

Town of Clarence  
One Town Place, Clarence, NY 14031  
**Planning Board Minutes**  
Wednesday March 5, 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**

Bill and Donna Stevens  
Agricultural Rural Residential

Requests Minor Subdivision Approval to create one (1) new residential building lot at 10815 Miland Road.

**Item 2**

Gary and Karen Wright  
Residential Single Family

Requests Minor Subdivision Approval to create one (1) new residential building lot at 5400 Old Goodrich Road.

**Item 3**

Kenyon's  
Traditional Neighborhood District

Requests an Action under the State Environmental Quality Review Act (SEQRA) and Concept Approval for a proposed convenience store with drive-thru at 8250 Main Street.

**Item 4**

Jack Davis  
Residential Single Family

Requests Concept Plan Approval for a proposed 2-lot Open Development Area at 9290 Hunt Club Lane.

**Item 5**

Metzger Civil Engineers  
Commercial

Requests preliminary Concept Review of a proposed mixed-use project at 5731 Transit Road.

**Item 6**

Spaulding Lake Sewer District  
Planned Unit Residential Development

Requests an Action under the State Environmental Quality Review Act (SEQRA) to continue review of creating a public sewer district for the Spaulding Lake Community.

**Item 7**

Northwoods Open Space Design Subdivision  
Residential Single Family

Requests Concept Approval for a proposed Open Space Design Subdivision located to the north side of Greiner Road, east of Shimerville Road.

Chairman Robert Sackett called the meeting to order at 7:32 p.m.

Jim Callahan led the pledge to the flag.

Planning Board Members present:

|  |                          |
|--|--------------------------|
| Chairman Robert Sackett                        | Vice-Chairman Paul Shear |
| 2 <sup>nd</sup> Vice-Chairperson Wendy Salvati | Timothy Pazda            |
| Richard Bigler                                 | Gregory Todaro           |
| Steven Dale                                    |                          |

Planning Board Members absent: George Van Nest

Town Officials Present:

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

Other Interested Parties Present:

|                    |                 |
|--------------------|-----------------|
| Dave Horbinski     | Lynn Collis     |
| Karen Willyoung    | Doug Olson      |
| Jim Morabito       | Doug McCallum   |
| Khalid Mahran      | Chuck Eckert    |
| Joe Kleinmann      | Ismet Hallac    |
| Margaret Kleinmann | Bridget Jozwiak |

In the absence of Planning Board member George Van Nest, alternate Planning Board member Steve Dale will participate in all discussions and vote on all agenda items at this meeting.

Motion by Richard Bigler, seconded by Steve Dale, to **approve** the minutes of the meeting held on February 5, 2014, as written.

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

MOTION CARRIED.

Chairman Sackett noted the protocol for this evening will begin with Mr. Callahan introducing each agenda item. Each applicant, if appropriate, will address the Board and provide any comments pertaining to the project. The Planning Board members will ask any questions they have. The public will then

have the opportunity to speak on the project. The applicant will be asked to answer any questions the public had. An action will then be taken by the Board.

**Item 1**

Bill and Donna Stevens  
Agricultural Rural Residential

Requests Minor Subdivision Approval to create one (1) new residential building lot at 10815 Miland Road.

**DISCUSSION:**

Jim Callahan provided the background on the project noting that it is located on the south side of Miland Road, west of Berghorn Road. It is existing residential property located in the Agricultural Rural Residential zone. The applicant is proposing a minor subdivision to create one (1) new residential building lot in conformance with zoning. Per the Subdivision Law, the Planning Board has final approval authority for minor splits.

John Maloney is the attorney representing Bill and Donna Stevens, the current owner and petitioner. Mr. Maloney explained that there is a residence that has been on the property for some time, they are requesting the property be split so there is approximately 3 acres where that existing home is. The purchaser is a couple from Lockport, NY who want to move and will use the property as a residence only.

**ACTION:**

Motion by Timothy Pazda, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to issue a **Negative Declaration** on the proposed Stevens Minor Subdivision located at 10815 Miland Road. This Unlisted Action involves the minor subdivision of a parent parcel to create one (1) new residential building lot in the Agriculture Rural Residential Zone. After thorough review of the submitted site plan and EAF 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 Timothy Pazda, seconded by Steve Dale, to **approve** the minor subdivision application of Bill and Donna Stevens at 10815 Miland Road to create one (1) new residential building lot in compliance with the Agriculture Rural Residential Zone with the following conditions:

1. Subject to approval of the Building and Engineering Department on any future development of the new lot.
2. Subject to approval of the Erie County Health Department on any future on-site sanitary facilities.
3. Open Space and Recreation Fees.

4. DPW approval for any future driveway/access development.

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

MOTION CARRIED.

**Item 2**

Gary and Karen Wright  
Residential Single Family

Requests Minor Subdivision Approval to create one (1) new residential building lot at 5400 Old Goodrich Road.

**DISCUSSION:**

Jim Callahan provided the background on the project noting that it is located on the west side of Old Goodrich Road between Roll Road and Greiner Road. It is an existing residential property located in the Residential Single Family zone. The applicant is proposing a minor subdivision to create one (1) new residential building lot in conformance with the zoning. Per the Subdivision Law, the Planning Board has final approval authority for all lot splits.

Gary Wright and his son Brad were present. Mr. Wright explained that his son is a teacher at the Middle School and he would like to build a house so Mr. Wright wants to split his property and give it to his son to build on.

**ACTION:**

Motion by Gregory Todaro, seconded by Paul Shear, pursuant to Article 8 of the Environmental Conservation Law, to issue a **Negative Declaration** on the proposed Wright Minor Subdivision located at 5400 Old Goodrich Road. This Unlisted Action involves the minor subdivision of a parent parcel to create one (1) new residential building lot in the Residential Single Family Zone. After thorough review of the submitted site plan and EAF 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 Gregory Todaro, seconded by Wendy Salvati, to **approve** the minor subdivision application of Gary and Karen Wright at 5400 Old Goodrich Road to create one (1) new residential building lot in compliance with the Residential Single Family Zone with the following conditions:

1. Subject to approval of the Building and Engineering Department on any future development of the new lot.
2. Subject to approval of the Erie County Health Department on any future on-site sanitary facilities.
3. Open Space and Recreation Fees.
4. DPW approval for any future driveway/access development.

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

MOTION CARRIED.

**Item 3**

Kenyon's  
Traditional Neighborhood District

Requests an Action under the State Environmental Quality Review Act (SEQRA) and Concept Approval for a proposed convenience store with drive-thru at 8250 Main Street.

**DISCUSSION:**

Jim Callahan provided the background on the project noting that it is located at the northeast corner of Main Street and Westwood. It is an existing Commercial property located in the Traditional Neighborhood District. The applicant is proposing to demolish the existing structures on the property and to construct a new convenient store/gas station with a Tim Horton's drive-thru. A coordinated review under the State Environmental Quality Review Act (SEQRA), including a traffic analysis, has been completed. The applicant is present seeking a recommendation under SEQRA as well as a recommendation on the Concept Plan. Per the Zoning Law, the Town Board has final decision authority for projects with a Special Exception Use Permit (SEUP).

Tim Arlington, of APEX Consulting is present along with Bill Kenyon, one of the partners for the project. Mr. Arlington said since October 2013 they have worked with the Planning Board Executive Committee and have made some changes to the original plan. The dumpster corral has been moved to the rear, they have accommodated that with the timing of the deliveries and the pick-up. By moving the dumpster it moves it away from the neighbor to the east, who expressed his concern on this issue. This dumpster placement works better for the store's operations. Another change to the plan is the westerly most entrance off Main Street has been narrowed to 15' with an exit only restriction going to the right. This was an alternative suggestion from the traffic consultant who said it would be appropriate. The applicant would like their fuel trucks to be able to exit out onto Main Street instead of Westwood. This also prevents a bottle-neck of traffic in and around the fuel canopies. The internal traffic will benefit from this plan.

It is clarified that the westerly exit on Main Street is what has been narrowed, Chairman Sackett said it appears that the radius of easterly exit has been widened. Mr. Arlington said the planning consultant asked the applicant to change the radius to reflect appropriate measurements making that entrance a true entrance and exit.

Chairman Sackett asked about the canopy. Mr. Arlington said the Planning Board asked the applicant to consider a more architectural style appearance for the canopy. He explained that the building will be brick and will look similar to the structure (Kenyon's) on Goodrich Road, just a little bit smaller. They will incorporate a façade or a roof that will have a peak so it won't look like just a square box.

Chairman Sackett asked if there are cars fueling at the gas station is it reasonable to assume that a fuel truck can make that turn through the westerly exit. Mr. Arlington said the clearances of all appropriate structures have been made so that the trucks can make it through the site and exit at the westerly exit onto Main Street. If there are cars fueling at the pumps, the truck will wait until they are gone before exiting the site.

Mrs. Salvati said the Planning Board looked into whether or not there are any restrictions on Westwood, she said there are none, no Town restrictions and no State laws, so in the event trucks do go out there they are not breaking any laws. She thinks they do exit on to Westwood now, so they will need to be instructed not to. Mr. Kenyon said trucks that fill the current tanks do not exit onto Westwood, they exit onto Main Street. Deputy Town Attorney Steve Bengart clarified that to the best of the Town's knowledge there is no law. Mrs. Salvati is in favor of closing the westerly exit onto Main Street but if the project should be approved with the exit she suggested it have a raised curb. She also suggested adding to the "right turn only" signs by putting "do not enter" on the back of those signs. Mr. Arlington agreed and said the intention was for 2-sided signs anyway. He also said as long as the DOT is ok with a raised curb, the applicant will agree to it as well.

Mrs. Salvati asked how the applicant will handle snow storage. Mr. Arlington said there are a few spaces where snow can be stored, if that is not adequate the snow will have to be removed off site.

Mrs. Salvati asked what the applicant planned for a sign at the site. Mr. Arlington said it will be a pole sign and they will comply with the Sign Ordinance. Kenyon's, Tim Horton's and the fuel price will be on the sign.

Mrs. Salvati asked about the lighting of the site. Mr. Arlington said there will be wall packs in the back, they will show the photo metrics on the plan, and there will be lighting around the canopy and one or two pole lights to light the parking lot. They will need to show there is adequate safety. They will not impact any of the neighbors with the lights. Mrs. Salvati said the canopy lighting should be recessed and not extended down, Mr. Arlington agreed. The wall packs will have a cut down shield. There will also be landscaping to soften both lighting and noise.

Mr. Pazda asked the applicant if he considered putting the pumps on an angle. Mr. Arlington said if they are on an angle it forces vehicles to exit onto Westwood. If they are kept the way they are vehicles can access the pumps from either side. Mr. Kenyon said the reason many gas stations put the pumps at an angle is due to lack of space. He noted that there is a setback that he has been using since 1982 from the front door curbing to the front of the canopy and it has worked well everywhere. They are using that setback at this site. They did not consider an angle because of the 200' depth of this property.

Jim Morabito, of 4370 Westwood, said he lives behind the Mini Cooper dealer and they have state-of-the-art cut-off lighting standards and it does nothing to keep light away from the neighbors. He asked that the Planning Board takes a good hard look at how the lights are put up. He has owned his property since 1964 and he knows about the traffic coming in and out of the site. He agreed that the westerly driveway is a must to help alleviate a bottleneck within the site. He has plowed snow for over 30 years and said if it was offered to him he would not bid that lot because there is no place to put snow. Mr.

Morabito wants to know why there is no berm that separates the project site from the neighbors. He also noted that there will be a speaker that starts at 6:00 am and a half dozen trees and arborvitaes are not going to do anything to buffer the sound, a berm and a fence would be a lot better.

Chuck Eckert, of 8274 Main Street, said he appreciates the change in location of the dumpster to the back of the property. He thinks this is a great project for the Town of Clarence.

Mr. Arlington said they are certainly going to provide landscaping and a berm, they do show fencing on the plan. If the Board wants a berm to heighten the landscaping the applicant is willing to do that.

Mr. Arlington said they could keep the fixtures down to a minimal level and still provide adequate lighting. The cut-off shields are in the lights which directs the light down and the shields will be pointed in. There will be fencing and landscaping as well, so between the three there should not be an issue with the lighting. Mrs. Salvati suggested the applicant look at the light fixtures at Walgreens on Main Street, near Thompson Road and the Rite Aid on Main Street heading towards Akron. She said the applicant needs to look into other options besides the standard shoebox fixtures. Mr. Arlington said they will use the minimum amount of light fixtures but also keeping in mind the safety of the employees and customers.

Mr. Arlington explained that the dumpster pick-up will be scheduled for the afternoon around 2:00 p.m. when the traffic is at it least on the site. Fuel deliveries will come twice a week at 4:00 p.m.

Mr. Arlington said there will be landscaping and fencing to soften and absorb the speaker sound.

Mr. Arlington explained that the dumpster truck will clear the awnings; the required clearance is 14.6' which is the same as any pass overs on the thruways, State roads and County roads.

**ACTION:**

Motion by Wendy Salvati, seconded by Paul Shear, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** a Negative Declaration on the proposed Kenyon's Convenience Store with Tim Horton's Drive-thru located at 8250 Main Street. This Unlisted Action involves the demolition of the existing structures and the construction of a new convenience store with drive-thru in the Traditional Neighborhood District. After thorough review of the submitted site plan and EAF, including coordinated review among involved agencies, 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 Richard Bigler, to **approve** the Concept Plan for the proposed Kenyon's Convenience Store with Tim Horton's Drive-thru located at 8250 Main Street as per the submitted site plan from Apex Construction dated March 3, 2014, with the following conditions:

1. The westerly driveway to Main Street configured to be restricted right exit only with raised curbing to preclude left hand turns.
2. The signage for the restricted exit be two-sided and to indicate “right turn only” on the face that points towards the inside of the lot and “do not enter” on the face that is oriented towards Main Street.
3. An Architecturally compatible design for a decorative gasoline canopy that compliments the proposed new convenience store.
4. Subject to Open Space and Recreation fees at time of Building Permit issuance.
5. Subject to Landscape Committee review and approval of the submitted preliminary Landscape Plan prior to Development Plan approval.
6. Dumpster location to be on the north side of the project site and the dumpster be fully screened as depicted in March 3, 2014 drawing.
7. All site lighting be Dark Sky compliant with full cut-off shielding, recessed lighting in the canopy and full shielding for the wall packs.

|                |     |                |     |
|----------------|-----|----------------|-----|
| 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 Gregory Todaro, to **recommend** a Special Exception Use Permit for a drive-thru facility at 8250 Main Street as per the approved Concept Plan.

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

MOTION CARRIED.

**Item 4**

Jack Davis  
Residential Single Family

Requests Concept Plan Approval for a proposed 2-lot Open Development Area at 9290 Hunt Club Lane.

**DISCUSSION:**

Jim Callahan provided the background on the project noting that it is located on the east side of Hunt Club Lane, east of Thompson Road. It is an existing residential property located in the Residential Single Family zone. The applicant is proposing a 2-lot Open Development Area. Per the Subdivision Law the Planning Board has final review and approval authority.

Jack Davis, of 9290 Hunt Club Lane, is present along with Michael Metzger, of Metzger Civil Engineering.

Mr. Metzger said Mr. Davis currently lives on the property. He and his wife love their property but would like to build a different style, different size house to live in. They want to remain on the property which is 11.2 acres in size. The original home would be on a 2.5 acre lot and sold off. Mr. Davis and his wife would build their home and reside on the remaining 8.7 acres. Mr. Metzger understands that if the project moves forward this evening, the applicant would have to come back before the Board for Development Plan approval; they would also work with the Town Engineer for his approval.

Chairman Sackett clarified that the applicant is asking for the creation of 2-lot Open Development Area only at this meeting, development and/or building will be at another phase.

Mr. Metzger explained that the driveway will be along the southern property line.

Tom Latona, of 9395 Hunting Valley Road South, is concerned about the two ponds in the area, plus there are two creeks that run on the north and south side of his property that are part of the Gott Creek system. He said the property is very wet now and is concerned with any run-off or discharge from storm water if a house is built back there. Chairman Sackett noted that, at the appropriate time in the process, the applicant would need a stormwater permit that the engineer would look at. The applicant will need to provide details on drainage when he is ready to build.

Mr. Metzger said they would create a plan and do a topographic survey. The plan would show how they would properly handle the stormwater and would have to be approved by the Town Engineer.

**ACTION:**

Motion by Richard Bigler, seconded by Paul Shear, pursuant to Article 8 of the Environmental Conservation Law, to issue a **Negative Declaration** on the proposed Davis Open Development Area located at 9290 Hunt Club Lane. This Unlisted Action involves the approval of an Open Development Area to create one new residential building lot in the Residential Single Family Zone. After thorough review of the submitted site plan and EAF 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 Richard Bigler, seconded by Steve Dale, to **approve** the proposed 2-Lot Open Development Area at 9290 Hunt Club Lane as depicted in the site plan dated March 5, 2014, subject to the following conditions:

1. Subject to approval of the Building and Engineering Department on any future development of the new lot.
2. Subject to approval of the Erie County Health Department on any future on-site sanitary facilities.
3. Subject to Erie County Water Authority approval on connection to the public water system.
4. Open Space and Recreation Fees.

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

MOTION CARRIED.

**Item 5**

Metzger Civil Engineers  
Commercial

Requests preliminary Concept Review of a  
proposed mixed-use project at 5731 Transit Road.

**DISCUSSION:**

Jim Callahan provided the background on the project noting that it is located on the east side of Transit Road, south of Highland Farms Drive. It is existing vacant property located in the Major Arterial, Commercial and Restricted Business zones. The applicant is proposing a new mixed-use project.

Michael Metzger, of Metzger Civil Engineering, is present along with his client Michael Lorigo. Mr. Metzger noted that the property is just under 10 acres in size. It is currently zoned Major Arterial in the front and then steps back to Commercial and then to Restricted Business towards the back of the property. Mr. Metzger said there would be a 40,000 square foot retail building in the front of the property. The back would be 79 senior housing units; the building would be compliant with the latest Multi-Family portion of the regulations in that it would be two (2) stories, which is comparable in height to the surrounding single family homes. They are proposing a lot of connectivity within the project itself. They propose an interconnection from the property to Highland Farms. There would be another connection that would connect to the parking lot of the Lake Shore Savings Bank. They also propose to tie into the parking lot of Zoe's Restaurant as well as the new senior housing project that is currently under construction to their south. In addition to the connectivity, there would be two (2) entrances out to Transit Road.

Mr. Metzger said they are proposing a 45' greenbelt, within the greenbelt there are existing significant trees that they would do what they can to save as many as they possibly can. The applicant will augment the greenbelt with plantings to provide a lush greenbelt buffering in between the proposed residential use and the existing residential use that is adjacent to the property. The plan shows how a sidewalk system could tie into the back residential building and bring people out to the retail facility on Transit Road. The sidewalk could be extended to the senior housing project to the south to open up opportunities for those seniors.

Mr. Metzger is aware that this project would require a Special Exception Use Permit as approved by the Town Board. This project is consistent with the Major Arterial zoning, the Commercial zoning and the Residential Single Family zoning, as well as the Multi-Family ordinance built within the ordinance. This project is also consistent with the comprehensive plan with regards to diversity in housing types. They also feel it is consistent with the vision of the Town. The applicant intends to reach out to the neighbors and have a meeting to allow them more of an opportunity to comment on the project. The applicant will work with the neighbors to the maximum extend that they can.

Chairman Sackett noted that the Planning Board does not have the authority to initiated coordinated review, they are a recommending body only for this action. He said the applicant's use of sidewalks is commendable and may want to consider sidewalks to Spoth's Farms.

In response to Chairman Sackett's question regarding the height of the proposed residence building, Mr. Metzger said the height would be in the low to mid 30's. This is consistent with the height of single-family homes in the area.

Mr. Shear noted that, with connectivity, the Town allows 20% greenspace. Mr. Metzger said the project is at 35%.

Mr. Pazda said he likes the project. He asked if the applicant owns the driveway to Highland Farms. Mr. Metzger said his client owned the property and sold it to Lakeshore Savings Bank, there were agreements put in place in which the applicant is currently researching for specifics. Mr. Lorigo clarified that the residence building would be age restricted, not subsidized housing. Mr. Pazda asked what the distance is between the building and the back parcel lot line. Mr. Metzger said it is 82'.

Mr. Metzger confirmed that the apartments are single floor. He also noted that they do not have a definitive answer as to who will be going in the retail building.

Mr. Pazda asked if the applicant could bank some parking. Mrs. Salvati asked how the parking calculation was done. Mr. Metzger explained that the 1 per 150 allocation per the Code was used for the retail so the plan shows roughly 260 spaces for a 40,000 square foot structure. There are 87 spaces for the senior housing component that has 79 units, this calculation is consistent with the senior project to the south. Mr. Metzger thinks that his client would entertain the thought of banking some parking.

Doug McCallum, of 8087 Highland Farms, said the project looks great. He would like more details on the project including maximizing greenspace, location of the dumpsters, traffic patterns on the lot, interconnectivity to Highland Farms and to Clover. He believes the cut-through is meant to be where the dumpsters are to be located for the development. He also questioned the density and the placement of the retention ponds. He looks forward to talking about the details with the applicant.

Lynn Collis, of 8081 Highland Farms, said she is not opposed to the plan but has issues with the buffer between her property and the proposal. The project to the south of this has a larger buffer, it seems that the proposed buffer is at the bare minimum. She is also concerned with traffic out to Transit Road with the school and the businesses there. She is concerned about the entrance into Highland Farms through this development, Highland Farms does not have sidewalks. If you want to walk your dog you are in the street. With all the access proposed to have traffic go through Highland Farms and out to Clarence Center Road, or wherever, it will cause an issue. There are already issues of speeding down her street on Highland Farms.

Margaret Kleinmann, of 5623 Kippen Road, asked the applicant, with the senior housing project that is currently underway to the south of the project, what kind of senior housing and what kind of regulations is he looking into for another 79 units when you are right on top of another one at the present time.

Doug Olsen, of 5692 Fieldbrook Drive, voiced his concern with the access road to Highland Farms. They do not have sidewalks, at any hour of the day on weekends you will see people walking through or kids on bikes. There are over 120 parking spots for the commercial piece as well as the 79 for the residential. There are a tremendous amount of people that are not going to go out on Transit Road on the weekend. He does not want it tied into Highland Farms, he thinks it's a bad idea.

Khalid Mahran of 5722 Fieldbrook Drive, voiced his concern with the drainage of the water in the area, the location of the dumpster, and the access to the road noting that now he is not safe in his backyard.

Since 2009 he does not feel safe living in Clarence because every now and then there is a re-zoning issue which compromises his safety. Chairman Sackett encourage Mr. Mahran to put his comments in writing if he wishes. His comments will be addressed with the coordinated review.

Ren Suqin, of 8086 Highland Farms, voiced his concern with traffic and the proposed interconnectivity to surrounding properties.

Joe Kleinmann, of 5623 Kippen Drive, hopes that the drainage issue will be addressed with this project. He lives behind the senior housing project to the south of this property and currently he is experiencing water problems with ditches backing up and flooding his and his neighbor's yards. He is concerned with the size of the project and how it will affect the overall drainage of the area. He is also concerned with the traffic issue.

Bernie Kolber said he is concerned with the density in the Restricted Business zone. For Multi-Family the code allows 8 units per acre with a requirement that a minimum of 25% of the land be maintained for a commercial usage but there's a separate requirement that doesn't allow them to build out at double the density if they are using half the land for commercial. He said he is concerned that this project will establish a precedent for any other multi-family project in the future. There is relief that can be granted through ZBA to alter that density.

Mr. Metzger referenced the traffic issue comments and said that he is encouraging the Town to move forward with the initiation for the environmental review where one of the things that is looked at is traffic. The applicant will address all the concerns at the appropriate time in the process. The applicant will work with the Town Engineer; they do not want to create any problems for their neighbors. Mr. Metzger is hoping to meet and work with the neighbors to the maximum extent possible to discuss the many concerns brought up tonight.

Chairman Sackett said there was a comment regarding buffering to the adjacent neighborhood. The applicant has met the code which is a 45' greenbelt. It meets the code in terms of distance but it is a shorter distance than Clover's. Mr. Metzger said yes it is less than Clover's but this proposed structure is of much less in size.

Mr. Metzger said that he had a couple of projects proposed at the time the Multi-Family code was being addressed, he was actively involved working closely with the Planning Board and the Town Board so he is familiar with the intent. He explained that the intent was always that the density calculation be based on the total acreage of the property itself, not segmenting it out and parceling it off. Mr. Callahan noted that the Brothers of Mercy proposed multi-family project was based on the entire parcel. The interpretation was, and it was based on input by the Planning Board, that the entire parcel should be used so that you can identify overall greenspace and the amount of commercial.

Mrs. Salvati asked if the applicant will do a traffic study. Mr. Metzger said they have not discussed that yet but it is a possibility. Mrs. Salvati said there are concerns that warrant a study.

Mr. Pazda asked if the Board agreed to recommend SEQRA and the Town Board begin the coordinated review, where will the issue of density be addressed? Chairman Sackett thinks it would be left to the Town Board.

**ACTION:**

Motion by Paul Shear, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** that the Town Board seek Lead Agency Status and commence a coordinated review among involved agencies on the proposed Mixed Use Development located at 5731 Transit Road. This Type I Action involves the development of 40,000 +/- square feet of commercial space and maximum of 79 +/- units of senior housing in the Major Arterial/Commercial and Restricted Business zones.

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

MOTION CARRIED

**Item 6**

Spaulding Lake Sewer District  
Planned Unit Residential Development

Requests an Action under the State Environmental Quality Review Act (SEQRA) to continue review of creating a public sewer district for the Spaulding Lake Community.

**DISCUSSION:**

Jim Callahan provided the background on the project noting that it is located in the Spaulding Lake Development which is located on the east side of Goodrich Road, north of Main Street. This is an existing residential subdivision which is a Planned Unit Residential Development as approved by the Town. The applicant is seeking approval to create a Town Sewer District to replace an existing private sewer treatment plant. Coordinated review under the State Environmental Quality Review Act (SEQRA) has been completed with comments and concerns on the consequences of that proposed action. The Town has commissioned an Engineering Study to describe the overall project and an Action under SEQRA is the next step in this review process.

Chairman Sackett noted that the DEC’s comment on this project is they strongly recommend the Town give it a Positive Declaration. This means that more information is needed on the project in order to make a decision. Coordination is among numerous agencies. The Planning Board is a recommending body only for this action. Mr. Callahan noted that the Positive Declaration procedure would include sending all the information to the involved agencies, then set up a Scope of an Environmental Impact Statement; there are strict time frames.

Dominic Piestrak said he met with Tim Lavocat who indicated the current sewer line is at capacity and when the parallel line goes into Amherst that is also at capacity. So any future decisions made by the Planning Board or the Town Board Mr. Piestrak said Mr. Lavocat feels it would have to take away from something that has already been committed. Mr. Piestrak said at this point he thinks it would be relatively easy to put in the first phase of Harris Hill. He thinks that a 24” or 30” sewer should be used in Amherst instead of an 18” with the idea that if and when Harris Hill comes they can just run a line from Transit Road to Meadowlakes Park and not spend a lot of money. He hopes the Town will solve everyone’s sewer problems over the next 20 to 30 years.

**ACTION:**

Motion by Gregory Todaro, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, the Planning Board **recommends** that the Clarence Town Board issue a Positive Declaration on the proposed Spaulding Lake Sewer District Formation. This Type I Action involves the decommissioning of an existing private sewer treatment plant and the approval of a new Town Sewer District to service the existing Spaulding Lake neighborhood. As significant impacts related to community character and future growth along with issues related to potential impacts to freshwater wetlands, archeological and natural feature impacts and specific potential construction activity impacts are potentially large with no identified alternatives, a Positive Declaration under SEQRA is recommended.

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

MOTION CARRIED

**Item 7**

Northwoods Open Space Design Subdivision  
Residential Single Family

Requests Concept Approval for a proposed Open Space Design Subdivision located to the north side of Greiner Road, east of Shimerville Road.

**DISCUSSION:**

Jim Callahan provided the history on the project noting that it is located on the north side of Greiner Road, between Shimerville Road and Thompson Road. It is existing vacant land located in the Residential Single Family zone. The applicant is proposing an Open Space Design Subdivision. A Final Findings Statement has been approved by the Town Board. Per the Zoning Law the Town Board has final decision authority for an Open Space Design Development.

Timothy Pazda recused himself, due to proximity, and left the dais. He has filed his recusal with the Town Clerk’s Office.

Jeff Palumbo with the Law Firm of Damon Morey is present along with Fred and Tony Cimato, the petitioners. Jess Sudol, engineer for the project, is also present. Mr. Palumbo said there were three issues discussed in the work session, 1.) sidewalks, 2.) bike path and 3.) the open vista areas in the Open Space design throughout the development.

Mr. Palumbo noted that the updated Concept Plan on display is labeled #1, there is a #2 that was submitted today in response to several comments the applicant heard might be coming up this evening. The bike path is located in the open space area as opposed to having in the roadways as a designated bike lane. The applicant’s preference is to have the bike path in the streets with the designated bike path area. The reason the bike path is shown as being located in the open space on this plan is because at one time that seemed to be the way the Planning Board was leaning. The applicant is now looking for further guidance from the Planning Board.

Mr. Palumbo referred to the 20' private conservation area that is shown in the rear yards of many of the lots. The applicant's idea was to keep that area as restricted open space which could be done in the form of a deed restriction. They recognize that this is a difficult thing to control and manage to enforce, but it has been done. The DEC requires the applicant to monument conservation areas, so does the Army Corp of Engineers. However, the applicant does not want this to become an issue, if the Board wishes they can just remove it and create the 20' area as true open space.

Mr. Palumbo referred to the lots off of Greiner Road. Per the Board's suggestion the lots are now 450' off Greiner Road as opposed to 250' which was part of an earlier proposal. So now there are vistas on both the Greiner Road side and the Roll Road side.

The plan has been modified to show a cul-de-sac in the middle of the site where there was formerly open space. There will be retention ponds in the two larger lots at the end of the cul-de-sac. If the road was run straight through, as originally planned, it would have come out on the curve of the existing roadway. With only one entrance to the cul-de-sac it comes out on a straight portion of the existing roadway; this is a safer design. The number of lots has been reduced to 151.

Mr. Sudol clarified that in order to meet the 50% Open Space requirement they added it to the back of the lots with the potential that it could be deeded as a permanent conservation but upon further review of the size of the lots it would be simple to take the area that is shown in the conservation easement and make it part of the overall open space. The lots would be a tad bit smaller but they would still be well above the minimum threshold set forth in the Open Space Development Design criteria.

Mr. Sudol explained that the plan shows the sidewalk starting at the southwest side of the project at Country Club, they are brought in and around and out to the last lot. Mr. Cimato would be willing to extend the sidewalks, through the proposed patio homes, making a loop. They could come straight through the project, too, basically connecting one side of the project to the other. They were going to go out to Roll Road but since there are not sidewalks on Roll Road they decided against that.

Chairman Sackett said the sidewalk plan is better, but it does not service the whole community. For example, lots 51 and 52 do not have sidewalks and there is a strip of the proposed sidewalk that doesn't service any lot. He suggested moving the sidewalk to the other side of Country Club. Mr. Sudol said his client is agreeable to making that change in order to serve the whole community.

Chairman Sackett noted that the Town's Recreation Advisory Committee advised him that they are against putting bike paths on roads and they want it minimized at all costs. Chairman Sackett agreed with the applicant in not having sidewalks go to Roll Road. The path that runs on the other side of the street from the lots along Roll Road might serve as a path as well.

Mrs. Salvati understands the position of the Recreation Committee. She is not sure what the purpose of the bike path is as presented; it doesn't even connect back to itself. It doesn't make sense to run the bike path through the open space that we are trying to protect; run it behind the homes only to bring it out to the road where the bike rider will have to ride on the road to get back to the bike path or go somewhere else. In this case she would support running the bike path along the road where it goes around the wetlands and then continue it on the road to get it out to Greiner Road or Shimerville Road.

Mr. Shear asked that if the bike path is on the road does that dictate a wider street and what does that do to the side of the lots. Mr. Sudol said the street can be widened while still staying well within the designated right-of-way. The right-of-way would not change, the width of the road would. Mr. Shear

is comfortable with either plan for the bike path, but if it is put along the road he would like to see it carried all the way to Country Club, so there is true connectivity from Roll Road and the existing bike path to the north all the way to Shimerville Road.

Mr. Bigler said the cyclist will determine which way they go as they reach the juncture, they will probably just go straight anyway.

Mr. Dale agreed with Mrs. Salvati, he would like to see it connect closer to Country Club.

Mr. Todaro said he would favor the bike path be installed along the road versus the outside.

Mrs. Salvati supports getting rid of the 20' in the back of all the lots and make that open space.

Mr. Sudol explained that once they get passed the Concept Approval, they will submit detailed engineering plans showing stormwater retention and drainage. It will be part of the final design.

Mr. Shear said he is comfortable moving this Concept Plan forward.

Ismet Hallac owns the property at 8990 Greiner Road and voiced his concern saying this project doesn't fit. He requested on numerous occasions that he is given the same treatment as far as greenspace goes abutting his property. He bought his property about 15 years ago, there is a barn on the property and there is not another barn like it in the State of New York. The barn is 25' from the road. He requested that the barn not be crowded. He spent more than \$21,000 to repair the roof on the barn because it was leaking. If he was going to make money on the property he would have let the barn decay, then there would be no barn and he would have valuable property. He needs more space to preserve the identity of that barn. The wetlands are treated with far more respect than his barn. He would like to be treated the same as the other neighbors and given plenty of greenspace. There is an area on the plan that is not named, Mr. Hallac said it needs to be named as greenspace so it will not be developed in the future.

Karen Willyoung, of 9080 Greiner Road, asked how much variation there is in elevation of the entire parcel. Was a tree survey done and what kind of trees are there in the woods that are going to be left intact? She also wants to know about the Sunoil Pipeline, when it was built, where it starts and where it ends. How much acreage for retention ponds? What kind of buffering will be provided for Dr. Hallac's property?

Mr. Sudol said there is a greenbelt all along the north property line, along Mr. Hallac's property. Making the Conservation Easement area open space will turn that greenbelt from 40' of green space to 60'. This is more in line with some of the other areas in the development.

Mrs. Salvati said there is space along Country Club, she asked if the applicant can take lots 51 and 52 and put them in that space. This will provide a buffer for Mr. Hallac without losing lots. Mr. Sudol said they are also trying to give buffering to those neighbors near the spaces Mrs. Salvati is referring to. Mr. Sudol said they can shift the lots to the west to provide the same amount of buffer for all neighbors.

Mr. Sudol explained that the parcel has a high point; based on a topographic survey the variation in elevation is about 15' to 20'. He also explained that the majority of the wooded wetland has been completely avoided so there will be no disturbance of trees there. The plan is also completely avoiding the Sunoil Pipeline. He does not know when the pipeline was installed but they are complying with all the easement restrictions and are pretty much avoiding it so there will be no disturbances in that area

other than a perpendicular crossing to get the road back there. One pond will be about an acre and a half, another will be an acre and the third will be two and a half acres.

Mr. Cimato said the creek comes through so there is an area between his property and the barn that is buffering his barn. There will be approximately a 60' buffer between the lot line and the barn. Chairman Sackett said 60' seems to be pretty consistent throughout the project.

Mr. Pazda, as a member of the public who resides on Country Club, asked who will decide about this section of the bike path. Chairman Sackett said the Planning Board will make a recommendation so that the Town Board will have input. Mr. Pazda is not certain why the Board would ask the applicant to put sidewalks in here when there is a perfectly nice bike path across the road. He would rather see the street be widened to allow the bike path to run along it and connect it to Country Club or to Greiner Road.

Mr. Sudol explained that if the bike path was in the street it would be 3'-4' in extra width than what it is now which is 26', so the total width would be 30'. The bike path along the road would be striped.

Mr. Dale asked that the applicant clearly indicate the sidewalk on the next plan as there is no key on the current plan.

#### **ACTION:**

Motion by Paul Shear, seconded by Richard Bigler, to **recommend** the Concept Plan approval and Open Space Design Overlay on the proposed Northwoods Open Space Design Subdivision with the following conditions:

1. The Project Sponsor installing sidewalks throughout the project to service the entire development to allow access for all lots to the proposed recreational trail.
2. The Project Sponsor installing a recreational trail extending from the north side of the development allowing a cross connection to the proposed Waterford Trail and extending throughout the Northwoods Project. The trail is to extend through the project along the street, as opposed to a separate bike path to the east of the project.
3. In lieu of requiring a per lot or overall Recreation Fee, the Planning Board recommends that the Project Sponsor install a Recreation Trail to Town Standards as approved by the Town Engineer, that would be a matter of whether it is on the roadway or in the greenspace. Installation of such trail to be completed as designed upon the issuance of a Certificate of Occupancy for the 75<sup>th</sup> home within the Northwoods Project. If the trail is on the roadway it would be a matter of striping.
4. Setbacks shall be as follows:
  - For large lots with minimum 100' of frontage and 130' of depth:
    - 45' front yard setback
    - 25' rear yard setback
    - 10' side yard setback from property line
  - For smaller lots with minimum 65' frontage and 105' of depth:
    - 30' front yard setback

20' rear yard setback  
10' side yard setback between buildings

Standard setback regulations as identified in the Residential Single Family Zone for all accessory structures.

5. Open Space areas to be protected by a Conservation Easement as prepared by the Project Sponsor and reviewed and approved by the Town Attorney's Office which Conservation Easement shall be filed in the Office of the Clerk of the County of Erie with a stamped filed copy being provided to the Town Attorney's office.
6. Recommendation conditioned upon submittal of a revised concept plan incorporating all conditions identified above to the Planning Office prior to being placed on a Town Board agenda.

**ON THE QUESTION:**

Chairman Sackett said the last comment incorporates the discussion as far as what was also agreed, for example the 20' area, not be private, but be incorporated into the open space and the bike trail connect along the roads to go to County Club Drive and any other items that were in the discussion and previously agreed to.

Mr. Palumbo asked if the side yard setback requirement of 10' on each side for the large lots, totaling 20', could be changed so each side could vary, for example the setbacks would be 8' and 12', but still totaling 20'.

Paul Shear and Richard Bigler agreed to this change.

Wendy Salvati suggested the applicant try to reconfigure lots 151 and 152 and up Country Club Drive in order to provide a better buffer to Dr. Hallac's property. She suggested the applicant look into moving or incorporating lots 151 and 152.

Paul Shear explained that the reason the Planning Board is asking for the plan to be cleaned up and reflect what was discussed at this meeting is so that when the Town Board looks at it they have a better understanding of what the Planning Board is looking for.

|                |     |                |     |
|----------------|-----|----------------|-----|
| Steve Dale     | Aye | Gregory Todaro | Aye |
| Richard Bigler | Aye | Wendy Salvati  | Aye |
| Paul Shear     | Aye | Robert Sackett | Aye |

MOTION CARRIED.

Meeting adjourned at 9:55 p.m.

Carolyn Delgato  
Senior Clerk Typist