

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday April 1, 2015

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

Let Them Laugh Out Loud
Residential Single Family

Requests Site Plan and Architectural Approval for
a Public Service Facility at 5225 Harris Hill Road.

Item 2

McGuire Development
Commercial

Requests a Recommendation under the State
Environmental Quality Review Act (SEQRA) and
Concept Approval for a proposed retail plaza with
Tim Horton's drive-thru at 5989 Transit Road.

Item 3

Emerling Insurance Agency
Commercial

Requests an Action under the State
Environmental Quality Review Act (SEQRA) and
Concept Plan Approval for a proposed
professional office building at 9092 Main Street.

Item 4

Kelly Schultz
Agricultural Rural Residential

Requests Minor Subdivision Approval to create
three (3) new residential building lots at the
southeast corner of Ransom Road and Stage
Road.

Item 5

Elliot Lasky/Roxberry Subdivision Phase 2-
Gentwood Extension
Residential Single Family

Requests Development Plan Approval for a 19-
lot subdivision.

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

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 Patrick Casilio
 Councilman Peter DiCostanzo
 Councilman Bernard Kolber
 Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Lowell Dewey	Michael George	Nancy Sweeney
Cory Damon	Jacqueline Damon	Paul Barone
George Emerling	Marilyn & Joe Rizzuto	Katharine Herbst
Marion Hummell	Kathy Banks	Lois Daigler
Gary Damon	Kim S. Kroese	Robert Kahabka
Clifford D. Krumm	Thomas Bardo	Linda Wiese

Motion by Paul Shear, seconded by Timothy Pazda, to **approve** the minutes of the meeting held on March 4, 2015, as written.

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

MOTION CARRIED.

Chairman Sackett explained the procedure for the meeting noting that Mr. Callahan will introduce each project. The applicant will have the opportunity to add any information they desire regarding the project; the Board will ask any questions of the applicant. Members of the audience will then be asked to address the Board with any questions or concerns they may have. Collectively the applicant will answer any questions or issues from the audience. The Board will then take appropriate action on the project.

Item 1

Let Them Laugh Out Loud
 Residential Single Family

Requests Site Plan and Architectural Approval for
 a Public Service Facility at 5225 Harris Hill Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the east side of Harris Hill Road, south of Greiner Road. It is an existing vacant property. As a permitted use the Action is considered a Type II Action under the State Environmental Quality Review Act (SEQRA). The Planning Board has final approval authority for Site Plan and Architectural Style.

Douglas Klotzbach with K2 Architecture is present along with Kate Vicanti of Let Them Laugh Out Loud. Mr. Klotzbach said they moved the building over 30 more feet from the neighbor's property line

so the total setback from the neighbor's property line is 42.5'. All the parking and all the activity for the building is to the side towards the Northgate Church which is screened by the building itself. There is no activity on the north side of the building in the front or the back. The applicant has agreed to amend the elevations to include decorative lighting between the windows.

Chairman Sackett asked for clarification and details on the activity that will take place at this site. Ms. Vacanti explained that they are a charity that works in Sierra Leone, Africa. They bring clean water wells there, they have a home for orphaned children, and they just opened a school. There are 50 regular volunteers that are involved and help with a couple of events throughout the year. Local schools are involved as well. Once a year they will send a shipping container to Sierra Leone filled with items such as children's clothing and water filters and things to support the project. These things are donated throughout the year and have to be sorted. They send letters to the children over there. Once a month they provide an opportunity to the volunteers to come and get updates about the projects, this is usually scheduled on a weekend night or an evening because all the volunteers work. There are many Clarence families involved as well as Clarence High school. During the week Ms. Vicanti is the only full-time employee and there are two (2) part-time employees as well. Chairman Sackett asked if any of this occurs outside the building other than people going into the building, Ms. Vicanti said no. Mrs. Salvati asked for confirmation that there is not a lot of traffic going in and out of the building, and the employees stay inside the building to do what they do. Ms. Vicanti said confirmed that is correct. During the week they may get someone dropping off a financial donation. Mr. Dale asked how many more people the applicant would expect would drop in at night, Ms. Vicanti said the working hours of the staff are during the day. The only time people are there at night is when there is a scheduled event/meeting, for instance, there is a team going over to Sierra Leone and they are meeting at 7pm on a Tuesday night to discuss the trip, there are eight (8) people that will be in attendance at that meeting. Mr. Dale asked if the letter that the Board received from the Little Red School House exaggerates the volunteer position; he asked for confirmation that it is not an endless stream of people but maybe once a month. Ms. Vicanti said that is correct it is not an endless stream of people. She understands their (The Little Red School House Owners) concerns and have listened to them, that is why they relocated the building and that is why they put the parking where they did. She would like to note that on the other side of the proposed building, the church is very excited to have their people participate in helping one of the poorest countries in the world. The people who volunteer are just local people coming together to do something good. No one is there late at night, Ms. Vicanti also has a family.

Mrs. Salvati said the Board talked about the shipping container and she wants to be sure that the container will never sit outside, that it will always be kept inside the building. Ms. Vicanti explained that they will store their items inside the building, when a shipping container comes on a truck, they have a three (3) hour window to load it, so they get it staged and ready because after three (3) hours they start charging more and they are not-for-profit so they try to keep that cost down. After the volunteers load the container it pulls away. This happens once a year. Mr. Klotzbach said they increased the building by 16' to take care of the need for that extra storage. Mrs. Salvati asked if the applicant has any objections to a condition saying no outside storage if this is approved. Ms. Vicanti said she would have no objections at all.

Margaret Keisel of 5145 Harris Hill Road, owns the Little Red School House at 5175 Harris Hill Road. The reason for her letter and her concern is because she has heard different stories from the applicant. The building has changed, they were going to store things outside the building in a container, then they were going to store extra things behind it. They told her they were going to sell things to people and this was her concern. She said the applicants were talking about people who couldn't afford to buy things at the store. She said she is concerned because the applicants implied there would be people from the inner

city coming to buy things. She is concerned with the safety of their children. She has 90 children there every day and it is her responsibility to make sure they are safe. She thanked the applicants for moving the building 30'. She asked the Board if the applicant is allowed to buy and sell and how will that be monitored. She asked if a privacy fence could be installed from the back of their building to the end of their parking so people won't see the children on the playground and want to come over and observe them. Mr. Shear asked if the playground is fenced. Ms. Kiesel said yes. Mr. Shear then asked if the children are always monitored when they are in the playground, Ms. Kiesel replied, "Absolutely." She went on to say that they don't want people taking pictures of the children and observing them.

Kathy Banks has two (2) children at the school. She asked if the applicant will be buying and selling at this site. She also asked what types of events they will be having there. Is it guaranteed to be once a year? Is it a picnic fundraiser, is it a wholesale sale? What time of day will this type of function occur? With respect to the crate, can they be told when that loading and unloading of that container will take place? Will it take place during the school days, in the evening or on the weekends? She is concerned about not having a privacy fence, she does not want people gawking at her children or going to talk to them. Despite the fact that they are watched closely, she believes there is a potential safety issue.

Alex Moleshevski is one of the trustees at Northgate Community Church and said that, on behalf of the church, they are extremely excited about having LOL as their neighbor. One of their members is a student from UB and has been volunteering over the last year; this is as a benefit. The proposal is an asset for the community as well.

Kathryn Herbst lives in Clarence and has two (2) children that go to the Little Red School House. Her main question is how the donations will be made. Are they mailed? Do people randomly stop in? If they randomly stop in there would be no way of controlling how many people come and go, this is a concern. Ms. Herbst said more privacy would be beneficial to the children.

Chairman Sackett asked Mr. Klotzbach to further explain the activity that will take place on the north side of the building. Chairman Sackett fails to see the sight lines between the outside activity and the children's play yard. Mr. Klotzbach said the activity will be at the front doors, which is in the middle of the building facing north. The volunteer activity will be in the evening or on the weekend. The yearly event involves 600 people so it would never be held at this building. The activity at this location would involve a monthly meeting of volunteers coming together sharing stories of their recent trips with regards to the charity.

Ms. Vicanti noted that she is a mom with four (4) children and her organization is driven by helping children. She appreciates what the Little Red School House is doing in the community and they would in no way look to hurt that or the kids. Her volunteers are mostly families. Ms. Vicanti went on to explain that they are not looking to be a Salvation Army or Goodwill where people drop stuff off and then it is sold. Their mission is to help people in Sierra Leone but if they had extra items of course they would be willing to send those items to help people in a neighboring city, here. They would not bring people in from somewhere else to come and get those donations, they would deliver it. Their mission is to collect the things, organize them, and take what they can use to send to their children in Sierra Leone, never to sell. They have t-shirts, and other items, that they use for fundraising events, but they do not operate as a retail store.

Chairman Sackett asked the applicant what her thoughts are on a privacy fence. Ms. Vicanti said she would look to the Board for their recommendation on a privacy fence. They have taken everyone's comments into consideration in developing this plan, including the neighbor's. They are about helping

people, they are not looking to upset anyone. They are a charity and they have to be careful with their funds.

Mrs. Salvati asked if there are ever any people hanging out in the back behind the building. Ms. Vicanti said she does not see that happening on a weekday 9am-5pm. There could be an event such as a volunteer appreciation day for families where there may be activity like throwing football around in the back but that is not the day in and day out operation and that type of event would only be on a weekend because the volunteers have day jobs.

Chairman Sackett asked for a time frame as to when donations may be dropped off. Ms. Vicanti said a mother may drop off donations on her way to the grocery store or a student will drop off after school, it is sporadic. Currently they are at 10151 Main Street which is a building shared by multiple people. They have been there for two years and there haven't been any complaints. There aren't a lot of parking spaces there but it has never been an issue with the other tenants of the building. On a typical day, Ms. Vicanti said there may be two (2) or three (3) people who stop to make a donation.

Ms. Vicanti clarified that the hours of operation are 9am-5pm. Mr. Dale asked how many people have keys to access the building. Ms. Vicanti said only the main staff members have keys, there are three (3) of them, one (1) full time and two (2) part time.

Mrs. Salvati said she is familiar with their building on Main Street and she said there is never activity there and the parking lot is never full.

Mr. Bigler asked the applicant if there is any reason someone would be lurking around the back, the south side, or the front of the building. Ms. Vicanti said no, if someone was there they would call the authorities. They need to look out for the safety of the families that are involved with their charity as well.

Mr. Pazda said he is not sure that the line of sight from the building to the back of the property warrants a fence. The approval/action will be subject to Landscape approval, he asked if the applicant is amenable to installing a few conifers on the north side of the property if the Landscape Committee suggested that. Mr. Pazda said he prefers a green fence as opposed to a wooden fence. Ms. Vicanti said they would be agreeable to that. Mrs. Salvati does not want to create a problem by adding conifers which would provide a place for a person to lurk. Mr. Pazda said they are satisfying the concern about privacy and line of sight by installing trees.

ACTION:

Motion by Paul Shear, seconded by Richard Bigler, to **approve** the site plan and architectural style of the proposed Public Service Facility at 5205 Harris Hill Road as per the submitted drawing from K2 Architecture dated 3/6/15, with the following conditions:

1. Subject to review and approval by the Town Building and Engineering Department for future building permits on the property.
2. Subject to review and approval by the Erie County Health Department on development of an on-site sanitary facility.

- 3. Subject to review and approval by the Landscape Committee on final landscape details on the project, prior to final Certificate of Occupancy being issued.
- 4. Decorative lights are to be added to the front of the building.
- 5. There will be no outside storage to remain more than 24 hours.

ON THE QUESTION:

Ms. Vicanti clarified that the building has been expanded so the storage can be on the inside of the building; they do not need to have a container outside for storage, as originally planned. The shipping container will be on a truck and will pull up to the door to be loaded in a three (3) hour window and then the truck pulls away. Mr. Shear asked if the cargo container will be backed into the building or will it back up to the building to be loaded. Ms. Vicanti said the container will be backed up to the building.

Mr. Klotzbach said the lights on the building will not contribute to light pollution, it will be minimal, using 40 watt decorative lights.

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

McGuire Development
Commercial

Requests a Recommendation under the State Environmental Quality Review Act (SEQRA) and Concept Approval for a proposed retail plaza with Tim Horton’s drive-thru at 5989 Transit Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the southeast corner of Transit Road and Clarence Center Road. It is an existing vacant and residential property located in the Commercial Zoning classification. As the use will require a Special Exception Use Permit (SEUP) the Town Board is Lead Agency on this project.

Phil Silvestri, of Silvestri Architects, is present along with the president of McGuire Development, Jim Dentinger. Al Hopkins from Metzger Civil Engineering is present as well. This is the same team that worked on the Tronconi Segarra project on Main Street which everyone is pleased with. Mr. Silvestri noted the Tronconi Segarra project to show that McGuire is a reputable and responsible developer who plans on reaching the same quality of architecture appearance provided on the Tronconi building. Mr. Silvestri goes on to explain that the proposed project is a 10,746 square foot building, Tim Horton’s at the north end would be 2,670, My Corner Pub at the south end is 2,500 square feet, and the center section of future retail is at 5,576 square feet. There have been changes to the original plan which include adding an eight foot (8’) high wood stockade fence along the east property line which will provide a visual and

sound barrier for the family rental home located 35' from the property line. The building was moved 19' further from Clarence Center Road to meet the setback requirement. The size of the building has been decreased from 12,120 square feet to 10,746 square feet. The number of parking spaces has been increased through the building size reduction. Originally the requirement was 80 parking spaces, 50 were provided. The requirement is now 70 spaces, 60 are provided. The building has been moved further from the east property line to increase the size of the greenbelt. The greenbelt requirement is for residentially zoned properties. The property adjacent to the project site is zoned Commercial although it is a residential use, so the applicant has to meet the greenbelt requirements because of the use. Mr. Silvestri said they hired SRF Associates to do a traffic study and have provided that report to the Town. The study reports that the proposed retail development is projected to generate 51 entering, 47 exiting primary vehicle trips during the a.m. peak hour and 41 entering, 38 exiting during the p.m. peak hour. These volumes resulted in an increase of daily traffic on Transit Road of less than 3% per day. The result of the driveway queuing analysis indicate a maximum of queuing length of 15 vehicles during a.m. peak hour. The study indicates that there will be a maximum of 33 cars parked for Tim Horton's during the a.m. peak hour and there will likely be no more than 15 vehicles parked at any one time for Tim Horton's. Mr. Silvestri said they show one dumpster on site, they will have frequent pick-ups for that dumpster. There will be no blasting during construction. In reference to SHPO, Mr. Silvestri said they received a letter on March 3, 2015 indicating there are no archeological impacts at this site, the letter is on file. The plan shows two (2) storage areas for snow, however if necessary the developer is willing to haul snow off the site. In terms of deliveries, Mr. Silvestri said restrictions will be placed on Tim Horton's to limit deliveries prior to 7:00 a.m. and at My Corner Pub deliveries will be done before 11:00 a.m. The deliveries for the three (3) small retail tenants will be UPS, Fed Ex and the US Post Office with small trucks, tractor trailers will never be used. Mr. Silvestri noted that more density is allowed at this site due to the interconnectivity with the Benderson site to the south, the lot coverage can be increased from 70% to 80%. He went on to say that they have obtained a letter of approval for the connection from Benderson Development dated March 17, 2015, the letter is on file. Based on the parking demand being higher in the a.m. for Tim Horton's and parking demand being higher for My Corner Pub in the p.m. and the traffic study indicating that 80% of the entering traffic generated by the a.m. peak hours will be serviced by the drive-thru, the applicant is confident that there is adequate parking shown. The north bound traffic will exit onto Transit Road by directional signage. The applicant is requesting a favorable recommendation for a SEQRA Negative Declaration, Concept Approval, a Special Exception Use Permit for its plaza and the drive-thru, and a parking waiver from 70 spaces to 60 spaces.

Chairman Sackett said the Planning Board has Concept Approval authority but it is subject to the Zoning Board of Appeals granting a variance for the area between the back of the building and the adjoining property. He asked that the applicant comment about light, sound and privacy with regards to the neighbor to the east. He asked if the variance is self-created or would the project be stopped if not granted. He also asked the applicant to comment about the amount of greenspace on the land, since eliminating the greenbelt eliminates greenspace on the land. Chairman Sackett asked for comments on the reason for not having a larger dumpster as opposed to more deliveries given the tight parking area.

Mr. Silvestri said in terms of the self-created variance they are expecting to provide a high level product and if this is to be profitable for the developer it needs to be this size, it would probably not be developable if they had to reduce the size of the building. In terms of sound, Mr. Silvestri assured the Board that My Corner Pub will not have a band nor loud music, so the sound will not be an issue. The speaker for Tim Horton's has been pushed as far away as possible from the property line and they added an 8' wood stockade fence that will help alleviate sound issues. They are 25' from the property line. Chairman Sackett asked if the applicant would be opposed to installing vegetation between the detention

pond and the fence, if the detention pond allows. Mr. Silvestri said they would not be opposed to that and he noted that the detention pond size is conceptual at this point and still needs to be engineered. He went on to say all the lighting will be shielded and will not spill onto adjacent properties. The lot coverage on the property is 76%, which leaves 24% greenspace.

Mr. Pazda asked what will go in the three (3) spaces yet to be filled. Will it be three (3) separate or could it be one (1) combined space? He also asked how the applicant can say there will never be a tractor trailer there. Mr. Dentinger said he is looking for it to be two (2) or three (3) retailers of a small nature, such as a jewelry store. His experience tells him that, after the initial set-up, the only restocking of a small retailer such as a jewelry store would be through deliveries made by UPS or Fed Ex. The applicant could restrict the same truck access as they have for the two restaurants if that would appease the issue. There is no backdoor access for deliveries. Mr. Dentinger's wife owned a 2,000 square foot jewelry store on Main Street in Clarence Hollow for seven (7) years and she never had a tractor trailer deliver her products. Shipments and deliveries were all via UPS or Fed Ex. Mrs. Salvati asked if Cold Stone Creamery wanted to move in this space, would the applicant turn him away? His sense tells him that that size retailer doesn't have the space to get a whole load of tractor trailer goods into their store so their delivery vehicles would be the same size as UPS or Fed Ex. Mrs. Salvati doesn't know how the applicant can guarantee that nothing will ever go in there 5-10 years from now that isn't going to need anything but UPS or Fed Ex. Mr. Dentinger said they probably can't but the Board has to look at the applicant that is operating a plaza that serves its clients. The applicant is well respected and stringent on their rules and regulations for their clients, they don't want a tractor trailer in front of a business so customers can't park. Mr. Dentinger agrees with the language suggested by this Board which limits the deliveries to the size of the buildings and during certain hours and that language is already in the lease for each client that has been submitted to the Board; it is already in place and agreed to by both parties. Deputy Town Attorney Steve Bengart asked the applicant if he would be amenable to that same language being part of the condition for approval, also making it a condition to put the language in the leases. Mr. Dentinger would be amenable to this condition for all the tenants. He went on to explain the agreement that is in place noting that Tim Horton's is allowed to deliver between 12:00 a.m. and 7:00 a.m. to the left side of the Tim Horton's space. Tim Horton's and My Corner Pub are allowed to have deliveries from midnight to 11:00 a.m. on the right side by the dumpster. There is a service sidewalk in the back. Mr. Dentinger said they would have the same language in the lease for the center three (3) retailers. Deputy Town Attorney Steve Bengart said there is also language in the lease that says if the delivery vehicle can park in a parking space it can deliver at any time.

Mr. Dale asked if the three (3) facilities in the middle of the plaza have access doors in the back. Mr. Dentinger said yes. Mr. Dale asked if he will keep the sidewalks clear in the winter. Mr. Dentinger said yes, it is their obligation as a landlord to keep every sidewalk clear at the sight including the one that goes out to Transit Road.

It is clarified that the building size is 10,746 square feet.

Mrs. Salvati voiced her concern that this proposal is too much for the site, this project will not work if the variance is not granted. She has an issue with not having a 45' greenbelt, the Planning Board has been consistent with the application of this requirement for all the projects they have dealt with, this will be the first time that they may defer from that. This is not a precedent the Planning Board wants to set. She understands that the property behind it is zoned Commercial but currently it is a residential use so the same requirements, policies and regulation have to be applied consistently for everything. She is concerned that all the greenspace is at that part of the site and after that it is a big building and pavement. She is concerned with traffic and corrected the applicant who indicated the site will have 51 or 47 in the

morning, which is from the pass by adjustment, in reality a lot of those cars are already going by and, in reality the site will have 157 vehicles that will stop and 153 that will leave. She also has a concern that the study the applicant provided does not give enough information about Clarence Center Road or the turning movements in and out of the site. She is also concerned that the parking is 10 spaces short. She feels there is not enough information to clarify some things for the Planning Board. Mrs. Salvati referred to the plan in which it shows four (4) wall packs on the back of the building, she asked how high the wall packs will be because even though they are shielded people in the house are still going to see the lights on the building and they are going to be on all night long. Mr. Dentinger said the wall packs can be lowered to eight feet (8') so that the fence will shield the light from the neighbors.

Mr. Dentinger said the McGuire Development Company is a unique developer. The first thing he did when he was developing the Tronconi building was to meet with every single neighbor, even before coming to the Town, seeking their input. They listened to every question and addressed every detail. They have heard over a dozen concerns regarding this project and they have come to this meeting saying yes to them all. They sent the plan to the neighbor behind them but they did not respond. Mr. Dentinger's understanding is that the current owner of the neighboring property bought the property for a potential future commercial site. This is a retail project but it is Transit Road. There would be a sign to exit the cars out onto Transit Road going north to keep the traffic off Clarence Center Road.

Mr. Pazda likes the project but is disappointed that the 45' greenbelt cannot remain intact. Mr. Dentinger said this is going to be a high quality nice looking plaza.

Mrs. Salvati asked how tall the proposed building is. Mr. Silvestri said it is 17' to the gutter line, then another 6' not including the tower.

Mr. Dale agreed with the reputation that McGuire has in the Town of Clarence. He also agreed with Mrs. Salvati in that he does not believe the traffic analysis that was done took into account the impact on Clarence Center Road, and until the Board has a chance to analyze that, he is not in favor of moving the project forward. He is not saying no, but he wants to take small steps because they have had issues with traffic in conjunction with other projects.

Deputy Town Attorney Steve Bengart asked if the traffic report was provided to Erie County. The applicant said yes. Deputy Town Attorney Steve Bengart then asked if there were comments and advised the Board to be careful because it is not the Town's road. If the County does not have a comment he is not sure that the Town should be deciding for the County. Mrs. Salvati said the Town is not deciding for the County, to say that the Board shouldn't be concerned about how many cars are coming on and off the road, just because it is a County road, is not doing the Planning Board's job. Chairman Sackett noted the advice of counsel as stated by Deputy Town Attorney Steve Bengart.

Mr. Dale asked the applicant how the storm water will be handled and noted the plan shows the detention pond in the back. Al Hopkins, of Metzger Civil Engineering, said although the project has not been engineer yet, everything will probably drain from the building to the west, pick up a catch basin which will take it back along the south side through a filtration structure, which is required by the DEC, to a detention pond. The detention pond would have meet the DEC requirements. Mr. Dale noted there are some stiff elevation changes. Mr. Hopkins agreed and said the site has some topography to it. The outlet would be the corner at Clarence Center and Transit roads. Mr. Hopkins noted that not only does this have to be reviewed and approved by the Town, but by the DEC and the DOT as well. He anticipates the drainage can be done with gravity.

Lois Daigler, of 8041 Clarence Center Road, said 60' of her "T" shaped property butts up to the back of the project site. She is the second house from the project site. She is concerned with the demolition and asked if she will be notified when it will take place because she has dogs and would want to be prepared. She has a fence and would not want it to be taken down without notice. The property is high and Ms. Daigler presumes they are going to take a lot of ground out of there because it is a sand hill, so the location of the plaza will be low. She does not know how they are going to grade the site. Chairman Sackett said that would be covered at the Development Plan phase. She is also concerned that the fence along 8035 Clarence Center Road is going to be higher than the property, how far away is the detention pond from where the property drops down? If they dig too deep the ground will not be stable, there will be soil erosion.

Corey and Jacqueline Damon own and reside at 8035 Clarence Center Road. It is the property directly east of the project site. Mr. Damon said his concern is the greenbelt at the drive-thru. He feels Concept Approval would be at their expense to forgo that 45' buffer zone. Chairman Sackett noted that is not within the Planning Board's authority, that would have to be a Zoning Board of Appeals approval. Mr. Damon has owned the property since 2012. Mrs. Damon asked for further clarification with regards to the 12 a.m. and 7 a.m. delivery, will deliveries be made throughout the evening to the Tim Horton's? Mrs. Damon said the 8' lights would beam into their entire home. She is also concerned with the dumpsters and the rodents, bugs, insects and odors that they bring. Mr. Damon voiced his concern with the odor of deep fryers that come from restaurants. He and his wife would experience noise and fumes from the cars that would be idling at the 24 hour drive-thru. They are also concerned with the sound from the speaker for Tim Horton's. They would like to open their windows on a summer night.

Mr. Pazda noted that the Damon's property is zoned commercial and asked if they have any intentions of using it in a commercial fashion. Mr. Damon said he can't imagine they would, they both work full time and they see the space constraints if they were to try and develop it.

Mr. Dentinger said they will speak with Mrs. Daigler and address all of her concerns in terms of the fencing. In terms of water, by law, they cannot drain any water off the site onto anyone else's property. On November 30, 2014 the applicant sent the site plan to the Damon family and spoke on the phone with them in which they said they would send the information to their attorney but the applicant has not heard anything since. Mr. Dentinger tried for the last three months to set up a meeting but the Damon family never returned his calls or his e-mails. He reached out to them again tonight.

Mr. Silvestri said from an HVAC point of view they will make sure the requirements for ventilation on the building is up to code and properly taken care of. Mr. Pazda thinks the applicant was referring to the separate oil disposal unit that some restaurants have in addition to their dumpster. Mr. Dentinger said those grease containers are now kept inside the building within the facility for both cases and they are taken out separately, there is no longer a grease dumpster. Their goal would be to maximize the size of the dumpster in the pen and work on how many times per week debris would be removed from the site.

Mr. Silvestri said in terms of hours of operation, Tim Horton's hours will be 6:00 a.m. to 11:00 p.m., it is not a 24 hour operation. My Corner Pub will be open 11:00 a.m. to midnight during the week and to 1:00 a.m. on the weekends.

Chairman Sackett asked if there is any other place the speaker could be located along the queue. Mr. Dentinger said they can angle the speaker heading more southeast so the volume will go in a different direction. The applicant will work with the neighbor on the volume control.

There has not been a study done regarding car fumes.

Mr. Pazda asked for clarification on Tim Horton's hours of operation. Mr. Dentinger said they don't want to limit Tim Horton's but right now their hours of operation are from 6:00 a.m. to midnight but there are no restrictions in their lease that they couldn't be open 24 hours. Mrs. Salvati said if they close at midnight how can deliveries be made. Mr. Dentinger said they are there baking, he assumes the deliveries will be between 4:00 a.m. and 5:00 a.m. when they are starting to bake. This individual franchisee owns 25 other locations in Western New York, he is an original franchisee who came down from Canada and is a very good operator; he understands the concerns and was very amenable to suggestions.

Mr. Dentinger can state definitively that no light will go beyond the boundary of the property. Mrs. Salvati said her concern is that the lights can still be seen. If the applicant has lights on the side of the building the neighbors are still going to see them. Mr. Dentinger said he will sit down with the neighbors, just as he did with Tronconi, and address their concerns one by one. Mr. Bigler asked if the 8' fence will be a bit higher than 8' because the ground is a bit elevated in that area. Mr. Dentinger said he does not know that yet.

Mr. Bigler asked if the speaker could be moved back by the dumpster or is that too far away from the building. Mr. Dentinger said he would commit to move it back.

Mr. Pazda asked Mr. Hopkins how much space he would envision there would be from the fence before the land starts to drop off. Mr. Hopkins said it is hard to say but they are required, by law, to have a slope of 4 on 1 safety bench before you get to the pond water surface and from there they can go to 3 on 1. There is also a constraint that it has to be 6' deep, so the width will be self-guiding. The Benderson property does not have a fence next to their retention pond so the neighbor will never see the retention pond; her grass will go right out to the fence and what is on the other side will not affect her property. Mr. Todaro asked what can be done to stop the potential erosion. Mr. Hopkins said he is not aware of the soil type yet, if anything they may have to line the pond with something. Chairman Sackett noted that this would be covered in the Development Plan approval and the engineering of the project.

ACTION:

Motion by Paul Shear, seconded by Richard Bigler, to **accept** the Part 2 and 3 Environmental Assessment Form as prepared by the Town Planning Department.

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

MOTION CARRIED.

Motion by Paul Shear, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** a Negative Declaration on the proposed McGuire Development Commercial Plaza located at 5989 Transit Road. This Unlisted Action involves the development of a commercial retail plaza with a Tim Horton's Drive-thru in the Commercial Zone. After thorough review of the submitted site plan and Environmental Assessment Forms it is determined that the proposed action will not have a significant negative impact upon the environment.

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

MOTION CARRIED.

Motion by Paul Shear, seconded by Gregory Todaro, to **approve** the Concept Plan of the proposed McGuire Development Commercial Retail Plaza with Tim Horton’s Drive-thru based upon the submitted site plan and architectural elevations from Silvestri Architects dated 3/24/15 with the following conditions:

1. Subject to obtaining a variance by the Zoning Board of Appeals to allow for the east property line setback as depicted in violation of the required 45’ greenbelt to an adjoining residential use.
2. Open Space and Recreation Fees.
3. Subject to review and approval by the Landscape Committee on final landscape details on the project, prior to final Certificate of Occupancy being issued.
4. Subject to control of delivery vehicles and the timing of deliveries to reduce parking lot conflicts via lease language, which language shall be reviewed and approval by the Town Attorney’s Office.
5. The language discussed in the lease will also be conditions of the approval.

ON THE QUESTION:

Chairman Sackett clarified that the 3/24/15 date on the plan shows the correct square footage of the proposal, which is 10,746 square feet.

Deputy Town Attorney suggested condition number 5 above be added. Mr. Shear and Mr. Todaro agreed to add condition number 5 to the motion. The applicant is amendable to this condition.

Mrs. Salvati said if this project passes and goes to the Zoning Board of Appeals she hopes those members will read these meeting minutes so they have an understanding and can evaluate the concerns that have been set forth at this meeting.

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

MOTION CARRIED.

Motion by Paul Shear, seconded by Richard Bigler, to **recommend** to the Clarence Town Board to issue a Special Exception Use Permit for the proposed Tim Horton’s Drive-thru and Commercial Plaza located at 5989 Transit Road as per the Concept Plan approved by the Planning Board on April 1, 2015.

ON THE QUESTION:

Mr. Shear said he hopes the applicant takes the opportunity to reach out to the neighbors. Mr. Dentinger said he will meet with the neighbors right after this meeting if they want to.

Chairman Sackett said they have yet to approve the Development Plan at which time many of the unanswered questions from this meeting will be addressed.

Mr. Pazda said if the applicant meets with the neighbors and they reach an informal agreement, those agreements need to be brought back into the Development Plan for approval in order to be enforceable by the Town.

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

MOTION CARRIED.

Item 3

Emerling Insurance Agency
Commercial

Requests an Action under the State Environmental Quality Review Act (SEQRA) and Concept Plan Approval for a proposed professional office building at 9092 Main Street.

DISCUSSION:

Jim Callahan provided the history on the project noting that it is located on the north side of Main Street, west of Thompson Road. It is an existing residential and vacant property located in the Commercial Zoning classification. The Planning Board is Lead Agency on this application.

Lowell Dewey, partner with C & S Engineers, is present and noted that the site plan is essentially the same as what the Board has seen in previous meetings. They have designed a septic system, a grading plan and a drainage system. The design is for a dry detention pond which would be located east of the entrance drive in the greenspace and would remain as grass but will have a three foot (3’) depression, it will be dry between storms. Because the rock is so close to the surface they are going to have a ground water recharge well. The storm water will run along the center of the parking lot and into the ground water recharge. SJV has been hired to drill a test well to make sure it will work. One injection well is planned, no pumping though, it will be gravity. The septic system is on the east side of the building in the dashed area shown on the site plan. The applicant will send the plans to the Health Department.

Chairman Sackett asked if the applicant would be opposed to screening the parking from the street with landscaping and putting a stone wall in front. He also asked what the plans are for a sidewalk across the front of the building. He explained that the Town is receiving a grant and is planning on putting a sidewalk down Main Street so the Planning Board is asking all new applicants to put sidewalks in front

of their unit. In terms of engineering Chairman Sackett asked if there is a problem putting a sidewalk in. Mr. Dewey said he will check but he does not think it will be a problem.

Chairman Sackett asked Mr. Dewey about a stone wall on the front of the property. Mr. Dewey said he will ask his clients as it is an added expense. Paul Barone, owner of Emerling Agency, said the concept of a stone wall does not immediately appeal to him from the standpoint that the design of the building is very attractive from the road. They have done a lot of work to put sculptured stone on the front of the building, it is going to have a real roadside appeal. The stone wall wouldn't match the building. There will be recessed lighting in the eaves on the front of the building, it is a straight down light. There will also be recessed lighting on the building that faces Main Street.

Mrs. Salvati noted the two (2) large trees at the site that she would like to see remain. Mr. Dewey said they are staying.

Mr. Shear asked if the applicant is planning to blast, Mr. Dewey said no.

Mrs. Salvati noted that the plan shows future expansion of the building and the parking area, she asked if the applicant had any idea when the expansion will take place. Mr. Dewey said there are no plans for future expansion at this time.

Mr. Dewey said the hours of operation are 8:30 a.m. to 5:00 p.m., seldom there are evening hours where the office would be open until 7:00p.m. It is an office building and will have 18-25 employees. There are 32 parking spaces, which is to code.

Mr. Pazda asked if there are lighting standards in the parking lot. Mr. Dewey said the site plan shows one double head and one single head near the entrance, and a double head in the center of the parking lot at the islands facing inward. He confirmed that site lighting will be dark sky compliant.

Chairman Sackett asked if the applicant would be opposed to blocking the parking from Main Street with landscaping. Mr. Dewey said they would not be opposed and it would likely be shrubbery. Chairman Sackett said there will be a provision that 8% of the parking area has to be landscaped. Mr. Dewey said they were aware of that provision hence the number of islands in the parking lot.

Mrs. Salvati asked the applicant what is east of their site. Mr. Dewey is not sure what is there, but he confirmed that there will be no lighting on the east side of the building.

ACTION:

Motion by Wendy Salvati, seconded by Gregory Todaro, to **accept** the Part 2 Environmental Assessment Form as prepared by the Town Planning Department.

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

MOTION CARRIED.

Motion by Wendy Salvati, seconded by Paul Shear, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Emerling Professional Office Building located at 9092 Main Street. This Unlisted Action involves the construction of a professional office building in the Commercial Zone. After thorough review of the submitted site plan and Environmental Assessment Forms, 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.

Motion by Wendy Salvati, seconded by Gregory Todaro, to **approve** the Concept Plan and Architectural Style of the proposed Emerling Insurance Professional Office building located at 9092 Main Street as per the submitted site plan from C&S Engineers, dated 3/16/15, with the following conditions:

1. Subject to review and approval of the Town Landscape Committee on final landscape details including consideration of a stone wall along the frontage.
2. Sidewalks along the Main Street frontage per the review and approval of the Town Engineer.
3. Open Space and Recreation Fees.
4. Retention of existing trees along the street line.

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

Kelly Schultz
Agricultural Rural Residential

Requests Minor Subdivision Approval to create three (3) new residential building lots at the southeast corner of Ransom Road and Stage Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located at the southeast corner of Ransom and Stage Roads. It is an existing vacant property. The applicant is proposing a minor subdivision to create three (3) residential lots, for a total of four (4) lots on this corner. The Planning Board is Lead Agency on this action and has final approval authority. A previously approved Open

Development Area involving the property is now considered Null and Void due to inaction and property transfer.

Jack Willert is present, representing himself and his partner Kelly Schultz. He confirmed that the drawing on display is the correct plan for the proposal.

Mrs. Salvati asked if there is still something left that provides access to those lands that were previously under consideration. Mr. Willert said yes there is an entrance further east on Stage Road which was the original entrance.

Mr. Bigler asked if the corner house would face towards Ransom Road or Stage Road. Mr. Willert said they will only sell the lots, they won't be putting the houses up.

ACTION:

Motion by Wendy Salvati, seconded Timothy Pazda, to **accept** the Part 2 Environmental Assessment Form as prepared by the Town Planning Department.

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

MOTION CARRIED

Motion by Wendy Salvati, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Schultz Minor Subdivision. This Unlisted Action involves approval of a Minor Subdivision in conformance with the Agricultural Rural Residential Zone. After thorough review of the submitted site plan and Environmental Assessment Form it is determined that the proposed action will not have a significant negative impact upon the environment.

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

MOTION CARRIED

Motion by Wendy Salvati, seconded by Richard Bigler, to **approve** the Schultz Minor Subdivision located at the southeast corner of Ransom Road and Stage Road to create three (3) new residential building lots in the Agricultural Rural Residential Zone, with the following conditions:

1. All lots to have a minimum of 1.33 acres parcel size and 150' minimum of public road frontage.
2. Corner lot to have 200' minimum frontage on both Stage Road and Ransom Road.

3. Subject to Erie County Department of Public Works (ECDPW) approval on any future curb cuts for future driveway installation.

4. Subject to Erie County Health Department approval for any on-site sanitary facilities for future residential use of the lots.

5. Subject to Town Building and Engineering review and approval for any future residential structures on the lots.

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

<p>Elliot Lasky/Roxberry Subdivision Phase 2- Gentwood Extension Residential Single Family</p>	<p>Requests Development Plan Approval for a 19- lot subdivision.</p>
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DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the north side of Main Street, west of the existing Gentwood and is an extension of Gentwood Drive. This Development Plan for 19 residential lots was originally tabled in 2002 by mutual agreement between the Town Board and the applicant. With no viable commercial alternatives identified the applicant is now requesting Development Plan Approval on the 19-lot residential subdivision. The Town Engineer has forwarded a letter identifying that the project details meet Town standards, the letter is on file.

Sean Hopkins, of the Law Firm of Hopkins and Sorgi, is present along with Cliff Krumm from Greenman Pedersen, Inc. (GPI). Mr. Hopkins said at the October 1, 2014 Planning Board meeting the applicant had a number of approvals they needed to obtain. Since then they have obtained approval from Erie County Water Authority, Erie County Health Department, the Town’s Engineering Department, the Army Corp of Engineers, the NYS Department of Environmental Conservation. They have also met with and reviewed the plan with the Western New York Land Conservancy. A plan that is similar to what is being proposed this evening was approved back on November 3, 1993. On January 26, 1994 a Negative Declaration was issued pursuant to the State Environmental Quality Review Act (SEQRA). Then in the year 2000 there was discussion about the Eastern Hill Access Road, which would have fronted on the site had it ever come to fruition. It was never accomplished and Mr. Hopkins client has decided to now move forward with the plan that is in front of the Board this evening. Mr. Hopkins said there will be no blasting, a letter confirming this has been submitted. He has confirmed that there is sanitary sewer capacity available via Erie County Sewer District #5. They have looked at traffic impacts and those residents of Gentwood, Ericson, Westwood, and Hirschwood will experience an increase in traffic. The trip generation rate during the weekday a.m. hour would be six (6) trips entering, seventeen (17) trips exiting. During the weekday p.m. peak travel hour it would be fifteen (15) trips entering and nine (9) exiting. GPI has designed a storm water management system that has been approved and does

comply with the DEC stringent storm water quantity and quality standards, this does include the need to retain 100 year storm event. The applicant will be adequately dealing with the run-off from the impervious surfaces on their site. He understands that there are some drainage issues off-site, he can't make any assurances or guarantees that they will improve those situations but Ken Zollitsch and Cliff Krumm of GPI have both advised that currently there is water that comes off the parking lot at the Eastern Hills Mall site on to this site and doesn't have a drainage system in which it is conveyed to. The applicant will be capturing that water so hopefully that will result in some improvement. There will be street lighting per the Town's standard requirements. There is a berm shown on the plan along the portion of the Eastern Hills parking lot that bumps out there. This will be for a visual buffer for the owners of the future homes. Mr. Hopkins said there were comments about whether or not the project could be developed via another means of access, unfortunately given that the Eastern Hills Mall owns the adjacent property and that Bryant and Stratton Way is not contiguous to the site, this is the only option. Mr. Hopkins would like consideration for use of the Eastern Hills Mall site to accommodate the construction access. Mr. Lasky said he has a good relationship with the owners of the Eastern Hills Mall and will request permission from them to do so. Mr. Zollitsch, of GPI, submitted a letter to all the property owners within 500' of the project, there are 107 of them, to provide them with an update of the information that Mr. Hopkins just presented.

Mr. Pazda asked if the traffic counter assumed there would be one (1) car per household. Mr. Hopkins explained that the traffic count was based on a wide assortment of national studies, the information is accepted by DOT and ECDPW but is not specific to this site. So there could be more or less traffic. It is possible that cars would be moving outside of the peak hours.

Chairman Sackett noted that the lots facing Eastern Hills Mall will be buffered by a berm, Mr. Hopkins confirmed and further explained that the berm is at the portion of the Eastern Hill parking lot that bumps out. Chairman Sackett said that is a visual buffer, he envisions the people who buy those lots would have concerns about lighting, noise and traffic as well. He asked the applicant if he had any further plans for additional buffering. Mr. Hopkins said they will be selling the lots to individual purchasers so it will be up to each buyer/owner to provide their own screening.

Mr. Hopkins noted that the rear yard drainage was originally at the back of the lots, based on consultations with the Engineering Department who suggested the rear yard drainage has been moved off the property line, and thereby they would be able to preserve approximately 10' of that existing vegetation. The applicant is willing to look at this on a parcel by parcel basis.

Mrs. Salvati noted that the Town Engineer said the applicant would do a walk through to identify the location of where rear yard drainage will be, the Planning Board would like the applicant to preserve as much vegetation as they can to provide a buffer between the new houses and the existing houses.

Mr. Krumm said he met with Tim Lavocat and they decided to meander the back yard drainage so it doesn't go through trees, it will go from lot line to lot line and while they will hit some roots, they will not be going right into a trunk. Mr. Hopkins said this is appropriate to memorialize in a condition. Mrs. Salvati wants it in the record that a person who buys one of these lots knows that it is what it is, if they don't realize what it is when they buy the lot/house they can't come back to the Town to complain of a large parking lot behind their home.

Mr. Hopkins clarified that the berm will start at lot 40 and will go to lot 34, there will be trees planted on top of the berm.

Mr. Dale asked how the applicant intends to drain the storm water detention basin. Mr. Krumm said it is going to be an injection down into the rock and is designed to take the water and is located in a low area at the site. It will all be graded, there will be an injection well where the water will go into rock, after it is treated. The water must be treated prior to going into the rock as required by the DEC.

Mr. Krumm explained what the easements called out by the dotted lines on the plan are for, the first one to the right being an existing sanitary that was put in and the others are easements for storm drainage. The east and west storm drainage that is near the parking lot is storm water, the other one is an existing 10" sewer that was put in years ago for the first phase of the subdivision. The other goes into the detention/injection area.

Mr. Todaro asked the applicant to clarify the buffer at the south parking lot. Mr. Hopkins said they are not showing any particular buffering there but are open to considerations. The builder may not build all the homes but they will build some and that will all be landscaped and buffered so that people don't see the parking lot from their backyards. Mr. Pazda asked if the berm has been defined yet. Mr. Hopkins said the plan shows a 2'-3' berm with evergreen trees on it.

Mr. Hopkins said if someone purchases lot 33 and they are interested in putting fencing along the rear property lines, he does not think they should be precluded from being able to do that.

Mr. Pazda asked if the berm will interfere with the drainage. Mr. Krumm said no it will not, the drainage will be on both sides of the berm.

Thomas Bardo, of 8248 Hirschwood Drive, has a history in firefighting. He voiced his concern saying a 19 unit cul-de-sac is against the code, there is a reason why those codes were changed and that is fire egress and availability to get the fire equipment on scene. 19 units is too deep. He thinks the code is now 11 lots. This concept was approved in the 90's, not the plans only the concept. Since then the concept has been changed by Mr. Laski. Originally it was a three (3) phase project that was approved, it is no longer a three (3) phase project, it has been downgraded to two (2). He said the Town is no longer bound, it is null and void. Another concern Mr. Bardo has is the turn from Ericson drive onto Gentwood it is very sharp and if there is another vehicle making that turn, a fire truck is not going to get through, someone will have to back up.

Chairman Sackett clarified that the Board is being asked to approve the Development Plans, they are not asking for comments on the Concept Plan, the project is beyond Concept Plan. The Board is reviewing the checklist of the project to make sure they have all the necessary approvals to move forward. Mr. Bardo questioned what the Board is entertaining at this meeting. Deputy Town Attorney Steve Bengart clarified that it's not what the Board **will** entertain at this meeting, it's what they **can** entertain. Mr. Bardo said he understands.

Mr. Bardo went on to note Appendix B of the Engineers Report, in which it says the flow and pressure line calculations have been reviewed and there will be adequate water pressure and flow. The line comes down the west side of Gentwood Drive, this line has multiple breaks every year. This line will not hold up, the Town will have to put in a new line. As far as garbage, on a windy day he can sit on his porch and watch the shopping bags. The natural buffer that catches all the garbage is going to be gone. He and his son clean out 15 bags of garbage twice a year just from the line. As far as lighting, the applicant won't need to put lights in because there are HID lights all over the parking lot now. The only thing that will stop the neighbors from seeing that light all the time and lighting up their areas is that natural buffer. They can't turn the lights off in the winter because they can't remove the snow from the parking lot in

the winter if they can't see what they are doing. The noise is incredible, a 2' or 3' berm is not going to stop the noise that all that natural barrier is now stopping.

Marilyn Rizzuto, of Gentwood Drive, said the Board is concerned about the Eastern Hills buffer but what about the existing homes buffer, we get nothing? Chairman Sackett said that was addressed, there is going to be a walk through and 10' of existing vegetation will remain. Ms. Rizzuto said three (3) huge trees between her border and the project site were cut down this week and there was a machine digging up the dirt back there. She is also concerned with the traffic, she asked the Board if they were aware that her neighborhood gets all the traffic from all the auto dealers when they test drive the vehicles, they turn around in the their driveways all the time. So add that to the traffic count for the project and it is going to be a nightmare. It is a very narrow road and there is no room for a kid on a skateboard and an ambulance.

Robert Kahabka, of 8285 Ericson Drive, is concerned with traffic. Chairman Sackett clarified that traffic is not a Development Plan criteria. Traffic would be discussed in the SEQRA review, which is not in front of the Board this evening. Mr. Kahabka said his comment on their traffic study is very poor. Nineteen (19) homes, that's nineteen (19) vehicles, who owns only one (1) vehicle? These are going to be \$275,000 homes, these are going to be people with money so their children are going to have cars. The vehicle count will be doubled, at least. He walks those streets every morning, he gets dusted off the side of the road. This project will put a lot of strain on these streets and the people who have lived there for a long time. Mr. Kahabka would like to request that it be put in writing for him, that there will be no blasting. There was blasting every day when they did the phase to put the sewers in on the backside of Hedgewood. Mr. Kahabka had to rearrange the logs in his fireplace every day because they knocked them down. He developed two (2) leaks in his basement wall, he called the developer who came over and looked at the leaks and said they weren't responsible. He had to pay to have the leak fixed in his basement wall, which wasn't there before they started blasting. He is also concerned with the detention pond, he wondered what depth it would be. Water is a problem and he does not want any more on his property.

Casmir Lazickas, of 8320 Hirschwood Drive, would like to address some of the environmental concerns of the project that he has. Chairman Sackett clarified again that if the concerns deal with the Development Plan they are appropriate and will be addressed, however if they do not deal with the Development Plan the Board is not being asked to address them this evening. Mr. Lazickas said they live on a rock shelf in that neighborhood, it is 5'-6" below his basement floor, and he has a full basement. If they inject water into the water table, how is that going to raise the water table in the neighborhood and how will that impact the community. He does not think there has been an environmental study on that part of this project. The buffer that has been proposed to be removed is their last line of defense against the light shining through and the wind whistling through their neighborhood coming from the Eastern Hills Mall. Greenspace is important to Clarence and you would think this would be a good place to protect it. He thinks this is a real impact that hasn't been studied with this project. There are 24" trees being cut down now, there are 80' trees that are being taken down where the applicant said they are proposing greenspace. Chairman Sackett noted that the applicant proposed to keep a 10' barrier, Mr. Lazickas said he saw a tree down within that 10' barrier. He asked if the applicant is allowed to do that before the project has been approved. He also asked about the change in the code from 19 lots to 12 lots on a cul-de-sac, is this a law that Clarence is going to adhere to? He asked for clarification on that law. The construction entrance is important to the neighborhood, if they can't get access through the Mall that is going to impact the neighborhood a great deal. With regards to the lighting, you don't need street lights because of the glare from the Eastern Hills Mall lights. It's not fair that Clarence is preserving all this greenspace for the community character but yet take this away from an established community that

has been there well over 50 years. He thinks this is an ill-conceived project and the water table should be studied.

Carol Brocious, of 4525 Hedgewood Drive, referred to a letter that many neighbors received from GPI which stated, "The project sponsor anticipates it will be necessary to import clean fill as part of the overall grading of the project site. An effort will be made to minimize the need to import clean fill since this is expensive." The letter is on file. Ms. Brocious said 19 lots at \$275,000 is a handsome sum and to say that it would be too expensive to care about the people who are going to buy these properties and bring in clean fill is an insult to all of those who live in the area. If clean fill is not used you can look at contaminants, what is considered reasonable? How much contamination is OK? And what kind of contaminants are they talking about? Deputy Town Attorney Steve Bengart noted that a law was created 10 years ago that requires all fill to be certified, anything that comes into this Town will be clean fill. Ms. Brocious said she learned from a fire official that the Town is in violation of code if they go beyond the 12 units and that leaves the onus on this Board.

Ms. Rizzuto said if there is a 10' buffer between the existing homes and their homes why are they already chopping down 10 huge trees?

Mr. Hopkins said there were 10 (ten) trees that were recently removed from the site, the Town is aware of this and it can be done without a permit being received. The reason this was done is because the project required a permit from the Army Corp of Engineers. The applicant was recently advised by the Army Corp of Engineers that sites requiring a Federal permit can only remove trees during the period from April 1 to October 31 because there is a potential for trees that have peeling bark or that are dead to be habitat for the Northern Long-Eared Bat. A plan was submitted showing the 10 (ten) trees to be removed. Anything more than 10 (ten) trees would require a permit from the Town; that documentation does exist. In terms of street lighting, it is a public street and if there is a way to develop the site without street lighting and Mr. Lasky deems it acceptable, it is something that will look into in greater detail. In terms of the preservation of greenspace, Mr. Hopkins said yes it is important. He referred to Master Plan 2015 in which it is specific in terms of the location of green space that should be preserved. This is not one of those locations, this is a site designated as being appropriate for development, nonetheless requires approvals. The injection well itself is a very common approach for storm water management in areas where the bedrock is close to the surface. That injection well will have the depth of approximately 100'. The well will be drilled and water will be taken from there and tested. Those results are submitted to the Engineering Department and documentation is submitted to the EPA because they keep an inventory of all injection wells. This is not a highly regulated well, from the EPA's perspective because it will be treated storm water run-off, meaning it will be water, not a contaminant in an industrial process. With regards to the clean fill, the letter means that the applicant is going to try and minimize the amount of clean fill that they need to bring onto the site for grading purposes, all fill definitely has to be clean. The blasting of this site has been discussed and by request of the Planning Board Executive Committee, Mr. Hopkins submitted a letter on September 8, 2014 to Mr. Callahan that indicates blasting activities in connection with the construction of Phase II of the Roxberry Subdivision as depicted on the Development Plan prepared by GPI shall be prohibited, the letter is on file. With regards to the traffic study, Mr. Hopkins said the study is a national study and not project specific. The projections are for the peak hour, so yes, there will be those that have more vehicles per household but the projections are for the a.m. and p.m. peak hour. The clarification is that they are looking at one (1) hour periods not a 24 hour period. With regards to the number of lots allowed on a cul-de-sac, Mr. Hopkins said it is his understanding that the determination has been made because this project not only received sketch plan approval previously but was also subjected to a coordinated environmental review pursuant to the State Environmental Quality Review Act, the new standard does not apply. Given the proximity to paved

surfaces on two (2) sides, there are other methods of fighting fires on the site, but he defers to the fire officials expertise.

Mrs. Salvati suggested the applicant leave more than a 10' buffer whenever possible, Mr. Hopkins agreed. Mr. Pazda asked if the 10' buffer is going to be clear cut. Mr. Hopkins said no. Mr. Krumm said they are going to save as many trees as possible but where the houses are going to be will ultimately be a decision between the homeowner and the builder. As many trees as possible will be preserved.

It is clarified that the Board is bound to work with the plans that came to them.

Mr. Hopkins said the water supply was reviewed by the Erie County Water Authority. The plans have also been reviewed by the Fire Chief as part of the builder/contractor agreement. The pavement width of the roads on site are 28' with a 2' gutter curb so it does meet the Town's current standards, which includes the turning radius for the cul-de-sac. They are repaving out to Hirschwood Drive.

ACTION:

Motion by Gregory Todaro, seconded by Richard Bigler, to **approve** the Development Plans for the Roxberry Subdivision Gentwood Extension for 19 residential lots as per the submitted preliminary plat as submitted by GPI and dated 11/10/14, with the following conditions:

1. Subject to PIP Permits as issued by the Town Engineer.
2. Rear yard drainage for the easterly lots to be placed as far west as practical to allow for the retention of a natural buffer to the greatest extent possible to existing homes on Gentwood Drive.
3. Subject to Landscape Committee review and approval.
4. Subject to Open Space and Recreation Fees.
5. Installation of a 2'-3' earthen berm with trees planted from the rear of the southern extent of lot 34 to the rear of the northern extent of lot 40.
6. No blasting shall be permitted.

ON THE QUESTION:

Deputy Town Attorney Steve Bengart suggested the words "retention of a natural buffer" be made part of condition number 2. Mr. Todaro and Mr. Bigler agreed to this addition.

Mr. Hopkins suggested adding the word "rear" to condition number 5. Deputy Town Attorney Steve Bengart agreed. Mr. Todaro and Mr. Bigler both agreed as well.

Chairman Sackett suggested the words "for street trees" be deleted from condition number 3. Mr. Todaro and Mr. Bigler both agreed.

Mrs. Salvati said people who buy these lots need to be aware that they are buying lots that are adjacent to a large parking lot for a large mall, so buyer beware they may be subject to light pollution, garbage bags, whatever, but that is a decision that has to factor in when they decide to purchase these lots. The Town cannot be responsible for the impacts that may occur after they purchased their homes.

The question of street lighting will be deferred to the Town Engineer.

Mr. Hopkins said the proposed conditions and the resolution that has been enunciated by the Board are acceptable to the applicant.

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 10:15 p.m.

Carolyn Delgato
Senior Clerk Typist