

Town of Clarence
Planning Board Minutes
Wednesday August 1, 2012

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

Clarence Center Overlay

Discussion on Design Guidelines and proposed Overlay District Zoning within the Clarence Center Hamlet.

Item 2

Velocity Servers
Residential Single Family

Requests a Change In Use from Residential to Office Space and Architectural Approval for proposed renovations at 8195 Sheridan Drive.

Item 3

Spoth's Farm Market
Major Arterial

Requests a Building Permit and Architectural Approval for the construction of an accessory structure at 5757 Transit Road.

Item 4

Gabe's Collision
Major Arterial

Requests a recommendation under the State Environmental Quality Review Act (SEQRA) and a Special Exception Use Permit (SEUP) for an Automotive Sales and Service Operation at 5817 Transit Road.

Item 5

Proposed Multi-Family Housing
Zoning Code Revisions

Proposed Code Amendment.

Item 6

Harris Hill Commons
Residential Single Family

Requests Preliminary Concept Review of a Proposed Open Space Design Subdivision on the west side of Harris Hill Road between Sheridan Drive and Greiner Road.

Chairman Al Schultz called the meeting to order at 7:34 p.m.

Councilman Bernard Kolber led the pledge to the flag.

Planning Board Members present:

Chairman Al Schultz	Vice-Chairman Robert Sackett
2 nd Vice-Chairperson Wendy Salvati	Timothy Pazda
Richard Bigler	Paul Shear
Gregory Todaro	

Planning Board Members absent: George Van Nest

Town Officials Present:

Director of Community Development James Callahan
 Planner Brad Packard
 Councilman Patrick Casilio
 Councilman Bernard Kolber
 Councilman Robert Geiger
 Deputy Town Attorney Steve Bengart

Other Interested Parties Present:

Nancy Robinson	Martin Robinson	Doris Chugh
Madan Chugh	Jason Fitscher	Jaimie Fitscher
Katherine Smith	Jason Holden	Angela M. LiPome
Leonard Moniz	German Montalvo Sr.	Kathleen Montalvo
Tony Barone	Sue Barone	Douglas Klotzbach
W Louisos	Mary Beth Kiesel	Leising
Navarro	Ballachino	Sahlem's
R. Peltier	Joseph Corto	Paula Gullo
Phil Gullo	Tim Mansfield	Jim Blum
Bob Lauffenburger	Sharon Wahl	Edward Dzsedyo
David Spoth	John Dudek	

Motion by Paul Shear, seconded by Gregory Todaro, to **approve** the minutes of the meeting held on June 20, 2012, as written.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Present		

MOTION CARRIED.

Chairman Schultz explained that for each agenda item Jim Callahan will introduce the project. The Planning Board members will discuss the project with the applicant. It will be explained in the discussion what action the Planning Board can take depending on the nature of the project or proposal. Before the Planning Board takes action or makes a recommendation the public will be invited to speak on the project.

Item 1

Clarence Center Overlay

Discussion on Design Guidelines and proposed Overlay District Zoning within the Clarence Center Hamlet.

DISCUSSION:

Jim Callahan provided the background on the project noting that it was originally referred from the Town Board as a Master Plan 2015 Amendment to extend the Traditional Neighborhood District (TND) Zone along Goodrich Road. The Planning Board has continued to discuss the review process to ensure the community character is a significant part of any project review in the Hamlet of Clarence Center. A draft overlay has been developed; the full Planning Board is considering a recommendation to create an overlay zone that will include creation of a Community Character Protection Board. The proposed overlay will involve a change to the Zoning Law, thus the Town Board will have final approval authority on such an overlay zone.

Chairman Schultz explained that the idea is to create a hamlet area of Clarence Center and anything within that area has to meet certain design recommendations. There will be a board of three (3)-five (5) residents of Clarence Center to review any proposal for this area and make recommendations to the Town Board or Planning Board. There is a draft law and three (3) Clarence Center residents have reviewed it.

David Mosher, of 9515 High Street, is one of the three Clarence Center residents who sit on the Community Protection Board and has reviewed the draft law. Mr. Mosher is present. Any recommendation by the Character Protection Board is not binding, it is strictly a recommendation.

Paul Shear noted that the three members on the Character Protection Board are David Mosher, David Hallock and Mary Shuby. The board will be allowed to fluctuate between three (3) and five (5) members.

Wendy Salvati thinks this is a great idea for Clarence Center. She has reviewed the overlay and suggested the following changes:

-Under the Purpose and Intent, number 7, the word “disruption” should be replaced with “destruction”.

Paul Shear explained that not only is there an overlay district but guidelines as well, which covers items such as signs, sizes, appearance, lighting, designs of homes and buildings.

Wendy Salvati continues:

-Under §5.5(A)5 the sentence should be split in two (2) and the visually interesting activities should be explained.

-Under §5.5 B (1)(b) the sentence should read that asphalt driveways will be permitted.

-Under §5.5 (C)(2)(c) the sentence needs to be completed.

Timothy Pazda referred to §5.4(A) Residential Area (a) and asked what the legality of this section is. Mr. Callahan explained that this is code and it could go to the Zoning Board of Appeals if relief from the code is requested.

ACTION:

Motion by Gregory Todaro, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Short Environmental Assessment Form (SEAF) as prepared on the proposed Clarence Center Overlay Zone and **recommend**, to the Town Board, a Negative Declaration on this Amendment. After thorough review of the proposed overlay district and guidelines and the completed SEAF, it is determined that the proposed action will not result in any significant adverse environmental impacts.

ON THE QUESTION:

Chairman Schultz explained that this action does not require a coordinated review because it only affects a small township within Clarence.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

ACTION:

Motion by Wendy Salvati, seconded by Robert Sackett, to **accept** the boundary map of the Clarence Center Overlay District as prepared by the Planning and Zoning Department and recommend that the Town Board adopt amendments to the Official Zoning Map to represent such boundaries.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

ACTION:

Motion by Wendy Salvati, seconded by Robert Sackett, to **recommend** the Clarence Town Board adopt the Clarence Center Overlay District Zoning Code Amendments as prepared by the Planning and Zoning Office and the Design Guidelines as updated to 2012.

ON THE QUESTION:

Paul Shear thanked David Moser, David Hallock and Mary Shuby for their work on this document.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 2

Velocity Servers
Residential Single Family

Requests a Change In Use from Residential to Office Space and Architectural Approval for proposed renovations at 8195 Sheridan Drive.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is an existing residential property and is located in the Restricted Business Zone. Per the Zoning Law the Planning Board has authority to approve use changes and the architectural style.

Douglas Klotzbach from K2 Architecture is present and representing Velocity Servers. Cliff Jones, tenant and owner of Velocity Servers, is present as well. The existing structure is a ranch-style home, the proposal is to put a glass enclosure on the structure and make it handicap accessible. They want to bring a professional aesthetic to the structure. There will be increased parking made as subtle as possible within the 80' setback. Because of a septic tank and the access around the house, they don't want to disturb the neighbor by taking out trees.

Chairman Schultz suggests the shrubbery plantings shown on the site plan be accepted as the landscape plan. Mr. Klotzbach said the applicant intends on improving the landscaping and hopes it will look like what is depicted on the site plan.

Mr. Jones explained that the company was started 10 years ago by a local resident who was 10 years old at that time. That resident lives two (2) doors away from this property. The company has grown from the basement of his mother's house. It is a web posting company. It is clarified that this project meets all code requirements; no variances are needed.

Ms. Leising, of 8205 Sheridan Drive, asked how many parking spaces are in the plan. It is clarified that there are 13 spaces. She asked what the hours of operation will be. Will traffic be going in and out of the site? She is concerned with the increase in accidents, auto pollution, noise within a residential area, rush hour traffic in the morning and dinner time. Will there be other buildings on the back half of the property? Will this project bring and buildings higher or closer to the surrounding properties? Will the use do any damage to the surrounding properties because she is on rock. She is concerned about fireworks. Will the project affect the surrounding property values? She asked the applicant keep the green.

Chairman Schultz explained that there are no additional buildings going out back or anywhere else on the site. The applicant is proposing to eliminate a garage door and install an entrance way along with some foliage in the front. There is no additional lighting.

Mr. Jones explained that there will be three (3) employees who work in front of a computer all day. There will be a total of five (5) people in the building. Typical hours of operation are from 10:00 am

to 5:00 pm. One or two people will remain in the building later than 5:00 pm in case an event occurs that require attention; it will be a quiet place. There will be no traffic from the street; there is no retail of any kind. Chairman Schultz asked why there are so many parking spaces. Mr. Klotzbach said that is what the code states they need. Chairman Schultz explained that the code requires parking spaces based on square footage. He asked the applicant how many spaces he needs. Mr. Jones said 5-8 spaces. Chairman Schultz said the applicant could land-bank some of the proposed parking spaces maintaining the idea that they might be needed in the future. This limits the parking, which in turn, limits the traffic; there will not be a lot of traffic. Computers do not make noise. The applicant confirmed that he is not going to have a celebration with fireworks at the site. Chairman Schultz thinks this is a good use for this property.

Wendy Salvati agreed with Chairman Schultz and suggested dropping the first two (2) parking spaces on each side. Mr. Klotzbach said he would prefer to land-bank the parking on the west. Chairman Schultz said if fewer parking spots works for the applicant, it will be cheaper for him and will leave more green space. This decision will be left up to the applicant.

Mr. Jones explained that the lighting will be consistent with the surrounding residential area. They are not looking to illuminate any part of the property. A sign permit application will be submitted when the applicant is ready to install a sign.

A resident said she is lower than what the applicant is, she gets all their snow. The bushes that are there are actually the applicant's and are falling over onto her property.

ACTION:

Motion by Robert Sackett, seconded by Richard Bigler, to **approve** the Change in Use, Architectural Style and Landscaping of the proposed Velocity Servers Office Facility, located at 8195 Sheridan Drive, as prepared by Architect Douglas Klotzbach dated July 9, 2012 and subject to the following conditions:

1. Review and approval by the Clarence Building Department of required building permits.
2. Parking spaces that are not currently needed may be land-banked in favor of green space.
3. Appropriate fees.

ON THE QUESTION:

This is a Type II Action and does not require action under the State Environmental Quality Review Act (SEQRA).

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 3

Spoth's Farm Market
Major Arterial

Requests a Building Permit and Architectural Approval for the construction of an accessory structure at 5757 Transit Road.

DISCUSSION:

Jim Callahan noted that the applicant asked to be removed from the agenda this evening. They are working on amended designs and those designs are not ready at this time.

Chairman Schultz asked the audience if anyone wanted to comment on this agenda item. One resident said she was at the meeting to obtain information on this project and the next.

ACTION:

Motion by Robert Sackett, seconded by Wendy Salvati, to **table** agenda item 3 until the applicant presents the revised architectural plan.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 4

Gabe's Collision
Major Arterial

Requests a recommendation under the State Environmental Quality Review Act (SEQRA) and a Special Exception Use Permit (SEUP) for an Automotive Sales and Service Operation at 5817 Transit Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that that property is located on the east side of Transit Road, north of Highland Farms Drive. It is existing vacant land located in the Major Arterial Zone. The applicant is proposing to construction a collision shop. The Town Board originally referred the request to the Planning Board on February 22, 2012. The Planning Board has requested additional information in the SEQRA review process. The Town Board will have final approval authority on this Special Exception Use Permit.

Corey Auerbach, of Damon Morey, LLP, is present along with Jeff Muccerelli and a resident archeologist. Mr. Auerbach said they are seeking three (3) things from the Board: a recommendation on SEQRA, a recommendation on the Concept approval, and a recommendation on the SEUP. Mr. Auerbach said although the proposed use is permitted in the Major Arterial district, a Special Exception Use Permit is required for motor vehicle, equipment and implement sales and service use. A revised site plan has been submitted that addresses previous concerns of the board. Based on concerns regarding buffering to the rear of the site there is now a 45' vegetative buffer to the east. The green space has been increase because the building size has been decreased; there is now 30%

greenspace. There were some parking concerns, the plan currently exceeds the parking requirements. There was also a request for a connection to Spoth Farms, which has been made and is reflected on the revised plan. Mr. Auerbach said he provided an opportunity to meet with the neighbors to discuss the project, unfortunately, no one from the community appeared. If there are more concerns, Mr. Auerbach will be glad to discuss and try to mitigate any further issues.

Rob Peltier, of CCRG, is present. Mr. Peltier has completed a cultural resource investigation at the site.

Wendy Salvati said the Board has struggled with the actual interpretation of the use and the collision shop that is being requested. She referred to §229-93 which states what is allowed under a Special Exception Use Permit in the Major Arterial Zone, collision shops are not called out. §229-101 Industrial Business Park specifically calls out collision shops. The Board is struggling with whether a collision shop is an appropriate use in this area. There are residences directly behind the property; there are concerns that were brought up under the SEQRA process, specifically air quality and noise. Mrs. Salvati is not sure a collision shop is an appropriate use for this particular parcel.

Mr. Auerbach clarified that this use is not a standard collision shop, it is a full service retail/claims processing center. Insurance companies refer insurance claims to this business. There is body work that will be done, there are collision services that will be provided but what happens is there is a claims adjuster on site who processes insurance claims that come in. 92% of the business will be referrals from insurance companies, 8% will be walk-ins. The car can receive any necessary repairs; there will be a car rental facility on the premises as well, so cars can be rented to those who find it necessary. Mr. Auerbach referred to the use of the property in this district and said the use is really up to the building inspector and if he makes a determination and has appealed the Zoning Board of Appeals. He would like to put to rest any concerns about this use being permitted under a Special Use Permit because the applicant would not be before this Board if the use wasn't permitted in this district. It is a determination that had been made by the Building Department. Mr. Auerbach said this use is expressly permitted as a specially permitted use in the Major Arterial District.

Chairman Schultz noted there are questions regarding SEQRA issues. There are archeological concerns, along with other concerns noted in the EAF that was completed by the Planning Board. There are site design questions; Chairman Schultz said they are not talking about a 45' setback but a 45' greenbelt. There are questions about the number of spaces, plus other issues. The overriding issue questions whether this is an appropriate use for this site, given the setbacks, given the proximity of neighbors, given the patio homes to the northeast. This is a concern.

It is clarified that this proposal will be the same as the applicant's location on Sheridan Drive, which is a collision shop. Planning Board members have seen what is parked around that location and what is stacked behind it and what it is like inside the building. The Planning Board must exercise the responsibility they have been given by the Town and must exercise the importance of that same responsibility to the neighbors. If it is determined that the use is appropriate for this site, the project would have to be tabled because a SEQRA review could not be done given the information received. Chairman Schultz said before going any further the question of appropriateness must be answered. There are nine (9) e-mails from the neighbors on file. Their concerns include air pollution, dust, noise, and aesthetics. Mr. Auerbach welcomes the opportunity to discuss the neighbor's concerns with the possibility of ameliorating those concerns.

Mrs. Salvati noted that this requested use is not specifically allowed by the code, it is allowed by a Special Exception Use Permit. The whole purpose of this process is to make sure that whatever the Town Board chooses to do is in keeping with the safety and welfare of the neighbors. The code specifically addresses the concern of making sure the uses are compatible with the surrounding residential uses as well as each other.

Martin Robinson, of Laurel Park, has a PhD in Chemistry from Ohio State University. He is in opposition to this proposal and voiced his concern with the chemicals that will be used. A multitude of chemicals, many of them being liquid, volatile and toxic, are customarily used in this business. Mr. Robinson said **never** can one totally eliminate the solvent from going into the air. He goes on to provide details regarding the chemical compounds that will be used, if these compounds are exposed to heat, poisonous gas will result. He compared these results to cyanide and noted tragedies that cyanide gas has caused in the past. The application is for an oil painting operation located in the vicinity of a nursery school, a middle school, a condo community and a housing development. What would happen if there was an accidental fire or a major explosion which enveloped the Transit Road area. Mr. Robinson was director of the research labs in Buffalo and Rochester for Ally Chemical, he is retired. Chairman Schultz asked Mr. Robinson if the chemicals he just spoke of are present in an EPA approved water born paint system. Mr. Robinson said yes, but went on to say he cannot say with definity what paint components they would be using but it would probably have the chemicals he spoke of in it. How they deliver it is probably ok 99% of the time, but the remaining 1% must be considered.

Dr. Madan Chugh, of 8088 Laurel Park Lane, said his major concern is aesthetics and what the proposal would look like to someone who is looking to buy a house from the other side of the street. If it doesn't look good it will hinder further development of the empty lots that are still sitting there, thus no taxes would be obtained from those empty lots. The current property owners would then have the right to ask for their taxes to be lowered because no one is developing the surrounding properties.

Chris Dibble, of 8072 Greystone Court, she is representing 15 families on her court and they all have the following concerns: salvaged vehicles, safety, sound pollution, and all that has been previously addressed. The neighbors are very concerned. This is a residential neighborhood and the proposal is not an appropriate use.

Katherine Smith is looking at purchasing a home in Highland Farms; she has a child with asthma. She agreed with all previous concerns. She heard that the clear coat that goes on afterward is really the problem.

Nancy Robinson, of Selby Court, agreed with all previous concerns. She said almost all Enterprise car rental areas have used car lots as part of their facility. Enterprise always runs joint sales. Enterprise can explode into whatever aspect of the business is being successful at the time.

Kathleen Montalvo, of 8051 Laurel Park Lane, she is concerned with the rear of the property as she lives within 500' of it. She and her husband looked at the Gabe's Collision on Genesee Street and she said it was horrendous. Material was left lying around, there was noise coming from the collision shop. She is against this proposal and she agreed with all the previous concerns.

Timothy Mansfield, of 8059 Laurel Park Lane, said traffic is a big issue. There is a strip mall and 2 child care facilities in the area that already create traffic.

Chairman Schultz explained that this is a decent sized parcel of land that has sewers and is in the Commercial Zone, something is going in there. Whatever goes in there will add to traffic. The question remains: is this the right use for that spot.

Paul Shear referred to the Part II EAF of the SEQRA review. He noted that there were many questions such as: will gasoline be stored on the facility, if so, how much? Are the parking areas in the back paved? When collision wrecks come in, they leak fuel, oil and transmission fluid.

Mr. Sackett noted that he and Chairman Schultz did a site visit to the Sheridan Drive facility. Mr. Sackett said what he saw was an industrial process being planned for a retail environment. This use just did not fit in this location on Transit Road based on his site visit and based on the resident's comments.

Mr. Bigler added that down the street the Planning Board struggled with a senior housing development with a 300' buffer, this proposal is for a 45' buffer. If Mr. Bigler was the owner of the pool behind the project site he would be upset thinking a 45' buffer is not adequate.

Mrs. Salvati said a 45' buffer may be adequate for other uses, but she does not believe it is adequate for this use.

Chairman Schultz said the Planning Board can only make a recommendation on this project. The Town Board has final authority.

Mr. Auerbach asked the Planning Board to table the proposal so the plans can be revised to address the issues that have been raised. He thinks a conversation needs to be had with the Building Department regarding the permissibility of the proposed use. He would also like the opportunity to speak with the neighbors.

Chairman Schultz clarified that the Building Department does not make the decision as to whether or not this is an allowed use. The question before the Planning Board is if they think sufficient site changes could be made to make this use acceptable to the Board and to the neighbors. Mrs. Salvati thinks there are things with this particular use that cannot be mitigated.

Mr. Auerbach said that the determination as to whether this is a permitted use is not the Planning Board's decision. The decision is for Mr. Callahan and the Zoning Board of Appeals to make. If the Planning Board is going to deny the proposal or make a negative recommendation based on the fact that there is no set of circumstances by which this use could be permitted here, the Planning Board is making a legislative decision.

Mr. Pazda said there are a few new/used car dealers down the street from this project site, how is this justified. Mr. Pazda believes those shops do repair and collision work. Consistency is important to him. Mr. Auerbach said there is a collision shop 500' away from this property, there is a precedent for a collision shop in this neighborhood.

ACTION:

Motion by Paul Shear, seconded by Richard Bigler, after review of the submitted site plan, Environmental Assessment Form and comments from the public (both written and verbal), it is determined that the proposed Collision Shop, Car Rental & Showroom Facility represents an

inconsistent use with Town codes and the surrounding residential neighborhoods. Therefore, the Planning Board **recommends not issuing** a Special Exception Use Permit for a Collision Shop, Car Rental and Showroom at this particular location of 5817 Transit Road.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Timothy Pazda	Nay
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

In response to Mr. Auerbach's question, Chairman Schultz explained that if the Town Board decides to move the proposal forward, they would provide instructions for completion of the SEQRA Review and Concept Plan Review, which the Planning Board would do. If the Town Board agrees to deny the proposal as a use, the procedure is done.

Item 5

Proposed Multi-Family Housing
Zoning Code Revisions

Proposed Code Amendment.

DISCUSSION:

Jim Callahan provided the background on the proposal. The proposed amendment was originally referred at the annual public hearing on Master Plan 2015 by the Town Board. The Planning Board has been working on potential zoning law amendments to address Town Board concerns associated with Multi-Family housing projects. The Planning Board and the Planning Department have drafted proposed amendments to the Zoning Law to create floating zones that can be overlaid on Traditional Neighborhood Design Development Zone, Restricted Business Zone and the Commercial Zone. This meeting represents a formal review of the proposed code changes as prepared. The ultimate decision for local law amendment lies with the Town Board.

The Planning Board looked at codes of surrounding communities. They decided that the best approach would be to use an overlay that is flexible, that the Town Board can decide to overlay on any part of the Commercial type zones. This would be allowed with very tight restrictions. There is one letter of concern in the file from Sean Hopkins. Chairman Schultz explained that overlay zones would be established similar to Open Space Design where the Town Board has complete authority as to where these go with an application. The Town Board would have control over location and design features. Two separate zones were proposed, one is a small scale, low-density, four (4) units per acre, allowable in Traditional Neighborhood Districts (TND), the maximum number would be 16 per multi-family unit for multi-family use only in TND. The scale, the standards, the setbacks, the connectivity and other requirements are consistent with what is wanted in the hamlet features. The second zone is larger scale, higher density, up to twelve (12) units per acre, using the entire parcel. This would be suitable for Commercial and Restricted Business Zones. It would not be allowed in Major Arterial Zone because that zone is considered the gold standard of commercial availability; the Planning Board does not think it is in the Town's best interest to consume those properties with apartment buildings. Multi-family is already addressed in the Residential Zoning Code. It would only be allowed on lots with sewers. Developments in Commercial Zones require a commercial component; there must be a certain percentage of greenspace and a certain percentage of commercial use, establishing these as a mixed use. Interconnectivity with other residential areas and other commercial areas would be required. The

commercial component would be available for the people within the community and those who live outside the community. Screening requirements are enhanced, setback requirements are enhanced, there will be screening requirements from public roadways. Underlying zoning regulations apply. The only concern was in a letter from Sean Hopkins which listed his concern with the commercial component, specifically stating that the funding is often different for apartments and commercial and it is hard to get it all in at one time. As drafted, the code is silent on when the commercial component goes in. Areas could be land-banked for commercial use later.

Mr. Sackett noted that a 2 acre minimum in TND is proposed in the amendment.

Mr. Pazda said the proposed amendment does not specify where the commercial has to be. He asked if this is an issue. Chairman Schultz said that is something that would be up to the discretion of the Town Board with recommendation by the Planning Board. It was intentionally written this way so it could be negotiated. Mr. Todaro said if the location was dictated by the code it would hand-cuff the developer. The commercial component will be looked at on an individual project basis. Mr. Pazda said if the commercial is not required on the front of the property, why do we want it? Why do we want commercial if it is hidden in the back or in the middle of the development? Chairman Schultz said they do not want to take the commercially zoned, sewerred lots and fill them up with apartments. The proposed amendment removes the Special Exception Use Permit (SEUP) requirement; currently an SEUP is required in order to have a residential component in a Commercial district. Mr. Callahan clarified that the underlying zoning classifications remain the same, this proposal overlays the specific multi-family or mixed use development on to that classification.

Bruce Wisbaum, is representing 200 residents at Stonegate Apartments. He voiced his concern with sewer capacity, water pressure, setback requirements, drainage, parking requirements and blasting. Mrs. Salvati noted that all the issues the Planning Board looks at during a typical site plan review will remain the same. The proposed amendment is just adding some things that need to be looked at when reviewing a multi-family project. Mr. Wisbaum goes on to voice further concerns which include sidewalks, minimal spacing between buildings, greenspace, safety concerns regarding ingress and egress. Mrs. Salvati said the Planning Board looks at all the issues Mr. Wisbaum listed. Mr. Wisbaum wants consideration given to building facades that will face the neighbors. Mr. Sackett said that will be reviewed. Mr. Wisbaum mentioned lighting. Chairman Schultz said all the items Mr. Wisbaum is talking about are part of the Code that exists. The agenda item being discussed this evening is how to establish the number of multi-family units allowed in different areas, any project specific issue is not being discussed this evening. Chairman Schultz suggested Mr. Wisbaum send a letter to the Planning and Zoning Office listing his concerns so they can be addressed. Mr. Wisbaum went on to say he thinks 10 units per acre is acceptable.

Michael Metzger, of 4090 Clardon Drive, has read through the proposed code. He is concerned with the mandatory aspects of three components, they are 1.) making it mandatory to be in a public sewerred area, 2.) making it mandatory that there be interconnections with adjoining properties and 3.) the 25% commercial use mandate. He suggested leaving these items up to the Planning Board's collective discretion. If the sewer requirement is mandatory it would negate what could happen with the revitalization of portions of Main Street. With regards to the connectivity, the adjoining property owner may not agree or want the connectivity. Regarding the mandatory commercial component Mr. Metzger said some of his clients are experts in residential development but not commercial. To force commercial in this situation is setting up a potential failure for that project and for the Town.

Paul Steven is concerned because of all the property he owns on Main Street. He is trying to develop a mixed use property on Main Street. He has to work with septic; he does not want this new law to affect what he is trying to do on Main Street.

Mary Beth Kiesel, of Harris Hill Road, asked how much property is unsewered and how much is on septic. Mr. Callahan said it is mostly unsewered.

Sean Hopkins, of 5500 Main Street, said he thinks the goal is to make sure commercially zoned land is preserved for future development. The expertise in developing multi-family projects and commercial projects are not the same. Lending requirements for these two projects are quite different as well. Mr. Hopkins suggested that instead of requiring a 25% commercial component, an established minimum setback for a multi-family be considered. If the Board moves forward with the draft law as is, Mr. Hopkins asked that a process be established based on very specific circumstances there could be deviations from those requirements.

Further discussion ensued; examples of how the draft law would apply to different situations/projects were discussed.

Councilman Bernie Kolber thanked the Planning Board for working on this draft law amendment. He thinks the 12 unit per acre density is too high. He asked how the density number fit in with the mixed use component. He mentioned the residential building cap that permitted no more than 300 units a year, in order to control growth; this was reduced to the present number of 240 units per year. He is looking at recommending a similar cap for number of units per acre so growth can be managed. He likes the ratio of 6 units per acre.

Councilman Patrick Casilio, of Westwood Drive, thanked the Planning Board for working on this draft law amendment. He referred to the suggestion of a building cap and noted that there are possibly seven (7) apartment complexes coming to the Town of Clarence. He is very concerned about the population increasing in one (1) year by 5,000 people. It took ten (10) years to build out Meadowlakes; two (2) apartment complexes will equal that population. Meadowlakes has a tax base of \$750 million, two (2) apartment complexes would have maybe \$24 million together. He is concerned with what kind of vacancy would be allowed in the apartment complexes. This should be addressed in the law along with a cap on how many would be allowed per year. There are over 200 available apartments currently in Clarence. There are investment packages for apartment complexes, so there is an incentive to build these types of buildings. The package deal does not work with a commercial element. He wondered if the draft law addressed senior housing, it is important to understand what senior housing is. He learned that senior housing only needs 30% occupancy and the rest of the building can be whatever it is. He does not have a problem with this, but it should be brought up front if someone is planning to do this. Councilman Casilio thinks joint access is important.

Chairman Schultz noted that the draft law amendment does not distinguish between senior housing and regular apartments.

David Huck, 6278 Gott Creek Trail, clarified that senior housing is for individuals 55 years and older. Most lenders require the applicant to fill the housing with seniors, there is a small component that most lenders allow you not to have, but you have to show an effort. Mr. Huck said interconnectivity tends to be more commercial connectivity, not from one residential complex to another.

Mr. Pazda said the Board should consider flexibility in this proposed amendment.

ACTION:

Motion by Wendy Salvati, seconded by Timothy Pazda, to **table** the proposed code amendment for the Multi-Family Overlay District Regulations.

ON THE QUESTION:

Chairman Schultz explained the reason for tabling this agenda item is so the Board can incorporate some of the comments heard this evening and refine the proposed draft.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 6

Harris Hill Commons
Residential Single Family

Requests Preliminary Concept Review of a Proposed Open Space Design Subdivision on the west side of Harris Hill Road between Sheridan Drive and Greiner Road.

DISCUSSION:

Jim Callahan provided the history on the project noting that it is located on the west side of Harris Hill Road between Sheridan Drive and Greiner Road. It is existing vacant land located in the Residential Single Family Zone. The project was referred by the Town Board on July 11, 2012.

Sean Hopkins is present on behalf of the Windsor Ridge Partners and the partnership of Elliot Lasky, Alan Randaccio and Pete Peterson. Mr. Hopkins said there was an issue raised in 2005 relative to sanitary sewer capacity for this project. Mr. Hopkins and his client believe that issue has been resolved and that has been confirmed to the satisfaction of the NYS DEC. In 2006 the Town sought Lead Agency for coordinated review pursuant to SEQRA, at that time the DEC was not going to consent to the Town acting as Lead Agency. Mr. Hopkins' client contributed funds towards a weir to create capacity so now at the very least the SEQRA review on this project can move forward. The applicant has submitted a plan that presents 66 lots and complies with the 200' green space requirement and preserves 52% of the site as permanent open space. Mr. Hopkins is asking that the review process move forward this evening by sending out the Environmental Assessment Form (EAF) and supporting documentation to involved agencies so that the information gathering process can begin. Mr. Hopkins said the plan complies with the Open Space Design standards.

Mrs. Salvati said this is the first time she is seeing the submitted plan. She would have liked to have the plan and the EAF to review prior to the meeting, which is the standard practice of the Planning Board anyway. Mr. Hopkins said the EAF was modified and submitted last week, the revised plan is based on the comments provided by the Executive Planning Board Committee.

Chairman Schultz explained that the EAF is thoroughly reviewed by Planning Board members who recently sat on the TEQR Committee. Those members make the appropriate changes. The EAF is

corrected and e-mailed to all Planning Board members with all other documents pertaining to the agenda. The EAF that all Planning Board members currently have reflects the changes that were made. Mrs. Salvati said she has comments on the EAF, she is not sure it addresses everything she would like to see in the EAF. She referred to item A-Site Description (2) Total Acreage and said there is typically a breakdown of things, how much exists, how much proposed. The table that she is looking at does not work for her, she needs more information. Mr. Hopkins said he believes they have submitted an EAF according to the Town standards so that a referral can be made at this meeting to move it forward.

Mr. Pazda asked who owns the lot on the corner of Harris Hill and Greiner Roads and why can't it be incorporated. Mr. Hopkins explained that there are no plans for that parcel at this time and it is owned by a separate LLC that has some common ownership but not identical ownership to Windsor Ridge. Mr. Pazda asked who owns the lot on Sheridan Drive. Mr. Hopkins said that lot has the same ownership, but there are no plans for that parcel at this time. Any development proposed for either of those parcels comes back to the Town for an Environmental Review.

Chairman Schultz would like to get the SEQRA review started as a step in obtaining information. There are problems with the site. Chairman Schultz has a map that shows 100% Federal Wetland for the site. Mr. Hopkins explained that a wetland delineation was prepared in 2004-2005. Jurisdictional determination issued by the Army Corp of Engineers are valid for five (5) years. The previous jurisdictional determination expired, so the applicant obtained the services of Wilson Environmental Technologies who went out and did a complete delineation. The map that is shown reflects the delineation. Chairman Schultz noted that the wetland delineation needs to be approved by the Army Corp of Engineers.

Chairman Schultz noted there is a huge issue with sewers and sewer connections regarding this project. He is inclined to have Mrs. Salvati advise the client what needs to be changed on the EAF and then move forward with it.

Mr. Pazda said the Town's sewer plan is to remedy the problem at Harris Hill. If this goes, what can be done for Harris Hill? Mr. Hopkins thinks that is a policy decision. What has held this project up year after year is that there was no environmental review started. There has to be an environmental review under SEQRA, Mr. Hopkins suggested starting this process.

Mr. Hopkins noted that this project is 70 acres in the Residential Single Family Zone, the density determination is 89 lots but in an attempt to balance all efforts, his client is only proposing 66 lots.

Chairman Schultz said there is a letter on file from Ms. Vaarwerk dated July 30, 2012. Her concerns include increased traffic, extension of Garrock Road, loss of green space, loss of wildlife, and flood control. It is noted that there is an error in the letter which states: "...we were promised that the extension of Garrock Road as an entrance/exit road to/from the Commons would **not** be approved." Chairman Schultz read those minutes and that was not promised, it was only discussed. Residents spoke at that meeting and voiced the same concerns that Ms. Vaarwerk stated in her letter.

Joseph Corto is representing his two (2) sisters who are out of town, they live on Glenwood Drive. They are concerned with density, traffic, noise of construction vehicles and school buses, green space, flood damage and wildlife. It is a quiet area and they are afraid this will change if there is an influx of people to the area. They are also concerned with the tax structure and the sewer systems. Mr. Corto

asked for a map showing what is proposed. He is advised that there are copies of the proposal in the Planning and Zoning Office and on-line.

Bob Lauffenburger, of 4965 Glenwood Drive, is concerned with losing green space between his property and the next. He would like the forested area to remain. Every Spring and every down pour the properties bordering that area get flooded.

Mary Beth Kiesel, of Harris Hill, is concerned with traffic and parking due to the Wesleyan church in the area.

John Dudek lives on the corner of Glenwood and Sheridan Drive. He is not against the project; he is against the connection to Glenwood Drive. Traffic and quality of life are his concerns. He thinks all traffic should come out on Harris Hill as there is traffic control in both directions.

Jason Fitscher, of 4995 Glenwood Drive, is concerned with flooding. It floods every Spring and with every heavy down pour of rain. He is also concerned with traffic, there are many children in the area and he is concerned for their safety.

Chairman Schultz explained that the applicant will be required to have storm water management systems within the project site. Those systems will be designed to release the water in a way that it will not flood that property nor will it flood surrounding properties. The Town Engineer will rigorously hold developers to requirements.

Mr. Hopkins suggested Mrs. Salvati get her corrections/questions on the EAF to Brad Packard who will forward them to Mr. Hopkins and he will address them appropriately.

Mr. Pazda said if residents buy a house on a dead end street they have to expect a stub to come there even if the realtor said nothing will ever happen there. He thinks there are mitigating factors that the applicant could propose. The access could go to Sheridan Drive. Mrs. Salvati pointed out that can't be done because the applicant does not own the property. Mr. Pazda said the applicant should come clean and say what is going on with the corner parcel. He said the sewer issue is too much for him and he will not support going anywhere with this until the sewer issue is resolved. Mr. Hopkins asked how Mr. Pazda proposes the sewer issue be resolved.

ACTION:

Motion by Richard Bigler, seconded by Paul Shear, to **accept** the Part 1 EAF as prepared by the applicant and amended and to **recommend** that the Town Board seek Lead Agency Status and commence a coordinated review among involved agencies on the proposed Harris Hill Commons Open Space Design Development located on the west side of Harris Hill Road between Sheridan Drive and Greiner Road.

ON THE QUESTION:

Chairman Schultz clarified that the Planning Board cannot approve or recommend a concept if the sewer questions are not answered.

This referral is not an endorsement of the submitted plan but is made as a necessary step in the review process to gather information to make an informed decision on the concept plan.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Timothy Pazda	Nay
Wendy Salvati	Nay	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

Meeting adjourned at 10:33 p.m.

Carolyn Delgato
Senior Clerk Typist