

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday November 12, 2014

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

Benderson Development/Eastgate Plaza
Major Arterial

Requests Approval for construction of an access
driveway from Greiner Road to Eastgate Plaza.

Chairman Robert Sackett called the meeting to order at 7:30 p.m. Councilman Robert Geiger led the pledge to the flag.

It is noted that at the November 5, 2014 Town Board meeting, Jeffrey Buckley was appointed to the Alternate position of the Planning Board. He will participate in the question and answer period, but will not vote on any agenda item as there is a full member board this evening.

Planning Board Members present:

Chairman Robert Sackett
2nd Vice-Chairperson Wendy Salvati
Richard Bigler
Steven Dale

Vice-Chairman Paul Shear
Timothy Pazda
Gregory Todaro
Jeffrey Buckley

Planning Board Members absent: none

Town Officials Present:

Director of Community Development James Callahan
Junior Planner Jonathan Bleuer
Councilman Peter DiCostanzo
Deputy Town Attorney Steven Bengart
Councilman Robert Geiger
Councilman Patrick Casilio

Other Interested Parties Present:

Michael Brent
Giuseppina Bugenhagen
Anthony M. Glieco
Sonya Hage

Jeff Ferguson
Chris Bugenhagen
Alexander Soda
F. George Hage

Sarah Ferguson
Dolores Liberto
Donald J. Ross
Debra Catalano

Gerald Drinkard	Al Schultz	Felice Petruzzo
Sal Territo	Peter Cebulski	D. Boccio
Lauren Saraceno	Andre Thomasula	Joseph Saraceno
Mary Vujcec	Kathy Karaszewski	Ron Diehl
Shawn Sheehan	Gloria O'Neill	Craig Schmidt
Deborah A. Brent	Mark Dunlap	Karen Okonowski Dunlap
Jeffre Borton	Maria A. Tupay	William Tupay
Doreen Borschel	Ml. Schlierf	Michelle Eschborn
Gertrude Guth	Martin G. Visciano	Paul Drof
Joan Kapuscinski	Johnine Gunsalus	John Antanica
Kathy Antanica	Diane Mambretti	Alicia Greco
Al Schweitzer	D. Hejmanowski	Jeffrey McMahan
Sue Smith	Aine Way	Xzautski Zhang
Freda Su	Kevin Hartman	Jim Steffan
Susan Steffan	Anthony Ditsious	Dominic Vero
Darryl Remsen	Arman Afshani	Charles Weimer
Gregory Sheehan	Kevin J. Kapuscowski	Ernie Gunsalus
Dave Mambretti	M. Petrulla	

Motion by Paul Shear, seconded by Wendy Salvati, to **approve** the minutes of the meeting held on October 1, 2014 as written.

Steve Dale	Aye	Gregory Todaro	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Paul Shear	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Chairman Robert Sackett explained the proper protocol for the meeting. This meeting is a public hearing, it is being held to obtain information. All opinions will be respected. If anyone becomes disruptive they will be asked to leave the meeting and go out into the hall. During the public comment period, there will be a three (3) minute limit per speaker. The reason for the time limit is because the Board has received a lot of information and they have worked hard on this topic since January, there is no need to repeat the information that has already been received and documented. Three (3) minutes should suffice for any new information being brought forward from the public. Deputy Town Attorney Steve Bengart will keep time and will notify each speaker when they have 30 seconds left.

Mr. Callahan will provide a history of the project, the applicant will provide additional information if they wish. The Board will address the applicant and clarify the application. The people in the audience will then be invited to speak. When the audience is done and the public comment period is closed, the Board will re-address the applicant based on the information provided by the public comment period. The Planning Board will then take action as they see fit.

Item 1

Benderson Development/Eastgate Plaza
Major Arterial

Requests Approval for construction of an access
driveway from Greiner Road to Eastgate Plaza.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is generally located at the southeast corner of Transit Road and Greiner Road. It is an existing land use as a commercial plaza located in the Major Arterial Zone. Applicant is requesting approval to construct an access driveway to Greiner Road from the existing plaza. Per the Zoning Law, Site Plan amendments in the Major Arterial Zone are the purview of the Town Planning Board. Coordinated review under the State Environmental Quality Review Act (SEQRA) has been completed and the Town Planning Board is identified as Lead Agency on this project. The SEQRA, as well as the project design is pending. The applicant is present to fully detail the request for action.

James Boglioli, attorney for Benderson Development, is present. Mr. Boglioli noted that on April 9, 2014 he presented all the studies and information on the project, he would like to bring the Board up to date as to what has happened since April 9, 2014. Since April 9, 2014 the Town hired a consultant to review the project, in relation to that, Benderson has updated their Traffic Impact Statement to address all the concerns raised by the neighbors at the April 9, 2014 meeting, any written comments as well as the comments raised by the Board and to address all the comments raised by the consultants. Mr. Boglioli said the Traffic Impact Statement included a TIS as well as an accident analysis, a signal warrant analysis, a cut-through analysis. After addressing all the comments, all the conclusions remain the same. Those conclusions are as follows: that there will be no additional traffic east of the access on Greiner Road if this access goes in, it will improve the Maple/Greiner/Transit intersection in at least two (2) directions. One coming from the east because traffic going to the plaza will not have to use the intersection and one coming from the south because people leaving the plaza will not have to go out onto Transit and go to the intersection, they will be able to use the access way. It will improve pedestrian facilities on Greiner Road, there will be substantial sidewalks installed on both the north and south sides of Greiner Road. The access will not result in any pass-by or cut-through impacts, there was an analysis done which demonstrates that all pass-by and cut-through routes actually take longer time than going the direct route. The applicant has also proposed signage to further clarify driver's knowledge on where they are going and what they can do. The access will improve the convenience and safety of the shopping center, using Greiner Road, especially since they are adding a turn lane for Greenhurst, Vista and the shopping center. As the road operates now there are two lanes, the lanes are wide with a wide shoulder and when people stop to make a left, cars go in the shoulder to go around them, which is an unsafe condition. The proposed additional sidewalks and turning lanes create a safer condition than what currently exists. The access will reduce traffic on Transit Road because all the traffic from the east that goes to the plaza and all the traffic from the plaza that goes back to Greiner Road will no longer be going out onto Transit, they will use the driveway. A sidewalk has now been added between Greenhurst and Vista Avenue, this is in addition to the sidewalk that was previously proposed from the Walgreen's back to Greenhurst on the north side. A sidewalk is proposed on the south side from Transit to Eastbrooke Place, and from Greiner Road into the shopping center. All sidewalks are 5' wide and are detailed on the plan, they meet ADA requirements.

Mr. Boglioli explained that the applicant agreed to conduct a post development study. As he previously mentioned an independent review has been taken on by the Town itself. He referred to the Power Point presentation which showed the updated plan that now includes the additional sidewalks. The plan also shows the limited access driveway; there are no left-outs, there is a left turn in from the east, and there

is a right-in and a right-out. The design is comprised of a splitter island, a “pork-chop” which will prohibit left-outs. A left turn lane into Greenhurst has been added to allow for stacking so people won’t stack in the traffic lanes. They have provided a left turn into the shopping center and a left turn into Vista. These are all improvements to the roadway system. It does provide, as previously agreed in writing, to construct a future access point should the bank agree. The existing driveway to the bank would most likely be closed at that point. The plan also shows the landscaping.

Mr. Boglioli referred to the signage plan which shows a sign that indicates No Access to Transit Road. This sign will be at the front of the driveway within the shopping center, so that when drivers commit to use the driveway they will know that there is no access to Transit Road. There will be a Right Turn Only sign at the end of the driveway that will further notify the motorists that they cannot make a left onto Greiner Road. There will be Enter and Exit signs which match all the other Enter and Exit signs for the plaza; this is to prevent people from missing the driveway. There is a truck circulation plan already in place for this plaza, the trucks come in the plaza via the driveway near Wal-Mart, they use the truck pavement that has been built and go around the plaza, they circle back around and they drive to the signal, this plan will not change.

Mr. Boglioli said the applicant agreed to a post development study which will be conducted after the construction of the driveway at the time that is set by the Planning Board. The applicant recommended three (3) years because the Town has a lot of projects in development and a lot of traffic to normalize. Also, it takes three (3) years based on the applicant’s discussion with the County for accident analysis to normalize. If the Board wants the study done sooner than three (3) years the applicant does not have a problem doing that. The study will be provided to the Town and the Erie County Department of Public Works, Benderson has posted a \$10,000 bond to cover the cost of the study. The study will assess the following: 1.) Review the available stacking distance for the Transit Road southbound left turn lane to determine if the length of the left turn lane is adequate, 2.) Revisit the turning movements at the Greiner/Greenhurst/driveway intersection to confirm the traffic redistribution percentages. If counts are significantly higher than projected in the Traffic Impact Study prepared by TY Lin International, a new traffic signal warrant analysis will be conducted, 3.) An accident analysis will be prepared for the section of Greiner Road that was studied as part of the current Traffic Impact Study. If mitigation is identified in those studies, Benderson has agreed to undertake that mitigation.

Mr. Boglioli said there is a long history for the need of this driveway. In 1995, when this project was approved, the NYSDOT wrote a letter saying that before final build-out of this project this access road should go in because there will be significant negative impacts at the Transit/Maple/Greiner traffic signal. In 2004 the Town of Clarence, the Town of Amherst and the NYS DOT commissioned the Transit Road Corridor Management Study. This area is identified on page 40 of that study and specifically talks about making the north/south connection, which the applicant is proposing now. In 2006 the Town Board gave Site Plan approval conditioned on installing this driveway. They made Benderson sign an agreement saying as access to Greiner Road they would put the driveway in, this was to further the 2004 study. As part of that signed agreement Benderson also agreed to connect the Uniland property to the south, so there will be a connection from Greiner Road, through the plaza to Sheridan Drive, thereby providing another area for people to avoid Transit Road. That agreement has been signed and has been on file with the Town since 2006. On November 10, 2014 the ECDPW issued a letter in connection with this project, the letter is on file. That letter concluded that there will be no adverse impacts by the installation of this driveway. Erie County has jurisdiction over this roadway. That letter also states that this driveway will result in an improvement over the Transit/Maple/Greiner intersection by reducing traffic. The letter indicates that the County would like to see a post development study, the applicant has agreed to that. Since April 2014, the Town has retained its own consultant, that consultant

has performed its own review. Mr. Boglioli reviewed that study and said it corroborates all the information in which Benderson has provided; the consultants agreed with the study and the conclusions. It is consistent with the management goals of the Master Plan 2015, specifically on page 17 of that document it refers to making north/south connections to divert traffic off Transit Road into the shopping center. There is an example of this further south on Transit at the Mall and through to Best Buy, a driver can enter on Main and go to Sheridan and never have to exit onto Transit Road.

In conclusion, Mr. Boglioli would ask that the Board see fit to take action this evening. This project is supported by all the prior approvals and all the studies; there has been no factual evidence that this project will have an impact. There will be no additional traffic east of the access on Greiner, that traffic is already on the road, this is just an easier way to get to the shopping center. As the study shows, there will be a significant improvement at the Transit/Maple/Greiner intersection because of the reduction in traffic due to the access driveway. This significantly improves the pedestrian facilities on Greiner Road above what they are now. Currently, pedestrians have to walk on an unprotected shoulder, Mr. Boglioli knows there have been incidents on that shoulder. People are not supposed to go around a vehicle that is turning left onto Greenhurst or Vista, but they do and they travel in that unprotected shoulder. With this plan there will be a center turning lane and 5' sidewalks on either side of Greiner Road. As the studies show, this project will not result in pass-by or cut-through impacts and the signage will only further enforce that. This will reduce traffic on Transit Road.

Chairman Sackett referred to the proposed sign for the access drive that indicates Right Turn Only. The purpose for that sign is to not only avoid the left turn, but the straight through. Mr. Boglioli concurred.

Chairman Sackett referred to the service road owned by the bank and asked for clarification that it is not part of the request at this time. Mr. Boglioli said that service road is not part of the request at this time.

Mrs. Salvati noted that there is a sign for anyone entering from Greiner Road, that indicates No Delivery Trucks. She suggested that a similar sign be placed at the other end of the access road, so that the delivery trucks aren't going out that way. Mr. Boglioli said that is not a problem, they will install that sign.

Mr. Pazda asked if the applicant is amenable to allowing cross access to the properties on Transit Road. Mr. Boglioli said they are agreeable to working with all the front property owners to allow cross access based on whether a business agreement can be reached between the two property owners. There is an agreement in place for Applebee's and Moe's, those properties have cross access to the plaza. The Firehouse Subs property has been connected to the plaza as well.

Chairman Sackett opened the public comment period noting that there is a three (3) minute limit per speaker.

Andre Thomasula said that in past meetings his group has appealed to this Board and the Town Board to stop the Benderson Company from building an egress for the Eastgate Plaza on to Greiner Road. They have cited safety concerns due to the narrow pavement on Greiner and lack of sidewalks on Greiner and surrounding streets. There have been numerous accidents at Greiner and Transit involving injuries and at least one death on Greiner of Melissa Thomasula who was struck and killed in 1995 on Greiner very near the proposed egress. It was determined that she was struck on the 8' wide paved shoulder of Greiner 6' away from the driveway, the shoulder has since been narrowed. The fact that we are here tonight indicates that the Board seems to be indifferent to the increased safety hazards that the egress will bring. It is time to discuss facts about the zoning history and commitments that have been made by the

Benderson Company. In the early 1990's this Planning Board and the Clarence Town Board agreed to change the zoning for the package of land for the plaza in return for commitments the developer made. The most important was and still is their agreement not to build an entrance/exit from the plaza to Greiner Road. Benderson got the zoning change they sought by agreeing to not build the egress. This agreement is referenced in many places including the Clarence Town Planning Board minutes from September 7, 1994 and from a Buffalo News article dated March 14, 1996. This was a condition of Benderson getting the zoning change. We are here because Benderson keeps bringing up the proposal in hopes that new Board members will not know about or honor the commitments made by their predecessors 20 years ago. Mr. Thomasula said the truth is that the Benderson Company used dirty tactics in their efforts for change many times. He cited repeated attempts to get the Board to allow the egress in violation of the earlier agreement not to build it bringing many Benderson employees to a Town meeting wearing "say yes to the egress" paper badges. The badges were passed out at their Benderson offices and they were instructed to pose as people in the audience. Hiring a consultant to create a bogus impartial traffic study to state the traffic will not increase on Greiner when their own representatives proposed increase use of Greiner themselves to alleviate Transit Road traffic. Also, the study ignored traffic that will exit and use cross streets to get to Sheridan avoiding Transit. At an earlier meeting Benderson addressed the safety issue on Greiner by proposing to build and maintain sidewalks on Greiner. Nothing was said about maintaining the sidewalks tonight. With their track record on ignoring commitments how many times do you expect Benderson to actually plow the sidewalk?

Chairman Sackett reminded the audience that security is present and if there is clapping, cheering, booing or any other disruption to the meeting you will be asked to leave. This meeting is to obtain the facts in order to make the best decision possible.

Susan Steffan lives on Eastbrooke and reads from a Buffalo News article dated September 29, 1994, "The plaza plan shows no access to Greiner, a major condition that area residents and town officials insisted upon from the beginning several years ago. There will be three (3) driveways off Transit, etc., etc." Another Buffalo News article from March 14, 1996 read, "Eastgate plaza developers seek Greiner Road access." Ms. Steffan asked the Board to think of what Benderson is looking for in the future because clearly this has been part of the end game even though they agreed to it years ago to not be here tonight, not be asking for this egress. If the egress is granted, Benderson is here to make money they are not here to improve the safety of our neighborhoods, to make Transit's traffic flow pattern better, to improve the Eastbrooke intersection. They are here to put some kind of development on Greiner that is going to create extra tenants and extra money for them, that will impact traffic, that will impact these neighborhoods. She is encouraging the Board to think further than this egress and think about what is coming next after it is granted because this we knew was coming 20 years ago and the neighbors fought and got all the officials to agree and we are back here again.

Sal Territo, of Red Clover, said today he measured from Transit to Vista, it is two-tenths of a mile, of that stretch there are seventeen (17) exits, of the seventeen (17) only three (3) have exits to Transit Road. This stretch only has one (1) lane. In that stretch there are eight (8) bus runs, there are three (3) waste pick-ups. There are also mail trucks, from now until January there will be more postal deliveries. The Board approved two (2) previous proposals that are going to impact Greiner Road. Where will all this traffic go? There is one lane east and one lane west. The turning lane only effects the people like himself, who will go onto his street.

Ismet Hallac owns property across from this improvement, he also owns a barn with acreage two (2) miles from the project site. Improvement and progress is going to go on whether the whole area says no or yes. In his opinion, the sidewalks addition and the project will improve both the traffic problems and

the safety problems. Recently he was doing some improvements in the farmhouse and every day, two (2) or three (3) times he goes back and forth to buy something at the stores and he can realize how much easier it could be for him to get out of Walmart into Greiner Road instead of going to Transit Road. The project has been studied, the experts are all in favor of it, it is best for the Town of Clarence.

Shawn Sheehan, of 5163 Eastbrooke Place, addressed the Eastgate matrix item number 28 noting that it concludes that no documentation of previous limitations to access from Eastgate plaza onto Greiner Road. Ms. Sheehan presented a copy of the Planning Board minutes from 1994, she said the developers of Eastgate plaza and the Clarence Planning Board worked in conjunction to form an agreement, she quoted from the 1994 minutes, "The residents were reminded that there will not be an exit out to Greiner Road." She does not know what more they need to say that that is documentation. Ms. Sheehan asked the Board to not overturn this agreement, they are setting a precedent of mistrust between the Clarence residents and the Planning Board. The Board is sending a clear message that what they decide is not going to be followed through, it really doesn't matter. A previous Planning Board agreed to this, this Board is also undermining their very authority of your position. Other people look at your decisions and your carefully planned out visions and they will think they don't have to listen, things have been changed, things are overturned. The Board needs to take into consideration that there is documentation.

Giuseppina Bugenhagen, of 8065 Greiner Road, said she attended the meeting in April where the Benderson team presented their rationale and said there would be a 3% improvement in traffic. In that same meeting the Board also approved the building of 250-350 townhouses and other things that are coming into the community. The traffic is going to increase by 250 to 500 potential cars. So even though the 3% is a proactive thought, there is still the 97% that she is concerned about. She wrote in her letters her concern on safety and she will continue to be concerned about it because it is not going to resolve the influx. She appreciates that the applicant will review the impacts in three (3) years, but in three (3) years there will also be a community that grew. Is this really the solution for the management of the traffic? The Board also has to take into consideration, as a group, that the minutes from 1994 were approved and the commitment to the community was about safety and the collaboration that they did with Benderson. If anyone has at any point rescinded their commitments then the unpredictability of anyone in the Board's position makes it unsafe and uncertain about safety and liability in the community. She asked the Board to consider the original agreement and consider planning on what to do with the other 97% that is coming.

Darryl Remsen, of 4894 Ledge Lane, said 20 years ago when they first proposed this plan they did not do anything to mitigate the problems with Greiner Road traffic originally. They proposed to put an entrance into Greiner Road which was struck down because they did not assess the impact of the streets such as Ledge Lane, Eastbrooke Place. The impact would be increased traffic. He turned left from Ledge Lane into Greiner and the only reason he can turn going west is the timing of the lights between Transit and Harris Hill otherwise there is no way to get out there. Benderson is proposing to dump more traffic heading east on Greiner with very little restriction. How is he supposed to get out from Eastbrooke or Ledge Lane going west on Greiner? When this was first proposed Mr. Tony Renaldo, the attorney for the developers, said that the traffic study was done and Transit Road was totally adequate to handle all the traffic that this thing could ever generate. Here we are arguing over it for the last 20 years. Mr. Remsen does not think it is right. You want to make it convenient for shoppers to go to Eastgate, what about the residents of Clarence? Do you want to impact them, do you want to destroy their quality of life by having this increased traffic? Also, Mr. Remsen said he believes it is a policy of the Town, as said by the Town Supervisor in a recent paper interview, that he wanted to make it a walkable community. A lot of people are walking Ledge Lane and riding bicycles, there are kids. It seems unconscionable that you want to dump all this traffic into Ledge Lane and Eastbrooke. The reason it

wasn't built originally is because the roads are curved and unsafe. He urges the Board to look for the health of the residents and maintaining quality of life.

Kevin Hartman recently purchased a home on Vista Ave with his wife, they have a 2 year old child. Part of the reason they bought this house is because it is quiet and nice, their son can play and run around. He is worried that if this access road is built and a driver exits it but needs to get back to Transit he or she will cut down Vista or another nearby street and a child could get hit. He doesn't see traffic getting any better, Transit Road is the longest and one of the busiest roads in Erie County, that is never going to change no matter how many access roads you put in. There is a ton of deer in the area and deer can do a lot of damage to a vehicle, there will be a lot more accidents in this way. Mr. Hartman referred to the Right Turn Only sign and said Mr. Boglioli said, "What if a driver makes a mistake." Drivers make a mistake and someone can get hurt, that is what Mr. Hartman is worried about. He does not believe this should be passed.

Arman Afshani, of 4963 Eastbrooke, said previous speakers mentioned the long term motives of Benderson. Mr. Afshani said Benderson does not care about the safety of people on Transit Road, they want to improve their profitability. Mr. Afshani is unilaterally opposed to this access road and any action by this Board, Benderson or the Town that supports this access road is a shame. Not one person sitting here would want commercial traffic in their area. The initial concerns of this Board were safety and reducing traffic on Transit Road. Mr. Afshani looked at the traffic study and the project description reads, "The project is needed to improve access to the north end of the Eastgate Plaza, the new access would also make the plaza more attractive to the applicant's tenants." Mr. Afshani asked about the people who live in the area. He has a 13 year old and an 11 year old that like to ride their bikes on Eastbrooke, they do not have sidewalks, it is not attractive to his children's safety. He will not accept an attorney telling him that there will be no problems on Eastbrooke, he knows that there will be. If he is making a right out of the plaza and he has to hit Sheridan Drive, he is going right up Eastbrooke. He hopes the Board sees this and are not clouded by this attorney. A promise made in 1994 was that there would never be an access road to Greiner and here we are repeatedly trying to save our homes and values and children. He does not want this traffic coming down his street. How ironic it is that Benderson needs a team of legal advice and lawyers to try an break a promise made from the September 7, 1994 Planning Board minutes which stated, "The residents were reminded that there will not be an exit out to Greiner Road." We did not bring a team of attorney's, Benderson did.

Karen Okonowksi Dunlap, of 5331 Greenhurst Road, said they are here to express their concerns and determine opposition to the construction of the access road out of the Eastgate Plaza onto Greiner Road. There are a number of issues the residents of Clarence have expressed again and again. Over the past seven (7) years the number of reported accidents on Greiner between Harris Hill and Transit Road increased. In 2007 there were 9 reported accidents for the year, in 2012 the number spiked to 23 and for the current year of 2014 from January through August it sits at 14. These numbers were obtained through the Erie County Sheriff's Office. She can only imagine how high those numbers will climb if every accident was actually reported. It is not in the best interest of her development and all the adjoining developments to have this access road open on Greiner. Do the right thing and deal with root cause behind this move, Transit Road. She asked that the Board not cave in to the whim of another large developer who wants expansion at the cost of the surrounding neighborhood. A number of folks have expressed an interest in pursuing legal action to enforce the 1995 legal agreement that there would be no access to Greiner Road, however, they do not believe it should come to that. They believe that the Board shares in their concerns for safety as expressed in previous meeting minutes. They believe that not putting in the access road does stay in sync with the Master Plan 2015.

Wendy Whiting, of Ledge Lane, suggested the Board to consider the fact that they are not just looking at one neighborhood that has complaints, they are looking at five (5) different neighborhoods that have different concerns, some overlapping. Her concern is increased traffic, Ledge Lane is already a cut-through street as is Eastbrooke. In 1987 when this plaza parcel was rezoned one of the major restrictions was that there would be no access to Greiner Road, this was in August of 1987. In 1990 when the initial parcel was enlarged, that restriction remained, it was not an unclear restriction. Benderson was aware that the access was not going to be granted, at least at that point. All of the historical literature and documentation refers to it as a major restriction. Benderson was on notice 27 years ago of this major restriction. In 1994 Benderson goes again seeking access to Greiner Road, fortunately at that time the Board said, on September 7, 1997, they acknowledged the absolute decision that there would be no access to Greiner Road. Ms. Whiting quoted the minutes, "The residents were reminded that there will not be an exit out to Greiner Road." When Benderson put forth their plans in the 80's and 90's it was a three (3) or four (4) phase proposal, they knew when this plan was put forth that there would be no access to Greiner Road, yet they continued to develop, continued to build knowing that the Board said no access to Greiner Road. Were they hoping that with time new Board members, people would move on, they could suddenly get their access to Greiner Road? In 1996 another request for access to Greiner Road denied and in 2010 and 2011. Ms. Whiting would like to draw the Board's attention to American Jurisprudence, there is a concept of Stare decisis. The Court of Appeals of NYS says this doctrine rests upon the principle that accordance in institution and not merely a collection of individuals in governing rules of law that do not change merely because the personnel of the court changes. The Supreme Court of the United States said the Stare decisis is an important principle, this fosters reliance on the decisions and it gives actual and perceived integrity to the process. The Supreme Court of the United States said that that is important especially when coming to property rights because people rely upon decisions made.

Mark Dunlap, of Greenhurst Road, referred to the traffic study and said the cut-through traffic, which was addressed under the working session, is a problem today. He hopes it gets addressed in future actions by the Board. He is pretty certain the cut-through traffic would be exacerbated by this road coming out because people wanting to get to Sheridan today have no choice but to go out Transit Road. Now they would have a choice to exit onto Greiner and cut-through Eastbrooke and Ledge Lane. He really believes that was ignored by the Traffic study, they did not take into account that now there is a new access to Sheridan Drive. He referred to the Planning Board members and said they are not elected positions but appointed positions. He thinks the history has determined the opposition from the residents, so where is the duty of the Planning Board? Who do the members report to? How does the Board's decision get made based on determined opposition of the community as opposed to a rich developer? He does not know how the Planning Board makes decisions.

Peter Cebulski, of Vista Avenue, said the land behind the Eastgate is owned by another developer and the proposal was that when that is built out plans will commence to put an access road out to Sheridan Drive. If he was the developer and he was putting up buildings for a long term lease he thinks he would look at the money before he would look at putting in a road. He asked if any property is being taken from private property owners for turn lanes. There is a turning lane going into Eastgate off Greiner, there is a turning lane going out east on Greiner, are there turning lanes coming out of that driveway going west toward Transit on Greiner? Chairman Sackett clarified that it is right turn only onto Greiner Road. Mr. Cebulski said there is also a turn lane going east into Greenhurst, a turn lane going west on Greiner into the plaza and there are people trying to make a left turn from Greenhurst east onto Greiner, there is a four (4) lane highway. Mr. Cebulski said we have another MRE on our hands. That means

Maple Road Extension, you are taking four (4) lanes into a two (2) lane and it going to be expanded and the property on those houses is going to be cut right off. Please don't let them do it.

Greg Sheehan, of 5163 Eastbrooke, referred to the Eastgate matrix and asked who put it together. Chairman Sackett said the Executive Committee put it together and presented it to the Planning Board as a compilation of the previous hearings and the concerns of the residents. The conclusion was composed by the Planning Office with the help of the Executive Committee of the Planning Board. Mr. Sheehan referred to number 24 of the matrix in which it states the sidewalk maintenance is to be the responsibility of the property owner. Chairman Sackett said that is the Town Code. Mr. Sheehan said that is not what was said at the last meeting. At the last meeting, in response to a question on who will maintain the sidewalk, the attorney for the applicant said they will take the south side, then someone asked about the north side and the attorney agreed to the north side as well. Mr. Sheehan then asked if the sidewalks will be continued from Greenhurst to Vista. Mr. Sheehan referred to item number 21 of the matrix which referred to the northbound traffic on Transit Road, he asked if the traffic study indicated that they would adjust the traffic light on Transit or are they not touching it whatsoever. The northbound traffic is heavy and just makes it through the light now, by opening up the access point it is going to cause more southbound traffic making a left on to Greiner. Right now there is a ten (10) second differential on that light, so if they try to balance that light it will cause a backlog of traffic back towards Delta Sonic and Sheridan because the light will not be able to service the cars anymore. He does not see this addressed anywhere in the traffic study. Mr. Sheehan said once you pop this access open, traffic patterns change, the study does not address this. He gives examples of access roads in Amherst where the traffic patterns have changed due to the opening of an access road.

David Beckinghausen, of 5155 Foxtrace, owns the property at 8050 and 8036 Greiner Road. The sidewalks will come across his two properties on Greiner Road. He knows that there was a previous meeting where they committed to maintain the sidewalks. He is concerned if he is now going to be maintaining 200' of sidewalk personally. He takes this route every day and it is such a narrow road that it is crazy to think that this is not going to add traffic. People will be coming from the southbound instead of going straight to get into the Walgreens, they are going to make the left there. People will be coming across from Maple Road to get into this access. It will be gridlock. This part of the street is too narrow to be adding this kind of traffic without the proper widening of the space, not that he is an advocate for that either.

Albert Schweitzer, of 8085 Greiner Road, has owned his house for almost 14 years. He bought the house because of the fact that Benderson and the previous administration in the Town went round and round about propane tanks and driveways. Benderson got shut down in all their attempts of putting the propane tanks in the driveway. It was put in writing that the Town's previous administration was not going to allow this to happen. He was happy with this and raised his three (3) kids in this house. His kids are all under the age of 15, and take three (3) separate school buses. He noted all the different buses that stop at his house and his neighbors to pick-up and drop-off the children. His daughter stands out for the bus at 6:50 am, it is dark at that time. Twenty years changes a lot, they shot this down 20 years ago. Transit Road has changed, there are more businesses, more driveways out onto Transit Road. The thing that needs to be controlled is Transit Road. The Master Plan talks about the plaza's connecting, he is all for that, but if you come out to Greiner Road, where is the plaza that's being connected? He watched delivery trucks come up from Greiner Road that would pass the plaza and he could see the drivers look over their shoulder as they were shifting the truck looking for a driveway to the plaza. They turn around in the old Evangel church parking lot and they come back. Somebody is going to drive over the pork chop.

David Krol owns 5245 Transit Road and the blue house behind it. Presently his driveway has been almost shut down on Greiner Road due to a right on red lane which was forced upon him by the DOT even though it was not legal when they did it. They made his driveway inaccessible by handicap with American Standards. Now they want to increase the traffic flow going east on Greiner Road. He might as well just shut down his driveway on Greiner Road, he has a difficult time, he has to time the lights, drive across the left hand turn lane into the traffic to make a north turn onto Transit. This is going to cause problems for him and his business. Mr. Krol asked Mr. Callahan if he had any relatives working for Benderson. Mr. Callahan said he does not.

Chairman Sackett noted that no one on the Planning Board or in the Planning Office has any connection to Benderson Development. If they did, they would recuse themselves. The Attorney and the Town's Ethics Board oversees this. There is nobody on the Board or in the Planning Office that has any financial gain or connection to Benderson. Chairman Sackett makes this absolutely clear.

Marie Petrulla of Eastbrooke said the last bullet on Benderson's conclusion is basically alleviating traffic on Transit. Last time she looked there were no children playing on Transit or near Transit. Our kids live on these streets, she is upset that this is even being considered. She spent her life wanting to live in Clarence, she grew up in the city, and this is the place she wanted to have her kids grow up because it's a safe place, the Board is going to take this away from them. Please don't do this.

Don Ross has lived on Eastbrooke for 25 years, he has seen the neighborhood change. The proposal in general is a bad thing for the neighborhood, a bad thing for Clarence and the future of Clarence. He feels the residents of Clarence have presented a strong case, lots of detail, a lot of homework. He encouraged the Board to support the residents of Clarence and not bend to the whim of developers.

Sarah Ferguson, of 5366 Vista Ave, bought this house in May. One of the reasons they chose this house because it was on a quiet street with a nice neighborhood. She volunteers full-time for a high school outreach program called Young Life. She has 30 personal kids that come to her house weekly and they want parents to feel comfortable when their kids come and stand on the street and be safe without through traffic. Benderson did not even consider signs that say No Thru Traffic or Local Traffic Only on her street. From Harris Hill to Transit Road, there are three (3) churches there that let out at the same time on Sundays, it gets backed up in both directions and is difficult to get out onto Greiner from Vista.

Jim Steffan has lived on Eastbrooke Place for 22 years and has been involved with the plan from the beginning. He wants to remind everybody that Benderson is a business, they are in business to make money. If you look at everything that is on the power point chart there is a considerable investment made. That investment is not being made because of the goodness to ease traffic on Transit. An investment is being made because of a potential profit down the road. If you look at the access road being proposed, that strip is for potential future business to be added into the plaza area along Greiner. The lawyer stated, when asked about a connection into Auto Zone, that they will meet with them and see if an agreement can be reached. An agreement because it's a business. He asked the Board to think about the values of the homes in and around that connection. What will happen with additional traffic? There will be additional traffic. Think about the safety of the children playing in and around that area. Think about the people in the reduced strip of area that are going to try and ride bikes up and down Greiner. As noted by minutes that were submitted to the Board earlier, there was an agreement, a condition placed on Eastgate Plaza years ago, it is documented. If you have integrity you will honor that agreement and vote no to this access out to Greiner.

Frita is 12 years old and she lives on Red Clover. People that are her age like to play on the street on their bikes or on roller blades, they like to play outside. Since technology is getting more and more addictive in the 21st century the only thing that is stopping some of the kids from going inside and being glued to an iPad or computer is the nice environment in which they play in. Building this road will be giving them an excuse and a reason to go an electronic inside. Is this what the future will look like for all of us? Children's obesity rates have more than doubled in the last 30 years, quadrupled for adolescents. By 2012 more than one third of teens and kids were overweight or obese. You may say that it is for the greater good that the needs of many overpower the needs of few but those people will only use the road a limited amount of time in their lives, for the people living in our neighborhood it's anything but limited. That road is not something to go back on, it will be there bothering the residents right now and not to mention all the generations living here after them. So you see we are the many and they are the few. Children are the next generation, they will be destined to do great things in the world to make them better. The least you could do is help them get a good environment to live in and not build the road. I hope you will choose wisely the great decision you will make that will impact all of our lives forever.

Paul Drof, of 5183 Eastbrooke Place, has been here since the original proposal. He is concerned because at the last meeting Benderson committed to the sidewalks to allay the fears of the neighborhood. Now he is hearing that the Town ordinance says the property owner is responsible for maintaining the sidewalks, the applicant committed to this. Mr. Drof referred to the 1994 agreement, the greenspace behind the plaza that was supposed to be maintained, the trees, the berms, the garbage pick-up, the fact that there would not be any idling trucks there in the middle of the night. Mr. Drof has to get up at 3:00 every morning, he can hear the trucks running, its worse now with the leaves down, it's a sham. They haven't maintained their previous agreements and it speaks to the integrity that they will tell us anything that makes us go away. We as the homeowners are standing behind the agreement they agreed to, they keep on changing the terms.

Pete Ricigliano, of 5185 Ledge Lane, said the winter weather has not been brought up tonight. Ledge Lane has no street lights, it has no sidewalks, it gets dark around 5:00 pm, the streets are winding, it is hard to see anyone walking a dog or riding a bike in the evening or at night. If there are 4 or 5 inches of snow, the corner where they are going to put that exit in will get screwed up. The other problem is Maple, which is four (4) lanes wide plus you have turning lanes, Transit Road has six (6) lanes with turning lanes and what is Greiner? The proposal is for possibly three (3) lanes, so you are making Greiner the funnel, you have people coming out of Walgreens and out of the plaza, you can imagine the mess. At the last meeting he was at he heard about two (2) other developments further on Greiner that is going to increase the traffic quite a bit. He asked the Board to consider the fact that the weather is going to make a big difference. He would appreciate it if the Board would re-consider and not let them put this up. They are just in this for the money, the residents are here for the long term. He has lived there for 28 years and he would like to see it stay this way.

Mary Vujcec, of Eastbrooke Place, is opposed to the plan as well. She is concerned about a contingency plan. She referred to the three (3) year wait before they do an analysis, she thinks this is a long time to live with a nightmare. She also feels that \$10,000 for a bond for that study is insufficient. She just did a Google search and it could be anywhere from a couple thousand dollars to \$100,000 depending on the complexity and she thinks this would be more than a simple study.

Craig Schmidt, of 5052 Eastbrooke Place, has owned his home since 1996 and this is his third meeting. His children are grown and go to school out of town now but still have a lot of pride in where we live.

He wants to state the obvious and noted the turn-out at this meeting, he re-capped some of the speakers and speeches. He is very opposed to what is going on here.

Jacob Zimpfer, of 4959 Clearview Drive, said a promise made is a promise kept. It was made by people prior to the people on this Board. Keep that promise.

Laura Saraceno, of 5152 Eastbrooke Place, said the Board members would not like it if this project was in their backyard. She has lived there for 24 years, she has been happy there but with all this going on the Board makes it difficult to live there. She does not want to move, she wants to stay there until she is ready to die. Her husband is deaf, he goes walking two times a day around to Ledge Lane down Greiner and back. How is he going to do this with all that traffic? This is making it impossible to live there, she asked the Board members to put themselves in her position. Don't think of Mr. Benderson. Make him put it someplace else.

Chairman Sackett asked if there are any other audience members who would like to speak. There were none.

Mr. Boglioli clarified that they previously agreed to maintain the sidewalks on the south side, this has not changed. Also stated previously, because of liability issues they will not maintain the north side of the street because they would have to have people cross the street to maintain it.

Mr. Boglioli understands that there is a lot of emotion at this meeting, but emotion is not fact nor is it study. He noted that there is a TY Lin study that has been done, it has addressed every issue the Board has identified, and it has come to the conclusion that there will be no additional traffic as a result of this project. That study was reviewed by another consultant, URS, who did their own study and reviewed the TY Lin study and they came to the exact same conclusions. The County then issued a letter saying there would be no adverse impact with this project and that it will actually improve the intersection at Greiner, Maple and Transit Roads. These are the facts. As far as 1994, there was no condition, there was no agreement. The driveway was removed from the project because at that time, 20 years ago, things were different. Transit Road did not look like it does now, nor did Clarence. In 2004 the Town did a corridor management plan that calls for an access like this to go from Greiner to Sheridan through the plazas. In 2006, the Clarence Town Board made it a condition of approval to put that access in. There is no recorded easement, there is no declaration of restrictions, there is no signed agreement. In 1995, 2004, 2006 and 2014 there are additional studies all saying there is no impact and this is a benefit. Mr. Boglioli referred to the question about property being taken. He noted that there will be no property taken, all work is within the County right-of-way, there will be no private property taken. The pavement is not being widened for this road, the three (3) lanes will fit in the existing lanes. The sidewalks are 5'.

Mr. Shear noted that there was a letter received by the Town today from the County. It is addressed to Jim Callahan, Director of Community Development regarding the Eastgate Plaza Driveway Access and Highway Improvements. He reads from the letter: "This department has completed our review of the updated TY Lin Traffic Impact Study dated September 2014 and the URS Traffic Study Technical Review dated October 2014, for the proposed driveway installation. Based on the trip generation model, methodology of data collection and analysis, and lane re-structuring on Greiner Road, the County has determined that there will be no adverse impact to the County highway system. Furthermore, we concur with the findings and recommendations provided in both reports and anticipated operational improvements at the Transit/Maple/Greiner Road intersections. A post installation traffic analysis may be performed, no sooner than six months following the opening of the driveway, to validate the findings of the traffic impact studies and further determine if any mitigation measures are necessary. The analysis

may also include study and further optimization of the traffic signal at the Transit/Maple/Greiner Road intersection. An Erie County Highway Work Permit will be required for installation of the driveway, which would be issued following review and approval of completed engineering documents and drawings stamped and sealed by a professional engineer licensed in the State of New York. Sincerely, John C. Loffredo, Commissioner of Public Works.” The letter is signed by Michael J. Asklar, Traffic Safety Engineer and dated November 10, 2014.

Chairman Sackett said the Board has done nothing but think about safety since January. They talked about traffic flow and safety. They hired a consultant and had several meetings with them quizzing them over and over again. The County was involved and quizzed the consultant as well as TY Lin. The people on the Board are totally into the safety issue, including pedestrian, bike and traffic. The Board members took many trips through that intersection in the last nine months and shared their observations, it is in their neighborhood, too. There are 30,000 people in Clarence. For the most part, what the residents hear is what they themselves say, the Board members hear what all of Clarence is saying. Whereas the residents in the immediate area might be the most impacted, they are still not the only residents of Clarence. So you may hear one person speak tonight, but Chairman Sackett has heard many people speak quite differently on the topic.

Chairman Sackett spoke to the term “binding agreement” and the question of if there was one. The Planning Office and the Attorney researched the motions, because the motion is what binds the Board. Chairman Sackett explained that there could be conversations within a meeting but that does not bind the members of the Board. He looked at the motions and there was not a motion seen that said the Town would prohibit access to Greiner. In Chairman Sackett’s opinion this means there is no binding agreement. He spent many hours researching this issue. He will vote as if it was his neighborhood.

The public end of the meeting is closed. Chairman Sackett asked if other Planning Board members would like to make a statement.

Mrs. Salvati asked for details on the 1994 approval. She wants to be clear that the actual approval motion from the 1994 Planning Board meeting did not say in the motion, or set as a condition, that there would be no access to Greiner Road. She asked if this is correct. Mr. Callahan said that is correct, most actions that are taken are based upon a specific site plan or concept. That concept did not include any access to Greiner at that time. That’s why it was stated clearly that there was no access in the discussion because it wasn’t designed in the plan at that time, it wasn’t even a part of the review at that time. Mrs. Salvati clarified there was no condition in that approval that prohibited access to Greiner. She then referred to a comment that was made regarding a re-zoning in 1987. Mr. Callahan said that was based upon a specific rezoning of property that was over 1,000 feet from Greiner Road, it had no connection to Greiner Road. They referenced access to residential property which was identified on the site plan to the east, which is currently Eastbrooke; this was prior to Eastbrooke being developed.

Chairman Sackett noted, again, that the public comment period was closed.

A resident expressed dissatisfaction on not being able to comment further.

Mrs. Salvati asked the applicant if there is a plan for development on Greiner Road. Mr. Boglioli said there is no plan, yes they own vacant property there, but there is absolutely no plan. Chairman Sackett said that was a question that was asked by the audience.

Mrs. Salvati said there were a lot of people who insisted there would be cut-through traffic. She asked that the traffic consultant provide more details on the cut-through analysis to clarify that it was studied and it shows that there is no data demonstrating that there would be cars that go through and impact those neighborhoods. Mr. Boglioli said they studied eight (8) cut-through routes, they submitted the analysis on April 7, 2014. The study was done by being in a car and timing the shortest route on Transit Road to Sheridan Drive. It also timed the eight (8) cut-through routes. The analysis showed that all eight (8) cut-through routes are longer than going the direct route. For example, if a car made a right out of the driveway onto Greiner Road, then made a U-turn by taking Vista, Red Clover, then Greenhurst, that would take four (4) minutes and sixteen (16) seconds. Where if you wanted to get to Transit you could go out the Spot Coffee driveway and be there in nine (9) seconds. There is a chart in the analysis that goes through all eight (8) cut-throughs and each time it showed that driving a cut-through is longer than taking the direct route. Do people cut-through on residential streets? They do but this project will not result in any increase in cut-through traffic.

Mrs. Salvati clarified that the end of the driveway will be restricted for a right hand turn, there will be a raised isle. Mr. Boglioli said yes the isle will be raised and in the shape of a pork chop with a raised curb that prevents the ability to go straight through and certainly prevents a left hand turn.

Mrs. Salvati said someone spoke about background traffic, saying that the Board did not adequately look at the other developments that are planned and that more housing will be built. It was said the background was about 3% growth and that it was probably more like 97% growth. Mr. Boglioli said that is untrue. The growth rate was agreed upon by the Traffic Consultant, the study used the agreed upon growth rate for Clarence, which is .5%, this number was applied to the traffic study. The anticipated future growth was applied to the study. Mr. Boglioli noted that their development does not increase the traffic, it distributes the traffic. They are allowing the existing traffic from the east to avoid using the Transit/Greiner intersection.

Someone from the audience asked how long it would take to make that trip on Veteran's Day or on Black Friday. Chairman Sackett reminded everyone that the Board will not and cannot address shouts from the audience.

Mr. Boglioli explained that all work on the road and sidewalks will be in the County right-of-way. There is no pavement being added. Currently there is an 8' shoulder, a wide lane, another wide lane and another 8' shoulder. This is being reconfigured to a 5' sidewalk, 2' shoulder, 12' drive lane, 10' center turning lane, 12' drive lane, 2' shoulder and 5' sidewalk. The sidewalk alleviates the need to walk on the road. All of this occurs within the right-of-way, the pavement for the road is not being widened in any way. The County has reviewed and accepted the plans.

Mrs. Salvati addressed the question from a resident regarding how the Planning Board works. She said the Planning Board works very hard to make balanced decisions. They listen to public opinion and what the applicant says. They also have to look at what the law allows and any other factual information that comes to the Board through studies or other things that they do to help them do a better job of looking at the project that is before them. This Board takes what they do very seriously. They look at impacts, they do the environmental review. She does not want it said that this Board does things just for developers. All the Board members live in the Town of Clarence, they all have the same pride in their neighborhoods and the same types of concerns that everyone else has and they consider all of that when they look at projects.

Mr. Pazda asked the consultant to describe what was done and how it came to be that a traffic signal was not needed at this time if this project were to go through. Mark Armbrus, with URS, referred to the intersection at the driveway access and Greenhurst and said they looked at the proposed turning movements that would occur at that intersection. They have a computer model that they run the turning movements through and they can determine the level of service that the intersection would generate. They found that the level of service is more than acceptable, it would be a “c” or better. Chairman Sackett said his research told him that a “c” is a 30 second wait or better. Mr. Pazda asked if it was the County that determined a signal was not warranted. Mr. Armbrus said as far as the signal warrant is concerned, the developer’s traffic engineer did a warrant analysis. There are a number of guidelines based on volume of the road and the duration that this volume occurs and they determine whether or not a signal is warranted based on certain numerical parameters. Their findings were that there was no signal warranted because the heavy volumes just did not occur for a long enough period to warrant a signal. These findings were reviewed by URS and they concurred with the findings. Mr. Pazda asked what would trigger a change for a traffic signal. Mr. Armbrus said you would need a significant amount of more traffic and it would need to occur over a consistent period of time. Mr. Pazda asked if that would be straight through traffic or just the volume at that intersection. Mr. Armbrus said it depends, it could be straight through traffic or at the intersection. Mr. Pazda said if this goes forward and parties agree to a post inspection, will it be looked at again. Mr. Armbrus said the developer agreed that this signal warrant analysis would be looked at again because they will have traffic volumes to measure and will be able to determine if a signal warrant is met.

Chairman Sackett said the Board talked about safety and traffic flow, no one likes to wait through three or four lights, they continually asked for data on flow and safety. He thanked the audience for coming out. He went on to say that the first thing the Board needs to do is address the environmental impact so there needs to be an approval of the environmental forms that have been filled out by the office. Then the decision needs to be made as to whether the Board gives a Negative or a Positive Declaration on SEQRA. A Negative Declaration means that no more information is needed. The Board then needs to make a decision on whether to approve the road or not, and if approved, what conditions will be placed on the approval.

ACTION:

Motion by Timothy Pazda, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 2 and Part 3 Environmental Assessment Forms as prepared.

ON THE QUESTION:

Chairman Sackett noted that if these are approved, they are public documents and if anyone reviews them they will see that the documents address a lengthy a narrative of many of the statements that have been given this evening.

Steve Dale	Aye	Gregory Todaro	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Paul Shear	Aye
Robert Sackett	Aye		

MOTION CARRIED.

ACTION:

Motion by Timothy Pazda, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Eastgate Plaza Access to Greiner Road. This Unlisted Action involves the construction of an access drive from the existing Eastgate Plaza to Greiner Road and includes all signage, landscaping, lighting and upgrades to the public right-of-way. After thorough review of the submitted Site Plan and Environmental Assessment Forms, including coordinated review among involved and interested agencies, an independent assessment of the traffic impact study and supplemental studies, and all public comments received and an analysis received during the review process, it is determined that the proposed action will not have a significant negative impact upon the environment.

Steve Dale	Aye	Gregory Todaro	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Paul Shear	Aye
Robert Sackett	Aye		

MOTION CARRIED.

ACTION:

Motion by Wendy Salvati, seconded by Paul Shear, based on a review and analysis of all prior and current Town Board and Planning Board proceedings, all correspondence, reports, petitions and information contained in the files of the Town of Clarence with respect to creating an Eastgate Plaza Access Drive to Greiner Road, to hereby move to **approve** the application for Benderson Development for the construction of the access drive from Greiner Road to Eastgate Plaza, including all public right-of-way upgrades, as per the submitted site plan dated October 21, 2014, with the condition that the applicant obtain and/or carry out the following:

- 1.) Obtain Public Improvement Permits as issued by the Town Engineering Department.
- 2.) Obtain Highway Work Permits as issued by the Erie County Department of Public Works (ECDPW).
- 3.) Obtain a Demolition Permit as issued by the Town Building Department for the demolition of the single family home located on the property.
- 4.) Submit a Landscape Plan for approval by the Town Landscape Committee.
- 5.) Provide center left turn lanes along Greiner Road to allow through traffic to navigate the Greiner Road corridor.
- 6.) Provide a diverter/physical barrier for egress from the Eastgate Plaza at Greiner Road to restrict the potential for left turns and through movements out of the plaza and the new driveway.
- 7.) Provide 5' wide sidewalks on the north side of Greiner Road from Walgreen's to Vista Avenue and on the south side of Greiner Road from Transit Road to Eastbrooke Place to allow for the safe passage of pedestrians along the Greiner Road corridor. Provide sidewalks from Greiner Road to connect with the existing BJ's sidewalk within the plaza.
- 8.) Maintenance of the new sidewalk on the south side of Greiner Road.
- 9.) Provide sign controls for traffic exiting the plaza to warn motorists of the Right Turn Only restriction at Greiner Road and the No Access to Transit Road restrictions. Provide sign controls identifying that No Delivery Trucks shall enter or exit through the access road. Furthermore, the sign indicating No Access to Transit Road shall be relocated to the front of the entrance road within the plaza.

- 10.) Pursue access to Sheridan Drive as previously agreed to.
- 11.) Pursue cross access agreements with businesses fronting on Transit Road that currently have no such access into the plaza.
- 12.) Provide “dark sky” compliant lighting fixtures that must be properly shielded to reduce glare and eliminate spill to adjoining and adjacent properties.
- 13.) Pay the cost of a post development traffic assessment that shall be ordered by the Town of Clarence within three (3) years after completion and opening of the access as well as any warranted mitigations identified in this assessment, including:
 - a.) Checking the storage length of the Transit road southbound left turn lane.
 - b.) Checking the turning movements at the Greiner/Greenhurst/New Eastgate Plaza Access Drive and verifying a signal is not warranted.
 - c.) Conducting an accident analysis of Greiner Road from 300 feet east of Transit Road to Vista Avenue.
 - d.) Optimization of a traffic signal at Transit/Maple/Greiner Road intersection.
- 14.) If the post development traffic assessment requires any mitigation, the applicant shall complete and pay 100% of the cost of same within such reasonable time frames as the Town of Clarence and/or Erie County shall require.

ON THE QUESTION:

Mr. Pazda referred to condition #8 and said he believes the developer should maintain all sidewalks and asked the makers of the motion if they would agree to make that change. Deputy Town Attorney Steve Bengart said, legally, without an agreement from the homeowners on those portions, he does not know how Benderson can maintain any of it without their agreement. If they allow it then it can happen. Mr. Pazda does not think it is fair that one half of the road gets plowed and the other half doesn't. Chairman Sackett noted that there was a liability issue with crossing the road. Mr. Pazda said there is a liability issue of them driving off of their property, so where do you draw the line?

Mr. Shear referred to the north side sidewalk and said it is private property. Per the Town code and ordinances, the sidewalks in front of an individual's property, including his own, are to be maintained by the resident. He does not think it is appropriate to ask an individual, whether it is a corporation or a neighbor, to maintain those private property sidewalks. He will not entertain the suggested change to the motion.

Mrs. Salvati said she agrees with Mr. Shear's statement and is also concerned about the liability issues. She does not know of any other instances in Town where they require the businesses to maintain someone else's sidewalks along private property.

Mr. Pazda understands that the makers of the motion are not willing to change the motion to include his suggestion but he thinks these are very extenuating circumstances.

ACTION:

Motion by Timothy Pazda, to amend the #8 condition to have all sidewalks maintained, given proper legal permission.

There is no second. Motion failed.

ON THE QUESTION CONTINUED:

Mr. Dale said, "Yes, on the question about the future service road to access M & T Bank is not part of this approval."

Chairman Sackett asked the applicant if he understands all the conditions and agrees to them. Mr. Boglioli said he understands and agrees to the conditions.

Steve Dale	Aye	Gregory Todaro	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Paul Shear	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Meeting adjourned at 9:30 p.m.

Carolyn Delgato
Senior Clerk Typist