

# Memo

To: Town Board Members  
From: James B. Callahan, Director of Community Development  
CC: Town Attorney, Town Clerk, Town Engineer, Senior Code Enforcement Officer, Planning Board Members, Chamber of Commerce  
Date: 6/7/2013  
Re: June 12, 2013 Town Board Agenda

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Following is a review/analysis of the items listed on the June 12, 2013 Town Board Meeting Agenda:

## **PUBLIC HEARINGS:**

### **1. ELRANCHITO MEXICAN RESTAURANT, 9780 MAIN STREET.**

**Location:** North side of Main Street, east of Spaulding Drive.

**Description/History:** Existing restaurant located in the Commercial Zone.

**Proposal:** Applicant is proposing to allow outside dining

**Master Plan:** Area identified in a commercial classification.

**Reason for Town Board Action:** Per the Zoning Law, the Town Board may allow outside dining with a Temporary Conditional Permit.

**Issues:** Hours of operation and number of tables/seats should be finalized. Permit valid for 1 year.

## **FORMAL AGENDA ITEMS:**

### **1. NORTHWOODS OPEN SPACE DESIGN SUBDIVISION**

**Location:** North side of Greiner Road between Shimerville Road and Thompson Road.

**Description/History:** Existing vacant agricultural land consisting of 120 +/- acres in the Residential Single Family zone.

**Proposal:** Applicant is proposing to develop an open space design subdivision consisting of 148 +/- lots. A Positive Declaration under SEQRA has been issued and acceptance of the FSEIS is the next step in the review process.

**Master Plan:** Area identified in a residential single-family classification.

**Reason for Town Board Action:** The Town Board has declared Lead Agency status under SEQRA and has final review and approval authority.

**Issues:** The Planning Board has performed a thorough review of the Draft EIS and has prepared an FSEIS which they have recommended for acceptance. The final step in the review process will be the development of a final Findings Statement on the project.

**WORK SESSION ITEMS:**

**1. WATERFORD VILLAGE, LLC.**

**Location:** North side of Roll Road, west of Rinaldo Circle.

**Description/History:** Previously approved Phase within the Waterford Village PURD.

**Proposal:** Applicant is proposing to dedicate the most recent addition to the PURD that will include approximately 700 Linear Feet of Wicklow Manor and 11 residential building lots in the Waterford Estates.

**Master Plan:** Area identified in a residential classification and within the Waterford Planned Unit Residential District (PURD).

**Reason for Town Board Action:** The Town Board has final approval authority to dedicate Town Roads and accept Final Plats.

**Issues:** The Town Engineer and Highway Superintendent will have to approve the road construction.

**2. ZOE RESTAURANT, 5701 TRANSIT ROAD.**

**Location:** East side of Transit Road, south of Highland Farms Drive.

**Description/History:** Existing restaurant located in the Commercial Zone.

**Proposal:** Applicant is seeking approval to reopen the outside dining at the restaurant. A public hearing was held and the renewal application was tabled pending completion of a required landscape area along Transit Road.

**Master Plan:** Area identified in a commercial classification.

**Reason for Town Board Action:** Per the Zoning Law, outside dining permits uses may be allowed with a Temporary Conditional Permit as approved by the Town Board.

**Issues:** Landscaping has been completed and a public hearing has been held on the request. The Town Board is free to take action on the request,

**3. BRIAN RITTER, 5619 KRAUS ROAD.**

**Location:** East side of Kraus road, near the "S" curves.

**Description/History:** Existing residential home located within the agriculture Rural Residential Zone.

**Proposal:** Applicant is seeking approval to develop an in-law apartment.

**Master Plan:** Area identified in an agricultural classification.

**Reason for Town Board Action:** Per the Zoning Law, the Town Board may consider a secondary living unit with a Special exception Use Permit.

**Issues:** Compliance with strict conditions as identified within the Zoning Law, including a deed restriction to ensure no future rental units

# **Final Supplemental Environmental Impact Statement (FSEIS)**

## **For the Proposed Northwoods Single Family Residential Subdivision Town of Clarence, Erie County, New York**

### **Prepared By Lead Agency:**

Town of Clarence Town Board  
One Town Place  
Clarence, New York 14031  
Mr. James B. Callahan, Director of Community Development  
Telephone: (716) 741-8933

### **Project Sponsor:**

Cimato Bros. Construction, Inc.  
9220 Transit Road  
Amherst, New York 14051  
Contacts: Mr. Anthony Cimato  
Telephone: (716) 688-3536

Date of Acceptance by Lead Agency: June 26, 2013

**Final Supplemental Environmental Impact Statement (FSEIS)  
Northwoods Single Family Residential Subdivision**

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**Final Supplemental Environmental Impact Statement (FSEIS)  
Northwoods Single Family Residential Subdivision**

**1.0 DESCRIPTION OF THE PROPOSED ACTION**

**1.1 FSEIS Overview**

This Final Supplemental Environmental Impact Statement (FSEIS) has been prepared in compliance with requirements of the State Environmental Quality Review Act (SEQR) for the proposed development of property (SBL 58.17-6-4.1) located between Roll and Greiner Roads, Town of Clarence, Erie County, New York. This supplement is to the Draft Generic Environmental Impact Statement ("DGEIS") which was prepared in May 2001 for the "Clarence Hollow Pollution Abatement Project" ("Pollution Project"), also known as "The Heise Brookhaven Private Sanitary Trunk Sewer" ("Heise") which includes the Roll Road Planned Unit Residential Development. The FSEIS includes by reference the Draft Supplemental Environmental Impact Statement (DSEIS).

The following steps in the SEQR process have been taken for this action:

- A Draft Supplemental Environmental Impact Statement (DSEIS) was submitted by the applicant on September 7, 2012.
- A revised Draft Supplemental Environmental Impact Statement (DSEIS) was submitted by the applicant on February 22, 2013.
- The Clarence Town Board accepted the DSEIS as complete for review on March 13, 2013.
- The Clarence Planning Board held a public hearing on the action and the DSEIS on April 17, 2013.
- The Town Board will consider acceptance of the FSEIS on June 12, 2013.

The substantive comments received at the public hearings, together with the substantive written and verbal comments received during the comment period, have been summarized in this FSEIS document. The public comment period was held open through May 1, 2013.

The comments and responses in this FSEIS are grouped and presented by category. Individual comments have been summarized, with reference to the source of the comment, and are listed under the following headings:

- Wetlands and Gott Creek Buffer
- Sewer Capacity and connections
- Bike Path Easement
- Greiner Road Vista
- Country Club Drive

## 1.2 Project Description

The proposed Northwoods Open Space Subdivision is comprised of a 148± lot single family residential subdivision on an 118.91± acre parcel of land in the Town of Clarence, New York. The parcel is located between Roll Road (north), Greiner Road (south), Thompson Road (east) and Shimerville Road (west).

The subdivision is proposed as an Open Space Design Development (OSDD) pursuant to the Town's zoning law. For purposes of OSDD the applicable zoning law is modified to provide an alternative permitted method for the layout, configuration and design of lots.

As proposed, the Northwoods Subdivision would have vehicular access from Roll Road and Greiner Road as well as a connection to an existing stub street known as Country Club Drive which would allow direct access to Shimerville Road.

## 2.0 RESPONSES TO SUBSTANTIVE COMMENTS ON THE DSEIS

### 2.1 Wetlands and Gott Creek Buffer

Comment 1: Asked if the creek that runs north on the west side of the property will be opened up by the Town or by the people doing this project so that water can flowdown easily. That area floods now.

Source: Thomas Fini, 5447 Shimerville Road  
(4/17/13 public hearing transcript)

*Response 1: As part of the proposed development, the creek running along the west side of the property will not be altered and/or dredged.*

Comment 2: Stated wetland "c" which is behind her property has increased from 0.96 acres in 2001 to 2.29 acres the last time it was surveyed. She asked why it would increase and is it likely to increase more?

Source: Karen Willyoung, 9080 Greiner Road  
(4/17/13 public hearing transcript)

*Response 2: Jess Sudol of Passaro Associates (4/17/13 public hearing transcript) said one reason the size of the wetland changed was because in 2010 the wetland regulations were modified and were different from the regulations used in 2001. An update to the study was conducted which reflected the change in size and they do not expect any future changes to the wetland unless the regulations change again.*

*The site development will not have an impact on the wetland and the project will be designed to protect this wetland area.*

Comment 3: Steve Dale of the Planning Board (4/17/13 public hearing transcript, corrected 5/1/13) said a buffer of no less than 50' will be required along the Gott Creek tributary and that the lot layout for the proposed project may need to be adjusted.

*Response 3: The buffer along the Gott Creek Tributary will be addressed during the Site Plan Review stage. A 100' buffer will be required on both sides of the Gott Creek Tributary per NYSDEC regulations.*

*The Gott Creek stream corridor and hydric soils adjoining this area will likely warrant greater protection and the lot layout for the proposed project may be adjusted during the site plan review process.*

Comment 4: 4.5.1 Surface Water (DSEIS) - This subsection refers to both Gott Creek and a Gott Creek tributary being on the project site. The stream that traverses the site is the Gott Creek tributary. This section should be revised to reflect the correct stream on the site.

5.3.4 Water Resources (DSEIS) - The introduction to this subsection also refers to both Gott Creek and a Gott Creek tributary being on the project site. Please revise accordingly.

Source: Lisa M. Porter, NYSDEC Region 9 Deputy Permit Administrator  
(Memorandum dated May 1, 2013)

*Response 4: All future documentation will note this.*

Comment 5: 5.3.4. 1 State and Federal Wetlands - The Department is encouraged that no home lots are proposed within NYS regulated freshwater wetland (FWW) LA-8 or its regulated 100 foot adjacent area, however the proposed access road from Roll Road at the north end of the site will impact FWW LA-8 and its adjacent area. All of the anticipated wetland and adjacent area impacts must be considered preliminary until the 2011 wetland delineation conducted by Wilson Environmental Technologies (WET) is verified by the Department as requested in our March 28, 2012 letter regarding the draft scope of study for this proposed project. To facilitate the project sponsors request for verification, a copy of the Wetland Delineation Request form has been enclosed with Mr. Palumbo's copy of this letter.

Source: Lisa M. Porter, NYSDEC Region 9 Deputy Permit Administrator  
(Memorandum dated May 1, 2013)

*Response 5: The wetlands along Roll Road will be addressed with site plan amendments in order to limit the impacts construction of the road may have.*

Comment 6: The tributary to Gott Creek which runs to the north along the western edge of Northwoods also runs along the east edge of our property. After a heavy rain the tributary will flood the eastern end of our property and also our neighbors. We are concerned that this flooding will be increased by the construction of roads and homes in Northwoods. Please consider the possibility of this.

Source: Margaret and Thomas Fini, 5447 Shimerville Road

(hand delivered letter received April 25, 2013)

*Response 6: The proposed project will have on site storm water detention facilities to manage storm water runoff from impervious surfaces on the property including the new houses and roads, in accordance with Town of Clarence storm drainage policy. Flooding issues will not be exacerbated with the proposed site development.*

## **2.2 Sewer Capacity**

Comment 7: Richard Bigler (4/17/13 public hearing transcript) asked if the sewer count includes the existing homes on Country Club Lane; will those homeowners be offered an opportunity to join the sewer district.

*Response 7: No. Under the Heise Brookhaven EIS, a total of 1,000 sewer taps were made available. At this time, there is capacity for this project. The Town of Clarence Engineering Department will account for all sewer connections for the project. Once all permits have been applied for and approved by the department, no additional connections will be permitted as part of the Heise Brookhaven Private Sanitary Trunk Sewer agreement.*

Comment 8: Robert Sackett (4/17/13 public hearing transcript) stated Final Design shall identify and create sewer capacity within the proposed transmission system within Northwoods Open Space Design Subdivision to provide sanitary sewer service in the future to neighboring unsewered areas in the vicinity of the project pursuant to Master Sewer Plan priorities.

*Response 8: Future sewer capacity of the transmission system will be addressed during the Conceptual/Site Plan Review stage.*

## **2.3 Bike Path Easement**

Comment 9: Robert Sackett (4/17/13 public hearing transcript) stated in order to support a walkable community, a bike path/recreational trail must be developed to connect to the Waterford Bike Path Recreational Trail and to future connections to the east along the Heise-Brookhaven Trunk Sewer Line Easement. In addition, sidewalks will be required to provide a neighborhood connection to the bike path recreational trail.

*Response 9: The future bike path/recreational trail will not be located along the Heise-Brookhaven Trunk Sewer Line as the easements for the sewer line did not allow for a bike path/recreational trail. The connector to the east will not be built as part of this project.*

*During the Conceptual Planning/Site Plan stage of the Northwoods subdivision, the recreational trail (bike path) will be integrated into the design of this project so that future residents can access the bike path that is to extend to the north, through the Waterford Village PURD and eventually to the Peanut Line. Appropriate buffers and siting of the path will be considered then.*

Comment 10: Letter citing privacy concerns/location/safety/etc. of proposed future bike path (see Appendix A for complete letter).

Source: Richard E. McNamara, 5430 Thompson Road  
(letter received May 2, 2013)

Comment 11: Letter citing privacy concerns/location/safety/etc. of proposed future bike path (see Appendix A for complete letter).

Source: Norman Radtke, 5566 Thompson Road  
(letter received May 2, 2013)

Comment 12: Letter citing privacy concerns/location/safety/etc. of proposed future bike path (see Appendix A for complete letter).

Source: Henry Lee, 5460 Old Goodrich Road  
(letter received April 29, 2013)

Comment 13: Letter citing privacy concerns/location/safety/etc. of proposed future bike path (see Appendix A for complete letter).

Source: David Horbinski, 5480 Thompson Road  
(letter received April 25, 2013)

Comment 14: Letter citing privacy concerns/location/safety/etc. of proposed future bike path (see Appendix A for complete letter).

Source: Darren Doell, 5485 Thompson Road  
(letter received April 23, 2013)

*Responses 10-14: See Response 9.*

## **2.4 Greiner Road Vista**

Comment 15: I am writing this letter in regards to the Northwoods Single Family Residential Subdivision. I am requesting more Green Space for Greiner Rd. I am asking to eliminate lots # 1 to 4, and # 143 to 148.

There is a great deal of Green Space on Roll Rd. We are requesting the same for Greiner Rd.

Source: Kay and Ed Adamezak, 5255 Shimerville Road  
(letter received April 29, 2013)

*Response 15: As proposed the project is consistent with the Town of Clarence's Open Space Design Development ("OSDD") pursuant to the Zoning Law of the Town of Clarence, New York ("Zoning Law"). A minimum of 50 percent of the property will remain open space. This will be addressed during the site plan review process.*

Comment 16: I am writing this letter in regards to the Northwoods Single Family Residential Subdivision. I am requesting more Green Space for Greiner Rd. I am asking to eliminate lots # 1 to 4, and # 143 to 148.

There is a great deal of Green Space on Roll Rd. We are requesting the same for Greiner Rd.

Source: Mary Ann Chubb, 8900 Country Club Drive  
(letter received April 25, 2013)

Comment 17: I am writing this letter in regards to the Northwoods Single Family Residential Subdivision. I am requesting more Green Space for Greiner Rd. I am asking to eliminate lots # 1 to 4, and # 143 to 148.

There is a great deal of Green Space on Roll Rd. We are requesting the same for Greiner Rd.

Source: Donald Schulz, 8402 Greiner Road  
(letter received April 24, 2013)

Comment 18: I am writing this letter in regards to the Northwoods Single Family Residential Subdivision. I am requesting more Green Space for Greiner Rd. I am asking to eliminate lots # 1 to 4, and # 143 to 148.

There is a great deal of Green Space on Roll Rd. We are requesting the same for Greiner Rd.

Source: Timothy and Diane Ronald, 5275 Shimerville Road  
(letter received April 24, 2013)

Comment 19: First I would like to see the elimination of lots #147 & #148 thus allowing additional green space for established residents of Country Club Drive be put forth as a priority in the planning of this future residential community.

Source: Sery J. Marasco, 8901 Country Club Drive  
(letter received May 2, 2013)

Comment 20: Particular, I am opposed to Lots 147 and 148. These lots would be developed east of my property on the south side of Country Club Lane. I have requested in the past, and still contend, that these lots be removed to allow additional green space adjacent to my home, to preserve the rural views that we have grown to accustomed to over the past 21 years of living on Country Club Dr.

Source: Michael J Rogers, 8905 Country Club Drive  
(letter received April 23, 2013)

*Responses 16-20: See response 15.*

## 2.5 Country Club Drive

Comment 21: Mr. Bigler (4/17/13 public hearing transcript) asked if Country Club Drive will be improved if this project moves forward and will it be used as a construction access point for the development.

*Response 21: Mr. Cimato (4/17/13 public hearing transcript) stated the road would be improved and brought up to Town standards. As far as construction access, construction would probably start at Roll Road and work its way in.*

*Construction vehicles will not be allowed to utilize Country Club Drive and must use Roll Road. As part of the project approvals, Country Club Drive must be improved to meet Town Standards.*

Comment 22: The residents of Country Club Drive are concerned that our road is not to be used as a construction entrance, as site work and building begins. The obvious reasons would be large, noisy and dirty equipment traveling this route on a daily basis.

Source: Sery J. Marasco, 8901 Country Club Drive

(letter received May 2, 2013)

Comment 23: As the project matures, I once again request that no construction traffic be allowed on our street. When 8920 was built and the road extended, we endured hardships for months with blocked access to our street and driveways due to standing mud and parked trucks. The mud that developed was ankle deep at times in the roadway. We do not wish to go through that again. The truck traffic deteriorated the road. Drainage issues have developed since the road extension. Objections raised with the Town Supervisor and Town Engineer did not help.

Source: Michael J Rogers, 8905 Country Club Drive  
(letter received April 23, 2013)

*Responses 22-23: See response 21.*

**APPENDIX A**  
**AGENCY/PUBLIC COMMENTS AND CORRESPONDENCE**

**APPENDIX B**

**DEIS**