

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday October 5, 2016

Work Session 6:00 pm
Status of TEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:00 pm
Approval of Minutes

Item 1

SBA Towers
Agricultural Floodzone

Requests Preliminary Concept Review of a proposed Cellular Communications Tower at 9545 Tonawanda Creek Road.

Item 2

Stephen Development/Fountain Court
Commercial and Residential Single Family

Requests Concept Plan Approval and a Recommendation for a Special Exception Use Permit for a proposed Mixed-Use Project at 9560 Main Street.

Item 3

Michael Metzger/Metzger Civil Engineering
Restricted Business

Requests a Change In Use from Residential to Office Use at 8245 Sheridan Drive.

Chairman Robert Sackett called the meeting to order at 7:00 p.m.

Councilman Paul Shear 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
Jason Geasling

Planning Board Members absent: none

Town Officials Present:

Director of Community Development James Callahan
Assistant Director of Community Development Jonathan Bleuer
Councilman Paul Shear
Councilman Christopher Greene
Councilman Robert Geiger
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Clifton and Mercia Phillips Paul Kwapiszeski Lawrence Brown
 Matt Kerwin Leigh Ziemczonek

Chairman Sackett noted that the newly appointed Planning Board alternate member, Jason Geasling, is present and will be participating in all discussions. Mr. Geasling will not vote on any agenda items as there is a full board present.

Motion by Gregory Todaro, seconded by Richard Bigler, to **approve** the minutes of the meeting held on August 3, 2016, as written.

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

MOTION CARRIED.

Motion by Gregory Todaro, seconded by Richard Bigler, to **approve** the minutes of the meeting held on August 17, 2016, as written.

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

MOTION CARRIED.

Chairman Sackett explained that Jim Callahan will introduce each agenda item. The applicant will have the chance to add comments to the introduction. The Board will then ask the applicant questions relative to the project. Members of the audience will be provided the opportunity to ask questions for make comments regarding the project. The applicant will be asked to address the questions/comments that pertain to the project. Members of the Board or Mr. Callahan will answer questions if appropriate. The Board will then take an action.

Item 1

SBA Towers
 Agricultural Floodzone

Requests Preliminary Concept Review of a
 proposed Cellular Communications Tower at
 9545 Tonawanda Creek Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the south side of Tonawanda Creek Road, east of Goodrich Road. It is an existing vacant property behind an existing Residential Use in the Agricultural Floodzone. The applicant is proposing to construct a new cellular communications tower.

Matt Kerwin is an attorney with Barclay Damon in Syracuse. He is present on behalf of SBA Towers and Verizon Wireless. Mr. Kerwin explained the proposal is for a 154' monopole cell tower. SBA Towers would be the tower owner and operator, they would lease space on the tower to Verizon Wireless. Verizon Wireless is the carrier, they are justifying the need for the tower. The submission explains the site analysis that brought the applicant to this point. Verizon Wireless has a build-to-suite agreement with SBA Towers. It has been identified that there is a coverage and capacity issue within the existing network in the Clarence area. Verizon Wireless reached out to SBA Towers to help them address not only this site but other sites around the region. They evaluated existing towers and tall structures in the area on which Verizon Wireless could co-locate, there are none in this area of Town. Per the Town Code the second priority category would be to locate on a municipal government owned property, there is none of that either. They are left with evaluating existing properties in the area. There have been 13 properties identified within the search ring. It is required to identify properties that could serve a need for a proposed facility and to speak with those property owners about a proposed lease negotiation to put a facility on their property. Of the 13 properties that were looked at, some were excluded due to wetland issues or they were outside of the search ring. The properties outside the search ring would not address their coverage and capacity needs. They feel this property is ideal given the setting and the location of the tower will be set back 900' off Tonawanda Creek Road and several 100 feet more from the creek itself. It will also be set far enough away from neighboring residences, there will be an appropriate buffer. There is an existing road that runs from Tonawanda Creek south along the property and extends about 400'+ back, from there the gravel access road would start and extend back to the compound. The proposed zig-zag of the road is a function of the existing foliage on the property. The tower is actually located more to the center of the property than what is shown in the presentation. The height is a function of need, there has to be facilities at sufficient heights to provide to the surrounding area. Many factors, such as tree cover, nearby buildings and nearby cellular towers go into choosing a location. There are surrounding sites that provide sufficient coverage but there are significant gaps in and around Tonawanda Creek Road. Verizon Wireless is federally licensed through the Federal Communications Commission. Verizon is required to address current and future capacity issues. The facility that is 2.8 miles northwest of the proposed site will reach its capacity by the end of the year. When this happens people in the facility's range will experience unreliable coverage. If the proposed facility is approved it would provide coverage to that neighboring area and alleviate the capacity issue.

Chairman Sackett said the tower appears to have room for four (4) providers. Mr. Kerwin confirmed this. Chairman Sackett asked if the applicant has agreements with any other providers besides Verizon. Mr. Kerwin said not to his knowledge, he went on to explain that once the tower is approved, SBA will then market it.

Chairman Sackett said some may look at the tower and say it is SBA's need for 154' in order to have more providers, he asked Mr. Kerwin to address this remark. Mr. Kerwin said Verizon must demonstrate the need to be at the proposed height, when a tower is built at this height it makes sense to have room for co-locators. He said the height will also minimize and limit the number of towers needed in town.

Chairman Sackett asked if the applicant is aware of any other gaps in coverage from any other companies that this would potentially serve. Mr. Kerwin cannot speak to any other networks needs at this time.

Chairman Sackett asked if there are other towers in the area that Verizon can attach to in order to fill gap without building this new tower. Mr. Kerwin said no.

Mr. Pazda asked what the typical area that a tower will service in this type of topography. Mr. Kerwin said the coverage footprint is approximately two (2) miles depending on buildings in the area and tree cover. Verizon operates on the standard that they have to see the coverage area. If the tower is buried

in the tree line there will be variable coverage, at best. When a signal travels from an antennae it degrades every time it hits an object; the ability to provide reliable coverage will diminish.

Mr. Dale asked the applicant if he anticipates towers continuing to get taller in the future; it seems they've grown even within the last 10 years. Mr. Kerwin said the towers have actually shrunk in size, 25 years ago towers were 200'-250' tall. He sees more facilities popping up at lower elevations in the future.

Mr. Todaro asked how the tower is constructed on site, is it one piece? Mr. Kerwin said sections of the tower are brought in and it is constructed on site, which takes about 4-6 weeks. There is a microwave antennae on the tower, Mr. Kerwin said Verizon is proposing this in the event fiber is not available. It is confirmed that there is no fiber in the area.

Mr. Dale asked for confirmation that there will be no lights on the tower. Mr. Kerwin said there are no lights required for the tower. There will be a light at the base of the tower that will be on a timer in the event that a technician needs to go to the site at night for maintenance or emergency services.

Mr. Buckley said that if the tower is improved and additional carriers are added will the footprint be expanded around the tower. Mr. Kerwin said no, the tower is designed for four (4) carriers, the footprint shown in the submittal included those carriers. Mr. Buckley then asked if Verizon would share access to the propane tank, which is used for back-up generators. Mr. Kerwin does not believe they share access to the propane tank, just for security and safety reasons. He cannot speak to other carriers back-up systems. Deputy Town Attorney Steve Bengart asked if a condition of the approval was made that stated there is to be no diesel anywhere on the compound would that be acceptable to the applicant. Mr. Kerwin said yes, he does not see that as being an issue. Mr. Pazda asked how big a 1,000 gallon tank is. It is noted that a standard residential tank is 500 gallons, so double the size for 1,000. A back-up generator does not have sufficient power to keep things going for a long time, thus the need for a propane tank. Mr. Dale asked how long the generator will run on a 1,000 gallon propane tank. Mr. Kerwin said if 1,000 gallons of propane is needed and used, there are bigger issues than a power outage, it would be a catastrophic event causing the need. Mr. Dale asked, if that is the case, then why do they need a 1,000 gallon tank. Mr. Kerwin said he can talk to the applicant about downsizing the tank and will get back to the Board with the answer.

Chairman Sackett said before the Board takes any action on this project an environmental review needs to be done and it will consist of at least 30 days of a coordinated review. The questions asked tonight will become part of the environmental review.

Leigh Ziemczonek and her husband own the property at 8575 Goodrich Road. She and her husband lived in Cheektowaga for eleven years in a very crowded urban area. They looked for two years to find the property they bought on Goodrich Road, it was exactly what they were looking for. They like the country setting, the quiet, the farms, the tractors and the horses. They closed on the property a month ago and Mrs. Zeimczonek was upset to receive a letter advising her a cell tower is going up in her backyard. She is opposed to the cell phone tower. She said it is inconsistent with the character of the neighborhood, they chose north Clarence Center because it is agricultural and currently, there are no cell phone towers in sight. Looking out to a cell tower would be disappointing. She has no problems with her cell phone or her IPOD coverage now. In reviewing the Verizon submittal she did not see that there were customer complaints or 911 dropped call complaints. It seems, based on a computer program, they are looking to add coverage where they feel it may lack. She does not know how many customers have complained and how valid it is at the customer end of things. The towers are ugly. She also found through her research that cell phone towers in the immediate vicinity to a home lower property values.

Being a new homeowner she is concerned about this, she does not think a reduction will be shown in her taxes if a cell tower goes up. She referred to the National Institute for Science Law and Public Policy Survey with regards to neighborhoods and cell towers and antennas and the impact of the property's desirability. The June 2014 results show that 94% of people polled said that a nearby cell tower would negatively impact their interest in a property or the price they are willing to pay for it. 79% said under no circumstances would they ever purchase or rent property within a few blocks of a cell tower or antennae. 89% said they were generally concerned with the increasing numbers of cell towers and antennas in their residential neighborhood. This was an opinion survey but there are numbers to back this up financially. The Appraisal Journal indicated that home buyers paying from 10%-20% less for property if it was in close proximity to a cell phone based station. The opinion survey was confirmed by a market sales analysis, the results of the sales analysis show the price of property was reduced by 21% after a cell phone tower was built in their neighborhood. This would decrease her property value by almost \$46,000. They were not told about this proposal when they were looking at the property. If they knew it was coming they would not have bought the property. She knows that there were 13 sites considered for this proposal and went on to say that eight (8) out of nine (9) property owners did not want the towers or did not respond to the numerous inquiries. Had Ms. Zeimczonek owned the property at the time of the inquiry she and her husband would have been against the cell tower being on their property. If any of the residents in the area would allow a cell tower to be placed on their property they would have received money from SBA, but eight (8) out of nine (9) property owners chose not to. She questioned if the new tower is a necessity as it is based on a computer survey. Is it necessary in this specific area? If there are a total of 4 providers on the tower, will they all need to send a truck to service the tower once a month? Chairman Sackett suggested Ms. Zeimczonek put her concerns in written form and submit them to the Planning Office so they will be on file. Ms. Zeimczonek said she will submit them. She went on to say that the survey shows a much different location for the tower than what was originally proposed because then they would have had to submit more paperwork. She would like clarification on the location of the tower.

Clifton and Lucianna Phillips have lived at 9560 Tonawanda Creek Road for 30 years and have paid their taxes on time every year. Mr. Phillips explained that they are both retired and will sell their home in the near future. A tower of this size will have a bad impact on the value of the house. He said Clarence Center has no park, Goodrich Road is still in terrible condition, there is no pool, and Tonawanda Creek Road has been broken for a long period of time. He is paying for a sewer that he does not have. To put a cell tower in this area would just add to their feud. He asked if Verizon has done an impact study. There have been many studies done purely on physics but he wonders if Verizon will do a biologically based human exposure study. Mr. Phillips wears a pacemaker and the location of the tower, in all probability, will affect his pacemaker. One recommendation for his pacemaker is that he has to be at least a quarter of a mile away from a cell tower. Cancer and other maladies have been linked to the frequencies of cell towers. Chairman Sackett suggested the Phillips' put their concerns in writing and submit it to the Planning Office. Mr. Phillips said they will do that.

Paul Kwapiszeski, lives at 9525 Tonawanda Creek Road which borders directly on the west side of the project site. Has never been contacted by SBA. A 1,000 gallon propane tank is 41" in diameter and 16' long. If there will be three or four of these tanks at the site it will be an attractive nuisance. Mr. Kwapiszeski asked if he can obtain the documents with all the details of the proposal. Chairman Sackett said the documents are available in the Planning Office and on line. Mr. Kwapiszeski said the applicant is actually asking for three variances. Chairman Sackett corrected him saying only one variance would be needed which is for the height of the tower. It is clarified that the proposal is an allowed use in the Agricultural Zone. Mr. Kwapiszeski asked about putting this in a floodplain. Chairman Sackett noted that the coordinated review will be done with the Army Corp of Engineers and the DEC as they would

have jurisdictional issues on that item. Mr. Kwapiszeski asked if the value of this tower gets carried into the tax roll. What is the benefit to the community? Deputy Town Attorney Steve Bengart said that would be considered in the assessment by the Assessor's Office. Generally it falls to the property owner but would depend on the lease between the property owner and SBA. He asked if the property owner would also have to provide insurance. He referred to the footprint of the proposal and noted that if the area to the west is going to be cleared because they need a side lot offset of about 160', the area is going to be very thin and the tower will then be quite visible from Goodrich Road. It is also going to be quite visible from Mr. Kwapiszeski's house. How will the structure be elevated to get it above base flood elevation, will it be bermed? Will this require a Floodplain Development Permit? Mr. Callahan said yes it will require a permit which is handled through the Town Engineer's office. Mr. Kwapiszeski asked if the tower is within the buffer zone of the designate wetlands. He would like to know what other sites were surveyed for this tower. Less than a quarter mile north is the Rapids Fire Company, they currently have a tower, this would be a great place for this proposal. Another quarter mile north there is the power transmission lines that run east and west and there are towers every 200'-300', this could also support cell equipment. Mr. Kwapiszeski asked if we really need this tower or can they go with small cell DAS type technology.

Mr. Kerwin clarified that the site was moved approximately 50' further south than what the original survey showed. It is more than 168' from the property line, the fall zone covers the height of the tower and is entirely on the parcel. With regards to the negative visual impact, as part of the SEQRA review documentation will be required as to what the tower will look like if constructed. He knows the Town's code does not require a balloon fly or a photo simulation but they will provide that if necessary. Chairman Sackett suggested he provide those photos. Mr. Kerwin said they will take as many photos as they can from the surrounding roads, as they do not go on private property. They will provide the photos to the Board as soon as possible. They will also notify the Planning Office of when the balloon fly will occur. Mr. Pazda asked if the applicant will identify the height of the current trees immediately surrounding the area. Mr. Kerwin said they can provide a cross section of the trees. He will also show all the carriers photo-shopped into the simulation.

Mr. Kerwin referenced the concern regarding property values in the area. He cannot speculate how the tower will affect property values in the area, that would be handled by the Assessor, but he knows of situations where folks want towers near their homes because it provides a needed service. Generalized statements/comments regarding diminished property values are not a basis for determination by a Town, there has to be more than that.

Mr. Kerwin cannot speak specifically to the question regarding complaints for dropped calls but he can speculate by referencing the coverage map which shows existing reliable coverage from surrounding sites. Verizon sees the coverage in the outlying areas on the map as a gap in reliable coverage. Reliable coverage includes maintaining calls, internet, streaming, etc. and that is the standard on which they proceed.

In regards to the human exposure and health effects, Mr. Kerwin stated that the FCC has complete jurisdiction over the industry and they require providers, such as Verizon, to operate within established emissions requirements. If the provider does not meet the requirements they run the risk of losing their license. The FCC monitors periodically and the most recent review determined that when operated within acceptable standards, there are no harmful health effects to the public. Mr. Kerwin went on to say that the issue of health effects as it relates to the provision of wireless coverage is a category that is excluded from consideration by the Federal Government at the local level, (Town/Planning Boards).

Mr. Kerwin said the area will be fenced; it will be gated and secured. The height of the fence will be 8', possibly with barbed wire. The lease area is 100' x 100'. The compound will require a cleared area of 4,900 square feet, with the roadway being an additional 7,800 square feet, making the total clearing for the access drive and the facility compound approximately 12,700 square feet.

Chairman Sackett asked if nearby facilities have been looked at to provide tower services. Mr. Kerwin explained that Verizon uses a "search ring" when looking for a facility to provide coverage within an area. Exhibit 7 of the application illustrates this. They looked at a couple properties in and around the search ring to the southeast and to the north, Verizon excluded some because they were just outside the search ring and would not provide reliable service even at the appropriate height.

Mr. Kerwin explained the DAS (Distributed Antenna System) technology would not work in a rural setting, but is used in urban areas where there is heavy usage and populations.

Wendy Salvati asked if the tower is insured. Mr. Kerwin said yes, SBA has insurance on all of its facilities.

Chairman Sackett noted that the application addresses bonding if approved. Mr. Kerwin said that they will provide a removal bond made out to the Town in an amount that would cover removal of the facility and consistent with the Town's Code. The bond would be in the event that the tower becoming obsolete or technology goes by the wayside.

Mr. Todaro asked if there is confirmation that the airstrips in the area have been looked at in regards to this project. Mr. Kerwin explained that all airstrips are required to have an FAA (Federal Aviation Administration) number on file. Once the project materials are submitted to the FAA with all the coordinates, they evaluate all the airstrips in the area. The FAA has determined that the proposed location of this tower does not pose a hazard to air traffic.

ACTION:

Motion by Wendy Salvati, seconded Steven Dale, pursuant to Article 8 of the Environmental Conservation Law, to seek Lead Agency Status and commence a coordinated review among involved agencies on the proposed SBA Tower located at 9545 Tonawanda Creek Road. This Type I Action involves the construction of a 154' monopole cellular communications tower plus a 5' lightning rod in the Agriculture Flood Zone.

ON THE QUESTION:

Mrs. Salvati noted that the applicant is going to provide photo simulations of the project.

Chairman Sackett thanked the participants of the community and suggested they put their comments in writing to the Board within the 30 day comment period.

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

MOTION CARRIED.

It is clarified that the Zoning Board of Appeals will not take action until the environmental review is complete.

Item 2

Stephen Development/Fountain Court
Commercial and Residential Single Family

Requests Concept Plan Approval and a Recommendation for a Special Exception Use Permit for a proposed Mixed-Use Project at 9560 Main Street.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the north side of Main Street, north and east of the intersection at Gunnville Road across from Clarence High School. It is an existing vacant building and property located in the Commercial and the Residential Single Family Zone. The applicant is proposing a Mixed-Use Project and an Open Development Area to the rear. The project received a Negative Declaration under the State Environmental Quality Review Act on August 3rd, 2016, and a Zoning variance on September 13, 2016 for 24 residential units.

Dave Sutton, of Sutton Architecture, is present along with developer Noel Dill, and Civil Engineer Mike Metzger.

Mr. Sutton said the project consists of a two story mixed-use building with an 18,500 square foot footprint. It is commercial space with 14 apartments to be located on the second floor of the primary building. Behind the mixed-use building they are proposing two (2) buildings consisting of five (5) Townhouse style rentals (individual units) with the three (3) center units having two stories. Each of the units will have an attached garage. The mixed use building will have public parking at the back of the building. Mr. Sutton went on to explain that there were originally two (2) curb cuts proposed but the applicant was encouraged by the Planning Board and the Planning Department to rethink the western egress. That western egress has been entirely removed. They have aligned the entrance and egress to this property solely to go in sequence with the existing light across the street from the high school. Mr. Sutton said he thinks this project is going to enhance the entire traffic situation at this intersection. He went on to explain that the majority of the commercial parking will be in the front of the building and most of the residential and employee parking will be at the back of the building. The applicant has been asked to consider the materials for the project and to focus on the street and curb appeal. Mr. Sutton passed around a sample of the stone to be used and pointed out that the stone will be projected into the second floor of the building. The material on the second floor will be a Hardi plank/clapboard siding. The sign panels would be similar to the siding, maintaining the wood look. There will be subsets of signage in relation to the whole building, they are not looking for a tenant to arbitrarily place signage on the building. The signs will be installed solely in the areas indicated as signage across the front of the building as seen on the plan. With the signage panel the applicant is introducing a series of gooseneck lights, as indicated in the rendering, to help light up the signage and give identity to Main Street while giving life to the storefront and businesses. There are no established tenants yet, but the building has been designed to be divisible on the first floor up to 1800 square feet and is flexible if a tenant requires more room. The series of entrances will be established prior to tenant occupation to allow for maximum flexibility. They do not want to introduce doorways at random which may give more of a strip mall feel. They want to give this a pedestrian feel and they believe it will be a signature building. This proposal is replacing a u-shaped motel that is long overdue for an upgrade.

Mr. Pazda asked if the applicant will require tenants to have unlit signage because the gooseneck lights will be installed. Mr. Sutton said the gooseneck lights are for enhancement, they are leaving flexibility here. The owner/developer will have a say in placement of signage so there is a cohesive sign plan. There may be some backlighting or some halo lighting which gives a nice effect, keeping the sign dark with a glow effect behind it. This will be encouraged, they are not excluding exterior light, but it would be done under discretion.

Mr. Sutton referred to the townhouses and said they have provided a variety of housing that does not readily exist in this area. The end units are single story, the middle units are townhouses which consist of a first floor for day to day living with bedrooms on the second floor. The project meets the program for diverse housing opportunity and also has a cascading effect which provides architectural appeal. Stone elements will be introduced from the building in the front. They are proposing vinyl siding as they feel it is an appropriate place for the residential character, and because of the expense they have been focusing on for the front mixed-use building. They feel the money is more important to be spent on the commercial building.

Mr. Sutton noted that the full development area is within the 330' setback area to Main Street. This will minimize the impact to any properties to the north. There is a parking lot to the east of this project that goes right back to the neighboring properties. The applicant is providing a substantial buffer. They are proposing two (2) estate lots off Goodrich Road, these lots will maintain the character of the neighborhood and will allow for a good buffer. A walking path has been introduced per the request of the Planning Board as a recreational feature for the tenants or anyone visiting the site.

Chairman Sackett asked for details on the garages. Mr. Sutton said they are garages with garage doors, they are not carports. They are divisible and rented to the tenants that are in the mixed use building. Looking from the east there would be a series of garage doors. In between the garage doors will be a three foot (3') high knee wall with the same stone that exists on the townhouses. The rest of the material on the garages will be the premium vinyl siding. Mr. Sutton explained there are three (3) different grades of vinyl siding, premium is the better grade. A better grade has the assurance of better color quality, it is thicker so there is minimal waving, it will have more rigidity to it and it will not have a fade factor. The roofs are peaked running front to back, meaning east to west, with a ridge down the middle, asphalt shingles and a simple low profile roof. They are not meant to architecturally compete with any other structure on the site, they are meant to accent the site. Lighting would be on the front only and based on necessity.

Mr. Todaro asked how the garages are divided. Mr. Sutton said they will be divided with a physical barrier, they are not required to provide a fire barrier between each unit. They will probably put an OSB Board or some other durable material. If the Building Department requires a fire separation at any point the applicant will certainly oblige. The townhouses will fall under the Single Family Home Code requirement which requires a fire separation between each unit and the garage. Mr. Geasling asked if the access is only through the garage door, Mr. Sutton said that is correct, there is no man door.

Mrs. Salvati referred to the five (5) back doors of the mixed-use building and asked what they provide access to. Mr. Sutton said if you walk in one of those doors you would turn left or right to go into commercial space and on the two (2) end doors you would go upward to the apartments. He reminds the board that this project has not been 100% designed. The apartments will have two (2) means of egress through the two (2) end doors. Mrs. Salvati pointed out that there are a lot of windows at each end of the building, she asked if there will be two (2) commercial spaces, one (1) at the front and one (1) at the back. Mr. Sutton explained that the commercial spaces are anticipated to be front to back. The

introduction of glass on the side of the buildings was Mr. Sutton's response to comments made by the committee that they wanted architectural features that wrapped around the building. Mrs. Salvati is trying to figure out what could go there. Mr. Sutton said there are ways to blank the window and make it an architectural window as opposed to a purposeful window. Mrs. Salvati said what if the tenant does not want the back windows. Mr. Sutton said they were introduced as a response to what the Board was looking for and the applicant will gladly take them out if that is acceptable. Mrs. Salvati asked about the sign panels on the building. Mr. Sutton said they are designed to be sign panels only by design, they are not proposing any signage on them. Once again, this architectural feature wraps around the building in response to the Board's request. The square footage of the townhouses is 1200'-1400'. The apartments in the mixed-use building will be smaller.

Michael Metzger explained that the estate lots mentioned above would be a two (2) lot Open Development Area. The lot that is closest to Goodrich Road will have the home placed such that it will be in line with the homes that are on the balance of the Spaulding Estate lots.

Mr. Metzger said during the coordinated review comments were received from all involved agencies including NYS DEC, NYS DOT, ECDEP and ECDPW. Comments have been addressed. The applicant did a traffic impact study and submitted it to the DOT, the DOT accepted it and concluded that there would be no adverse impact to the level of service on Main Street and the intersection as a result of this project. There were three (3) conditions of the acceptance, one was the elimination of the westerly egress, and this has been done. Another condition was the alignment of the main entrance coming out to Gunnville Road, this has also been done. The last condition of acceptance is signalization. The DOT made a suggestion to improve the existing traffic situation at the intersection. The applicant will implement this suggestion moving forward. The DOT suggested a dedicated left turn signal on Gunnville Road as one is approaching Main Street. At the same time there would be a dedicated right turn signal as one heads in an easterly direction on Main Street for the turn onto Gunnville Road. The DOT asked the applicant to explore this suggestion, they did. The applicant's traffic consultant, SRF and Associates, concluded that it would be beneficial, so this was incorporated into the impact study and the DOT accepted it as a condition of their approval. Mr. Pazda asked if there will be a left turn coming out of the applicant's complex at the same time there is a left turn from Gunnville Road. Mr. Metzger said given the lower volume of cars exiting the applicant's site it was not warranted so it was not a part of the study but they intend to look into it.

Mr. Metzger explained that the Town Engineer asked the applicant to do a preliminary grading and drainage plan. They will have all the storm water management at the back of the site, which will leave the front area open for landscaping opportunities. There will be no grading issues due to the way the site is laid out. Once they get into the design phase and they determine the depth of the bedrock they may need to blast so they would like to leave the possibility of blasting open. Chairman Sackett said a concern with blasting would be the high school across the street. The applicant would need to comply with all necessary permits to ensure a safe blast. Mr. Metzger said if they need to blast they will hire a company that is up on all the current regulations as far as notifications and monitoring. The Town Engineer would oversee these operations. The plan is compliant with fire access codes.

Mr. Metzger said they will be installing an on-site sewer system and it will be based upon the newest guidelines. Those plans have been submitted to ECHD and NYS DEC and both agencies have concurred with the design.

Mr. Pazda asked what the area in and around the path is going to look like. Mr. Metzger said there are areas that will need to be mowed because they need to maintain the areas where the storm water

management facilities are. He does not know if the applicant will mow the entire area or leave portions in its natural state. The walking path will be small and perhaps a wood chip surface will be used for it, they do not want to put a hard surface there.

Chairman Sackett asked about how the applicant will grant access to the Town for the detention ponds. Mr. Metzger said that will need to be maintained by the owner, the Town will not take responsibility for it. There is an agreement, within the Development stage, that the developer will need to enter into with the Town to ensure the Town has proper access for inspections and other requirements. There won't need to be an easement, it is just an agreement between the Town and the owner to allow access.

Mr. Dale asked Mr. Metzger to confirm that the sewer system is designed to accommodate restaurant facilities if those go into the commercial spots. Mr. Metzger said they have ample opportunities to expand the system on site, but they already sized the system for restaurant facilities as part of this development.

Mrs. Salvati asked about construction hours and noted there will be times when the traffic is heavy due to the school across the street. Mr. Metzger said they will follow standard practices, they know there may be some special considerations they need to make. Mrs. Salvati noted that the applicant will work with the Landscape Committee with reference to landscaping the site including the front now that the retention ponds will be located in the back. She also made reference to the proposed walls and said it will look beautiful. She went on to explain that when the DOT reconstructed Main Street they installed new trees including three (3) Oaks that are in the right-of-way, she thinks two (2) of these trees will be impacted by the proposed driveway. She suggested working with the Landscape Committee to save these trees, if possible. Mr. Metzger agreed. Mrs. Salvati asked about the parking light standards. Mr. Metzger said they will probably do something similar to what was done at Willow Square. Mrs. Salvati asked if there will be a sign on Main Street. The applicant said yes. Mrs. Salvati said they need 172 parking spaces per the code, they are providing 134. She said they are 38 spaces short for the commercial component. She asked if the 86 spaces will accommodate the commercial component. Mr. Metzger said the businesses that will go in here will be boutique-type businesses that don't attract a large swarm of people at any given time, so the proposed number of parking spaces will work. There are other opportunities on site to put in more parking, if needed in the future. Chairman Sackett suggested the applicant show the number of required parking spaces on the plan and land bank them. Mr. Metzger said he will do that.

Mr. Pazda likes the look of the plan, he likes the use of the nicer materials, he does not have a problem with the premium vinyl siding on the back of the building and he agrees with the window placement. He asked if the applicant planned on using bollards to protect the expensive stone that is being used on the garages. Mr. Sutton said they have not considered bollards, those are typically used more for commercial applications. This situation is an individual using their own garage. If the Board wants bollards installed the applicant will do that but the space between garage doors is not that big to put a bollard there. The bollard would also block the look of the stone and give the building a more industrial/commercial look, this is not the applicant's intent.

Mr. Todaro said there are second level patios on the ends of the building and asked if they are functional. Mr. Sutton said yes and went on to explain that they are also intended to be an architectural feature.

Mr. Callahan noted there will be premium vinyl on the townhouses.

Mr. Geasling referred to the Grading and Drainage plan dated September 28, 2016 and said the proposed driveway off of Goodrich Road seems to overlap the existing residential driveway. Mr. Metzger said they use Erie County mapping data when they put concept plans together and the lot lines are not very accurate. Mr. Geasling said there is a significant overlap, being 60'-70'. Mr. Metzger said when they were laying in the lines they did not focus any attention on Goodrich Road.

It is clarified that the front building has Hardi Board, the back building where the town houses are will have premium vinyl siding. The concept plan will be updated based on this discussion.

Mr. Todaro questioned the walkways from the man doors to the back of the building. Mr. Sutton said every rear door entrance will have a sidewalk to it.

It is clarified that the garages are also premium vinyl siding.

ACTION:

Motion by Timothy Pazda, seconded by Steven Dale, to **approve** the Concept Plans for the proposed Mixed-Use Development at 9560 Main Street, including a 2 lot Open Development Area designed to local code, as per the submitted Site Plan from Metzger Civil Engineering dated September 28, 2016 and the Architectural Elevations from Sutton Architects dated September 28, 2016 and amended on October 5, 2016 to include premium vinyl siding on the rear building as well as the garages, with the following conditions:

- A. Conditions of the Town Engineer as identified in a memo dated 10/4/16.
- B. Landscape Committee approval prior to Development Plan approval.
- C. Lighting to be downcast and dark sky complaint.
- D. Open Space and Recreation Fees.

ON THE QUESTION:

Chairman Sackett suggested amending the motion as follows: ...the Architectural Elevations from Sutton Architects dated September 28, 2016 **and amended on October 5, 2016 to include premium vinyl siding on the rear building as well as the garages.** Timothy Pazda and Steven Dale both agreed to this addition.

Mrs. Salvati suggested the applicant be cognizant of the trees planted by DOT in the right-of-way and save what they can, particularly the Oaks. She also said the applicant may want to look into a left hand turn out of their site, as previously discussed. Chairman Sackett said at the Development Stage the applicant will show all parking and ask for the parking in the rear to be land banked if it is not needed at this time.

The applicant agrees with and understands the conditions and all items listed under "on the question".

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

MOTION CARRIED.

ACTION:

Motion by Timothy Pazda, seconded by Gregory Todaro, to **recommend** to the Town Board a Special Exception Use Permit as per the approved Concept Plans and Elevations.

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

MOTION CARRIED.

Item 3

Michael Metzger/Metzger Civil Engineering
Restricted Business

Requests a Change In Use from Residential to
Office Use at 8245 Sheridan Drive.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the south side of Sheridan Drive east of Helenwood Drive. It is an existing residential home located in the Restricted Business Zone. The applicant is proposing to convert the existing home to a professional office use. Per the Zoning Law the Planning Board has approval authority for changes in use.

Michael Metzger, of Metzger Civil Engineering, is present and explained that he has operated his business in Town for 17 years in a rented space, it makes sense for them to own their own space now. They have purchased the property and it is their intent to convert the home into their offices. He has a small staff and does not plan for massive growth, this structure fits their needs. The upstairs spaces will become offices. The lower level will be where the majority of the work will be done. There is a full kitchen that will be coming out. There is a small bathroom that will come out and a handicap accessible bathroom will be put in. The other rooms will be converted into conference rooms and receiving areas. Mr. Metzger said they are not going to make any architectural changes to the home however there is some painting that needs to be done and some wood trim and windows that needs to be replaced. They will add a handicap ramp to the back of the home. This is a low impact business, it will appear and act like a residence. He has three and a half employees on a daily basis, so they are proposing four (4) parking spaces in the back of the property. The septic system has been identified so the paving will not adversely impact it. There is stone in the back of the property and it will be replaced with topsoil and seed. A major portion of the area proposed for four (4) parking spaces in the back is currently stone. Mr. Metzger submitted photos of the site, they are on file. There is a 6' high fence running along the west property line, and a 6' high fence running along the east property line. There is a garage in the back of the property and heavy vegetation at the south property line. There are dense planting areas that are immediately behind the house. There is a Japanese Maple, several Rose of Sharon bushes and Boxwoods on the property. There are mature trees on the front of the property. They are proposing a turn-around in the front of the property, it will not become a parking space. He does not have a lot of clients that visit him, maybe once or twice a week for a half an hour at a time. He does not want people backing out onto Sheridan Drive, it is too dangerous, thus the turn-around.

Mr. Metzger said the signage will be low impact, he does not need drive-by customers. If there is lighting for the sign it will be external and low level. Its placement will be within 100% compliance of the Sign Ordinance and they will work with the Sign Review Committee to ensure this.

Mr. Metzger said they will be employing local contractors for the renovation. They are proud to be here and look forward to many more years in Clarence.

Chairman Sackett asked if the applicant would be willing to submit a Landscape Plan that augments and compliments the neighborhood. The surrounding properties have more landscaping at the front of the property than Mr. Metzger’s does. Mr. Metzger said he will submit a Landscape Plan for the sign and he will look at the front of the property to see what he can do. He likes the architectural look of the building and he does not want to hide it with a lot of landscaping. He will look at some low level foundation landscaping.

Mr. Pazda asked about the halogen lighting at the back of the building, Mr. Metzger said that is on the roof and he will probably remove that lighting.

Tina Bartoshevich, of 8248 Sheridan Drive, complained of the light emitted from the Ideal You sign next to Mr. Metzger’s property and asked Mr. Metzger to consider having just a sign without LED lighting. Mr. Metzger understands her request. Mrs. Bartoshevich also complained about the timer on the pink Reflections sign on Sheridan Drive. The property across from her home is turning into commercial property and she asked the Board to look into the excessive lighting at Ideal You.

Mr. Metzger said he is not looking for a big bright sign, he just needs a sign to identify the location so his clients and vendors know where to go.

ACTION:

Motion by Wendy Salvati, seconded by Gregory Todaro, to **approve** the change in use from residential to professional office at 8245 Sheridan Drive as per the submitted site plan from Metzger Civil Engineering dated September 23, 2016 with the following conditions:

1. Review and approval by the Town Building Department of required permits for internal renovations.
2. Open Space and Recreation Fees.
3. Submittal of a Landscape Plan for review and approval by the Landscape Committee.

ON THE QUESTION:

Mr. Metzger understands and agrees with the motion and the conditions.

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

MOTION CARRIED.

Meeting adjourned at 9:40 p.m.

Carolyn Delgato
Senior Clerk Typist