

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday June 15, 2016

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

Agenda Items 7:00 pm

Approval of Minutes

Item 1

Elizabeth Holmes
Major Arterial

Requests an access to Old Post road form the existing plaza at 6429 Transit Road.

Item 2

Davis Tiburzi
Traditional Neighborhood District

Requests Preliminary Concept Review of a proposed Mixed-Use project at 6855 Transit Road.

Item 3

R2B Management/Bryan Schaefer
Industrial Business Park

Requests a Building Permit and Architectural Approval for a proposed Office Addition at 9580 County Road.

Item 4

Rocky's Big City Games and Sports Bar/
Dave Scrivani
Major Arterial

Requests a Building Permit and Architectural Approval for a proposed façade update at 4545 Transit Road.

Item 5

Benderson Development
Major Arterial

Requests Development Plan Approval for a proposed Retail and Restaurant Plaza at 5175-5181 Transit Road.

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

Councilman Paul Shear led the pledge to the flag.

Planning Board Members present:

Chairman Robert Sackett
2nd Vice-Chairperson Wendy Salvati
Gregory Todaro
Jeffrey Buckley

1st Vice-Chairman Richard Bigler
Timothy Pazda
Steven Dale

Planning Board Members absent: none

Town Officials Present:

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

Other Interested Parties Present:

Bonnie McMichael Krabill	Fred Frandina	Janet Mattar	Melanie Weber
Claire & Leo Kuziemkowski	Michael Maclean	Eileen Nahogran	Carolone Remlinger
Gary Remlinger	Deborah Frandina	Edward Roth	Carol Roth
Harender Arora	Surinder Arora	Randy Schaefer	David Galbo
Joseph Dinnbar	Michael Frushone	David Gallagher	Robert Martin
Don Gallant	Guy Gallant	Philip DeFranco	Sharon DeFranco
Mylene Fors	Rita Sofia	Mike Morgante	Fred Piwko
Cindy Younger	Peter vomScheidt	Ann Pusateri	Jim Burdick
Christine vomScheidt	Alice & Bob Farley	Joann & John Kirsits	Wendi Wolter
Claudia Kontak	Lori Johnson	Avkri Worrall	Peter Worrall
Sharon Cook	Fred Cook	Jim Simonis	Marty Lougen
Donna Reynolds	Mike Igoe	Robert Drzewiecki	Vince Miranda
William Klein	Mary Klein	Sandra Hambleton	Paul Runfola
Kate Runfola			

Motion by Gregory Todaro, seconded by Steven Dale, to **approve** the minutes of the meeting held on April 20, 2016, as written.

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

MOTION CARRIED.

Motion by Wendy Salvati, seconded by Richard Bigler, to **approve** the minutes of the meeting held on May 4, 2016, as written.

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

MOTION CARRIED.

Chairman Sackett explained the protocol for the meeting noting that Jim Callahan will introduce the project, the applicant will then address any comments that Mr. Callahan has made. The Board will then discuss the applicant's comments with the applicant, and ask questions. After that, members of the audience are invited, if they have any new information, to bring it forth. The Board will make a decision based on all the facts. Due to the size of the audience, and that numerous correspondences have been received for various agenda items, each speaker will be limited to three (3) minutes to present their concerns/questions. All correspondence that has been submitted, has been read. After all information has been presented, the Board will then address any new information that may have come up from the audience. The Board will then make a motion.

Item 1

Elizabeth Holmes
Major Arterial

Requests an access to Old Post Road from the existing plaza at 6429 Transit Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the east side of Transit Road, north of Old Post Road. It is an existing commercial plaza. The applicant is seeking approval to develop an access to Old Post Road from that plaza. The Planning Board has final review and approval authority on this request.

Elizabeth Holmes, from the Law Firm of Barclay, Damon, is representing Joseph Basil who is the property owner at 6429 Transit Road, Wolter's Plaza. Ms. Holmes explained that they are requesting a 24 foot wide access road off the south end of the parking lot, on to Old Post Road. Originally the request was for a 20 foot wide access road with egress only, but they worked with the department to widen the road and provided for ingress and egress. The plan indicates there will be a sign on the opposite side of Old Post Road indicating that the cars leaving the parking lot can only turn right, so there will be no left hand turns going down the wrong way on Old Post Road West. There will also be signs at the end of Old Post Road on the north side, which will deter any traffic travelling northbound on Transit Road of making an illegal turn onto the egress portion of Old Post Road West. The paramount reason for the application is to provide for the safety of the customers and employees that traverse this parking lot. Currently, there are only two (2) methods of egress out of the parking lot and they are directly onto Transit Road, which is a five (5) lane highway. Anyone attempting to turn left and travel southbound on Transit Road has to cross three (3) lanes of traffic and compete with the vehicles that are turning out of the plaza on the opposite side of Transit Road, they also have to be aware of the intersection at Old Post and Transit Roads. In addition to the reported accident reports that the NYS Police provided, Ms. Holmes has spoken with a number of the employees within the businesses at the plaza. An employee at Massaro Cleaners, Sara Graff, works daily and said she observes near accidents with people attempting to turn left out of that plaza on a daily basis. Ms. Holmes also spoke with an employee of the animal hospital, Nicole Spirlock, who indicated she has been in an accident attempting to turn left onto Transit Road. Most of the employees that Ms. Holmes spoke with said they do not even attempt to turn left anymore, they turn right and then essentially engage in an illegal u-turn, this action is conceivably more unsafe than trying to turn left out of the plaza. A letter has been submitted by one of the employees of the plaza stating safety issues and supporting the testimony that was put forth tonight.

Ms. Holmes went on to say that the safety issues did not just begin with this application, she went through the history of the site because it was a question last time they were before the Board. In 2000 both property owners at 6429 and 6409 Transit Road applied for access driveways to Old Post Road. At the time, the 6409 parcel was a First Niagara Bank. That application cited solely as a paramount concern is

the safety for their employees and the customers in pulling out of both of these lots. It was specifically indicated that this new driveway would reduce the probability of accidents as an existing sole exit onto Transit Road by reducing the number of exiting left turn vehicles onto Transit Road and provide safer crossing for pedestrians at a new pedestrian signalized intersection at Casey Road, Old Post Road and Transit Road intersection by reducing the number of potential conflicts at the existing sole exit onto Transit Road. That application also cited Federal Highway Administration report statistics, which is an old report now, but it indicated that typical driveway accidents are caused by left turn entering vehicles at a rate of 43% and left turn exiting vehicles at a rate of 27%. At the time, the Planning Department agreed with them, however Transit Road was undergoing an expansion from a 2-lane highway to a 4-lane highway with a median. The minutes from the 2000 hearing indicate that Mr. Metzger was in agreement with taking the action but they were denied to let the system work and see how things work out. Ms. Holmes quoted the minutes in which Mr. Metzger said, "If the applicants make application again in the future, I do want to give this some serious consideration because I see value in doing this."

The DOT also previously recommended this access drive at the original site plan application phase. In a letter dated March 4, 1988 from the DOT to the property owner the DOT stated, "As Old Post Road will be signalized, it is our recommendation that at least one driveway on to Old Post Road be provided. This will allow vehicles making a left turn from your plaza on to Transit Road the option of making a protected left at the signal." Ms. Holmes went on to say that DOT has not changed their position, they have not taken any position other than that they don't have any opposition to the current applicant's proposal at this time.

Ms. Holmes said historically this Town has advocated for controlled commercial access out through an intersection. Less than a mile down the road at the Highland Farms/Transit Road intersection, where Spoth's is adjacent to the Highland Farms road, which is a public road that accesses a residential neighborhood. There is a signal there and an access driveway from Spoth's on to Highland Farms. One more property north is a connection to Gabe's Collision. Ms. Holmes said the Town wanted these connected driveways. These examples show that an access road is working.

Ms. Holmes said they also have documented safety concerns at the present sight. She has read the Highway Superintendent's letter that was submitted, as well as the traffic study. It's a 2014 traffic study, which focuses on speed concerns which are irrelevant to what is being proposed. She does not see what safety concerns anyone has with regards to this access point. It is a matter of weighing the safety concerns which are concrete and real versus possible speculation. This is in harmony with the proposed uses and protects the safety of the residents.

Chairman Sackett referred to Ms. Holmes' comment regarding documented safety concerns and noted that there were two (2) accident reports submitted. The one from the State Police documented two (2) accidents. One with egress and one with ingress to the plaza, over a period of time. It is questionable whether the ingress would have anything to do with the curb cut that the applicant is suggesting, the person was coming from Transit Road. With regards to the "egress" accident the State Police thought it was careless driving. In terms of documented safety, Chairman Sackett said there is not enough data. He went on to say that the Highway Superintendent's letter was not trivial, he went on to say that there is no turn lane at Transit Road, but there are turn lanes in all of the other examples that Ms. Holmes cited. Also there is not an extensive island that exists at Highland Farms. Ms. Holmes does not see how this point is relevant to her request. Chairman Sackett said the road at the proposed project site is narrower than the Highland Farms road, this will cause stacked traffic on that road as it will have to hold traffic from the plaza and from the neighborhood. Ms. Holmes said she was at the site at noon today and there were two (2) cars waiting to turn left on to Transit Road. Chairman Sackett said he will

consider it anecdotal evidence, he visited the site several times and witnessed something different than what Ms. Holmes witnessed. He went on to say that the traffic report substantiates safety, the island is unique to the Town, and the fact that there is not a left hand turning lane, which was pointed out by the Highway Superintendent, are all significant factors and not trivial.

Mrs. Salvati questioned the volume of traffic exiting the plaza. She asked the applicant if there is data showing the number of cars making left hand turns out of that plaza. Ms. Holmes stated they have not performed any traffic studies at the plaza, and reiterated that the true need for this access road is the safety concern of people turning left onto Transit Road. She does not think anyone can argue with the concept that controlled access through a light is better than crossing four (4) lanes of traffic. Mrs. Salvati referred to the State Police data which shows seven (7) accidents over a two (2) year period, she went on to say that Ms. Holmes has indicated anecdotal evidence that there is an accident every day, if this is correct then those accidents are not being reported to the police. Ms. Holmes clarified that the testimony was a near accident every day. Ms. Holmes went on to say that the businesses in the plaza are open during the day and are not heavily trafficked. The traffic that is going into the plaza will not change, it will not increase.

Mr. Bigler referred to the police report and said the description of the accidents were stated as "in the area" and "possibly" two (2) were connected to the plaza, at best, but it was thought to be mostly careless driving. This is not a unique situation, there are cases like this up and down Transit Road. Mr. Bigler said there is no left turning lane coming off of Old Post Road. Ms. Holmes does not understand why that is a concern. Mr. Bigler said it will cause stacked traffic, it is a concern of the Highway Superintendent, as well. Ms. Holmes said the Superintendent did not provide any statistics to support his concern.

Chairman Sackett corrected Ms. Holmes who said Transit Road is a four (4) lane highway, he noted that it is a four (4) lane highway with a middle/turning lane. People can use the middle lane to enter and exit the plaza.

Ms. Holmes referred to the comment made about standing traffic on Old Post Road, she does not understand how a few cars are going to change the character of the neighborhood. It is not anywhere near the residences and is within 100' of Transit Road. Chairman Sackett noted that since this neighborhood was built there has been an extensive neighborhood, Meadowlakes, built that connects to it, and so the traffic is a concern.

Mr. Dale asked how people headed south on Transit Road enter the plaza. Ms. Holmes said they would use the turning lane of Transit Road, wait for traffic to clear and then turn into the plaza. Mr. Dale said that is what she is suggesting going the other way, a dangerous left hand turn. Ms. Holmes said yes but there is also the median that has to be crossed, then add a vehicle that is trying to exit the plaza at the same time. Mrs. Salvati questioned the volume of traffic going in and out of the plaza, without having any data, she does not think it is significant. Ms. Holmes agreed. Mrs. Salvati said the Spoth/Gabes plaza at Highland has a lot more activity than the Wolters' Plaza. She is not convinced by the accident data that it warrants this proposal. She has a greater concern for the curb cut from the plaza that is located 20' from that intersection, if someone is trying to make a left hand turn out of this driveway, there is a danger there.

Chairman Sackett explained that there is already a lot of information on this project, he will limit the public participation to three (3) minutes per speaker. Anyone with new information is welcome to be heard.

Cindy Youngers owns Cara Mia Pet Resort. She works seven (7) days a week, 14-15 hours a day, her reception desk faces the intersection in question. On a daily/weekly basis she witnesses brakes screeching and cars doing a 360 to try and stop before t-boning another vehicle, this is not documented by the Department of Transportation. It is dangerous.

Vince Miranda is a resident of Meadowlakes, he and his family moved there in February 2015. The relative calm of the neighborhood is what induced them to move there. He voiced his concern regarding safety issue and said as he turned onto Old Post Road, just recently, there were two (2) twin girls, age 5 or 6, in a very precarious spot at the entrance riding their bikes. He is familiar with the area so he was able to stop but what about those who are not familiar with area? This proposal prioritizes cars over people, it compromises the safety of the families in Meadowlakes. What is important is the legal analysis that the Planning Board needs to engage in. The burden is on Mr. Basil to establish evidence that this proposal is not dangerous to public health or safety. He also voiced his concern regarding the decrease in property value. Regarding the safety issue Mr. Miranda said there are no affidavits or official statements from State Police, DOT, or people who have been injured in this plaza. Another burden is any evidence put forth from the residents in opposition has to be overcome and rebutted, and it is not. The Town Highway Superintendent who is the designated safety officer in the record twice saying, "I do not support any curb cut entrance/exit or any other access on the Town of Clarence owned road by the commercial plaza." Mark Lee, an Erie County Planner, wrote that the way this is built the determination is that the residential traffic and the traffic on Transit Road should be separated. Mr. Miranda also voice concern regarding pollution and noise. The Town residents are prepared, that if the right decision is not made, they will file an immediate Article 78 petition.

A resident and his neighbor own 320' of frontage on Old Post Road all the way up to the bank property, they have both been residents of the community for 30 years. The resident explained that before the plaza was built, Mr. Wolters was told that in order to build the plaza he would have to build a barrier with a complete separation between the residential area and a commercial plaza. He was then told he had to build a berm high enough and trees dense enough to completely block the commercial from the residential. A short time later he petitioned to have a road cut and the petition was denied. Several years later the bank made the same proposal to cut in from the south side, that was denied. The resident said nobody really knows how much traffic there is, it is not just the traffic out of the plaza it's the traffic from the development on the north side of the plaza that worries him. Once this is allowed on the north side of the street, the bank will want to come in from the south side, this will add significant traffic to the residential neighborhood.

Stanley Zak has lived in the area for 35 years. He said that when the initial request for the cut through was made by Wolter's Plaza the neighbors were promised that this was something in perpetuity that would never occur. The proposed entrance has already swollen from 20' to 24', by the time it is finished who's not to say it won't be closer to 30' to allow for easier entrance and egress. The bank will want the same cut through. The western half of the island will be destroyed and become a sea of asphalt. The homes at Highland Farms are much further off Transit than the homes on Old Post Road. Mr. Zak said please do not pass this resolution.

Claire Kuziemkowski and her husband have lived on Old Post Road East for 20 years. She voiced her concern with safety issues. There is pedestrian traffic, strollers and dog walkers. There are no sidewalks in the neighborhood. The traffic from Wolters plaza will create a hazardous situation. The winter months will bring snow plows that put snow on the berms of either side of that driveway and across the road on the island. The mounds of snow will create a visibility issue. This is a no-win situation for the Farmington Woods residents if the Board allows this to pass.

Fred Piwko and his family live in the second house from the plaza. He has had drainage issues near his pool since the trees were cut down just north of the plaza. He also spends a lot of time in the front yard of his property with his children. There are already two exits onto Transit Road, he does not know why another exit is needed. There are a lot of trees on the berm that the applicant wants to cut into.

Marty Logan has lived at 8280 Clarherst for 28 years. He said you just cannot make left hand turns on Transit Road, that is the problem up and down that road. He makes right hand turns on Transit and then finds a safe way to get home. This proposal will add commercial traffic to the neighborhood which already has back-ups at the exit of a residential driveway which will only be about 90'-100' from the development's exit causing additional congestion. People may choose to go through the Farmington Woods neighborhood which will cause additional accidental situations. He is also concerned with the snowplowing. Mr. Logan said the Town has seen fit to borrow 13 million dollars in bond debt to acquire greenspace for the Town but now the Town entertains a proposal to allow commercial traffic to disturb the neighbors idyllic Farmington Woods and create issues of traffic safety and destroy their greenspace.

Wendy Wolter lives in the first house behind the plaza. Her father owned the plaza so she is aware of the problems he had with the landscaping and trying to get a driveway in there. There is a pollution hazard with the standing cars trying to get out of Old Post Road. In recent years it was determined that exposure to traffic emissions increase the risk of all kinds of health problems like diabetes, asthma in children, low term birth weights for children. The EPA has determined that vehicle emissions account for as many as half of all cancers attributed to air pollution. Other health issues are high risk of asthma, cardiovascular disease, and impaired lung development. With the cars sitting there and all the debris from the tires that gets kicked up into the air could get deep into your lungs and into houses, ruining vegetation and the island that is there.

Donna Reynolds, of 8261 Old Post Road East, has at this residence with her family for 17 years. She has been a real estate broker for 40 years and researched the property and surrounding area before the purchased. It offered safety, property appreciation and prestige. The subdivision entry area plays a huge part, it adds the "wow" factor. Ingress/egress into Old Post from the plaza will have a negative impact on the residential community while the commercial property owners and developers reap great profit with no real roadwork costs. It will cause the destruction of the aesthetic beauty of the entrance. Statistics show that the Farmington Woods properties have substantially appreciated thus adding to the Town of Clarence tax revenue. In her professional opinion this proposal could certainly lower the property values because the entrance will be changed. She asked the Board to veto the proposal.

Bob Drzewiecki, of 8201 Old Post Road East, worked with the Homeowners Association. The homeowners have cared for the entranceway since its inception in 1978, both financially and hands-on volunteer work. Costs have approached \$7,000 a year. The ingress would represent a detriment to the front area.

Bonnie McMichael has been a resident of Farmington Woods for over 20 years. On her way to work in the morning between 7:30am and 9:00am there are stacked cars backed up to the back of the island. With the increased traffic it will back up more, they don't have the space that Highland Farms does. They will back up to where the driveways are and where kids are waiting for the school bus. She wonders what the plan is for the properties north of Wolter's Plaza. She believes there will be a light at Transit and Miles Road. She does not see the value of the cut-through.

Paul Runfola is a resident of Farmington Woods. He is present on behalf of the children in his neighborhood including his two daughters. He asked the Board to make the right decision in restricting

the driveway access, as was done by the Town on two previous occasions. He is a NYS driving instructor and said unsafe driving practices will not be mitigated by adding a driveway.

Fred Frandina works for a civil engineering firm in Buffalo. He said the proposed driveway is not the solution to the congestion problems, traffic problems, or the crossing lane problems. He suggested putting an entrance only on the southbound curb cut for the left-hand turns coming from the north. The traffic within the plaza can exit through the northern curb cut. If there is an additional plaza added on to the north they would have options further down to find an appropriate place to make a left turn. Having vehicles que up in front of a main entrance adds an additional contact point for a vehicle and a human. People are not familiar with the neighborhood and the pedestrians walking through it. They would still ultimately have to make a left turn so the access does not solve the problem. Signage would solve the problem passively. He voiced his concern about the removal of existing trees, the remaining trees cause a substantial hindrance to sight lines along with the piles of snow that will accumulate. He asked the Board to strike down the bill.

Mike Igoe is a resident of Old Post Road West and has lived in community for 22 years. He noted that there is a lot of information that says this is a bad idea. It is a deal that has to be killed. The proposal is clearly in violation of Clarence's vision for the future. He encourages the Board to embrace the obvious.

Debra Frandina, has lived at 8065 Old Post Road West since 1988. Her home is three houses from the proposed driveway, across the street. She is offended that the exit would even be considered. Today at peak time of noon until 1:00pm she took count of how many vehicles left the plaza. She determined it is not a busy plaza and that the exiting traffic does not support the request for an access onto Old Post Road West. In 60 minutes 15 cars exited, of those 15, 3 were cars that pulled in and circled out to change their driving direction or to look for stores that were no longer in the plaza. 7 of those vehicles were plaza customers, they were wearing uniforms and by coming back within the hour she determined that 5 were employees going to lunch. The busiest time of the day the plaza averaged 1 car leaving every 4 minutes. 13 cars exited via the north driveway opposite the Dessert Deli and went into the north direction, no u-turns. 2 cars exited from the south driveway opposite Cara Mia and drove into the south direction. All cars were easily able to glide into open lanes, merging was not necessary for any of the 15 cars. She pulled from the plaza onto Casey and she had no problems at all. The exit of Old Post had a minimum of 2 cars waiting at every light and that worked fine to clear the cars onto Transit Road. It makes no sense to add cars from an under used commercial plaza onto an established residential street, it would create back-ups, collisions, pollution and jeopardize the safety of the residents. She requests a no vote.

Peter Worrall and his wife, of 8120 Old Post Road, have been residents of Clarence for 30 years. He noted the traffic light to the north at Transit and County Roads, where there is one curb cut onto Transit Road for the combined entry and exit for Walgreen's. Mr. Basil has three curb cuts on his property. The property to the north of Mr. Basil's property has one curb cut. There is a plan for a mixed-use project with 60 parking spaces on that property. If this additional traffic is funneled into Old Post Road it will only add to all the concerns of the community. At 10:30 am there were 5 cars stacked at the light and within one minute of the light turning green another three cars approached the light. There is no room for a dedicated third left hand turn lane on Old Post Road. He requests the exit be rejected.

Chairman Sackett noted that most of the information heard at this meeting has been communicated effectively via petition and letters that are on file. The Board is here to gather new factual information. He invites anyone with new information to come forward.

Bill Klein and his wife have been residents of Clarence for 36 years and 26 of those are in Farmington Woods. He restated the concerns his neighbors voiced and said he agreed with them. He understands

that Transit Road is a major arterial roadway, but Old Post Road is not. He asked the Board to decline the proposal.

Chairman Sackett asked if there was anyone else with new information who would like to speak.

Joe Dunbar lives on Bridlewood Drive. He went to the intersection in question between 5:30-6:00 and was amazed at how little traffic there was. There was one vehicle that exited left from the plaza with no delay at all. There is no foundation saying there is a problem with vehicles coming out of there or with the volume of traffic. The absence of a traffic study is a big missing piece of evidence. There is no engineering report either. If the Board allows this to go through they are opening themselves and the Town up to liability issues, without a traffic study they won't have the governmental immunity.

Ms. Holmes said she hasn't heard any hard data about safety concerns or property value concerns. The Board cannot prioritize property value over safety. The Board has heard testimony from those who witness the traffic accidents when they pull out of the plaza and NYS police accident reports have been submitted. She urges the Board to consider all of that evidence. She also urges the Board to consider the fact that all they have heard is speculative testimony. Ms. Holmes noted the first sentence of the e-mail sent by the Highway Superintendent, "My initial reaction to the access onto Old Post is that it is not in the best interest of that neighborhood." The second paragraph reads, "If the neighbors on Old Post Road and in the Farmington Woods subdivision think this is a good idea and would make their lives easier than I would be inclined to change my opinion." Ms. Holmes does not think the Superintendent's opinion is based on hard facts or evidence, she thinks it is based on the speculative opinions of the residents. Chairman Sackett asked if Ms. Holmes was aware of the e-mail dated June 13, 2016 in which the Highway Superintendent further clarified his position. She is aware and asked the Board to consider both letters.

ACTION:

Motion by Richard Bigler, seconded by Gregory Todaro, to **deny** the request from the applicant, represented by Elizabeth Holmes of Damon and Morey, allowing access from the existing plaza located at 6429 Transit Road to Old Post Road. This motion is made based upon the input received at this hearing as well as the information provided by the Clarence Highway Superintendent, New York State Department of Transportation, Erie County Department of Environment and Planning, the information received regarding the accident history in the vicinity of the requested access area and the character of the streetscape and configuration of the existing traffic island on Old Post Road.

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

MOTION CARRIED.

Item 2

Davis Tiburzi
Traditional Neighborhood District

Requests Preliminary Concept Review of a proposed Mixed-Use project at 6855 Transit Road.

DISCUSSION:

Mr. Callahan provided the history on the project noting that it is located on the east side of Transit Road, north of County Road. It is an existing vacant property within Erie County Sewer District #5.

Mr. Tiburzi said it is a low density development and is in keeping with the character of Swormville. It meets the guidelines of the code.

Chairman Sackett asked if this represents the maximum build-out of the lot, Mr. Tiburzi said he believes so.

Mr. Bigler noted the turnaround at the end of the residential area and asked if there is enough room for firetrucks to maneuver. Mr. Tiburzi said it meets the required distance for emergency vehicles.

Ed Burkard represents St. Mary's Parish and he noted that St. Mary's takes a neutral position on this project. He pointed out that the project borders St. Mary's school on the north side of the project and the playground is on the east side of the project. Their objective is to protect the 225 students that attend the school from any unnecessary safety issues encroaching onto the school property. He also voiced his concern with drainage as there have been serious problems in the past. He asked that the Board keep these issues under scrutiny as the project goes forward.

Chairman Sackett suggested Mr. Tiburzi have conversations with the church regarding their concerns when the coordinated review takes place. Mr. Tiburzi agreed.

Mr. Pazda asked if the proposed location of the dumpster is going to work. The applicant said they are going to rotate it.

Mr. Todaro advised the applicant that there is a project in the works on the property to the south and it is suggested the applicant consider the nature of the surrounding neighborhood and speak with that property owner regarding landscaping.

Mrs. Salvati said the aerial photograph shows a tree line along the southern boundary, she asked if those trees still exist. The applicant said they are scrub trees. Mrs. Salvati voiced her concern regarding dust, odors, and visual impact that may occur. She asked if there is anything there that can be maintained as a buffer, Mr. Tiburzi said if there is they certainly will maintain it.

Mr. Dale said he has issues with the parking on Transit Road immediately adjacent to the project site. He has seen people make left hand turns into Russell's. Mr. Tiburzi said they do not have parking on Transit Road. Mr. Dale said that is exactly the point. In correspondence with NYS DOT, they would like to include a suggestion that the State prohibit parking in front of the applicant's property. Mrs. Salvati said the concern is that patrons of the applicant's business may choose to park along Transit Road rather than use the designated parking lot behind the building. Mr. Tiburzi said the front will not be conducive to parking because there will be a sidewalk and beautiful landscaping there, however he shares the concern.

Mr. Pazda asked what type of tenants there will be. Mr. Tiburzi said it will be traditional neighborhood use such as a hair salon, an ice cream store, a coffee shop, or a bakery. They are small individual spaces with approximately 1400 square feet. Mr. Pazda asked if they will remain individual spaces or can someone combine spaces or can they take the whole thing. Mr. Tiburzi said if it was allowable under

the building code he would allow two spaces to be combined. The main entrance into the units will be in the back of the building.

Mr. Bigler said he thinks this is a nice project. Mrs. Salvati compliments Mr. Schutt on a very comprehensive Environmental Impact Statement.

ACTION:

Motion by Wendy Salvati, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to seek Lead agency status and **commence** a coordinated review among involved agencies on the proposed mixed use located at 6855 Transit Road. This Unlisted Action involves the development of a mixed use project including commercial store fronts, multiple family housing and single family residential uses.

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

MOTION CARRIED.

Item 3

R2B Management/Bryan Schaefer
Industrial Business Park

Requests a Building Permit and Architectural Approval for a proposed Office Addition at 9580 County Road.

DISCUSSION:

Mr. Callahan provides the background on the project noting that it is located on the north side of County Road, east of Goodrich Road. It is an existing commercial use located in the Industrial Business Park Zone. The Action is identified as a Type II Action under the State Environmental Quality Review Act and will require no further action. The Planning Board will have final review and approval authority on the project itself.

Randy Schaefer of R2B Management is present and explained he is looking to put a small addition on the front of the building.

Chairman Sackett asked if the plan represents the landscaping plan. Mr. Schaefer said it shows the shrubbery and the items that the contractor is going to put in. Chairman Sackett asked if the applicant would be opposed to putting any landscaping in at the south side of the parking. Mr. Schaefer said the County filled in a large pond in the front of the building, so the chance to get anything to grow is next to impossible; it was not filled with topsoil. Mr. Schaefer is not opposed to adding landscaping there, he is opposed to putting a lot of money into adding the landscaping that will not grow. Mrs. Salvati suggested landscaping to the north of the French drain, Mr. Schaefer said that is possible. Chairman Sackett said when the applicant submits a landscape plan he should consider buffering the parking from the street. Mr. Schaefer agreed.

ACTION:

Motion by Gregory Todaro, seconded by Steven Dale, to **grant** architectural approval on the proposed additions/modifications to 9580 County Road as per the submitted drawings from John Haas dated May 16, 2016, with the following conditions:

1. Subject to Landscape Committee review and approval of a submitted landscape plan prior to building permit issuance.
2. Subject to Building and Engineering Department approval of required building permits and PIP permits
3. Subject to Open Space and Recreation Fees.

ON THE QUESTION:

Mr. Schaefer understood the conditions.

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

MOTION CARRIED.

Item 4

Rocky’s Big City Games and Sports Bar/
Dave Scrivani
Major Arterial

Requests a Building Permit and Architectural
Approval for a proposed façade update at 4545
Transit Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located in the Eastern Hills Mall, it is an existing restaurant/bar located in the Major Arterial Zone. Per the Zoning Law, the Planning Board has final review and approval authority for this design.

Dave Scrivani, owner of Rocky’s, and David Galbo, of Galbo Architects are both present. Mr. Scrivani explained that the intent of the façade re-facing is to follow the same planned future theme of the mall to create more of an urban landscape look to the façade. The material will be dark brick thin stone facing 150’ long.

Chairman Sackett asked if there would be additional signage needed, like on a truck or temporary signage, if this façade was approved. Mr. Scrivani said no additional signage will not be needed. The proposed façade will give him what he needs to be seen from Transit Road. Chairman Sackett noted that there is a dumpster to the south of the building that is the applicant’s responsibility, he asked if the dumpster will be screened. Mr. Scrivani said that dumpster has been removed to a fenced-in area. The area where the dumpster was is now a parking area. There is also a cardboard dumpster in the area that the applicant has talked to a mall representative about and they advise it will be removed. Any existing

greenery will be protected, anything they lose they will replace. Mr. Scrivani said licensed landscape architect Frank Brezynski will be helping with the landscape plan.

Mr. Pazda asked what the applicant is planning with the glass panels and the lighting of the building. Mr. Scrivani said there are existing windows and doors into the building at the south end of the building. The other windows will match the existing windows but they are not cut-in. The glass will be tinted so you won't see the brick behind the window. There will be a thin strip of LED lighting so at night there will be a bit of a glow.

It is clarified that the dumpster that was moved will remain moved and will not re-appear at the previous location.

Mr. Bigler asked for details on the materials to be used. Mr. Galbo said it is an EFIS material that is used, this is the generic term for Dryvit. The brick color is Dryvit that looks like brick. There is glass and storefront framing. Behind the "Rocky's" is a metal panel. The materials are quality grade and are meant for long life.

ACTION:

Motion by Wendy Salvati, seconded by Steven Dale, to **grant** architectural approval on the proposed façade update to Rocky's Big City Games and Sports Bar as per the submitted drawings from Dave Galbo dated April 6, 2016, subject to the following conditions:

1. Subject to Landscape Committee review and approval of a submitted landscape plan prior to building permit issuance.
2. Subject to Building and Engineering Department approval of required building permits.
3. Subject to Open Space and Recreation Fees.

ON THE QUESTION:

The applicant understood and agreed with the conditions. He asked for clarification on #3. Chairman Sackett explained that if there are fees the condition is stating that the applicant agrees to pay them. This is acceptable to the applicant. Mr. Scrivani asked how long the landscape approval might hold up a building permit. Chairman Sackett explained that the Landscape Committee meets once a month, but has been known to meet on an as-needed basis.

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

MOTION CARRIED.

Item 5

Benderson Development
Major Arterial

Requests Development Plan Approval for a
proposed Retail and Restaurant Plaza at 5175-
5181 Transit Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the east side of Transit Road, south of Greiner Road. It is an existing vacant property, formerly the Spilios Restaurant and Doctor's office. The applicant has received Concept Plan Approval for a new plaza in November 2015 as well as a Negative Declaration under the State Environmental Quality Review Act. The applicant is present seeking final Development Plan Approval on that design. The Planning Board has final review and approval authority on this action.

James Boglioli, attorney with Benderson Development, and explained that originally the plan had two curb cuts to connect to the site, they have since closed one driveway. The DOT asked the applicant to make one (1) central curb cut, they made that change. There is correspondence that indicates the DOT will approve the two drive-ways. The Town Engineer has signed off on the project. The dumpsters will be in the back. This plan shows the one species of shrubbery changed at the request of the Landscape Committee. The doctor's office and the restaurant have both been demolished.

Mrs. Salvati referred to the dumpster location and asked if there is enough clearance that when the trucks back up they won't bump into the lighting standard. Mr. Boglioli said yes there is enough clearance.

Mr. Pazda said he likes the plan and he likes the reduction of the curb cuts going into the plaza, but he is disappointed that there is no agreement on cross access to the Auto Zone property. Mr. Boglioli said they are willing to work with Auto Zone, he has not been contacted by them. The applicant left a space across the front that can accommodate the connection, so they did not rule that out. The DOT said if they make the cross access connection they would like the closest Auto Zone driveway closed. Deputy Town Attorney Steven Bengart said he offered to act as a mediator to bring both parties together with regards to the cross access. Mr. Pazda referenced a meeting from November 2015 in which Mr. Boglioli indicated the importance of cross access, Mr. Pazda then asked what it will take to get the cross access done, Mr. Boglioli said it will take an agreement with the property owner, he is only one side of the agreement. Mrs. Salvati said they trust he will work with Mr. Bengart and the other property owner.

ACTION:

Motion by Wendy Salvati, seconded by Richard Bigler, to **grant** Development Plan Approval on the proposed retail and restaurant plaza located at 5175-5181 Transit Road as per the submitted drawings from Benderson Development dated, May 25, 2016, with the following conditions:

1. Subject to Building and Engineering Department review and approval of required PIP and Building Permits.
2. Subject to all required regulatory agency approvals.
3. Subject to Open Space and Recreation Fees.

ON THE QUESTION:

Mr. Boglioli understood and agreed to the conditions. Mrs. Salvati said she encourages Mr. Boglioli to work with Mr. Bengart and the Auto Zone property owner to achieve cross access between properties. Mr. Boglioli said he understands.

Jeffrey Buckley Aye
Gregory Todaro Aye
Wendy Salvati Aye
Robert Sackett Aye

Steven Dale Aye
Timothy Pazda Aye
Richard Bigler Aye

MOTION CARRIED.

Meeting adjourned at 8:55 p.m.

Carolyn Delgato
Senior Clerk Typist