees, or limb thereof, on public property under certain conditions.

**Section 3. Authority**

A. Delegation of authority and responsibility. The Director of the Department of Public Works and/or their designee, hereinafter referred to as the “Director,” shall have the authority and the responsibility to plant, prune, maintain, and remove Town trees within the guidelines of the Town’s Design and Construction Specifications and the Town Forestry Plan. This shall include the maintenance or removal of any Town tree, or limb thereof, that is deemed a hazard.

B. Coordination among Town departments. All Town departments will coordinate as necessary with the Director to develop and review the Town’s Design and Construction Specifications and Town Forestry Plan to ensure compliance with this Law.

C. Interference. No person shall hinder, prevent, delay, or interfere with the Director or his agents while maintaining or removing any Town tree, or limb thereof, that is deemed a hazard. The Director shall be responsible for consulting the Town Forestry Plan when determining whether a hazard exists. Coordination among Town departments with the Director to identify a hazard may be needed if the tree, or limb thereof, does not pose any immediate risks.

D. Liability. Nothing contained in this chapter shall be deemed to impose liability upon the Town, the Town Board or individuals, companies or corporations hired by the Town, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant that

he/she planted in the right-of-way of a public street or that is on his/her property from constituting a hazard or an impediment to travel or vision upon any street, sidewalk, park or other public place within the Town.

#### **Section 4. Terms Defined**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

**DAMAGE** – any injury to or destruction of a tree, including but not limited to uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

**DESIGN AND CONSTRUCTION SPECIFICATIONS** - the official design specifications for the development of any property within the Town. The primary goal of these specifications is to promote proper design and construction of publicly dedicated facilities that will serve the residents of the Town.

**HAZARD** – any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; threatens electrical, telephone, gas, or any municipal water or sewer infrastructure; or poses a risk to public health, safety, and welfare.

**PUBLIC PROPERTY** – all grounds and rights-of-way (ROWS) owned or maintained by the Town.

**TOP or TOPPING** – the non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

**TOWN FORESTRY PLAN** – the official written review and description of Town forestry status and goals, such as documenting the Town's arboricultural specifications and standards of practice, conducting Town tree surveys, planting trees, and sponsoring educational programs for the public. The Town shall retain the services of a professional arborist as a consultant when producing or updating this plan.

**TOWN TREE** – any tree or woody vegetation on Town-owned or Town-maintained property or Town rights-of-way.

## **Section 5. Tree Planting and Care Standards**

A. Establishment of Tree Planting and Care Standards. All planting of Town trees shall conform to the Town's Design and Construction Specifications and the Director shall see that all Town trees are properly cared for and maintained within the guidelines of the Town Forestry Plan.

B. Requirements of franchise utility companies. The maintenance of Town trees for utility clearance shall conform to all applicable utility industry standards.

## **Section 6. Prohibition Against Harming Town Trees.**

A. It shall be unlawful for any person, firm, or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Director.

B. It shall be unlawful for any person, firm, or corporation to "top" any Town tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Director.

C. Any person, firm, corporation, or Town department performing construction near any Town tree(s) shall consult with the Director and shall employ appropriate measures to protect the tree(s), according to procedures contained in the Town's Design and Construction Specifications and the Town Forestry Plan.

## **Section 7. Adjacent Owner Responsibility.**

A. It shall be unlawful for any adjacent property owner to plant or maintain trees on public property.

B. No property owner shall allow a tree, or other plant growing on his or her property to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the Director shall notify the property owner to prune or remove the tree or plant.

## **Section 8. Violations and Penalties.**

Violation of any provision of this article shall be subject to penalties set forth in § 1-14 of the Town Code.

## **Section 9. Interpretation.**

Where the conditions imposed by any provision of this chapter are less restrictive than comparable conditions imposed by any other provision of this chapter or of any other law, resolution or regulation, the provisions which are more restrictive shall govern.

**Section 10. Severability**

The invalidity of any word, section, clause, paragraph, sentence, part, or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

**Section 11. Effective Date**

This Local Law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided by law.