

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday August 3, 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

Bevilacqua Development/Transit Meadows
Office Park
Restricted Business

Requests Development Plan Approval for an
Office Park at 6041 Transit Road.

Item 2

Stephen Development
Fountain Court Mixed-Use
Commercial/Residential Single Family

Requests an Action under the State
Environmental Quality Review Act and Concept
Plan Review for 9560 Main Street.

Item 3

Dr. Altman
Restricted Business

Requests Approval for a parking lot expansion at
8421 Sheridan Drive.

Chairman Robert Sackett called the meeting to order at 7:10 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:

Assistant Director of Community Development Jonathan Bleuer
Councilman Paul Shear
Councilman Christopher Greene
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Robert Michael	JoAnn Marineil	Rosemary Dannhauser	Walter Dannhauser
Ginine Capozzi	Michael Marineil	Randall Dipert	Judy Calvaneso
Thomas Dryja	David Altman	Cairen Lajja	Peter Casilio
Jiu Feng	Carol & Richard Shine		Michael Wise
Missy & Brian Intihar		Greg & Chris Shepherd	

Motion by Gregory Todaro, seconded by Steven Dale, to **approve** the minutes of the meeting held on July 6, 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 procedure for the meeting noting that Jonathan Bleuer will provide the history on each agenda item. The applicant will have the chance to add any additional comments regarding the project. The Board will ask the applicant further questions. Then the audience is given the opportunity to speak on the project. The applicant or a member of the Planning Board may address comments made by members of the audience. The Board will then act on the proposal.

Item 1

Bevilacqua Development/Transit Meadows
Office Park
Restricted Business

Requests Development Plan Approval for an
Office Park at 6041 Transit Road.

DISCUSSION:

Jonathan provided the background on the project noting that it is located on the east side of Transit Road, north of Clarence Center Road. It is existing vacant land and the applicant is seeking Development Plan approval for a 45,000 square feet of office space. The office park proposal was previously introduced by another applicant in 2007 and a Negative Declaration under the State Environmental Quality Review Act was issued with the Concept Plan in 2008. In 2012 the property was rezoned in conformance with Master Plan 2015 so that the entirety of the parcel was zoned Restricted Business. The subsequent plan, which is shown tonight, received Concept Plan Approval and Special Exception Use Permit as issued by the Town Board for 45,000 square feet of professional office space. Two letters were received late today and have been placed in the file. The first letter is from Walter and Rosemary Dannhauser, some of their comments relate to drainage concerns, site lighting and the overall aesthetics of the property, especially regarding the existing debris on the property, they are hoping it is moved in its entirety and not just moved elsewhere on the site. The second letter is from Robert Michael, president of the Transit Woodbridge Association, which is the adjacent Home Owners Association. The comments associated with this letter relate to property lines, noise, light and drainage. Also, landscaping for privacy, and hours of operation.

Jonathan Bevilacqua is present and explained the project is for a professional and medical office park. All the existing green space at the back of the property will remain as is, as well as the southeast corner

of the site. There are existing trees along the north property line that will also remain as is. There are less than 20 trees that need to be removed. There are five (5) buildings, three (3) of those are 10,000 square feet and the other two (2) are 7500 square feet. The buildings are orientated around the perimeter of the site, this was intentionally designed to help screen any parking or lights from the surrounding neighborhood. There are 305 parking spaces required per the code, 310 spaces have been provided. The code also requires 1.8 acres of greenspace, they provided over 3.25 acres. There is excessive landscaping around the perimeter of the site, as well as internally on the site. There is also landscaping along the front of the site. The site drainage is also along the perimeter of the site. With regards to lighting, there are emergency exits behind each building, those exits will not be used for regular ingress and egress for either patients or the medical staff. There will be no lighting on the back of the buildings. The drawings that were submitted to the Planning Department show site light diagram, there are zero foot candles behind the back of the buildings. This is a previously approved Concept Plan, there are few differences. The previous plan involved clearing on the northeast corner for the storm detention, so a significant number of those trees would have been removed. Additionally, there was extensive clearing proposed for the southeast corner. Mr. Bevilacqua said his plan is a significant improvement from the previously approved plan. There was parking abutting the residents on the south property line which had the potential of lights in neighbor's houses. He noted that his proposal is not for retail businesses or restaurants, they will operate 8:00am to 5:00pm, with perhaps a cleaning person at night. Mr. Bevilacqua noted the building materials which include masonry, a brick façade along with some Dryvit/EIFS details and extensive glazing throughout the front and sides of the building. The back of the building will have the same materials as the front. There will be no siding on the building. The buildings will not be sprinklered. There are two (2) fire hydrants on site, they meet code. Mr. Bevilacqua said all the engineering comments were addressed and the plan was resubmitted, subsequently the project received the Town Engineer's sign-off.

Mr. Dale asked for an explanation of the north side of the property, which looks like a berm. Mr. Bevilacqua said it is not a berm, they are retention ponds. Mr. Dale asked how deep the ponds are. He went on to say there are bioretention ponds indicated behind the buildings and asked Mr. Bevilacqua to confirm that it actually goes deeper beyond the bioretention pond. Mr. Bevilacqua said those are part of the pond. Mrs. Salvati explained that the ponds are a two (2) bay system, this is part of the new State Pollution Discharge Elimination System (SPDES) requirements in which they have to handle water quality and quantity. Mr. Dale asked why they are only on the north side and not on the south or east sides of the property, are they not necessary there? Mr. Bevilacqua cannot answer that, it is a question for the project engineer. Chairman Sackett pointed out that the plan was reviewed and approved by the Town Engineer.

Mrs. Salvati asked what the plan is for snow. Mr. Bevilacqua said there is plenty of parking on the site so if they had to lose a couple spaces to snow, that is acceptable. He pointed out the greenspace on the west side of the site, plus they own Buffalo Pharmacy and the Buggy Wash parcel so storing snow will not be a problem. The site itself is 7.5 acres, they are not short on space.

Mrs. Salvati voiced her concerns regarding the number of lighting standards shown on the plan. They are still intrusive because they still produce glare. She suggested the applicant use dark sky compliant lighting fixtures. Any lighting standards that may be in the view of nearby residents be properly shielded. This also applies to any lighting on the back of the buildings. She noted that wall packs have to be shielded. She will make this a condition of the approval. Mr. Bevilacqua does not have a problem with this.

Randall Dipert, of 6026 Wellsley Common, complained of the short notice for this meeting and the limited time there was to review the project documents. He is not opposed to development but has concerns regarding drainage. The drainage issue started in 2010 when the property was regraded and sloped into the back of his and his neighbor's yards. Their property would flood 4 to 5 times a year. It went from 6" of water to 2' of water and within 10' of his deck. In 2015 he approached one of the Town's engineers who came and looked at the property. Mr. Dipert was advised that there was a problem with drainage there and would need to be addressed and come into compliance when the property was developed. He has not seen the plans address this issue in any type of detail to feel comfortable with the drainage. There is a heavily forested area at the northeast side. He said there are 50-100 trees there and the plan is to clear cut that area and a small number of trees and bushes to be planted along the back side. Mr. Dipert referenced the location of building #2 suggested the setback be increased from 45' to 90'. He said the required number of parking spaces is 225 per the documents he has, but the proposed parking spaces is 369. He also voiced his concern regarding the lighting. Mr. Dipert went on to say that the previous owner attempted to drain the wetlands in 2005, it was semi-successful and the Federal Wetlands declaration was not much effected. In 2010 Mr. Dipert said he located a gravesite on the property, there is a gravestone embedded in the ground that belonged to one of the farmers, he made inquiries about what it was and the owner of the property at that time said it was not a grave. He appreciates some of the modifications that have been made to the plan.

Robert Michael, president of the Woodbridge Homeowners Association, voiced his concern with the water drainage and that it butts up to the back of their neighborhood. There are 10 houses within 90' of that water. There is also a creek in the area that backs up. He has a six year old daughter and said she plays with the other children in the neighborhood in the common area that is located there, he wondered if there would be a berm or a fence installed to border the property. He noted the trees in the area and said an assessment was just done for the Ash trees that have been effected by the Ash Borer and about 125 trees have been taken down throughout the neighborhood. There is a question about ownership regarding trees along the property line, those trees are Ash trees as well and will be dead in the next few years. Mr. Michael asked where the dumpsters will be located.

Ginine Capozzi, of 6040 Whitegate Crossing, explained that her property is on the opposite side, voiced her concerns with the building that went up directly behind her house. Those concerns include lighting that was promised to be diffused and was not. The dumpster storage and time of removal still has not been addressed. Snow issues, landscaping and drainage have all been issues. She understands that this is a different developer but she wants to have a clear understanding of what course of action the neighbors have if the promises aren't kept by the developer. She also voiced her concern for the safety of the young children in the neighborhood. She is concerned with mosquitoes and the standing water that will bring them to the area. She is also concerned with the deer population which will be impacted by the removal of the trees in those existing woods. The Ash tree concern is huge and what that landscaping will look like beyond just having some water retention, is there the ability to build the height of that.

Michael Wise, of 6070 Whitegate Crossing, voiced his concern with drainage noting that the creek goes directly behind his home and there is significant flooding in his back yard, additional water flow into the creek will only exacerbate that problem. He asked if the proposal requires Army Corp of Engineers oversight.

Chris Hamm, of 6020 Whitegate Crossing, said there was a proposal at this meeting a while back for a used car lot in front of Buffalo Pharmacy, the Board said they did not want one there, it did not fit in, 30 days later a used car lot showed up there. Then, recently, at the medical park that adjoins this property, he thinks the use was supposed to be Medical Park, there is a children's clothing retail store opened up

there. He said this seems to go against what was approved there. His main concern is the Ash trees as there are a lot of dying Ash trees in the area.

Dick Shine, of 8100 Clarence Center Road, said there are wetlands behind the proposed 10,000 square foot building. He has lived there for eleven (11) years and the flora and fauna in that area is always wet. There is also drainage that comes from the back of his property, which are designated wetlands, that drain across the northwest corner of his property and it drains into that area. He is concerned about drainage but is thrilled with the change of the plan.

Michael Marineil, of 6055 Whitegate Crossing, asked why the drainage plan can't go from the north to the south when there is fewer homes on the south side and one of them is a commercial business. Why can't it be shifted to the back? If it ends up on the north side how high is the berm going to be?

Mr. Bevilacqua said the wetlands were delineated and agreed upon with the Army Corp of Engineers. The applicant received the Wetlands Permits and they are being mitigated. There are some existing vegetational wetlands on site. This was part of the SEQRA process and has been addressed. There are no large dumpster pads for this project, there will be multiple garbage totes kept in a designated area. Because this is office space there will not be a lot of dirty garbage. The totes will be picked up during the day which is standard for all the applicant's properties. The trucks will not be heard at night, they operate during standard daylight hours. These are the same totes and trucks that are used in residential neighborhoods. The totes will be screened.

Mr. Bevilacqua said this site should significantly improve any drainage onto neighboring sites. The site is not graded at all, there is debris and piles of garbage from the history of the site from people dumping on that property. The site will be graded, all the drainage inlets are on the interior of the site. The entire perimeter of the site is pitched toward the inside of the site. No water is going to drain to Ellicott Creek, nothing is going to raise the flow of the creek. The drainage comes right out to Transit Road and tying into the main storm sewer for the Town. The bioretention area was purposely located on the north side of the property to provide greenspace because that is where the majority of the residents are. There will be no standing water in the pond, it is designed to be a dry pond. The pond is not a hole in the ground, there is a slight grade to the pond not more than a couple feet. Chairman Sackett noted that per the Town Engineer it has to be graded to withstand a 100 year flood. Mr. Bevilacqua said that is correct. The Town's storm water requirements do not allow the applicant to have any discharge of storm water onto anyone else's property. Mr. Bevilacqua agreed and said everything must be self-contained. It is confirmed that the slope of the pond is 5' over the course of 45'.

Mr. Bevilacqua said they do not plan to put a fence along the property line, he doesn't think it would serve any aesthetic purposes. He went on to say that the site received a "no action" letter from the State Historic Preservation Office.

Chairman Sackett clarified that the required parking spaces is 305, the applicant is proposing 310. He asked the applicant if he will remove the dead Ash trees that are on his property. Mr. Bevilacqua said yes, he has no problem removing dead trees, but he is not willing to go beyond the property line to do so.

Chairman Sackett noted that the Building Department and the Engineering Department will oversee any conditions placed on the project. The course of action for the residents would be with the Town Engineer. A letter from the Town Engineer is on file.

Mrs. Salvati asked about the hours for the garbage totes to be picked up. Mr. Bevilacqua said it would be reasonable hours just like a residential pick-up. Normal time in the Town for garbage pick-up is 7am.

Mrs. Salvati said there is a wide area on the southeast corner of the property that is becoming lawn and landscaping, she asked if there is a reason why they are not retaining more natural vegetation in that area. Mr. Bevilacqua said they are retaining as much as possible in that area.

Mr. Bigler asked if the applicant will tape off the trees and any land that is to be saved so there is no confusion during construction and the builders inadvertently destroy any of it. Mr. Bevilacqua said that is a requirement of the Wetlands Permit that the areas are fenced off.

Mr. Todaro asked for details on the timetable of the project. Mr. Bevilacqua said there will be two (2) phases. They hope to start construction immediately this Fall on the first Phase which would be the two (2) buildings to the north and possibly the one on the east side. Phase 2 would be the other buildings to the south and they would be started in the Spring of 2017, completed by the Fall of 2017.

ACTION:

Motion by Timothy Pazda, seconded by Richard Bigler, to **approve** the Development Plans for the Transit Meadows Office Park located at 6041 Transit Road as per the submitted plans from Carmina and Wood PC dated June 22, 2016, with the following conditions:

1. All conditions of the Town Engineer as documented in approval letter dated July 25, 2016.
2. Subject to review and approval by the Town Building Department on required permits.
3. Subject to all required regulatory agency and utility approvals.
4. All areas identified as natural/preserved, including the northeast portion of the property, shall be fenced and protected to avoid disturbance during construction.
5. Subject to Open Space and Recreation Fees on Building Permits.
6. All exterior lighting will be dark sky compliant.

ON THE QUESTION:

It is clarified that the dark sky complaint lighting will use flat lenses and shields.

The applicant understands the conditions and agrees with them.

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

Stephen Development
 Fountain Court Mixed-Use
 Commercial/Residential Single Family

Requests an Action under the State
 Environmental Quality Review Act (SEQRA)
 and Concept Plan Review for 9560 Main Street.

DISCUSSION:

Jonathan Bleuer provided the history on the project noting that it is located north of Main Street, east of Goodrich Road. It is an existing former vacant hotel located in the Commercial Zone with Residential Single Family Zone to the rear. The applicant is seeking an Action under SEQRA and Concept Plan Approval for a mixed-use project consisting of 24 units of multi-family housing and 18,585 square feet of commercial space access from Main Street. There is also a two-lot Open Development proposed with access to Goodrich Road. A Special Exception Use Permit as issued by the Town Board would be required for the multi-family component.

Michael Metzger, of Metzger Civil Engineering, is present along with his client Noel Dill. Mr. Metzger explained that in February 2016 the Town Board referred the project to the Planning Board. The Planning Board went out for Lead Agency and began the coordinated review. Comments have been received from various agencies such as DEC, ECDEP, NYSDOT, ECDPW and NYS SHPO. Mr. Metzger explained that there was the potential for archeological sensitivity at the site so they hired a consultant to do an archeological study. There was a thorough review of the study of Phase 1 and there were no findings. This information was submitted to SHPO and they issued a letter on July 21, 2016 indicating that they feel there is no potential impact as a result of this project. The applicant also hired a traffic consultant who did a detailed study and submitted it to the Town and to DOT. DOT reviewed it and asked for a few items to be addressed, which the applicant did. DOT issued an e-mail on July 21, 2016 indicating that they are satisfied and the project can move forward with three conditions. The first condition was to align the entrance driveway with Gunnville Road. The second condition was that the applicant remove the westerly entrance. The third condition was to look at the option of some signalization. There will now be a four-way signal at the intersection. There will also be a dedicated left-turn arrow on Gunnville Road and a dedicated right-turn light on Main Street facing east. The applicant will incorporate these conditions into the design.

Chairman Sackett asked if the applicant is aware that the density per Code is 16 living units on this property. Mr. Metzger said yes. Chairman Sackett asked why the project is not designed to meet code. Mr. Metzger said it is a large parcel and needs to have a certain amount of density for it to be viable. The residential component helps to subsidize the commercial portion, this is similar to the project at Main Street and Goodrich Road. Chairman Sackett said the project at Main and Goodrich met code at the time it was built. This project does not meet the code.

Mrs. Salvati said there were originally three (3) homes in the Open Development portion of the project, she asked why the applicant dropped a lot. Mr. Metzger said NYS DEC made amendments to their design guidelines for septic systems, specifically for sand filters, this necessitated a need for more space. Mrs. Salvati asked if the intent is to leave the back portion of the second lot as is, leaving the existing vegetation. Mr. Metzger said it will be up to the owner of the property.

Mr. Dale voiced his concern with the single driveway access that leads to the apartments in the back. The district fire chief was consulted during the coordinated review. Mr. Dale would like to see a comment from him regarding the project, however there is no comment from the Chief so Mr. Dale does not consider the coordinated review to be complete. Mr. Metzger said often times the fire chief's review

is done at the Development Plan stage of a project, which is several stages away from where the proposal is now. They will be happy to address any comments that come from the fire chief.

Mr. Pazda asked what the width of the driveway is. Mr. Metzger said it is 24' wide. Mr. Pazda asked if there will be "no parking" signs in front of the garages so people won't park in front of them. Mr. Metzger said there can be, the intention is for no parking in front of the garages anyway.

Mrs. Salvati asked where the fire hydrants are. Mr. Metzger said they have not reached that level of planning yet. There is the possibility that a fire hydrant may be located on site. It is unknown if there will be sprinklers in any of the buildings. Noel Dill said there will probably be sprinklers because it is similar to the Main and Goodrich project and they are sprinklered.

Mr. Bleuer said a letter was received late today from David Cominsky and Robert Casell. They have concerns relating to the failure to consider potential intensity of use, relating mostly to traffic. Another concern is the different aspects of the proposal specifically the Open Development Area of the two lots and how it fits in with the overall project as identified on Main Street. The letter is on file.

Carmine Tiso, of 9530 Main Street, has no objections to the proposal.

Mr. Metzger said the Town has fully studied the project. He referenced the Open Development Area lots and said the first home is set up so it is consistent with the setbacks of the other homes in the area, the second home will be located behind the first and probably won't be seen from the road.

ACTION:

Motion by Wendy Salvati, seconded by Timothy Pazda, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Fountain Court Mixed Use Development located at 9560 Main Street. This Type I Action involves the development of a combined commercial and residential development in the Commercial Zone. After thorough review of the submitted site plan and Environmental Assessment Forms, including coordinated review with comments from involved agencies, it is determined that the proposed action will not have a significant negative impact upon the environment.

ON THE QUESTION:

Mrs. Salvati said a full coordinated review was done on this project and input was received from all involved agencies. The DOT required the applicant to conduct a thorough traffic analysis, mitigations were made and modifications were made to the site plan with respect to the recommendations of the traffic analysis. The traffic analysis was accepted and approved by the DOT. Documentation was received indicating no concerns on the site per the NYS Historic Preservation. DEC has also reviewed the project. The Planning Board has done their due diligence with respect to SEQRA.

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

MOTION CARRIED.

Motion by Wendy Salvati, seconded by Richard Bigler, to **deny** the request for Concept Plan Approval from the applicant Stephen Development for the proposed Fountain Court Mixed Use Development located at 9560 Main Street.

ON THE QUESTION:

This denial is based upon a code violation which limits the density in the Commercial Zone for Multiple Family Housing Projects in unsewered areas to 4 units per acre, a maximum of 16 units for this project. The applicant is looking for 24 units.

ON THE QUESTION:

Any redesign or alternative concepts for this project must be reviewed and approved by the Planning Board, including the SEQRA review.

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

MOTION CARRIED.

The applicant understands the denial and will seek a variance from the Zoning Board of Appeals.

Item 3

Dr. Altman
Restricted Business

Requests Approval for a parking lot expansion at
8421 Sheridan Drive.

DISCUSSION:

Jonathan Bleuer provided the background on the project noting that it is located on the south side of Sheridan Drive, west of Harris Hill Road. It is an existing medical office in the Restricted Business Zone with Residential Single Family Zone to the rear. The applicant is asking for a parking lot expansion of 35 spaces to the south of the existing parking area.

Andrew Marino, of Tredo Engineers, is present on behalf of Silvestri Architects and Dr. Altman. They are asking for the extra spaces due to increased patient capacity in the existing facility. The facility currently has an acre of development. Drainage has been reviewed and approved by the Town Engineer. The project is pending the approval of the Landscape plan which includes three varieties of trees. Mr. Marino believes they have addressed all the questions of the Executive Committee which included the lighting standard, which is 15' tall, flat lens and is on a timer that goes off at 7:00 pm so it is unlikely to disturb the neighbors. The handicap accessibility has been increased and the striping has been modified.

Chairman Sackett asked for confirmation that the light standards are dark sky compliant which means they are shielded as well. Mr. Marino said yes.

Chairman Sackett said there was a comment received from the neighbor to the west at 8411 Sheridan Drive in which the request was made for directional signs at the entrance to the driveway so the patients

of Dr. Altman will know which driveway to enter. The neighbor said patients often get confused and enter his (the neighbor's) driveway. Dr. Altman agreed to add this signage.

ACTION:

Motion by Wendy Salvati, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed parking lot expansion located at 8421 Sheridan Drive. This Unlisted Action involves the expansion of a parking lot at an existing doctor's office. After thorough review of the submitted site plan and SEAF, it is determined that the proposed action will not have a significant negative impact upon the environment.

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

MOTION CARRIED.

Motion by Wendy Salvati, seconded by Gregory Todaro, to **approve** the parking lot expansion at 8421 Sheridan Drive as per the submitted drawings from Silvestri Architects dated July 19, 2016, with the following conditions:

1. All conditions of the Town Engineer as documented in approval letter dated July 25, 2016.
2. Subject to Landscape Committee approval on a final Landscape Plan prior to PIP Permit issuance.
3. All site lighting shall be dark sky compliant with the use of flat lenses and shields.
4. The installation of an entry sign at the driveway entrance into the property.

ON THE QUESTION:

The applicant understands and agrees with 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.

Meeting adjourned at 8:30 p.m.

Carolyn Delgato
Senior Clerk Typist