

Town of Clarence
Planning Board Minutes
Wednesday February 6, 2013

Agenda Items 6:30 pm

Approval of Minutes

Item 1

Northwoods Open Space Design Subdivision
Residential Single Family

Review of resubmitted Draft Supplemental Environmental Impact Statement (DSEIS) for proposed Open Space Design Subdivision east of Shimerville Road between Roll Road and Greiner Road.

Vice Chairperson Wendy Salvati called the meeting to order at 6:30 p.m.

Planning Board Members present:

Vice-Chairperson Wendy Salvati
Richard Bigler

2nd Vice-Chairman Paul Shear
Steven Dale

Planning Board Members absent:

Chairman Robert Sackett
George Van Nest

Timothy Pazda
Gregory Todaro

Town Officials Present:

Director of Community Development James Callahan
Planner Michael Hutchinson
Councilman Peter DiCostanzo
Town Attorney Lawrence Meckler
Councilman Robert Geiger

Other Interested Parties Present:

Ismet Hallac
Fred Cimato

David Horbinski
Michael Hallac

In the absence of numerous Planning Board members, alternate member Steven Dale will participate in the discussion and vote on the agenda item this evening.

Timothy Pazda has recused himself from this agenda item; therefore he is not in attendance at this meeting.

Item 1

Northwoods Open Space Design Subdivision
Residential Single Family

Review of resubmitted Supplemental Draft Environmental Impact Statement (SDEIS) for proposed Open Space Design Subdivision east of Shimerville Road between Roll Road and Greiner Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the north side of Greiner Road, south side of Roll Road, between Shimerville Road and Shadyside Drive. As Lead Agency, the Town Board has issued a Positive Declaration under the State Environmental Quality Review Act (SEQRA) on November 16, 2011. A Supplemental Draft Environmental Impact Statement (SDEIS) was submitted in September 2012. The Planning Board identified the SDEIS as inadequate on October 17, 2012 and a revised SDEIS was submitted in January 9, 2013. This represents the review of the revised SDEIS by the Planning Board within the 30 day review period.

Vice-Chairperson Salvati explained that the Planning Board is only a recommending body for this agenda item. The Town Board is the Lead Agency for the SEQRA decisions.

Vice-Chairperson Salvati noted that all the Planning Board members were provided a copy of the revised SDEIS for their review and comment. All members reviewed the document and offered comments which were summarized by the Planning Office and provided to the Board for use this evening. The Planning Board based their review on the items that were identified as missing from the SDEIS at the October 17, 2012 meeting of the Planning Board. That is when the document was originally reviewed by this Board and found to be inadequate, and recommended for consideration as such to the Town Board. At the October meeting the Planning Board outlined a number of inadequacies that were organized in a document provided by the Planning Board chairman on October 12, 2012 and were further documented in the Planning Board meeting minutes. At the work session on January 23, 2013 the Planning Board was instructed to base their current review of the SDEIS on the items that were identified as missing. In undertaking the review, the Board was reminded that they are not looking for perfection and they don't have to agree with what is offered or being said, the information provided must be adequate to enable a reasonable review and analysis. The degree of detail need only reflect the complexity of the action and the magnitude and importance of likely impacts. The SDEIS should include a discussion of potentially significant environmental issues, but it is not the document, at this time, in which all the issues need to be resolved. The resolution of those issues will come when the document is accepted and after the public has had an opportunity to look at it. The Board will then look at substantive comments received from the public review, involved agencies and the members of the Planning Board and those comments will be addressed in the final SEIS. Based on the input from the Planning Board a few areas of concern have been identified and further clarity is being requested. The Planning Board must feel comfortable that the SDEIS is adequate for public review.

The first item that was looked at in October was Water Resources: ground water, surface water and wetlands. Richard Bigler read the resubmission concerns as follows: the DSEIS will require clarity in terms of wetlands impacts to identify the function of and impacts to on-site wetlands specifically related to the Gott Creek corridor (which needs to be delineated), as well as the extend of wetlands areas off-site and how site development may impact these areas and adjoining lands. Clear maps will need to be provided that identify the wetland areas and how the applicant proposes to avoid/mitigate potential impacts.

Vice-Chairperson Salvati said she feels there needs to be more information on Gott Creek as there is conflicting information in the document.

Mr. Shear said there are wetlands on the property and there are contiguous wetlands to the east that may impact this project once there are homes and infrastructure built. There will be ground water that

will flow off those areas. These wetlands and contiguous wetlands are not currently addressed and are major concerns. The project property appears to be higher than the property to the east and water runs down hill so this is a concern. He would like to see a map of how this will all work together and how it may or may not impact the contiguous wetlands. Mr. Palumbo said that is far more detailed than what the DEIS requires. It doesn't require an impact on the applicant's property so how could they be asked for a report showing the impact of surrounding property? Vice-Chair Salvati said they would like to see a map that overlays the subject property with the wetlands so the Planning Board can see where the wetlands may or may not be impacted. Mr. Palumbo said that was provided. Vice-Chair Salvati said the applicant submitted a map back in June of 2011 that identified various items, she suggested the applicant super-impose the project on that map. Mr. Palumbo said they are not impacting the wetlands. Vice-Chair Salvati said they still need clarification on Gott Creek and its corridor. Mr. Palumbo said Gott Creek is not a wetland it is a water of the United States, all of this is premature. Once this document is accepted the Army Corp will get a copy of it and provide their comments because they are an involved agency. This will happen with all the other involved agencies as well. Mr. Palumbo said they have given enough information for the public to comment on the project. The handbook indicates that the DEIS does not have to provide a final resolution on any issue. The Planning Board members do not disagree with the handbook and they are not asking for issues to be resolved.

With regards to Historic and Archeological resources, Mr. Shear said there should be an overlay of the circles of the archeological sensitive areas of the project if indeed there are any and if they have been addressed. This was originally asked for in October and is still not included in the document.

Vice-Chair Salvati said that a letter from NY State Office of Parks, Recreation and Historic Preservation had been requested but that is something that can be addressed through the FEIS. The Planning Board is looking for the map so they have a better understanding of where the resources are.

With regards to the sewer taps, Mr. Bigler said the Planning Board questioned how many are available for this project. It was indicated that a portion of Sewer District #6 was available but the applicant did not provide any numbers. Lead Agency requires a letter signed by the Heise Brookhaven Trunk Sewer Corporation indicating capacity exists and is allocated for this project in relation to the original Clarence Hollow Pollution Abatement FSEIS. An accounting of all EDU's related to the Heise Brookhaven Trunk Sewer line must be provided and accepted by the Town Engineer. Mr. Shear said the Planning Board wants to know from the Heise Brookhaven Corporation that the 148 taps that Northwoods wants are indeed available from that corporation and not allocated elsewhere.

Fred Cimato, developer, said the Town Engineer understands that they have the capacity in the sewer system. He is sick and tired of being asked, "Where's my capacity." The Town Engineer has seen it and has agreed with the numbers. It is documented in the SDEIS that there is capacity and it will be flushed out later in through the other courses the project takes. Vice-Chair Salvati said the question is do all the parties, who are involved with the Heise Brookhaven Sewer Corporation, agree with the tap allocation. In discussions with the Town Engineer and review of the SDEIS, he does agree with the total number of EDU's, but he wants to make sure that all parties agree on the exact allocation of the units. Mr. Palumbo said this can be brought out during the public comment period. If there is a dispute among the private sewage corporation that is not the Town's problem, it is the applicant's problem.

Vice-Chair Salvati said the Planning Board also asked for information on the availability of the potable water service and emergency services and it is still not included.

Vice-Chair Salvati said the Planning Board looked at the cumulative impacts discussion and found that there is still information missing. The applicant was asked to look at this project cumulatively which is required under SEQRA with respect to other projects that are going to come on line in this area. The other projects include Spaulding Green, Waterford and Harris Hill Commons. There was no information in this document regarding cumulative impacts. Mr. Bigler and Mr. Shear do not find the missing information significant.

Mr. Palumbo said there is nothing significant that can't be addressed through the SEQRA process as it normally is.

Vice-Chair Salvati said an Environmental Impact Statement is supposed to be written so that it is easily understood by a layman. The first time she reviewed this document she had to search all the appendices to find the information that was asked for that should have been presented up front. If a Planning Board member had to search for it, then the public would have to search for it as well, it is not something that is easily understood by a layperson. The document needs to be clear and easily understood, this was asked for in the original scope and again in October and the Planning Board is asking for it again now. Mr. Palumbo said there is nothing relevant that was left out, it's all procedural issues, this should not hold up the process. He asked what happens if he cannot get the information about the taps from the Heise Brookhaven Corporation. It is unknown.

Vice-Chair Salvati said there are three issues that need to be addressed which include specific information relative to Gott Creek and the wetlands delineation, the mapping that was requested with respect to impacts to archeology and the sewer sign-off information that the Town Engineer has instructed the Planning Board on.

Mr. Bigler said the archeological report within the document showed they found nothing of any significance. He thinks the archeological resources can be hashed out in the long run. Mr. Bigler is beginning to have less and less problem with the document as the issues are addressed.

Mr. Shear still has concerns with the wetlands and the delineation of contiguous area. He has concerns with the sewer and the discrepancy in tap allocation within the corporation.

Town Attorney Lawrence Meckler suggested narrowing the issues down and have the developer address those issues by adding a written explanation of how they were addressed or when the issue will be resolved to the document for public consumption.

Mr. Bigler clarified that as this project moves forward through engineering it cannot impact adjoining lands.

Mr. Shear said the SEQRA process specifically instructs the Planning Board to look at the wetlands and the contiguous wetlands associated with the project. Mr. Palumbo said he included a map that shows the wetlands. Vice-Chair Salvati said the wetland does not end at the property boundary. Mr. Palumbo said he does not know where the wetlands are on surrounding properties. The Planning Board is not asking the applicant to delineate wetlands on the surrounding property; the DEC has inventory maps that indicate wetlands in the surrounding areas. The Board and the public need to see how large the wetlands are and where they go.

It is noted that the Planning and Zoning office received a letter with the Jurisdiction of Determination from the Army Corp of Engineers today.

Mr. Callahan suggested tabling the project to allow the applicant time to obtain the information the Planning Board is asking for. If the information is received in a timely manner the project can be placed on the February 20, 2013 Planning Board meeting agenda. The information being requested of the applicant will be put in writing and forwarded to the applicant.

ACTION:

Motion by Paul Shear, seconded by Steve Dale, to **table** agenda item #1.

ON THE QUESTION:

Agenda item #1 is being tabled to allow the applicant two (2) weeks to provide basic information to the Planning Board to clarify three (3) issues in the document: wetlands as discussed, archeology as discussed and sewer as discussed. The Planning Board Executive Committee will work with the Planning office to specifically list what the Board is looking for. That list will be forwarded to the applicant. The information must be received back from the applicant by February 20, 2013 in order to be on that agenda and before the full Planning Board. Mr. Palumbo said he will respond in writing before February 20, 2013.

Steve Dale	Aye	Richard Bigler	Aye
Paul Shear	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Motion by Richard Bigler, seconded by Paul Shear, to **approve** the minutes of the meeting held on January 9, 2013, as written with following corrections:

- page 7, second paragraph from the bottom, third sentence should read, "...they would have driveway access off **Roxbury Drive.**"
- page 11, second paragraph, second sentence is corrected to read "**up-hold**" in lieu of "hold up".

Steve Dale	Aye	Richard Bigler	Aye
Paul Shear	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Meeting adjourned at 7:30 p.m.

Carolyn Delgato
Senior Clerk Typist