

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday July 6, 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

Camp-Roll LLC
Residential Single Family

Requests Preliminary Concept Review of a proposed Open Space Design Subdivision located on the north side of Roll Road, west of Martha's Vineyard.

Item 2

Cimato Enterprises/Northwoods Open Space Design Subdivision
Residential Single Family

Requests Development Plan approval of a 151+/- lot Open Space Design Subdivision located to the north side of Greiner, east of Shimerville Road.

Item 3

Russell Salvatore, Jr./The Abbey
Major Arterial

Requests Development Plan approval for a Mixed-Use project at 6449 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
Councilman Paul Shear
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Tom Sobczak	Judy Sobczak	Joanne Schwartz	Jeff Schwartz
David Yemma	Carl Noreck	Steve Keith	Karen Willyoung
James Blum	Peter Worrall	Fred Cook	Larry Allison
Jane & David Burke	Jacqueline Hartman	Peter Sorgi	Tom Benzee
Richard McNamara	Bill Partridge	Frank & Lisa Cirillo	Patricia Schmidt
Donald Pfalzer	Geraldine Kelly	Janet Mattar	John Benzee
Darren Doell	Sandra Benzee	Dina Vorreuter	Jenn Marineau
Rebecca Sherry	Roger Kieffea	Deborah Frandina	Joseph & Susan Volpe
Fred Frandina	Ryan Hamersmith	Marlene Horbinski	Dave Horbinski
Pamela Ferris	Michael Ferris	Martha Kenney	Gail Berger
Norm Radtke	John Herb	Matthew Giansante	Cathy Pogorzoke

Chairman Sackett explained the protocol for the meeting noting that Mr. Callahan will introduce each project. The applicant has the opportunity to add comments regarding the project. The Board will then ask the applicant questions. Members of the audience are provided the opportunity to speak on the project. Due to the size of the audience, a three (3) minute limit will be enforced for each member of the audience who wishes to speak. The applicant is asked to address any comments brought up. The Board will then take an action.

Item 1

Camp-Roll LLC
Residential Single Family

Requests Preliminary Concept Review of a proposed Open Space Design Subdivision located on the north side of Roll Road, west of Martha's Vineyard.

DISCUSSION:

Jim Callahan provided the history on the project noting that it is located on the north side of Roll Road, west of the Martha's Vineyard Subdivision, it consists of approximately 31 acres and is within Clarence Sewer District #2. This represents the first time Planning Board has seen this proposal.

Peter Sorgi, is the project attorney from Hopkins, Sorgi and Romanowski, and is present on behalf of the applicant. Mr. Sorgi asked that the Planning Board refer this project to the Town Board to declare Lead Agency and to send out the 30 day Solicitation letters. The applicant will have an informational meeting at the Library within the next month for the neighbors. The applicant will send a letter to the neighbors with details of the meeting. The applicant is looking for approval of 40 homes, the proposal is for 51% preserved open space. One issue that may take some time is the sewer capacity since it can't be determined in a dry season, this may take a couple months before it is complete. A traffic study will also be done.

Chairman Sackett asked how the applicant will scope the traffic study. Mr. Sorgi said they will look at the peak hours in terms of the morning and late afternoon/evening hours. He is not certain which roads or sections of roads will be in the study. He will take direction from the Board as to what they want studied.

Chairman Sackett asked if there is an intention to put a walking path like a recreational trail or sidewalks in the subdivision. Mr. Sorgi said he thinks the applicant would entertain a recreational trail. He doesn't

know how well sidewalks would work because of the minimum front setback for the house being 30 feet. Chairman Sackett suggested that they consider a trail/path because it will most likely come up in the Site Plan review.

Mrs. Salvati asked if the common areas that extend to the east and off Roll Road will be left natural. Mr. Sorgi said yes, they will be preserved as permanent open space through a deed restriction. Mrs. Salvati referred to the surface waters section of the EAF in which the answer to the question, asking if the project site contains wetlands or other waterbodies, is "no". She told Mr. Sorgi that there are over 7 acres of wetlands on the site. Mr. Sorgi said they have had an initial delineation which shows no wetlands regulated by the State, there may be Federal Wetlands. Earth Dimensions did the delineation and they do not believe the wetlands are jurisdictional, they have to wait and see for sure. If they are jurisdictional there would be a small portion that would need a permit, the rest would be in the Open Space. At this point there are no documented wetlands, but that may change and if it does they will amend the EAF. The Town has a copy of the wetland delineation report on file. Chairman Sackett explained that during coordinated review several agencies are sent the plan and there is a minimum of 30 days the Board has to wait to get their response. Mr. Sorgi stated that the project is a Type I Action pursuant SEQRA, it is not a Type I by the DEC regulations but the DEC allows the Town to enact higher standards which triggered the Type I Action. Mr. Dale said there is some discrepancy in the EAF regarding the amount of wetlands that may be disturbed, .19 acres is noted on page 4, but on the next page it indicates .17 acres. Mr. Dale went on to ask if there will be blasting done for this project. Mr. Sorgi said there will be no blasting and the correct amount of wetlands that may be disturbed is .17, he will have the EAF corrected.

Tom Sobczak of 5725 Thompson Road said his main concern is drainage. He said when Martha's Vineyard was proposed they were assured by the Town Engineer that a backyard drainage swale would be installed so they would not be inundated with water. The backyard drainage was never installed. His yard floods terribly sometimes within 15' of the back of his house; his basement floor is heaving up. Lots 17, 18 and 19 are near his property and if they are built up it will cause more water to drain towards him. He has lived on Thompson Road for 30 years with no sanitary sewers, yet he pays a user tax. He understands there is going to be a pump station installed with this project and that should be big enough to carry the whole neighborhood. They have paid the dues for a long time, they deserve sanitary sewers.

Jacqueline Hartman lives at 9276 Roll Road and owns 9290 Roll Road, has been there since 1989 and has had the same drainage problems with her backyard flooding since Martha's Vineyard was built.

Geraldine Kelly lives at 9390 Roll Road, her daughter lives next door at 9400 Roll Road. She voiced her concern with drainage problems in the back of her and her daughter's lot. There is an access road at 9390 Roll Road, will this be an access to Martha's Vineyard? She would like to know how big the buffer will be next to her property.

Jacob Dominik of 5533 Martha's Vineyard would like to know if there is a plan for the northern part of lot which is a forest right now, is there a Phase 2. If not, are there plans to develop it as usable public space with trails, parks, etc.

Rebecca Sherry of 5633 Martha's Vineyard voiced her concern regarding the placement of the road that goes out to Roll Road. There are a lot of small children in the area and she has concerns for their safety. She suggested that the road be moved to the other side of 9350 Roll Road and also asked that a tree buffer, for separation between the project and the properties that back up to it, be added.

David Yemma of 5665 Thompson Road said Gott Creek runs in front of his property and every time it rains his front yard floods, he is concerned that adding more homes in the area will add to the drainage issues. Mr. Yemma suggested building a berm to keep the water out. He also suggested increasing the retention ponds to make sure they are sufficient for the drainage.

Matt Giansante, of 5755 Thompson Road, said if there is a power outage his house will be flooded within 20 minutes. Every time Martha's Vineyard expanded it has gotten worse at his house, this project will put it over the top. Drainage must be addressed.

Mr. Pazda asked what the "0" on the long narrow strip of land located next to the project means. Mr. Bleuer explained that strip of land is privately owned.

Pat Stein of 5627 Martha's Vineyard has 5 children and agrees that the road going out on to Roll Road should be moved west to help break up the traffic pattern. He referred to the section of road between Goodrich Road and Old Goodrich Road and said vehicle gain a lot of momentum turning off Goodrich Road to Roll Road and with the hill there it is a line of sight issue and can be dangerous. He voiced his concern with increased traffic in the area and the dangers it could create. He agreed with the suggestion of the berm in the back.

Rodney Rogers of Shadyside has infrastructure concerns. The people in the area are going to get hit with millions of gallons of water. The Town is putting up stop signs where there is no reason to stop and then you have to have a police man there. He suggested everybody get together on this and come up with a plan. He moved onto Shadyside Drive 10 years ago and traffic was not bad, now he can't even get out of his street, it just gets worse and worse and there is no infrastructure changing. He suggested a circle instead of a stop sign.

Geraldine Kelly of 9390 Roll Road said it is difficult to get out of her driveway, she agreed with what Pat Stein said.

Pat Stein asked what the size is of the proposed lots. Chairman Sackett said they would be similar to those in Spaulding Green.

Mr. Sorgi said the perpetual green space will be deed restricted. He went on to say that drainage seems to be the major issue and explained that they are proposing two (2) retention ponds that will be built to the 100-year floodplain standards. He noted that the plan has not yet been fully engineered and there could be changes. He cannot comment on if the access roads can be moved, he will have to wait for comments from Town Engineer and the County. Chairman Sackett noted that when the Engineer reviews the project it certifies that no water from the project site flows onto adjacent land. Mr. Sorgi said that is correct, it is illegal to put water from their property onto other people's properties.

Mr. Sorgi referred to the suggestion that the dedicated open space be used as a park. His assumption is that the Town would not want to take that over. The applicant is willing to discuss putting in some walking trails or sidewalks. Mr. Sorgi noted that the suggested buffering at the back of the adjacent lots is on the table for discussion. The location of the access road that goes out to Roll Road is due to layout in terms of maximizing the site, but it can be looked at.

Mr. Callahan noted the lack of sewers on Thompson Road and questioned the feasibility of providing service to those residents through a pump station. Mr. Sorgi said the County would have to provide easements for those connections.

Mr. Pazda applauded the applicant for offering the informational meeting to the neighbors and he encouraged the neighbors to attend that meeting. He reminded the neighbors that whatever promises are made at that meeting would have to come back to the Planning Board in order to be on the record and official.

Mrs. Salvati referred to the traffic analysis that the applicant will submit and suggested studying the intersections at Roll and Thompson Roads, Roll and Old Goodrich Roads, Roll Road and Martha’s Vineyard, and Roll and Goodrich Roads.

ACTION:

Motion by Steven Dale, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** to the Clarence Town Board to seek Lead Agency status and commence a coordinated review among involved agencies on the proposed Camp-Roll LLC Open Space Design Subdivision. This Type I Action involves the development of a 40+/- lot single family housing project on 31.45+/- acres and located on the north side of Roll Road west of Martha’s Vineyard in the Residential Single Family Zone.

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

Cimato Enterprises/Northwoods Open Space Design Subdivision Residential Single Family

Requests Development Plan approval of a 151+/- lot Open Space Design Subdivision located to the north side of Greiner, east of Shimerville Road.

Timothy Pazda recused himself and left the dais.

DISCUSSION:

Jim Callahan provided the history on the project noting that it is located on the north side of Greiner Road, between Shimerville and Thompson Roads. It is an existing agricultural property located in the Residential Single Family Zone. The proposed lots are part of the original Clarence Hollow Pollution Abatement Project. The Concept for this proposed Open Space Design Development was approved on May 28, 2014. The applicant is present seeking final Development Plan approval on that approved design.

Jeffrey Palumbo, from Barclay Damon LLP, is present along with Fred Cimato, the petitioner, as well as Matt Newcomb from Passero Associates, engineer on the project. Mr. Palumbo explained the project consists of 151 single family lots bordered on Greiner Road and Roll Road with access on both roads. Mr. Palumbo referred to the Conservation/Bike Trail Easements and noted they were originally 20 feet and has been requested to be 30 feet. There is no problem with the construction being an additional 10 feet and the original easement remaining at 20 feet, if that is acceptable to the Engineering Department. This is the same for the second easement, it would be for maintenance and repair.

Mr. Palumbo referred to the location of Lot #150 and whether or not it could be re-located. They have submitted several plans and relocated lots on numerous occasions. He referred to the current plan and said there are two (2) open areas where this lot could potentially be relocated to. Mr. Palumbo explained that they left those areas permanently open because in previous discussions with the Board they agreed to leave them open because they did not want to have new houses in an immediate back yard of existing houses, they have tried to do that throughout the entire subdivision. They actually relocated lots from the east side of the road way coming in off Greiner Road and put one on the west side, they filled in all the holes.

Mr. Todaro asked if there is any phasing for building the development. Mr. Palumbo said the first phase will be in the area off Roll Road. The next phase will be the smaller lots and the patio homes, and then work up from there over to Greiner Road. Phase I will begin as soon as possible. Mr. Cimato clarified that the recreational trails will not be put in before construction begins, they will be put in simultaneously with the corresponding phase.

Mrs. Salvati noted that the wetlands in Phase 1 cross the applicant's road. She asked if the DEC had concerns that by building the road it would isolate the wetland area on the west side. Mr. Cimato said there are culverts across it. She would still like to see lot #150 relocated to one of the open spaces so that there is one solid area of open space. She said originally in the early discussions of the project the idea was for no lots to be there, for the whole area to be meadow. She does not want one house to be there just hanging out on the entrance road. Mr. Palumbo said that lot is 440 feet from Greiner Road, the building itself will be another 40'-50'. He thinks this option is better than putting it next to somebody's house. Mrs. Salvati said that is not an uncommon thing.

Rodney Rogers of Shadyside asked if the project is all sewer. Chairman Sackett said yes. Mr. Rogers said his and his neighbors yards flood year round, they flood all the time, non-stop.

Donald Schulz of 8902 Greiner Road voiced his concern regarding drainage ditches. The geese lay in the ponds and leave goose droppings all over his property. He thinks there should be some ditches made to drain that water to the creek.

Darren Doell of 5485 Thompson Road asked for details on the plans for the recreation trail or bike path to go east. Chairman Sackett said there are no plans to go east with the bike path.

Dave Horbinski, of 5480 Thompson Road, read minutes from previous meetings. Meeting of April 17, 2013: "Robert Sackett stated in order to support a walkable community, a bike path/recreational trail must be developed to connect to the Waterford Bike path/Recreational Trail and to future connections to the east along the Heise-Brookhaven Trunk Sewer Line." Mr. Horbinski said the response to that was "The future bike path will not be located along the Heise Brookhaven Sewer Line as the easements for the sewer line did not allow for the recreational trail, the connection to the east will not be part of this project. During the conceptual site plan stage of the Northwoods Subdivision a recreational trail will be integrated into the design of the project so that the future residents can access the bike path that is to extend to the north through the Waterford Village project and eventually to the Peanut Line." Meeting minutes from May 7, 2014: "Town Attorney Lawrence Meckler explained that the Heise Brookhaven Trunk Sewer Line was never intended to have an easement for a bike path. Once the ownership of the easement is transferred from the Corporation to the Town it will be an easement for access to the sewer trunk line." Meeting Minutes from May 28, 2014: "Councilman Casilio said you could also move the recreation trail to the other side where the houses were. We could pull these two lots and work it out at a later date." Mr. Horbinski's said the black line that goes to the back of his and his neighbor's property

is still on the plan as a future trail. He would like to see the black line taken off the map. It has been specifically stated that it was never intended to have a bike trail there. He wants to protect his privacy and his property.

Matt Newcomb said the New York State DEC and the Town Engineer have requirements that require the applicant to reduce the amount of storm water run-off from an existing site, whether it is green or paved, to be less after development. The existing site is analyzed and a hydraulic analysis is done. They compare the analysis to what they have for culverts, which includes roads, buildings, impervious areas and they reduce the rate at which storm water flows off the site to less than what it is today. In addition, they adhere to several green infrastructure practices that are in place by the NYS DEC. Portions of this particular site will drain to gutters in the road and to three (3) storm water management facilities where the water is cleaned and put back into the environment.

Chairman Sackett said the applicant's legal obligation is to not have water run off this site to adjacent sites. Under the law the open spaces should not be touched and will be left natural. Chairman Sackett is in favor of the easement.

Mrs. Salvati asked if the applicant will continue to allow someone to farm the area in Phase 4. Mr. Cimato said yes, as long as they are doing the phases the other portions will be farmed. She asked if the applicant can have the farmer properly drain the area so there won't be such an issue with the ponding that affects the one neighbor. Mr. Cimato said he will tell the farmer to take a look at it.

ACTION:

Motion by Wendy Salvati, seconded by Richard Bigler, to **approve** the Development Plans for the proposed Northwoods Open Space Design Development as per the submitted drawings from Passero Associates dated August 2014, revised on March 23, 2016, subject to the following conditions:

1. All conditions of the Town Engineer detailed in an approval letter dated June 20, 2016.
2. As per the Final Findings Statement approved under SEQRA, the Town of Clarence Engineering Department will account for all sewer connections and prioritize capacity based upon chronological identification of Equivalent Dwelling Units (EDU's) based upon submitted legal documentation. Once all permits have been applied for and approved by the department, no additional connections will be permitted as a part of the Heise-Brookhaven Private Sanitary Trunk Sewer Agreement.
3. Applicant clears, boxes and stones the required recreational trail from Roll Road, opposite Dana Marie Parkway, adjacent to and within the right of way of access road from Roll Road, Road D, (Marguerites Way) along the east side and extending to the southern side of the Sun Oil Pipeline Easement. Recreational Trail standards to be 10' wide with 2' shoulders and the minimum depth of the stone base to be 6" as verified and approved by the Town Engineer's Office.
4. Applicant clears, boxes and stones the required recreational trail from Greiner Road, opposite Brookfield Lane, adjacent to and within the right of way of Road A (Harolds Harvest) from Greiner Road along the west side and extending north to Road B. Recreational Trail standards to be 10' wide with 2' shoulders and the minimum depth of the stone base to be 6" as verified and approved by the Town Engineer's Office.

5. A 30' easement to be provided for construction and long term maintenance of a future recreation trail along the north and west sides of Sublots 81 through 87 and Sublots 135 through 145 connecting the Road A (Harolds Harvest) recreation trail with the Road D (Marguerites Way) recreation trail including a striped street crossing with signage, as approved by the Clarence Highway Superintendent on the required Road D (Margurerites Way) and Road A (Harolds Harvest) crossing. The easements to be submitted for review and approval by the Town Attorney's Office and once approved, to be recorded in the Erie County Clerk's Office with a filed copy to be provided to the Town Attorney's Office on adjoining lots. This condition must be met prior to Final Plat approval.
6. A 30' easement to be provided for construction and long term maintenance of a future recreational trail from Road D to the east property line of the project or adjacent to the Heise Brookhaven Trunk Sewer Line Easement. The easements to be submitted for review and approval by the Town Attorney's Office and once approved, to be recorded in the Erie County Clerk's Office with a filed copy to be provided to the Town Attorney's Office on adjoining lots. This condition must be met prior to Final Plat approval.
7. Homeowners Association Agreement to be provided to the Town Attorney's Office for review and approval and once approved, to be recorded in the Erie County Clerk's Office with a filed copy to be provided to the Town Attorney's Office.
8. Delineation or monumentation of rear lot lines with language as such to be included in the Homeowners Association Agreement to prohibit encroachment into common areas of Open Space.
9. Minimum side yard setbacks to be 6.5' for all lots
10. Applicant agrees to pay a Recreation Fee of \$68,000.00 in lieu of providing completed recreation amenities on the project site. Payment in full prior to commencement of construction.
11. Landscape Committee review and approval of required street landscaping and any proposed signage and/or decorative features. Landscape Plan approval required prior to any Final Plat Approval on the project.

ON THE QUESTION:

It is clarified that when the Landscape Committee reviews the plan they will be looking for condition #8 within their review.

It is further clarified that condition #5 should read, "...Sublots 135 through 145 **and to include Sublot 73...**" Wendy Salvati agreed to amend Condition #5 as noted, Richard Bigler agreed to amend the condition as well.

Mr. Palumbo said he understands and agrees to the conditions.

ACTION:

Motion by Wendy Salvati, seconded by Steven Dale, to further discuss relocating Lot #150 immediately east of Lot #8920 or #8901 County Club Lane.

ON THE QUESTION:

Mr. Bigler said originally he thought it was a good idea until he read minutes from a previous meeting in which leaving open areas for the existing residents was discussed, this is what the applicant did. He believes this is a better spot now, than the other two suggested spots.

Mr. Todaro concurred with Mr. Bigler.

Mr. Dale agrees with Mrs. Salvati in terms of moving the lot.

Chairman Sackett stated that the Town Board is responsible for site plans, the Planning Board follows the Town Boards directives. Site Plans for Open Space are not normally within the purview of the Planning Board so he is against the Motion.

The vote is clarified: Ayes represent in favor of moving the lot and Nays represent not in favor of moving the lot.

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

MOTION FAILED.

ACTION ON THE ORIGINAL MOTION:

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

MOTION CARRIED.

Timothy Pazda returned to the dais.

Item 3

Russell Salvatore, Jr./The Abbey
Major Arterial

Requests Development Plan approval for a
Mixed-Use project at 6449 Transit Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the east side of Transit Road, north of Old Post Road. The property is currently vacant and consists of 5+/- acres. The project received Concept Approval for a mixed-use project on August 25, 2015 and a Special Exception Use Permit from the Town Board on September 23, 2015 for the multiple family residential portion.

Michael Metzger, with Metzger Civil Engineering, is present along with Russell Salvatore. Mr. Metzger said a Negative Declaration under SEQRA was issued by the Town Board. The rezoning of the property, the Special Exception Use Permit and the Concept Plan were approved. The engineering work has been

completed. Approvals have been received from Erie County Health Department, NYS DEC, Erie County Department of Environment and Planning, Division of Sewerage Management and the Department of Transportation. A Landscape Plan was prepared and approved. There have been minor changes to the plan since the Concept Approval. Originally the applicant was going to utilize a small detention pond at the front of the property in between the front parking and the right-of-way. The Town Engineering Department was not comfortable with this. The applicant installed an underground storage facility under the back parking lot behind the building. There is a bio-retention area to the east, this is all part of the storm water management system. Originally, there were no landscaped islands to the back of the building, but there are two there now. Mr. Metzger said there was a minor deficiency in the setback for the dumpster enclosure, it was shown at 9.7' from the property line, the minimum setback is 10' so they amended the plan to reflect 10'. The plan now shows the potential interconnection with the property to the north.

Mr. Metzger explained that some of the changes added significant cost to the infrastructure. Originally, the applicant's desire was to put brick all around the building. The pricing for everything that is coming in may prohibit full brick on all four (4) sides. If it is possible, within the budget, it will be done. The front will not be touched, it will be exactly as presented. If they have to they would put some siding and accents on the sides of the building, most likely the back will be siding. Mr. Salvatore said the pricing for the underground retention pond is significant, he is waiting for the numbers to come back from the construction manager before he can figure out the materials for the outside of the building. Mr. Pazda said he would much rather have a plan to approve with what is actually going in there. Mr. Metzger is asking the Board to approve a plan that has something other than brick in the back of the building. He mentioned vinyl siding. The windows and balconies will remain the same. Mr. Pazda would like to see what the change would look like.

Chairman Sackett said the Board approves things subject to drawings submitted as of a date, they do not have drawings with the detail of what the applicant is talking about. He suggested working out the budget plans and then submit a final plan, this is too vague to approve. Mrs. Salvati agreed with Chairman Sackett and went on to say out of fairness to other applicants the Board has always required that they get the drawings when changes are made. Mr. Salvatore said the front is not changing at all and from the road the sides of the building can barely be seen. He wants to make all his tenants comfortable. Through this process there have been tenants signed up but he lost them to other buildings across the street and elsewhere, he has lost revenue and income through this 22 month process.

Deputy Town Attorney Steven Bengart noted that this project came out of a Special Exception Use Permit (SEUP) from the Town Board. He does not think the Planning Board can approve it with the change. The Planning Board could approve the project as was presented to the Town Board for the Special Exception Use Permit, and the applicant can come back in for a change once they have a better idea what they want to do. The Town Board approved it for a SEUP with this plan (without the change), this Board cannot change that. He suggested either tabling the project or approve it as is.

Chairman Sackett said the Board always requires applicants to show four (4) sides, always have, always will. At this point, per the presentation, the applicant is only able to show the Board one side with certainty. Chairman Sackett asked if the applicant wants to proceed or table the project.

Mr. Metzger said they will look at their budget and if the presented plan dated June 17, 2016 does not work, they will go back to the Town Board with revised drawings.

Mrs. Salvati asked if there are plans for the back of the site. Mr. Metzger said there are no plans for that area. He also advised that there are no wetlands in the area, Earth Dimensions delineated the site and said it was clear.

Steven Keith, of 8100 Old Post Road West, asked for clarification as to if there are wetlands on the property. Mrs. Salvati said there are no wetlands on the property, the delineation showed that the site is clear.

William Klein, of 6430 Morningwood Drive, said there is a group of neighbors that have purchased the land behind the proposed building, so there can be no development there anyway. That property is all divided between the single family homes that are already there. Mr. Bleuer clarified that farther back near the pond the property is privately owned, but the project site is one contiguous parcel. It is clarified that the west side of the pond is not owned by the home owners. Mr. Klein asked if the existing pond will be used for drainage. Chairman Sackett believes the answer is no. Mr. Klein said the answer should be no because it is privately owned and there are individuals that live adjacent to that.

Peter Worrall, of 8120 Old Post Road, referred to meeting minutes from April 3, 2013 and said when this project was originally discussed it was noted that the whole wooded area to the eastern side cannot be developed, it would be forever green. He asked if this is true. Mrs. Salvati said her recollection is that a different applicant previously came to the Board with a project for some residential structures behind the proposed mixed use building, she believes during that discussion it was noted that, had that project moved forward, there would be no further development on the land behind it, it would remain forever wild. This was a different project. Mr. Worrall said that area could potentially be turned into a residential area, Mrs. Salvati said that is correct but she doesn't believe it could turn into a large scale residential subdivision. Mr. Callahan said it would be difficult to build anything in that area, there is not frontage for a lot. If it met the requirements for an Open Development it would have to be approved by the Town Board. There is not a great deal of potential back there.

Mr. Metzger confirmed that the existing pond on the property will not be used for the proposed project in any way. The storm water will all be managed on site and discharged to the storm sewer out to Transit Road.

ACTION:

Motion by Timothy Pazda, seconded by Wendy Salvati, to **approve** the Development Plans for the proposed mixed-use project located at 6449 Transit Road as per the submitted drawings from Metzger Civil Engineering dated January 19, 2016, revised on June 17, 2016, subject to the following conditions:

1. All conditions of the Town Engineer detailed in an approval letter dated June 28, 2016.
2. Building Department review and approval of required building permits.
3. Provision for cross access to the north side of the project.
4. Open Space and Recreation Fees.

ON THE QUESTION:

Mr. Metzger said he understands and accepts the conditions.

Mr. Pazda noted that if there are changes to the plan the applicant needs to come back before the Board for review and approval of those changes.

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 8:40 p.m.

Carolyn Delgato
Senior Clerk Typist