

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday January 13, 2016

Work Session 6:30 pm
Status of TEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:30 pm
Approval of Minutes

Item 1

Kenyon Brothers
Traditional Neighborhood District

Requests Concept Approval and a Recommendation for a Special Exception Use Permit for a proposed Convenience Store with a Tim Horton’s Drive-Thru at 8250-8274 Main Street.

Item 2

Towne Automotive Group
Commercial

Requests Concept Approval and a Recommendation for a Special Exception Use Permit for a proposed new Automotive Sales/Service Operation at 8226 Main Street.

Item 3

Jeffrey Palumbo
Major Arterial

Requests a driveway access from Old Post Road to the existing plaza at 6429 Transit Road.

Item 4

Fireside Apartments
Commercial

Requests Development Plan Approval for the previously approved Fireside Apartments identifying 112 Multiple Family Housing Units at 8230 Wehrle Drive.

Item 5

Spaulding Green
Residential Single Family

Requests Development Plan Approval for Phase 3, identifying 50 patio home lots.

Chairman Robert Sackett called the meeting to order at 7:30 p.m. Supervisor Patrick Casilio led the pledge to the flag.

Planning Board Members present:

Chairman Robert Sackett
2nd Vice-Chairperson Wendy Salvati
Gregory Todaro
Jeffrey Buckley

1st Vice-Chairman Richard Bigler
Timothy Pazda
Steven Dale

Planning Board Members absent: none

Town Officials Present:

Director of Community Development James Callahan
 Junior Planner Jonathan Bleuer
 Supervisor Patrick Casilio
 Councilman Peter DiCostanzo
 Councilman Paul Shear
 Councilman Christopher Greene
 Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Fred Cook	Sharon Cook	Tom Noonan	Jean Noonan	Sue Rusin
Bill Rusin	David Meacham	Frank Endres	Debbie Curtis	Scott Curtis
Mary Ann Endres	Thomas Bardo	Dan Sikora	Steven Sikora	Deb Bardo
Robert Geary	Richard Traina	Bobbie Traina	Ann Snowdy	Don Snowdy
David Hill	Phyllis Hill	Jennifer Batt	William Klein	Rick Hilton
Michael Frushone	Janine Hilton	Peter Worrall	Areul Worrall	Janet Mattar
Keith Krabill	Bonnie McMichael	Katie Krabill	Donna Reynolds	Mike Mesi
Joseph Dunbar	Martin Tornabene	Charlete Tornabene	Robert Drzewiecki	Stanely Zak
Georgia Hulbert	Paul Runfola	Frederick Piwko	Heather Kuzon	Brian Kuzon
Vincent Morabito	Lori Johnson	Cynthia Cercone-Dudek		Don Pfelzer
Tish Schmidt				

Motion by Gregory Todaro, seconded by Steve Dale, to **approve** the minutes of the meeting held on December 9, 2015, as written.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Timothy Pazda	Abstain
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Chairman Sackett explained the procedure for the meeting noting that Jim Callahan will introduce the project. The applicant will then be given an opportunity to add comments on the project. Members of the audience will be invited to add their comments/questions. Some projects have been on previous agendas and there are many comments already on the record. If members of the audience have **new** information on a project, that information is appropriate and appreciated. Any questions specific to a listed project for the Planning Board or Planning Office are also appropriate at this time. Based on the size of the crowd in attendance each person will be allowed 3 minutes and only one “talk” per person. After the audience has been heard from the applicant will be asked to answer any questions that arose from the audience participation. The Board will then decide what action to take on the project.

Item 1

Kenyon Brothers
Traditional Neighborhood District

Requests Concept Approval and a Recommendation for a Special Exception Use Permit for a proposed Convenience Store with a Tim Horton's Drive-Thru at 8250-8274 Main Street.

DISCUSSION:

Jim Callahan provided the history on the project noting that it is located at the northeast corner of Main Street and Westwood Road. It is currently a gasoline service station and adjoining commercial use located in the Traditional Neighborhood District. The applicant is proposing to demolish the existing structures and construct a new convenience store with a Tim Horton's kiosk and drive-thru and gasoline service. The project has been tabled for several months awaiting NYS Department of Transportation Approvals on the design. The applicant is present seeking an action under the State Environmental Quality Review Act, a Concept Plan Approval and a recommendation for a Special Exception Use Permit. The Town Board will have final approval authority for the drive-thru.

Timothy Arlington, with APEX Consulting, is present along with Kevin Kenyon. Mr. Arlington explained that in August 2015 the Kenyon Brothers came to him with a new plan. The brothers made a verbal agreement with the next door neighbor, Mr. Eckert, to expand on the site. In April 2014 the applicant received a conditional recommendation to the Town Board for a different sketch plan, in which the Town Board did not approve. The plan that is before the Board this evening is a plan that the DOT is recommending the applicant move forward with. The applicant was ready to propose a plan that they submitted back in September 2015 which showed two (2) major entrances and exits on Main Street, not having an exit onto Westwood. Subsequently as far as the SEQRA review, the DOT will not support that plan. The plan that is before the Board currently is essentially the plan that the DOT put together. Mr. Arlington met with the Planning Board Executive Committee to review this plan and he said they seemed to be ok with this plan. Mr. Arlington also met with DOT representatives to see if they would look at anything different than this plan, and the answer was no. The plan shows a main entrance coming in off of Main Street, it is 36' wide. Most of the traffic including truck traffic will enter here. The larger vehicles will exit onto Westwood. The drive-thru traffic enters on the east side of the property, goes to the north side of the building and would most likely exit onto Westwood as well. This plan meets all the greenspace and setback requirements. The building is larger and there are four pump stations because of the property increase. The building now includes Mr. Eckert's business, which would be on the east side of the building. There are 23 car parking spots, the underground fuel tanks are in the same location as they have been. There are buffers along the north side of the property which include conifers, deciduous trees, a fence, and a berm with arborvitaes. This will not only screen the property but will provide a noise buffer as well.

Chairman Sackett noted that the Town Highway Superintendent has recommended "no parking" signs on Westwood. The applicant is in agreement to posting those signs.

Chairman Sackett asked about the sides and rear elevations of the building. Mr. Arlington said the sides and back of the building will be brick, very similar to the front of the building. He understands the renderings of the elevations will need to be provided if and when this project goes to the Development Plan phase.

Mr. Pazda asked about the fence. Mr. Arlington said the height is at 6' and the fence goes along the north and east property lines. The fence along the east side goes to an existing large tree.

Mrs. Salvati asked how often the site will receive fuel deliveries. Mr. Arlington said 2-3 times a week, the time can be staged. Kevin Kenyon said their gas deliveries are between 8:00am and 4:00pm. Mrs. Salvati asked if they can work with the fuel provider to make sure they don't come during lunch time peak hour. Mr. Kenyon said sure, they generally request specific times. Mrs. Salvati asked about product deliveries. Mr. Kenyon said their typical sites have 0-4 deliveries a day. Tim Horton's deliveries are about a half an hour, 1-2 times a week, Mr. Kenyon will request they come at off-peak times. Vehicles delivering for the convenience store will pull in on the side of the building. Deliveries can be scheduled at off-peak hours so they won't disrupt the use of the parking area and/or drive-thru traffic. Mr. Kenyon said the last delivery time they accept on site is at 11:30 am due to their lunch crowd, that delivery would have to come back after 1:00 pm.

Mr. Dale asked if the site plan accurately depicts where the truck would sit during refueling. Mr. Arlington said what is depicted is more of a traffic pattern. The fuel truck would close to this point but not exactly at that point. The truck would be in a more north/south position than what is shown. Mr. Dale asked how the applicant intends to handle storm water. Mr. Arlington noted they are disturbing more than an acre, they have to meet the State Pollution Discharge Elimination System (SPDES) requirements, they will drill two (2) storm drainage wells. There will be a large detention pond and a waterfall structure in the rear northeast corner of the property.

Chairman Sackett asked what the distance is between the fence and the first neighbor on Westwood Road. Mr. Arlington said it is approximately 60' from the fence line to the garage, the garage is the closest structure.

Mr. Pazda asked what the lighting plan is for the backside of the building by the drive-thru. Mr. Arlington said a formal light plan has not been put together yet. He explained that a downlight would be needed where the window is, there would be another by the menu board, a couple of downlights on the building itself pointing down on the pavement, there would be no horizontal disbursement of light. There will be no pole lights in the back.

Mr. Todaro asked about the sound board, Mr. Arlington pointed it out on the plan. Mr. Pazda said they talked about putting the menu board further away from the window which would put the sound further away. Mr. Arlington said the drive-thru window has to go at the location shown due to stacking, they are required to have a distance of 80' from the location of the window to the menu board, this is the industry standard.

The operating hours will be from 6:00am to 9:00pm/11:00pm. Mr. Kenyon confirmed they will not be open past midnight. Once the business is closed for the night the lighting on the back of the building will be turned off. There may be a light at the back door near the freezer for security reasons. The freezer is 10' high.

Jennifer Batt of 4555 Greenbriar Road, said her family built her house in 1956 and a member of her family has lived there ever since. Many children live in this neighborhood. She does not object to this being built however she suggested closing the end of Westwood. That would protect the area from more traffic, it would give the developer more room to expand his plan. It seems to be a large operation crowded into a large space. There would still be access onto Main Street for this Harris Hill neighborhood through Arondale, Ericson at Harris Hill and through Helenwood at Sheridan Drive. To

avoid the traffic signal at Main Street and Harris Hill Road, many cars cut across Ericson and go down Westwood to Main Street. To close off Westwood would make the neighborhood safer.

William Farrell lives on Hedgewood Drive and has lived there for 50 years, living in Clarence for 76 years. He is against this plan because there are 340 homes in this area which equals 500 cars. Main Street only has two (2) lanes and one (1) turn lane. He said the DOT did not want to have two (2) exits onto the property at all, they rejected that plan. It is very busy at this intersection and is almost impossible to make a left hand turn. Within a five (5) mile radius there are 32 coffee shops, within a two (2) mile radius there are 24. He does not see the need for anymore coffee shops. Westwood is the major exit for all the north Harris Hill people to go west. If Tim Hortons had a drive-thru and there is one (1) car every 30-45 seconds it is going to stop up all the traffic coming down Westwood and will be a mess. Harris Hill and Arondale exits are overloaded. The car dealerships will interfere with traffic a cause a mess too. Unless there is a traffic signal there, this should not go through with the drive-thru.

Carl Dimare is a neighbor of Mr. Farrell and explained that he was in the supermarket business for 32 years. At one time he owned five (5) supermarkets. He said there will be no less than 10-14 truck deliveries a week. The average truck is about 40' long. You can request certain times from the various vendors but the vendors do not have to honor those times. If there are two (2) or three (3) trucks showing up at one (1) time there is no way they can handle it. One of the companies that will be supplying product is Tripi Foods and their trucks are 44'-53' long. Westwood is 29' wide. A truck trying to turn onto Westwood would inhibit traffic. The two Cardinal Rules that he has learned in his business is that you do not open up a store without a traffic light and you do not open a store that has an entrance or exit off of a side street. He had two (2) locations that he had to close after a few years because cars would back-up down the street and the neighbors would be in utter dismay. To exit Westwood now is catastrophic. Having two (2) lanes of traffic, at times it is almost a minute and a half wait in order to make a left turn.

Bobbie Traina, has lived in the neighborhood for eight (8) years. She found that within a two (2) mile radius there are ten (10) Tim Hortons, within a five (5) mile radius there are twenty (20) Tim Hortons. People walk their dogs and children play on this street. There are no sidewalks or street lights on this street. People who use the Tim Hortons drive-thru will want to cut through all these side streets where people are walking in the street because there are no sidewalks. There will be much more traffic than what the neighborhood is used to.

Debbie Curtis has lived on Hedgewood for 28 years with her husband and four (4) children. She said the lights and sidewalks are a big deal, there is a tremendous amount of people walking. She noted that the drive-thru ban that was imposed in Williamsville and East Aurora came about because of traffic congestion, we are running into that same thing in a small quiet neighborhood that already has traffic problems. She also voiced her concern over the pollution that will be created from the increased traffic. This area is served by numerous drive-thru's. A big reason for this proposal not to go through is the danger of it, especially with the number of children in the neighborhood. Over 311 people from the neighborhood signed a petition not to have this, she would hate to have something catastrophic happen.

Bill Rusin is a resident on Ericson Drive and has lived there for fifteen (15) years. He voiced his concern with the air pollution involved in this proposed case. This would be a major negative impact to air quality on the nearby residents where up to fifteen (15) idling motor vehicles would only be 10' from the proximity of the property boundary. This would be happening all day and night. Other setback requirements are in the code for good reason, not to crowd the property of others. The proposed site plan provides the required setback to the building while allowing a much more undesirable and harmful effect on the neighboring residents. This setback clearly frustrates the intent of the Town's setback

requirement. The gases released from idling cars cause miscellaneous serious conditions. He asked the Board to remedy this deficiency.

Tom Noonan lives on Vernon Circle, he is a mostly retired CPA and speaks on behalf of the 311 Clarence residents who petitioned the Town in October 2014 against the drive-thru. They do not oppose the Kenyon's store or the gas pumps, it will be a big improvement over what is there. The traffic study that was done did not go far enough, it did not consider the Tim Horton's effect. Tim Horton's drive-thru impact is huge. Mr. Noonan counted an average of 322 vehicles at the Main and Thompson Tim Horton's drive-thru at the weekday peak morning rush hour 7:00am-9:00am. There are five (5) lanes in front of that Tim Horton's, this helps the traffic flow to work at that site. Main and Westwood has only two (2) lanes of traffic. Thru traffic will have no place to go if cars are stacked because of the drive-thru. He asked why the Clarence Planners are taking this risk. Tim Horton's drive-thru's are creating traffic problems in the area now. There are eleven (11) drive-thru's that are major problem causers, the worst being Oakwood in East Aurora and Route 20A, where he waited nine (9) minutes to get through the Tim Horton's. East Aurora banned drive-thru's after that one went in, it was too late. He asked the Board not to make the same mistake East Aurora did.

Sue Rusin lives on Ericson Drive. She has a high school age son who runs on the Cross Country and Track teams, the high school athletes are forbidden to run on the streets because there are no sidewalks. If an athlete is seen running on a street they will be dismissed off the team. She invited the Board members to come to her neighborhood and sit for a couple hours to see how many dog walkers, bikers, strollers, adult runners and walkers are out. The entire neighborhood should be safe. There are many distracted drivers. She asked the Board to give the same consideration to their established neighborhood as they give to new developments with regards to safety issues and limiting traffic. It is not the Kenyon's they disagree with, it is the Tim Horton's drive-thru. She asked the Board not to make her street more of a cut-thru for people who want to get their coffee. Do not put their neighborhood at risk.

Cynthia Circone-Dudek, of 4559 Norwood Drive, has been a resident of Clarence for over 20 years, she recounts her trip to work every day down Main Street and noted that there is a bottle-neck of traffic because of the Tim Horton's at the Walker Center. She compared the site at Westwood and Main noting that 1.) there is no left lane, 2.) people should not have to waste time and gas waiting for people to get donuts and coffee, there is no justification for that, 3.) Main and Goodrich Dunkin', Main and Sheridan Tim Horton's, Main and Harris Hill Paula's, Main and Westwood no more coffee no more donuts. Williamsville and other towns are banning future drive-thru's. She asked if Clarence is incapable of making a well-informed decision, is Clarence trying to be a haven for unhealthy choices and unwise proposals.

Chairman Sackett reminded the audience to keep this meeting professional, the decision will be based on the facts.

Tom Bardo, of 8248 Hirschwood Drive, read from Mr. Noonan's comment sheet and said Tim Horton's website lists 31 drive-thru's on primary roads, Main and Sheridan, Maple and Transit, and Niagara Falls Boulevard. All 31 have at least four (4) lanes of traffic in front of the drive-thru which gives pass-by traffic a lane to get by. He has a list of eleven (11) Tim Horton's drive-thru's where it is well known that the stacking occurs into the streets. He recounted a few trips he made to various Tim Horton's where the traffic was backed-up because of the drive-thru. Banning drive-thru's would be responsible planning for Clarence. Mr. Bardo said they are happy to have Kenyon's, they just don't want the Tim Horton's drive-thru, it is a problem for all of us.

Chairman Sackett reminded the audience that this meeting is professional and all should conduct themselves as such.

Martin Tornabene spent 31 and a half years as a law enforcement officer, he is retired now. Part of his function was to patrol not only the state but mostly around Niagara and Erie County. In doing these duties he encountered many drive-thru's and many Tim Horton's. Often times there would be a backup of traffic, which could cause accidents. When you encounter accidents you are now taking a patrol officer from the road to answer the call for an accident. The State police are not specific to this area, in the event of an emergency, because they fall under executive order, they can go anywhere. He wants everyone to be honest with themselves.

Frank Endres, of 8288 Hirschwood Drive, said the Board has received and heard again the solidly researched arguments supported by 311 petitioners opposing the expansion. He repeated again because as developers have demonstrated in the past that persistence and strategy is to wear down opposition. The residents are back, too. He asked the Board why an independent in depth traffic impact study treated as an afterthought. A project is finished, the developer leaves satisfied and the residents are forced at times to a life of frustration and resignation. Their voices were not heard again. How often before a needs assessment, based on the living experience of the needs of residents of Clarence, is heeded. He suspects many of the 311 voters enjoy coffee and donuts, so if they oppose another coffee shop they don't need or want another coffee shop. How many times and how long are the neighbors going to be the long term losers? A business strategy repeated again and again is not always rational or just. He quoted a Buffalo News columnist, "Many find politics frustrating". A problem solved can crop up months or years later. He quoted again, "The good thing about democracy is there are no permanent defeats, the hard part is that some victories have to be won over and over". This is the 311 voter's standoff. He asked how long before limits and common sense prevail? Now is the time to plan, implement and evaluate the impact of past development decisions and the physical emotional and mental health concerns of the community. He requests the Clarence Planning Board and Town Board to respect the voice of the people.

Ann Snowdy lives on Vernon Circle and said there are at least five (5) different school buses and three (3) different sets of garbage companies that go down her street. She is concerned for her children's safety, it is dangerous now but will be more so with tankers and delivery trucks using the streets.

Chairman Sackett noted that this is not the final hearing for this project. The Planning Board does not have the authority to approve a drive-thru, they may make a recommendation to the Town Board. The Town Board would have to hold a separate hearing on the drive-thru. He encouraged anyone who wants to voice a comment/concern can put it in writing and submit it to the Town, it will become part of the record.

Mr. Arlington noted that an independent firm did a traffic study on a previous plan, they were then requested to do an update on the study because the plan changed, that study was done. The consultant that reviewed this project said that impact of traffic in the area would not be impacted based on the proposal.

Chairman Sackett asked the applicant if the project could go through without a drive-thru. The applicant said no, it would not be economically feasible to do so. Chairman Sackett noted that many of the comparisons were made with stand-alone Tim Horton's, this proposal is not a stand-alone it is a kiosk. Mr. Arlington said the area dedicated to Tim Horton's in the plan is 800 square feet, which is smaller than a stand-alone restaurant. The Town requires twelve (12) stacking spaces for a kiosk, the applicant

has fifteen (15). In Mr. Arlington’s experience in designing several of these, he has never had problems with drive-thru’s for kiosks. He has never seen more than twelve (12) cars at a site for a kiosk.

Chairman Sackett noted that the Planning Board pressed the traffic consultant several times for a traffic light. They were told by the traffic consultant that a light needs to be warranted. Certain conditions must be met before a traffic light is installed. The traffic study for this project did not meet the standards for the State to install a light. The Planning Board asked twice, the State said no and the traffic consultant said no.

Mr. Dale asked for confirmation that the bedrock is shallow in the area of the proposed site, Mr. Arlington said yes however they have not yet had a subsurface investigation. Mr. Dale asked if the applicant planned on using blasting, Mr. Arlington said no.

Chairman Sackett referred to the traffic issue and said it has been in the wings for several years. The Board has pressed the State and the traffic consultants on two (2) traffic studies. The Board asked for documentation. They have not taken any action before their questions have been answered. The Board’s questions are generated by the public’s questions. Traffic is certainly not an afterthought. Clarence is growing and he believes this would change the character, but would it be a significant change? Is there enough factual evidence to deny the applicant? This is what the Board needs to look at, the emotion needs to be removed.

Mrs. Salvati noted that both traffic studies were done when school was in session.

Mr. Pazda said it is a difficult decision. They have to make their decision on the facts that are before them.

ACTION:

Motion by Timothy Pazda, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 2 and Part 3 Environmental Assessment Forms as prepared and to **issue** a Negative Declaration on the proposed Kenyon’s Convenience Store with Tim Horton’s Kiosk and Drive-thru located at 8250-8274 Main Street. This Unlisted Action involves the demolition of existing structures and the approvals required to develop a convenience store with Tim Horton’s Kiosk and Drive-thru with all required parking and landscaping. After thorough review of the submitted site plan and Environmental Assessment Forms, including a design recommendation from the New York State Department of Transportation, it is determined that the proposed action will not have a significant impact upon the environment.

Jeffrey Buckley	Aye	Steve Dale	Nay
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Motion by Timothy Pazda, seconded by Wendy Salvati, to **grant** Concept Plan Approval on the proposed Kenyon’s Convenience Store with Tim Horton’s Kiosk and Drive-thru at 8250-8274 Main Street as per the submitted site plan and architectural details from Apex Consulting dated August 20, 2015 with an updated version dated December 10, 2015, with the following conditions:

1. Subject to Open Space and Recreation Fees.
2. Subject to Landscape Committee approval of the submitted landscape plan prior to Development Plan Approval.
3. All site lighting to be Dark Sky compliant with full cut-off shielding, recessed lighting in the canopy and full shielding for any wall packs. The lighting at the back of the building is to be turned off at night after the facility is closed.

ON THE QUESTION:

Mrs. Salvati suggested adding the second sentence to condition number three (3) as stated above. Mr. Pazda agreed to add this condition to the motion.

The applicant understands and agrees with the conditions.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Motion by Timothy Pazda, seconded by Wendy Salvati, to **recommend** to the Clarence Town Board to **issue** a Special Exception Use Permit for a Convenience Store with Tim Horton’s Drive-thru as per the conceptually approved site plan as presented by Apex Consulting dated 8/20/15 and with the following condition:

1. No parking signs to be placed on both sides of Westwood Road at the direction of the Town Highway Superintendent. Installation of such signs to be at the expense of the applicant.

ON THE QUESTION:

Deputy Town Attorney Steve Bengart said it should be noted that the 8/20/15 Apex Consulting site plan has been updated as of 12/10/15, which is consistent with the Concept Plan.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Item 2

Towne Automotive Group
Commercial

Requests Concept Approval and a
Recommendation for a Special Exception Use
Permit for a proposed new Automotive
Sales/Service Operation at 8226 Main Street.

DISCUSSION:

Jim Callahan provided the history on the project noting that it is located on the north side of Main Street, west of Westwood Road adjoining the existing Main Transit Plaza. The Town Board will have final approval authority for the automotive use.

Bill Wincott of the D.R. Chamberlain Corporation is present and representing the Town Automotive Group. He explained that they are proposing to put an addition on the front of the existing deli and the Ballow Law Firm building and bring it forward to make it adjacent with the adjacent Town Mini building. It will be a showroom and service drive-thru. They will also put an addition on to the rear for servicing of automobiles. The dealership will be for Maserati automobiles and Alfa Romeo's. They will put in barrier islands in the existing lot and changing the traffic flow. They will close one of the existing Main Street entrances, the one that is on the west side of the property. They will better define the entry on the east side which will serve as the entry for this and the Town Mini Dealerships. They will add greenspace to the front. They will extend the front row auto lighting with three (3) additional standards. The spacing, the height and the type of standards are what are at the existing Town Mini frontage. There will not be a second row of lighting between the street and the building as is the case with Town Mini. Three (3) standards will be taken out at the rear of the property and will be replaced with a lower intensity wall-mounted down-light wall-pack on the new building, other than this there will be no additional lighting at the rear of the lot. Mr. Wincott noted that Louie's Deli generates 160-170 transactions a day, the Ballow Law firm generates 20-30 transactions a day. The expected traffic flow for Maserati is one (1) sales call a day and fifteen (15) services vehicles a month. There are no functioning dealerships for Alfa, so there is no data as such. It is projected that there may be 15-20 stops a day. Louie's Deli will be relocated to the far west end of the plaza, taking that traffic further away from Westwood. The existing wood garage structure will be removed, the dumpsters will be relocated to this area and will be enclosed. The area directly behind the building is stone and gravel, it will all be paved. The front elevation of the building will be a combination of glass and a gray aluminum panel, similar to the black panel that is on the Mini store next door. The east elevation, the showroom, will have the glass and the metal panel. The existing building will have an overlay of synthetic stucco and the service building will have a split face masonry of eight feet (8') with a smooth insulated metal panel from there up to the eave, with the same materials that are on the existing Town Mini building. Mr. Wincott submitted a signed letter dated January 13, 2016 indicating the average transaction count for Louie's Deli, the letter is on file.

Mr. Wincott explained that the delivery trucks for the Mini Dealership are instructed to deliver them at the BMW store on the side road because that is the address that is on the Certificate of Origin that comes with each of the vehicles. At times, if there is another delivery there, they will go behind the plaza and come off Bryant and Stratton Way and enter the Morabito plaza there and unload there. The regular drop off is supposed to be off Main Street on the private drive that feeds North Forest Office Park. If any delivery truck pulls onto Westwood, the Town people run out and tell them to move, they have never unloaded a car there. The same will happen for the proposed dealerships. The traffic generation by this dealership will be less due to customer interactions per the letter from Louie's Deli.

Mr. Bigler asked for details on the storage area in the back of the building. Mr. Wincott explained that at the present time Town Automotive leases space from Jim Morabito for car storage, this area will be improved upon as a more organized and defined area. There are 90 parking spots in that area that will be used by Mini, Maserati, Alfa and BMW as general parking spots. Mr. Todaro asked if the inventory that will be at this location is protected. Mr. Wincott said they are discussing fencing. The lighting that is back there is strictly for the safety of the employees. Mrs. Salvati asked if the lights on the back of

the proposed addition will stay on all night. Mr. Wincott said they don't now, they are on a timer, although he is not sure what time the dealership shuts them off at. There is a seven foot (7') berm with a four foot (4') fence on top of it, plus trees back there as well.

Mr. Pazda asked if the building is proposed to be sprinklered, Mr. Wincott said no, it is not. He went onto explain that it is not required.

Jim Morabito of Main-Transit Plaza, noted that there is improved space on the property in which they have a lease agreement with Town Mini. For this project, they have agreed to expand where the 90 parking spots will be, that will be done in the spring. He pointed to an area on the site plan and noted that there is an agreement with Town Automotive Group to bring their vehicles and car carriers that bring the cars in there to load and unload at that location, so they are not in the front of the plaza. Mr. Morabito said he has dusk to dawn lighting around the plaza, they are leased lights from NYSEG. He also has sixteen (16) security cameras that completely encompass the plaza. Town Mini's lights are on a timer and go off at 10:00p.m. If this project is approved Louie's Deli will move to the west end of the plaza.

Bruce Wisbaum, manager of the Stonegate Apartments, asked what happened to the Maserati Dealership that was close to the Stonegate Apartments.

Frank Downing of Town Automotive Group explained that Maserati was going to go on the Jordan property but when they got Alfa Romeo they wanted to be on Main Street. There is not a set plan for the empty shell of a building that is there now.

ACTION:

Motion by Wendy Salvati, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Short Environmental assessment Form as prepared and to **recommend** a Negative Declaration on the proposed Towne Automotive Group Maserati/Alfa Romeo Automobile Dealership located at 8226 Main Street. This Unlisted Action involves site plan modifications and building additions to accommodate new automobile dealerships in the Commercial Zone. After thorough review of the submitted site plan and Environmental Assessment Form, it is determined that the proposed action will not have a significant negative impact upon the environment.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Motion by Wendy Salvati, seconded by Steve Dale, to **approve** the site plan and architectural style of the proposed additions to 8226 Main Street as per the submitted drawings from D. R. Chamberlain with a receipt date of January 12, 2016, with the following conditions:

1. Subject to review and approval by the Town Engineering Department on required PIP Permits.

- 2. Subject to review and approval by the Town Building Department on required building permits.
- 3. Subject to Open Space and Recreation Fees.
- 4. All site lighting to be dark sky compliant with full cut-off shielding and full shielding of any wall packs.
- 5. Subject to receipt, review and approval by the Town Attorney’s office of an Agreement between the Applicant and the owner of the Main Transit Plaza which Agreement shall provide access and the required parking for storage of vehicles as indicated on the site plan for all the Towne Properties, including the Towne Mini Dealership.
- 6. Subject to Landscape Committee Approval, prior to the issuance of any building permits.
- 7. NYSDOT approval on curb cut removal and Main Street access plan.

ON THE QUESTION:

The applicant understands and agrees with the conditions.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Motion by Wendy Salvati, seconded by Gregory Todaro, to **recommend** to the Clarence Town Board to issue a Special Exception Use Permit for an automotive dealership as per the submitted site plan and architectural drawings from D.R. Chamberlain with a receipt date of January 12, 2016.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Item 3

Jeffrey Palumbo
Major Arterial

Requests a driveway access from Old Post Road to the existing plaza at 6429 Transit Road.

DISCUSSION:

Jim Callahan provided the history on the project noting that it is located at the northeast corner of Transit Road and Old Post Road. It is an existing retail plaza. The applicant is present seeking a site plan amendment to allow a new access road from the plaza to Old Post Road.

Elizabeth Holmes of Barclay Damon is present on behalf of the applicant and property owner of 6429 Transit Road, Joseph Basil. They are asking for a full access driveway to connect the currently existing plaza at 6429 Transit Road to Old Post Road. The major function of the drive is to provide a method of safe and controlled egress from the current plaza out to Transit Road through the Old Post Road intersection, where there is a traffic light. The driveway will be 24' wide so it will be a method of ingress and egress into the plaza. Currently the only access to the plaza is off Transit Road, trying to turn left from the plaza onto Transit has presented significant safety concerns, there have been accidents at this location. This proposal will alleviate those concerns. There are concerns from neighbors that Old Post Road will become a cut-thru, the applicant is proposing to put a Stop sign where the cars would be exiting the plaza onto Old Post Road. There will be a sign opposite that exit area to Transit Road that indicates there is no left hand turn. There will be two (2) signs facing out onto Transit that indicate there is not turning into that drive. The major focal point is the safety of the residents and the patrons of the plaza.

Chairman Sackett noted that the owner of the plaza also owns the land to the north of the plaza. Part of the Board's concern is not only access by patrons of the plaza but also shared access between the applicant and properties to the north. He asked if the applicant would consider granting access to that driveway for the neighbors to the north. There is a mixed-use project and an insurance agency at that location. Ms. Holmes said yes they have and would consider cross access to those developments north of the current property.

Chairman Sackett noted that years back an access to Old Post met with some opposition by residents, because of that, the Board is going to consider initiating coordinated review to allow 30 days for review of written and oral comments. This is a decision that falls within the authority of the Town Planning Board.

Ms. Holmes understands but said they prefer the Board acted on the request to move the proposal along tonight. She is not sure if a response will be received from the DOT as Old Post Road is not a State road; their engineer reached out to the State a few months back but they did not receive a response. Chairman Sackett said the state is always concerned about the distance between the ingress/egress and their road. The Board would also like the input of the Town Highway Superintendent since Old Post is a Town Road.

Mrs. Salvati noted that the proposed location for the access drive has one (1) tree on it, that tree will be removed. Ms. Holmes confirmed this and said there will be vegetation added along the side of the road as well. Mrs. Salvati wanted to make sure the rest of the existing vegetation will stay intact. Mr. Bleuer pointed out that the site plan indicates more than one (1) tree will be removed. The applicant will look into this and obtain clarification for the Board. The vegetation that will be added is listed on the site plan.

Mr. Buckley asked if a cut-through was discussed or contemplated when this project was first completed. Ms. Holmes said she cannot speak to that as she was not around at that time. Mr. Callahan said this was amended when the State re-did Transit Road. Initially there was a traffic light at this plaza which aligned with Casey across the way, but that was moved, which eliminated the traffic light at the plaza.

Dr. Stanley L. Zak Jr. and his wife, Phyllis, reside at 8055 Old Post Road, they have lived there for 34 years. He said this project was proposed many years ago at the Wolters Plaza and was rejected. It was then brought about several years later on the south side where the Bank property was built. If you listen to the proposal, if you look at the traffic flow, cars to enter from that new cut-through would have to come all the way around, circle around, and there is no room to do that, and then come back to go into

the cut-through. The island would have to be destroyed. You will have to change the two (2) lane entry from Transit Road into a three (3) lane entry because you'll have to make a left hand turn lane there. The traffic light will also have to be modified and make a left turn there otherwise cars will never be able to get in and out. He said they also have no sidewalks in their area, there are a lot of older people walking, and there are young children who play in the front, you don't want extra vehicles going around in circles especially people who are not familiar with the area. This project has come up twice before and twice it has been rejected, he asked the Board to only consider rejecting it. There would be many problems with safety, property values and only add to the congestion if you they allow this to occur. If this is allowed to occur on the north side, then the Bank on the south side will make the same proposal and he does not see how they can be denied. That would create a circus in that area.

Paul Runfola, of 8050 Old Post Road West, would like to speak on behalf of the children in the neighborhood. He has two (2) children who enjoy using the sidewalk on Transit Road to access Pautler's and the bike path. He reminds the Board of the danger they currently experience in trying to get back to their house heading north down Transit on the sidewalk and then turning right onto their street. You have to cut across both those roads to turn right because cars coming behind you, sometimes at 45mph, turn onto Old Post Road West too fast. There is a blind spot there as well. There is no way only one (1) tree is going to be removed.

Janet Mattar said when you enter Farmington Woods from Transit Road you see two (2) beautiful brick walls and iron gates that delineate the neighborhood. Anyone who looks at it would think it is crazy to put anything else in there. She has been a resident of Farmington Woods for over 20 years, she purchased her home there because she loved the quiet winding and wooded nature of the neighborhood. She was well aware that Transit Road would continue to become busier but felt the neighborhood would provide a respite from commercial activity. It is obvious that that entry way was never meant for commercial traffic, the residents take great pride in it planting flowers every summer. She takes care of the entry way even though she lives in the back end of the neighborhood. Business owners on Transit Road surely knew that their customers might not like the fact that they cannot easily make left turns out of their parking lots. The residents in the neighborhood also use those businesses but changing the entry way will surely decrease the value of their homes which is closely tied to the ambience of the neighborhood as it is now. She voiced another concern regarding safety and the traffic increase. She asked the Board not to allow any driveway access from any plaza or business on Transit Road onto Old Post West.

William Klein, of 6430 Morningwood Drive, voiced his concern with the access to Old Post Road. He then referred to the development of the property to the north and the possible access to Old Post Road for those properties as well. If this is approved it would be the tip of the iceberg.

Joe Dunbar, of Bridlewood Drive, has lived in the neighborhood for eleven (11) years. The aesthetics and quality of life are important to the residents of Clarence. He submits photos of what the property in question looks like, there are entrances to this property from Transit Road. The difficulty in turning left onto Transit is an issue up and down Transit, it is not limited to this parcel. Mr. Dunbar said they have not been provided with any evidence for the necessity of this proposal other than convenience to a private property owner. This would be an injustice to the residents who live in this neighborhood and would be a detriment to the character of the neighborhood. It will involve the obstruction of the existing aesthetics, and it will involve issues regarding traffic. It would be arbitrary and capricious to give grant this access to one property owner and not to the owner on the other side of the street and that would create a terrific traffic headache. Adding on the possibility of traffic from other properties seems preposterous. He said the proposed driveway is on property that belongs to the Homeowners Association, so the obligation to maintain that driveway would rest with the Homeowners Association. That is not property that is entirely

within the boundary of the applicant, Mr. Dunbar does not think it would withstand judicial scrutiny if it was allowed.

Fred Piwko, of 8040 Old Post Road West, said when he bought his house he had a beautiful sanctuary with trees and he could not see Transit Road, that has changed now with the parcel to the north of the plaza on Transit Road that has been developed. He said the topographical map does not do justice to the area, it is actually on a hill. He does not see how only one (1) tree will be taken out, there are many established trees with roots in that area. He voiced his concern regarding the safety of his children who play out front in the three (3) trees that are there.

Bob Drzewiecki lives on Old Post Road and noted that many of the residents have put in a lot of time and money into caring for the entrance way, currently it costs \$7,000 a year to maintain it. They sprayed the trees on that side for 10 years for Bark Beetle which costs about \$400 a year. They replaced the entrance gates on the north and south side at a cost of \$3600. This is an investment into the resident's properties. Egress will cause additional damage to that area because of additional traffic going through there. There will also be plow damage. This is a financial concern for the residents in the neighborhood.

Lori Johnson lives in the area. She noted the existing berm at the project site, they will have to cut through the berm which will affect the vegetation, trees and drainage in the area. There will be truck traffic which will also create a problem, traffic backs up beyond that now in that area. There are speed limit problems in the area now, this will only increase this problem. There are numerous accidents that are at that light already. For the benefit of the entire community this proposal has to be turned down.

Keith Krabill lives in the Farmington Woods area agreed with what Mr. Drzewiecki said about the community sharing the responsibility for maintaining the entrance. The commentary about the truck traffic is valid. The plan shows the cut would encompass both directions of traffic coming out of that plaza. The plan proposes a 24' impact. The impact on the resident's part closer to the island is much more than 24', the 24' represents the narrowest point of that hour glass figure. Mr. Krabill referenced the removal of one (1) tree, and said in response to the neighborhood the plaza has a number of trees into that setback with visual appeal setting the lights of the plaza from the neighborhood, they are mostly conifer trees. The people trying to make the turn then are partially obscured from seeing the oncoming traffic, in the winter that narrow area will have snow to deal with as well.

Peter Worrall, of 8120 Old Post Road, has lived there for 28 years. He said there have been no great problems with the plaza and the safety of people coming out of that plaza without taking advantage of an entrance to Old Post Road. The Homeowners Association spends a lot of money and its members spend a lot of time working on the beauty of that whole area. He voiced his concern with safety issues and the fact that there are no sidewalks. There has been a tremendous development in Meadowlakes, many of those residents use Old Post Road West as an exit from their homes. There is a considerable amount of more traffic now that there was 28 years ago. He suggested one should look to the north rather than the south for people who use that plaza.

Heather Kuzon and her husband moved to Woodbury Court about seven (7) months ago. They were attracted to the historic feel and the aesthetics of the area which includes the island at the front part. She asked if a traffic study has been done, what type of changes will impact the area in taking this residential neighborhood and making it a mixed commercial use.

Ms. Holmes said the traffic that is accessing the plaza now is not going to change with the additional driveway, it is just going to provide a safer means of egress for the people using plaza. It will not have

an impact on the neighborhood. The storm water/drainage was addressed in the Short Form Environmental Assessment Form which was submitted with the application. The proposed driveway is sloped into the site so the run-off will be picked up by the existing on-site storm water drainage system. The trucks will continue to use the Transit Road access, the applicant is not proposing trucks use the Old Post Road access. They are not proposing any changes to Old Post Road nor to the entrance to the subdivision. She noted that the paramount concern of the residents is safety and that is why the applicant is before the Board this evening as they are concerned with safety as well.

ACTION:

Motion by Timothy Pazda, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to seek Lead Agency and **commence** coordinated review among involved agencies on the proposed Plaza Access to Old Post Road located at 6429 Transit Road. This Unlisted Action involves the construction of an access on the north side of Old Post Road to the existing plaza.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Item 4

Fireside Apartments
Commercial

Request Development Plan Approval for the previously approved Fireside Apartments identifying 112 Multiple Family Housing Units at 8230 Wehrle Drive.

DISCUSSION:

Jim Callahan provided the history on the project noting that it is located on the north side of Wehrle Drive, east of Transit Road behind the existing Wehrle Dome. A Special Exception Use Permit was issued by the Town Board on March 25, 2015 to allow a 112 unit design to move forward.

Sean Hopkins, of the Law Firm of Hopkins, Sorgi and Romanowski, is present on behalf of the applicant. Dave Huck, Michael Metzger, Caleb Huck and Brett Fitzpatrick are present as well. Mr. Hopkins noted that the multi-family use is permitted in the Commercial zoning classification subject to the issuance of a Special Exception Use Permit by the Town Board, which was issued on March 25, 2015. The layout of the plan features seven (7) two-story buildings, sixteen (16) units per building. There is 5.78 acres of green space which represents approximately 50% of the site. There are 233 parking spaces including 69 garage spaces. The buildings will all be fully sprinklered per the 2010 Fire Code of the State of New York. Fully engineered plans have been submitted and they have been reviewed and approved by the Engineering Department, Erie County Department of Public Works, Erie County Division of Sewer Management, the Landscaping Review Committee, etc. The project was started in 2012, at which point there were 124 units. The Town Board adopted the Multi-Family Law in June 2013, subsequently amended it a year later and that resulted in the reduction to 112 units. Negative Declarations pursuant to SEQRA have been recommended and issued. The layout is nearly identical to the approved Concept Plan.

Mr. Pazda asked how this plan differs from the approved Concept Plan. Mr. Hopkins said instead of generic landscaping they now have 567 trees, shrubs and bushes.

Mr. Hopkins noted that there is a driveway located on the eastern portion of the site out along Wehrle Drive. The applicant agreed that that driveway would be removed within three (3) months of the commencement of construction. They need that time to do the clearing that will be necessary for the new driveway on the western portion of the site. Mr. Pazda asked if three (3) months is enough time. Mr. Huck said that will be sufficient time, although the road would not be paved, because the plants will be closed, it could be stoned for the time being. This will be a secondary road, the construction road is on the west side and will be put in immediately. Six months would allow the road to be put in the way Mr. Huck planned it, they agree that six months is a better plan.

ACTION:

Motion by Wendy Salvati, seconded by Steve Dale, to **grant** Development Plan approval to Fireside Apartments as per the submitted site plan from Metzger Civil Engineering dated May 29, 2015 with an update on November 25, 2015 and architectural approval as per the architectural elevations as submitted by Silvestri Architects dated February 4, 2015, with the following conditions:

1. Subject to review and approval by the Town Engineer on required PIP Permits.
2. The easternmost driveway that is depicted to be closed on the Site Plan shall be closed within six months from the date construction of the multifamily project commences.
3. Open Space and Recreation Fees.

ON THE QUESTION:

The applicant understands and agrees to the conditions of the approval.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Item 5

Spaulding Green
Residential Single Family

Requests Development Plan Approval for Phase 3, identifying 50 patio home lots.

DISCUSSION:

Jim Callahan provided the history on the project noting that the property is generally located east of Goodrich Road, north of Greiner Road. Spaulding Green was originally approved in 2008. Amendments to Phases 3, 4 and 10 were granted approval in October 2014. This Phase includes 50 patio home lots on 1800 linear feet of new public roads.

Dominic Piestrak is present.

Chairman Sackett asked if it is a reasonable expectation that prior to the dedication of the street both the traffic signal and the recreational trail will be in. Mr. Piestrak said yes.

ACTION:

Motion by Gregory Todaro, seconded by Steve Dale, to **grant** Development Plan Approval to Spaulding Green Phase 3, which includes 50 patio home lots on new public roads identified as approximately 1500 linear feet of Waterlefe Drive and 300 linear feet of Firefly Court, as per the submitted site plan/preliminary plat from GPI dated October 4, 2015, and with the following conditions:

1. Subject to review and approval by the Town Engineer on required PIP Permits.
2. Completion of the recreational trail to the gas line at the eastern project limits prior to Final Plat Approval on Phase 4 as well as this Phase 3.
3. Completion of installation and operation of the required traffic signal at the intersection of Greiner Road and Thompson Road, prior to Final Plat Approval of Phase 4 as well as this Phase 3.

ON THE QUESTION:

The applicant understands and agrees with the conditions of the motion.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Meeting adjourned at 9:58 p.m.

Carolyn Delgato
Senior Clerk Typist