

Town of Clarence
Planning Board Minutes
Wednesday February 16, 2011

Work Session 6:30 pm

Roll Call
Update on Pending Items
Zoning Reports
Committee Reports
Miscellaneous

Agenda Items 7:30 pm

Approval of Minutes

Item 1

Benderson Development/Eastgate Plaza
Major Arterial

Preliminary Scope for Draft Environmental
Impact Statement (DEIS).

Item 2

Dynabrade
Residential Single Family

Requests SEQRA Determination on Proposed
Open Area Development Application at 5630
Shimerville Road.

Item 3

Michael Drennan
Residential Single Family

Requests Preliminary Concept Review of a
Proposed Major Subdivision at 5810 Thompson
Road.

Item 4

Gypsum Creek Industrial Business Park
Industrial Business Park

Requests Preliminary Review of Proposed
Amendments to a previously approved Industrial
Business Park.

Vice Chairperson Wendy Salvati called the meeting to order at 7:30 p.m.

Councilman Peter DiCostanzo led the pledge to the flag.

Planning Board Members present:

Vice-Chairperson Wendy Salvati
Robert Sackett

George Van Nest
Paul Shear

Planning Board Members absent:

Chairman Al Schultz
Timothy Pazda

Second Vice-Chairman Richard Bigler
Gregory Todaro

Town Officials Present:

Director of Community Development James Callahan
 Planner Brad Packard
 Councilman Peter DiCostanzo
 Deputy Town Attorney David Donohue

Other Interested Parties Present:

Rosemary G. Vazquez	Jeffre A. Borton
Karen Dunlap	Rev. Eugene H. Roth
Mark Dunlap	Pam Koss
Denise Royala	Kathy Karaszewski
Tony Sindoni	Anthony Ditsious
Kevin Curry	Clayt Ertel
David Beckinghausen	Linda Beckinghausen
Matthew Giansante	Patrick Casilio
Danielle Buchbinder	

Vice-Chairperson Wendy Salvati is filling in for Chairman Al Schultz this evening in his absence. She noted that the Planning Board is a recommending body for certain agenda items. For those actions for which Town Board approval is required, the Planning Board may vote to recommend an action sometimes with conditions. The Town Board is the governing body for such actions and as such has the final vote on these items. The procedure for agenda items begins with Jim Callahan introducing the item, the applicant is then provided the opportunity to speak on the item and provide further information to the Board. The Planning Board will follow-up with questions. The public will then have the opportunity to comment, there will be a three (3) minute time limit for each public speaker at this point. The applicant will have one more opportunity to speak. The Board will then pass a formal motion with a vote.

There will be no vote on the minutes of the meeting held on January 26, 2011 because there is not a quorum to approve them. The vote will be held at the next Planning Board meeting.

Item 1

Benderson Development/Eastgate Plaza
 Major Arterial

Preliminary Scope for Draft Environmental
 Impact Statement (DEIS).

DISCUSSION:

Vice-Chairperson Salvati noted that the Planning Board will only be looking at the scope document at this meeting. Public comment will not be taken at this time. The purpose is to move this item forward. The public has the opportunity to look at the draft scope document; it will be available in the Planning and Zoning office after this evening's meeting for the next 30 days at which time comments will be accepted.

Jim Callahan described the property as being located on the south side of Greiner Road, east of Transit Road. It is an existing retail plaza located in the Major Arterial Zone. The applicant is proposing to extend access from the existing plaza to Greiner Road. A Positive Declaration was issued under the

State Environmental Quality Review Act (SEQRA) by the Lead Agency, which is the Planning Board, on January 26, 2011. A Draft Scope has been prepared and is ready for distribution and comment.

Vice-Chairperson Salvati referred to the Draft Scope document and noted the changes to be made. At the top of page 3, in the first paragraph, the word “propose” shall be changed to “proposes”. At the bottom of page 3, the beginning of the second line shall read, “any **potential** significant”. Page 4, under Chapter II, item 2 the following sentence is added, “A map of the entire plaza, including all existing access points and all surrounding properties and including a general description of internal traffic flows will be provided.” Page 5, 2(a)(1) shall be changed to read. “Existing traffic count data will be utilized or new traffic counts will be conducted for all vehicular movements at the following locations:” It should also be noted with regards to the existing traffic count data that is used, the raw data traffic counts need to be verified. Any existing traffic counts must be from 2010 or newer. The locations being proposed are: (a) Greiner Road from Eastbrooke Place to Transit Road, (b) Greenhurst Road at Greiner Road intersection, (c) Transit /Maple/Greiner Road intersection, (d) Existing plaza entrances and exits, (e) Greiner Road/Harris Hill intersection, (f) Eastbrooke Place/Greiner Road intersection, (g) Walgreens Access/Greiner Road intersection, (h) M&T Bank Access/Greiner Road intersection. Under item 2 (a) (2) “right of way and pavement width measurements” shall be added. Page 6, item 2 (c) shall include trip distribution for all the plaza entrances, existing and proposed. Item C (3) the word “potential” should be included in the second sentence. Page 7, item (6) should read, “The DEIS will evaluate and discuss potential impacts to pedestrian traffic within the plaza directly in front of the structures.” A new number (7) is added: The DEIS will evaluate and discuss potential traffic impacts to pedestrian traffic along Greiner Road. Existing item number (7) becomes item number (8), existing item number (8) becomes item number (10). Under Chapter IV, the second line, the words “its impact” shall be removed. Chapter V, item number (4) shall read, “Cross access from M & T to the proposed access drive with closure of the M & T driveway at Greiner Road. It is clarified that on Page 7, item (7) remains item (7), (9) becomes (8) and (10) becomes (9). Accident data should be gathered for all the intersections listed as well as that section of Greiner Road between Eastbrooke and Transit Road.

ACTION:

Motion by George Van Nest, seconded by Paul Shear, to circulate the Draft Scope of the project to involved agencies including Erie County Department of Public Works, the NYS Department of Transportation and the Town of Amherst. This initiates a 30 day comment period on the Draft Scope as prepared.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Item 2

Dynabrade
Residential Single Family

Requests SEQRA Determination on Proposed Open Area Development Application at 5630 Shimerville Road.

DISCUSSION:

Jim Callahan provided the background on the project. It is located on the northwest corner of Roll Road and Shimerville Road. It is existing vacant land located in the Residential Single Family Zoning classification. The applicant is proposing to develop Open Development Areas totaling 14 +/- lots. An action under SEQRA will be required and the Planning Board will be the Lead Agency on this action.

Michael Metzger of Metzger Civil Engineering and Bill Slomba of Dynabrade are present. Mr. Metzger explained that he has been working with the Planning Board Executive Committee and three items need to be addressed. The first has to do with archeology. The applicant is currently in the SEQRA review process. There is a letter from the State Historic Preservation Office (SHPO) that recommends an archeological study be done because the project site falls within an archeological sensitive area. A map of the project site is superimposed on the Circles and Squares Map which shows the archeological sensitivity of the area. This project has no State or Federal discretionary approvals involved. The majority of the property is outside the limits of the circles, there is a small area that is clipped by a circle at the border near Shimerville Road. Mr. Metzger has been involved in many archeological studies but none have led to a significant find. The density of a proposed project comes into play; this project is for 14 homes on 31 acres, the amount of disturbance is small. Mr. Metzger is asking the archeological study be waived for this project. It is confirmed that this property has been previously disturbed through farming activities.

The second concern is with regard to the Brookfield Flying Club that is two properties over from the project site. There is a Gypsum Mine pile at this site where the cover of the pile has been removed and there is an area where there is an apparent leachate outbreak that flows from the pile into Gott Creek. The initial concern was if something was flowing off this site onto the applicant's property. The leachate outbreak flows away from the project site. There is over 1500 feet of creek length between any point on the applicant's property and the leachate outbreak. The applicant is on the opposite side of Gott Creek from the Gypsum pile. There was concern regarding potential ground water contamination. The applicant contacted Dennis Weiss and another representative of the DEC. Both expressed their opinion that nothing from the Gypsum Spoil pile would impact the project site. The Division of Water is still assessing the situation. The USGS maintains information on aquifers throughout the country; the closest aquifer is several miles away so the applicant could not find information on flow direction. The applicant hired a soil scientist, Don Owens, who assessed the site and rendered an opinion on what he feels is the groundwater flow direction. He confirmed that groundwater flows in the area match the surface. The proposal for the 14 homes is to use municipal water to service the homes.

Ms. Salvati noted there is a need for a wetlands delineation. Mr. Metzger said he misunderstood and did not think the Planning Board wanted a wetland delineation done. There is a slide of the National Wetland Inventory Map presented. This shows the strong possibility for a Federal Wetland at the northeast corner of the property. It will be very easy for the applicant to avoid development in this area due to the low density of the project. There is a State Wetland to the north and east of the property; however, this project falls outside the 500' check zone for that wetland.

Mr. Van Nest does not think the wetland issue is significant enough to hold up the project. There was a lot of research done on the leachate, it is not on the site, it is not adjacent to the site, the DEC is aware of it. Mr. Van Nest does not know what else should be asked of the applicant with regards to this issue. He does not think there needs to be further investigation regarding the leachate.

Mr. Sackett concurred with Mr. Van Nest on the archeological; he does not think that is necessary. The applicant provided information late this afternoon and Mr. Sackett would like more time to review it. He is referring to the letter dated February 15, 2011 regarding Groundwater Conditions. Mr. Sackett would like to see a wetlands delineation.

Mr. Shear does not think an archeological study is necessary as he can attest to the fact that the area was previously used as farmland. He would also like an opportunity to review the letter from the applicant dated February 15, 2011 regarding Groundwater Conditions. He would like to see a wetlands delineation on the property.

Mrs. Salvati agreed that a cultural resource study is not necessary. She feels a wetlands delineation is necessary.

Mr. Metzger has a copy of the Erie County Soil Survey which shows the soil types on the property. There are hydric soils in the northwest corner of the property; a large portion of the site contains non-hydric soils. There is also an area where there are potential hydric soils. Mrs. Salvati asked if the applicant could ask Mr. Owens to review this area and provide his input. Mr. Metzger agreed.

ACTION:

Motion by Robert Sackett, seconded by Paul Shear, to **table** the project. A wetlands determination is to be made with specific concerns related to the presence of wetlands type vegetation, potential hydric soils.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Item 3

Michael Drennan Residential Single Family	Requests Preliminary Concept Review of a Proposed Major Subdivision at 5810 Thompson Road.
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DISCUSSION:

Jim Callahan provided the background on the project. It is located on the west side of Thompson Road between Roll Road and Clarence Center Road. It is existing vacant property; the applicant is proposing to extend the infrastructure within the Waterford Planned Unit Residential Development to create additional residential building lots. Action under SEQRA will be required with the Planning Board as Lead Agency in this review.

Sean Hopkins, of Hopkins and Sorgi, PLLC, is representing the applicant. Mr. Hopkins said he is aware that a Part I of the long Environmental Assessment Form (EAF) and the required subdivision documentation needs to be submitted.

Mrs. Salvati referred to the Town Code § 193-27(B)(8) which states: “Cul-de-sac streets shall not be created to provide access to residential lots except in situations where, in the view of the body with final approval authority, either the Town Board or Planning Board, a through street cannot reasonably

be provided due to the physical characteristics of the subdivision parcel and adjoining properties. Where a cul-de-sac street is authorized, either as a permanent dead-end street or as a temporary dead-end pending completion of a through road network, not more than twelve (12) single-family residential lots may gain access from either initial development or extension of such cul-de-sac street.” Mrs. Salvati suggested the applicant consider having a road extension that would tie into the cul-de-sac to the west. Mr. Hopkins said he will address that concern.

Mrs. Salvati reads an e-mail received February 16, 2011: “My name is David Lewandowski and I live at 5730 Thompson Road and I am responding to the Planning Board agenda notice I received in the mail. I am expressing my concerns to you and the other Planning Board Members regarding Item 3-Michael Drennan and the Proposed Major Subdivision at 5810 Thompson Road. First Concern - Upstream flooding on Gott Creek due to the additional development causing increased run off of rain water into Gott Creek. Since the proposed properties may encroach wetlands around Gott Creek and Gott Creek, and if the natural environment is altered, both upstream and downstream flooding could increase without adequate water detention specific to the proposed development. Second Concern - If the development is on a septic system, that would also increase runoff or drainage into Gott Creek. In Terms of Sanitary Waste - Is this development part of the original Waterford Development in terms of Sewers? Note - Since I built at 5730 Thompson Road in 2002, Gott Creek has flooded. Since Waterford has been developed and grown, the depth and expanse of flooding has increased at 5730 Thompson and surrounding properties. I wish I had before and after flooding photos to show the difference but regretfully I do not. In addition to the development of Waterford and the Expansion of Martha's Vineyard, I am sure the runoff drainage from East to West into Gott Creek has negatively affected upstream flooding in Gott Creek. I believe a Formal Study should be conducted to look at the effects of both upstream and downstream flooding in Clarence. It should look at the consequences due to the runoff to determine if the development is feasible what has to be done to eliminate any negative impact to Gott Creek and surrounding areas. The study should also determine if there are any health concerns to excessive flooding and contact with septic systems. Thank you for considering my concerns and if there are any questions, I can be contacted by phone.”

Mrs. Salvati said storm water and sewers are definitely a concern and both need to be addressed. The Town Board requires a letter from the applicant demonstrating that this is part of the 1,000 sewer taps. The Planning Board would like clarification on the number of taps assigned to this project. Wetlands, Open Space, and potential impacts to the Gott Creek corridor need to be looked at. Subdivision regulations require 12% Open Space dedication, this needs to be addressed.

Mr. Hopkins said he is aware of what the Planning Board is asking from the applicant.

Matthew Giansante, of 5755 Thompson Road, asked if there will be access off Thompson Road with this development. Mrs. Salvati said no, there will not be an access off Thompson Road. Mr. Giansante said the flooding has gotten worse at the corner of Thompson Road and Thompson Woods.

Mrs. Salvati said a full EAF is required of the applicant before the project can move forward.

ACTION:

Motion by Paul Shear, seconded by Robert Sackett, to **table** the application and require a Part I EAF be prepared for this Unlisted Action as determined by the Planning Board. The SEQRA review will undertake coordinated review and proceed to a determination without the requirement of a supplement

to the FEIS for the Clarence Hollow Pollution Abatement Project. Sewer capacity will need to be determined and reviewed in coordination with the Clarence Hollow Pollution Abatement Project.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Item 4

Gypsum Creek Industrial Business Park
Industrial Business Park

Requests Preliminary Review of Proposed Amendments to a previously approved Industrial Business Park.

DISCUSSION:

Jim Callahan provided the background on the project. It is existing vacant land located on the north side of Roll Road, east of Harris Hill Road. The applicant received a Negative Declaration and Development Plan approval for a public road industrial park. The applicant is proposing to amend the previously approved project to include private roads and altering the layout of the previous approval.

Dominic Piestrak is present. Mr. Piestrak explained that Buffalo Filter is no longer looking to purchase the property, as was the original plan. A private road is the better choice because the road is not going to lead anywhere. The road meets the regulations with regards to the setback from the intersection. Mr. Piestrak knows that he has to talk to the DEC regarding crossing a stream.

Mrs. Salvati asked if the road can be moved to the east to be aligned with the eastern property line. Mr. Piestrak would like to talk to the DEC and the Army Corp of Engineers before looking at moving the road. Mrs. Salvati said a Full Environment Impact Statement is required. The EIS cannot be carried over from three years ago because the project has been changed. Mr. Van Nest said the applicant has taken many steps to avoid environmental impacts when the project was previously before the Board; the Planning Board needs to be cognoscente of the building and the development of the property. Mr. Van Nest would be comfortable with the project if involved agencies approved the second stream crossing; this gives the applicant the ability to maximize the frontage.

Mr. Sackett asked the applicant what the access would be for lot 11. Mr. Piestrak said the access would be off Roll Road. Mr. Sackett said if the road is straightened it may eliminate the need for another curb cut on Roll Road.

Mr. Shear agreed with Mr. Van Nest and although it would require another curb cut for lot 11, it would be a question of where the curb cut was and how close it would be to the private drive.

Mrs. Salvati would like to see what the involved agencies have to say about the project.

A wetlands delineation has been done on this project.

ACTION:

Motion by George Van Nest, seconded by Paul Shear, to **table** the request and require that a Part I EAF be prepared. A coordinated review among previously identified involved agencies will commence on the proposed amendments as presented.

ON THE QUESTION:

Mr. Van Nest said there are substantial changes that have been made in terms of the roadway design and the crossing of the creek that need to be looked at, the Planning Board will try to make an expeditious decision to move the project forward.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Meeting adjourned at 8:45 p.m.

Carolyn Delgato
Senior Clerk Typist