

Clarence Planning Board Minutes  
Wednesday, April 5, 2006

Work Session (6:30 PM)

- Roll Call
- Minutes
- Sign review
- Update on pending items
- Committee reports
- Zoning reports
- Miscellaneous
- Agenda Items

Agenda Items (7:30 PM)

Patricia Powers, Chairperson, called the meeting to order at 7:30 PM. Councilman Scott Bylewski led the pledge to the flag.

Planning Board Members Present:

Patricia Powers  
George Van Nest  
Phil Sgamma

Wendy Salvati  
Jeffrey Grenzebach  
Tim Pazda

Planning Board Members Absent:

Gerald Drinkard

Richard Bigler

Other Town Officials Present:

Councilman Scott Bylewski  
James Callahan, Director of Community Development  
James Hartz, Asst. Director of Community Development  
David Donohue, Town Attorney

Other Interested Parties Present:

Matt Balling, MRC Chairman  
Ruth Haas  
Steven P. Fridsma  
Mark Nigro  
Alan Weitzsacker  
Bob Acquard  
Jim Blum  
Steve Frey  
Frank Kennedy  
Leanne Johnston  
Alan Randaccio  
Rich Worling

Norman Castine  
Carl Skompinski  
Karl Eastlack  
Laurie Eikemeyer  
Mike Ziembiec  
Ernie Cavagnaro  
Donald A. Hess  
Al Schultz  
Sean Hopkins  
Elliot Lasky  
Peter Gorton

Motion by Patricia Powers, seconded by Jeffrey Grenzebach, to approve the minutes of the meeting held on March 1, 2006, as written.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Jeff Grenzebach	AYE
Phil Sgamma	ABSTAIN	Tim Pazda	AYE

MOTION CARRIED.

<b>Item 1</b> Harris Hill Commons/Windsor Ridge Partners Residential Single-Family	Requests Preliminary Review of an Open Space Design Subdivision proposal.
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**DISCUSSION:**

Jim Callahan provides the background on the project. The property is located on the west side of Harris Hill Road between Sheridan Drive and Greiner Road. It consists of approximately eighty-one (81) acres and is zoned Residential Single-Family. The Master Plan identifies the Sheridan Drive frontage as Restricted Business and the remainder of the property as Residential Single-Family. The applicant is introducing a Single-Family Residential project on the residentially zoned portion of the property which was introduced to the Town Board on February 27, 2006 and was referred to the Planning Board for review. This represents the introduction of the proposed project to the full Planning Board.

Sean Hopkins, of Hopkins, Garas & Sorgi PLLC, addresses the Planning Board on behalf of the project sponsor. Leanne Johnston, project engineer from Greenman-Pedersen, Inc. is present. Elliot Lasky and Alan Randaccio, both on behalf of the project sponsor, are also present.

Mr. Hopkins is seeking a favorable recommendation to the Town Board on a proposed residential subdivision for a sixty-three (63) acre site. Many different proposals have been submitted to the Town for this site. This plan is the least intensive development that has been proposed. It is an Open Space Design, therefore, Mr. Hopkins refers to The Zoning Code section 4.0 Open Space Design Development Overlay. In accordance with code the applicant needs to calculate the number of lots allowed at the site. The number of lots can be converted into an Open Space Design or a Clustered Layout. This allows for a minimum of fifty percent (50%) of the project site to be preserved as Open Space.

The lots shown on the current plan are one-hundred twenty-five feet (125') in width and one-hundred sixty feet (160') of frontage. There are eighty-nine (89) lots shown. Mr. Hopkins said that this plan would be expressly permitted by the Town's existing zoning classification. The eighty-nine (89) lots were converted to an Open Space Design and the plan is now showing eighty-seven (87) lots. There are forty-eight (48) patio home lots, located on private roadways; there are no cul-de-sacs. The traffic will move slowly and it will be easy to access the main roadway, which will be publicly owned. The plan also shows thirty-nine (39) traditional size lots. These lots closely resemble the old residential "B" zoning classification, with one-hundred foot (100') minimum frontage except on the curves.

The plan shows a roadway connecting directly opposite to Shardale Drive; this will provide means of access on to Harris Hill Road. The plan also shows a connection to Glenwood Drive, this would provide access to Sheridan Drive. There are permanent open space buffers along Harris Hill Road, the plan shows approximately two-hundred feet (200') for the patio homes and four-hundred (400') for the traditional neighborhood lots. As motorists pass down Harris Hill Road, hopefully, they will not notice the project is there.

The fifty percent (50%) open space requirement has been met. A deed restriction will be provided in order to protect this open space. This project will be subject to the State Environmental Quality Review Act.

The tax map does not line up with what the applicant is showing. The overall acreage is approximately eighty-two (82) acres. In terms of the development, the acreage is sixty-three (63) acres. The property with frontage along Sheridan Drive, zoned for restricted commercial use, and the small parcel along the corner of Harris Hill and Greiner Roads have been conveyed to a separate entity. There are no plans for development of those parcels at this time. This may raise questions regarding segmentation. Mr. Hopkins explains that there are several reasons why this would not constitute impermissible segmentation pursuant to the SEQR regulations. The first reason is the difference in ownership and the second reason is there are no plans for the remaining acreage.

Jeffrey Grenzebach asks Mr. Hopkins to clarify the proposed private and public roads. The courtyard roadways for the four (4) patio home clusters will be private roads, the remainder of the proposed roads will be public. The plan is not far enough along to discuss gated private roadways. Mr. Grenzebach asks how the Eastern Hills Wesleyan Church will tie into this project. Elliot Lasky confirms that the current roadway was built to Town standards. One of the obligations pursuant to the agreement between Windsor Ridge Partners and the adjacent church is that a roadway connection will be provided. Mr. Hopkins is not sure where that connection will be.

Timothy Pazda voices his concern regarding the segmentation issue. The parcel is still attached and there is no legal documentation to indicate it is owned by a separate entity. Mr. Hopkins will provide proof of ownership.

Mr. Hopkins explained that there are about eight (8) factors to consider in the SEQR regulations in order to determine segmentation. One of the factors is the development of the remaining acreage dependent on the development of this acreage. Clearly this is not the case, both of the lots have adequate frontage. The applicant needs to obtain minor subdivision approval.

Wendy Salvati is concerned with the lot to the north, it is zoned Single Family. Ms. Salvati questions why it is being broke off and not made a portion of the proposed development. Mr. Hopkins explains that his applicant does not own this parcel therefore he can not speak to the plan for that area. Ms. Salvati thinks it could have been planned better if this parcel was made part of the site; it may be developed in the future and could be out of character with the rest of the site. Ms. Salvati wonders what will happen if the Town chose not to allow the subdivision of this parcel. Mr. Hopkins is not sure what the basis of that decision would be.

George Van Nest completely reserves judgment as to whether or not segmentation exists. He is concerned with both the residential and the commercial portions of the site.

Timothy Pazda voices his concern regarding the road that was planned to go straight through; it appears that extending the road is no longer part of the plan. There is traffic now being directed into a neighborhood that was never part of the plan. Wendy Salvati suggests putting the traffic circle back into the plan; a traffic circle was on the original plan. Mr. Hopkins advises the project does not have the density to justify a traffic circle. He feels it makes sense to connect to a stub street.

This project is not in Sewer District Number Five (5), therefore, the applicant would have to go out of district or the County would have to extend the sewer district to include the project site. Mr. Hopkins thinks this is the County's prerogative, however, Ms. Salvati and Mr. Sgamma both agree that the Town of Clarence has "home rule" rights.

Carl Skompinski, of 8294 Hunters Cove, voices his concern with the sewer hook-up. He is concerned with the additional run-off from the proposed homes, in the past Mr. Skompinski has had water within ten feet (10') of his home after a rain storm. He is also concerned with the additional traffic that the project will create on Harris Hill Road. Mr. Skompinski questions if the school's infrastructure can support the additional students that a subdivision will generate.

Peter Gorton, of 4610 Hedgewood Drive, does not think the Master Plan went through formal public comment because some of the comments made on the Master Plan had to do with this parcel. Mr. Gorton indicates that some of the information in the Master Plan was not agreed to by the residents of the area. He believes the "parceling up" of this site is the developer's way of getting around segmentation, this should not be allowed. Mr. Gorton states this project requires a Positive Declaration. Traffic and Sewers need to be considered. Mr. Gorton does not think development should be to the profit of the developer and to the non-profit of the existing residents. He does not think sewer capacity should go to future residents; it should go to existing residents. There are also noise issues.

Frank Kennedy, of 4540 Gentwood Drive, is concerned about the additional traffic that will be generated on Harris Hill Road if this project goes forward. He would like to see a traffic study.

Mr. Gorton believes the Eastern Hills Corridor will exacerbate the problem. A real study needs to be done.

Henry Beckert, of Keller Road is also concerned with the traffic that will be generated from this project.

Sean Hopkins states that once a consensus with respect to whether the project should be an Open Space Design or a Traditional Subdivision and what the allowable density will be, then the environmental impacts will be addressed. The project will comply with the Town's drainage requirements.

Patricia Powers explains that the Planning Board needs time to verify the submitted calculations regarding density. The Planning Board is requesting a Concept Plan Checklist be submitted prior to the next meeting with the applicant, this per the Subdivision Law Article III (4)(B)(1)(d). Eventually, the project will be referred back to the Town Board for their input on the design and the sewer facilities. Patricia Powers refers to Article III, paragraph six (6); Public Facilities Special District Subdivision Law requires the formation of a sewer district prior to subdivision approval. The applicant would come back to the Planning Board to be referred to the Municipal Review Committee, Traffic Safety and Fire Advisory Boards.

Phil Sgamma refers to the lots that are being excluded and wonders how deep the lots are. Sean Hopkins will provide this information along with the dimensions of the buffer area along Harris Hill Road.

**ACTION:**

Motion by Jeffrey Grenzebach, seconded by Wendy Salvati, to TABLE Agenda Item 1 to allow the Planning Board time to review the density calculations and allow the applicant time to submit a Concept Plan Checklist.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Jeff Grenzebach	AYE
Phil Sgamma	AYE	Tim Pazda	AYE

ALL AYES. MOTION CARRIED.

**Item 2**

Eastern Hills Wesleyan Church  
Residential Single-Family

Requests Concept Plan Approval for an addition to the existing church facility at 8445 Greiner Road.

**DISCUSSION:**

Jim Callahan provides the history on the project. It is located on the south side of Greiner Road, west of Harris Hill Rd. It consists of approximately thirty-four (34) acres and is zoned Residential Single-Family. The Master Plan identifies the area in a Residential Single-Family classification. The project was introduced to the Town Board on February 22, 2006 and referred to the Planning Board. It was reviewed by the Planning Board on March 15, 2006. Phase I of the church facility was approved on April 12, 2000. A Negative Declaration under SEQR on the full build out was issued by the Town Board on October 27, 1999. Based on Planning Board comments the applicant has amended the site plan and added some additional landscape buffering. The applicant is seeking Concept Approval and recommendation to the Town Board to pursue a Special Exception Use Permit.

Steve Fridsma, architect and project leader with Progressive Architecture and Engineering, is present. Mark Nigro and Karl Eastlack, both from Eastern Hills Wesleyan Church are also present.

Mr. Fridsma explains that the overview of the project is about 27,500 square feet addition with an 8,000 square foot basement. The addition will be fully sprinklered and is fully separated from the existing building by a two (2) hour fire wall. The addition does not add to worship seating; it is mostly a facility to educate the children with one meeting space and one hospitality space. The addition is composed of the same building materials as the existing building. This proposed addition is smaller than what had been described previously in Phase II. The ring road is in approximately the same location as the original plan. Parking is virtually unaffected by the addition. There are seven-hundred and sixty-nine (769) existing parking spaces, according to the Zoning Code the minimum required is five-hundred and sixty (560) spaces. Twenty (20) parking spaces will be deleted and eleven (11) will be added with this addition. There will be three light poles around the ring road, all designed with a sharp cut-off so that the light only illuminates the ring road.

Mr. Fridsma explains that the existing building drains due west. The storm water from more than half of the building will be routed underground into a wooded area; the wooded area is protected from the residents by a berm. A smaller portion of the rough drainage will be routed underground to the swale that heads north into the ditches along Greiner Road.

The original landscape plan for the addition was for eleven (11) new Balsam Fir and White Spruce trees. The revision shows forty-seven (47) new trees. The distance between the ring road and the setback is fifty-five feet (55'); the distance to the nearest home is one-hundred and sixty-five feet (165'). The distance from the closest part of the building to the nearest home is two-hundred and ninety feet (290'). Along the western edge of the parking lot is available space to plant trees in the memory of loved ones.

Wendy Salvati asks if the swale for the drainage has been eliminated. Mr. Fridsma answers, "No." Ms. Salvati is concerned with the trees that will be planted in the swale area; they will need to be very tolerant of water. Mr. Fridsma indicates that the landscape planner was aware of the situation and chose trees accordingly.

Timothy Pazda asks where the water will go once it is drained to the left of the addition. Mr. Fridsma indicates there is a controlled outlet to a structure that is directly opposite the first stub road, he believes this structure was designed, for Phase I and Phase II, in order to obtain the Negative Declaration in 1999.

Jeffrey Grenzebach questions the traffic design and suggests an easy flow. Mr. Fridsma explains that the ring road is currently one way and will continue to function this way.

Wendy Salvati states that when this project moves forward the Town Engineering Department needs to look at the drainage.

Pete Gorton, of 4610 Hedgewood Drive, suggests the streets be labeled on the diagrams that are on display at Planning Board meetings.

Mr. Gorton asks where, in Clarence, are the mines are located? The Town has maps that show the location of the mines. Mr. Skompinski thinks they are north of Greiner Road. Mr. Gorton thinks the mines need to be considered when making decisions on this project. Mr. Gorton believes the environmental issues need to be understood prior to approval of any project. The Town needs to start looking at cumulative effects even before approving pre-plans. He would like an explanation on what "underground" drainage means. He would also like the Town to consider a moratorium and a consideration of issues way before applicants get approval for anything.

Carl Skompinski, of 8294 Hunters Cove, voices his concern regarding the water that may go into the public park. He asks if the water that is drained into the wooded area will be standing water; he does not want to see a mosquito breeding ground. Mr. Skompinski asks if the updated plans for this project are on the Clarence Website, he thinks it would be a good idea for all projects to be updated on the website. Jim Callahan explains that particular projects are not on the Town's website, however, it may be on the project sponsor's website.

George Van Nest explains that project information is available in the Planning and Zoning office and is a matter of public record. Mr. Skompinski adds that it takes time to leave work in the

middle of the day to obtain the information; he thinks it would benefit the community if the information can be obtained in the comfort of one's home and on one's own time.

Phil Sgamma asks Mr. Skompinski if it was sewage that built up in his backyard on days of heavy rain. Mr. Skompinski does not know if it was sewage. Behind his property is one of the main sewer trunks, there are at least three manhole tops in his backyard. On heavy rain days the water bubbles up through the manhole covers.

Pete Gorton states that there is a road that leaves the church and goes to Harris Hill Road. In his opinion, there is a potential traffic problem here. Wetlands and drainage are also concerns of Mr. Gorton; he hopes there will be no further mitigation with respect to the wetlands.

Mr. Fridsma addresses the concerns of the neighbors. There is no further mitigation of the wetlands to be done, it was completed in 1999. As far as the traffic, the addition does not add any worship capacity to the church; the addition provides the children with more room. Mr. Fridsma explains the roof drainage; the drainage system consists of multiple six inch (6') roof conductors that go underground to a daylight rip-rap drain that will go into an area that is protected from the neighborhood by the existing berm. There has never been a problem with water going into the park. This drainage system is for the southern half of the new addition.

Phil Sgamma questions the schooling at the church. Mark Nigro explains that the schooling is during weekend services and some evenings. There is a day school for young children that takes place at their other office.

**ACTION:**

Motion by Jeffrey Grenzebach, seconded by Timothy Pazda, to RECOMMEND Concept Approval with the following conditions:

- A Special Exception Use Permit will be required because the expansion exceeds ten-thousand (10,000) square feet.
- An approved Landscape Plan is required prior to being placed on the Town Board agenda.
- The Town Engineer should review the drainage plan and system.
- The storage building is to be removed.
- The Open Space Fee is to be waived.
- Phase II(B) will be reviewed at the appropriate time by the Town Board with possible referral to the Planning Board.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Jeff Grenzebach	AYE
Phil Sgamma	AYE	Tim Pazda	AYE

ALL AYES. MOTION CARRIED.

**Item 3**

Frizlen Assoc.  
Agricultural Rural-Residential

Requests Concept Plan Approval for construction of a 14,000 square foot office building at 9435 Main Street.

**DISCUSSION:**

Jim Callahan provides the history on the project. The property is located on the south side of Main Street, west of Goodrich Road. It consists of approximately twenty-one (21) acres, zoned Commercial along the frontage. The Master Plan identifies the area in a Commercial classification along the frontage. The project was re-introduced to the Town Board without a residential component on March 8, 2006 and was referred to the Planning Board. The applicant is seeking to continue the review process on the commercial portion of the property.

Fred LoFaso, of Sienna Realty, speaks to the Planning Board. Mr. LoFaso advises he is proposing a three (3) story, twenty-one thousand (21,000) square foot building. This plan was e-mailed to the Planning and Zoning Office this afternoon, April 5, 2006.

**ACTION:**

Motion by George Van Nest, seconded by Timothy Pazda, to TABLE Agenda Item 3, pending further review of the recently submitted plan.

**ON THE QUESTION:**

Councilman Scott Bylewski asks what the proposed height of the three (3) story building is. The proposed height of the building is forty-two feet (42'); it appears that this new plan has not yet been submitted to the Town Board. David Donohue thinks this should be referred back to the Town Board since it is a completely different project, the Town Board members will want to address the elevation.

George Van Nest discusses the possible actions, the project can be referred to the Town Board or it can be denied as presented. Jim Callahan adds that the Planning Board is not in a position to deny the project at this point.

Phil Sgamma asks if the height of the building exceeds the requirements that the Planning Board can approve. The maximum height allowed is forty-five feet (45'); the proposed building height is forty-two feet (42'). Phil Sgamma questions why the project needs to be referred back to the Town Board since the height is not exceeding any parameters of the commercial zoning. Timothy Pazda adds the Town Board has architectural review.

**ACTION:**

Motion by George Van Nest, seconded by Timothy Pazda, to RESCIND the previous action on Agenda Item 3.

**ACTION:**

Motion by Patricia Powers, seconded by Wendy Salvati, to REFER Agenda Item 3, on advice of Council, back to the Town Board. The Planning Board was prepared to work on a different plan

than what was being presented by the applicant this evening. The Town Board should have an opportunity to review the revised plan.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Jeff Grenzebach	AYE
Phil Sgamma	AYE	Tim Pazda	AYE

ALL AYES. MOTION CARRIED.

<b>Item 4</b> Joseph Nemmer Agricultural Rural-Residential	Requests Concept Plan Approval for a One-Lot Open Development Area at 9330 Lapp Road.
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**DISCUSSION:**

Jim Callahan provides the history of the project. It is located on the north side of Lapp Road; the parent parcel consists of approximately 26.7 acres. It is zoned Agricultural Rural-Residential. The Master Plan identifies the area in an Agricultural Rural classification. The applicant is proposing a property split for a one-lot Open Development area.

Joe Nemmer, applicant, advises this area will be for his single-family residence. His in-laws own the property. He is approaching it as an Open Development area because of the frontage requirements, he is asking for two-hundred feet (200') frontage.

The map that is on display shows the parent parcel, the parcel that Mr. Nemmer is proposing is in the south east corner of the parent parcel. There is a Town ditch that runs through the site. The driveway would come in off Lapp Rd. This property has not been previously subdivided.

Wendy Salvati indicates that there is a plan in the file dated December 15, 2005 that shows a proposed minor subdivision. The minor subdivision was approved by the Town Board, however, no action was taken on the approval; the applicant came back with the modified plan that is in front of the Planning Board this evening. Timothy Pazda asks why the applicant changed the plan. Mr. Nemmer states that they thought it would be more appropriate for their effort to take on the diminished frontage. If he took one-hundred and fifty feet (150') for his driveway, the remaining frontage would not provide for a viable frontage lot. David Donohue asks if he plans to turn this parcel into three (3) lots. Mr. Nemmer said there are no plans to split the parcel further. Wendy Salvati states that Mr. Nemmer could continue with the minor subdivision plan and at a later date come back for approval of an Open Development Area for the remaining parcel. Through conversations between Mr. Nemmer and his family members the consensus was to leave the property to the north of the proposed property line as part of the parent parcel.

Jim Callahan points out that, if the Open Development plan proceeds, the remaining lot will be an acceptable building lot for one house, however, there will probably be a variance required because the house would be setback and there is no guarantee that the variance would be granted. There may be a variance no matter what because of the variation in frontages that exist in that area and a house will be built behind others.

**ACTION:**

Motion by Wendy Salvati, seconded by Timothy Pazda, to RECOMMEND Concept Plan Approval for a one (1) lot Open Development Area at 9330 Lapp Road.

**ON THE QUESTION:**

Patricia Powers asks if a second lot would require a variance or does this particular lot require a variance. Jim Callahan clarifies: the Open Development would not require a variance; it requires the Town Board approval. The remaining lot will most likely require a variance unless a setback is established on the large lot adjoining the existing ones.

Councilman Bylewski asks if the acreage is in existence for this to become a two (2) lot Open Development Area. Would there be a necessity for a variance? Wendy Salvati advises two (2) houses are a possibility in this area.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Jeff Grenzebach	AYE
Phil Sgamma	AYE	Tim Pazda	AYE

ALL AYES. MOTION CARRIED.

**Item 5**

Benderson Development  
Major Arterial

Requests a Recommendation for a building permit for an 8,150 square foot addition to the Eastgate Plaza, 5033 Transit Road.

**DISCUSSION:**

Jim Callahan provides the history on the project. The property is located on the east side of Transit Road between Sheridan Drive and Greiner Road. It consists of approximately seventy (70) acres and is zoned Major Arterial and houses the existing Eastgate Plaza. The Master Plan identifies the area as Major Arterial classification. The applicant is seeking a building permit to allow for the full build-out of the existing plaza. The applicant was tabled last year and asked to look at traffic mitigations for the project. The applicant is seeking a recommendation to move the project to Town Board for final approval.

Jeff Palumbo, of Renaldo and Palumbo, is present and is representing Benderson Development. Mr. Palumbo states that the Eastgate Plaza development was approved a number of years ago and an Environmental Impact Statement was prepared at that time. It covered a build-out of approximately 540,000 square feet of retail space. What has been developed, to date, measures approximately 492,000 square feet. The proposal is for a connection that is approximately 8100 square feet. This is the final “piece of the puzzle” for the Eastgate Plaza.

Mr. Palumbo and the applicant recognize the concerns of the existing traffic on Transit Road. He also points out that the traffic study that was previously submitted detailed the anticipated full build-out and the trip generation for the approximate 8100 square feet proposal. The study indicates there would be an increase of nine (9) vehicles in the peak hour. Mr. Palumbo adds that in no way could this have a significant impact on the environment thereby requiring a further review.

Mr. Palumbo has attempted to improve the situation with respect to the traffic light and the ingress and egress to the plaza. He contacted the Department of Transportation (DOT) in the hopes of having the middle lane, as you exit the plaza, turn into a left turn and straight lane. The response from the DOT was that this would cause further problems and they are not interested in pursuing the issue at this time.

Mr. Palumbo discusses the traffic access at the site and refers to Greiner Road and Sheridan Drive access. The access to Greiner Road was rejected by the Town Board and the Sheridan Drive access would have to cross property that is not owned by the applicant. There is still the underlying problem that Benderson no longer owns the Eastgate Plaza, DDR owns the Eastgate Plaza.

Timothy Pazda states there are still concerns regarding the internal traffic flows. The Planning Board never intended the DOT to review the intersection being referred to. Mr. Palumbo disagrees. It appears that Mr. Palumbo was referring to one intersection, while the Planning Board members were referring to another. George Van Nest points out that the Planning Board was referring to the exit that had no light.

George Van Nest adds that the Planning Board strongly suggested DDR and Benderson get together and propose a traffic study to assess the internal traffic circulation and develop ideas to improve the flow, separate and apart from any exit to Transit Road. He is not aware of any study that has been completed and forwarded to the Planning Board.

Mr. Palumbo said, "This has all been done before." The Environmental Impact Statement on traffic was done years ago and it was done on the full build-out of a 540,000 square foot building. They are still within the parameters. So if the Planning Board asks for an amendment to the study, one must conclude that an additional nine (9) cars in the peak hour has a significant impact on the environment. He adds there is no indication that there is an internal traffic problem.

George Van Nest clarifies: DDR and Benderson have either tried to confer, unable to confer or have concluded that they are not going to do anything to further consider addressing the internal traffic. Mr. Palumbo advises the Planning Board that he has tried to meet with DDR, but to no avail; DDR is not willing to meet.

Mr. Palumbo asks the Planning Board to allow the two (2) walls and the roof to go up at the site and then condition the Certificate of Occupancy on DDR taking care of the further information that the Planning Board is requesting.

George Van Nest, liaison to the Traffic Safety Advisory, provides a few comments made at the Traffic Safety meeting held on April 3, 2006, regarding the project. The Traffic Safety Advisory strongly recommended entrances and exits from Sheridan Drive or Greiner Road. In addition, they considered the possibility of removing the barrier to allow additional traffic flow; this will reduce the stacking effect that currently exists. The Traffic Safety Advisory strongly recommended an additional traffic study, to improve the circulation, be performed. The parking area is not functioning to the appropriate standards and should be improved. Mr. Palumbo asks what "standards" the Traffic Safety Advisory is referring to. George Van Nest replies, "Congestion, difficulty entering and exiting Transit Road." Mr. Palumbo states those are not standards, they are opinions of the Traffic Safety Advisory. When traffic issues are measured, they are measured by level of service at an intersection. If cars are backed up, Mr. Palumbo states it is not necessarily a problem within the plaza, the owners of the plaza do not feel there is a traffic problem.

Timothy Pazda and Wendy Salvati state there have been changes made to the site since the Traffic Study was done.

Phil Sgamma explains one option on the project. This option would be to move it forward with the condition of possible egress through Sheridan Drive or Greiner Road as a future request of DDR. This would be a condition of a Certificate of Occupancy.

David Donohue asks if a Certificate of Occupancy can be denied based on a traffic request. Jim Callahan thinks that if the Town Board approval is conditioned there would be some ability to deny.

Timothy Pazda explains the other option would be to deny this request and perhaps this would put pressure on DDR to get involved.

Wendy Salvati voices her concern if the situation arises where the two (2) walls and the roof are constructed and DDR doesn't do anything with that portion of the plaza; the conditions will never be addressed.

George Van Nest voices his concern regarding the numerous times this project has been before the Planning Board and the track record of the responsiveness of the developer to address the traffic issues. He suggests the possibility of Mr. Palumbo informing DDR that the Planning Board is inclined to deny the proposal until further analysis is provided.

Jim Rumsey, from Benderson Development, indicates that DDR is ready to move forward on this project; however they don't feel they need to be involved in the proposal that is in front of the Planning Board.

George Van Nest indicates that this should be a business issue to DDR and they should want to resolve the traffic problem. The message needs to be clearly conveyed to DDR that the traffic along Transit Road is a major concern of the people of the Town of Clarence. Mr. Palumbo states that DDR has no obligation to correct the problems on Transit Road. If the internal circulation is so bad, why do the Clarence residents go there? George Van Nest and Wendy Salvati state that many of them don't.

Jim Rumsey suggests building the vacant shell and when DDR comes in for a Certificate of Occupancy, this is the time to set up a meeting with them to discuss the traffic issues. Wendy Salvati has a concern with the time frame, Jim Callahan advises a "Sunset Clause" can be put on the project. Wendy Salvati questions the "guarantee" of the project being completed by DDR.

Patricia Powers refers to the past minutes in the file and advises there are numerous requests for DDR to come and speak to the Planning Board or Benderson Development and they have been totally unresponsive.

**ACTION:**

Motion by Timothy Pazda, seconded by Jeffrey Grenzebach, to recommend DENIAL of Agenda Item 5 based on the fact that the Planning Board has not received answers to requests they have made.

**ON THE QUESTION:**

Phil Sgamma regrettably agrees with the motion. He feels the applicant is being forced into a position he doesn't want; the Planning Board may not want this position either. Wendy Salvati agrees with Phil Sgamma and the previous comments made by George Van Nest, as well.

Patricia Powers	NAY	Wendy Salvati	AYE
George Van Nest	AYE	Jeff Grenzebach	AYE
Phil Sgamma	NAY	Tim Pazda	AYE

MOTION CARRIED.

**Item 6**

Rubino Bros.  
Residential Single-Family

Requests Concept Plan Review and Recommendation to the Town Board for a proposed subdivision at 8850 Clarence Center Road.

**DISCUSSION:**

Jim Callahan provides the history on the project. The property is located on the south west corner of Clarence Center Road and Shimerville Road. It consists of approximately forty-five (45) acres and is zoned Residential Single-Family. The applicant was referred from the Town Board on December 21, 2005. The initial Planning Board review resulted in tabling. The Executive Planning Board has reviewed alternative designs; the alternatives are being presented for full Planning Board recommendation.

Jeff Palumbo, of Renaldo and Palumbo, is representing the Rubino Bros. The Incentive Lot plan is what the applicant prefers and is before the Planning Board this evening. The plan has twenty-five percent (25%) greenspace and thirty-six (36) lots are proposed.

Patricia Powers thanks Mr. Palumbo for the submission of the requested documents regarding the project. Mr. Palumbo indicates there is no final sign-off on the delineation. The plan is for a public road and sewers.

Timothy Pazda is asking for a legal answer regarding the two-hundred foot (200') setback requirement from any existing public road Right-of-Way and first lot proposed within a new subdivision involving public road dedication. Mr. Pazda wonders if this applies.

David Donohue refers to Subdivision Law Article IV (B) (7) General Requirements and points out that the code is attempting to preserve the public view. Mr. Donohue thinks the Town Board has the right to require a two-hundred foot (200') setback. Mr. Palumbo thinks the plan follows the requirement because it "preserves the existing public view." There will be a deed restriction to preserve the buffer.

Patricia Powers reads the comments from the Assessor's Office. If the units are condominiums they need to be less than nine-hundred (900) square feet. Does the Town really want two drainage ponds and the land that runs northeast to south in the west side of the parcel? If it is to be another small park-like Fogelsonger on Greiner Road, the Assessor doubts the new owners of these houses will be pleased.

Mr. Palumbo advises there will be no condominiums built at this site. He will look at the detention pond situation and if one can be eliminated, it will be.

Phil Sgamma refers to the Subdivision Law Article III (6) (A) Adequate Public Facilities and Special Districts. Mr. Sgamma said even though the applicant has a letter stating they have sewer capacity, they are out of district. He suggests this issue be moved to the Town Board.

Patricia Powers reads from the above referenced Subdivision Law: Special districts must be in place prior to approval of any subdivision that will utilize such facilities. The Planning Board would need to find out what the Town Board's recommendation would be on the Incentive Design and the issue with the two-hundred foot (200') setback. David Donohue thinks that a variance can be requested regarding the two-hundred foot (200') setback.

Rich Worling owns property to the south and right of the proposed project and plans to build a house on his property. The discharge from the sand filter system on his property is supposed to drain across the property; it is a natural drain and will flow towards the Rubino Bros. property. There is no storm sewer along the road. The Health Department has been to the site and said there is a natural swale that leads to Clarence Center Road. Mr. Ribbeck owns a lot south of the proposed site and he retained a ten foot (10') strip of land to drain the septic system.

Mr. Worling also voices his concern regarding the tree line; he hopes it will be allowed to remain. Phil Sgamma thinks it would be an advantage to the Rubino Bros. to keep the tree line since there is a horse farm close by.

Patricia Powers refers to a letter sent by the Planning Board to the applicant, dated March 24, 2006. It states that the Town Board has the final discretionary authority to approve the ultimate design alternative and whether an open space design is desired. Based upon discussions with the Planning Board Executive Committee members, the preferred design alternative may be an incentive lot design. The full Planning Board will need to forward such a recommendation to the Town Board for their approval to continue the review process. In addition, the Town Board will need to identify and approve sewer capacity and out of district status to Erie County Sewer District #5 for the project.

#### **ACTION:**

Motion by Patricia Powers, seconded by Jeffrey Grenzebach, to REFER Agenda Item 6 to the Town Board for approval of a preferred design, which may indeed be the incentive design. The Town Board also needs to review Article III-Procedures, paragraph six (6)-Adequate Public Facilities and Special Districts of the Subdivision Law and the setback issue. When the Town Board has finished their review and it comes back to the Planning Board it will follow the normal procedure of being referred to TEQR, Traffic and Fire Advisory.

#### **ON THE QUESTION:**

Timothy Pazda clarifies the motion: the Planning Board is sending the project back to the Town Board for them to decide which design is preferable. The Town Board also needs to address the two-hundred foot (200') setback issue, as well as determining the sewer issue.

Jeff Palumbo wonders if the Town Board is going to ask what the recommendation is on the incentive design. Patricia Powers made a clarification in the motion which is reflected in the action

listed above; however, Mr. Palumbo’s question still remains. Mr. Palumbo states that the Planning Board is still not making a recommendation. Patricia Powers agrees, the Planning Board is not making a recommendation; it is a referral to the Town Board for their recommendation.

Councilman Scott Bylewski states that there will be various concerns from the Town Board members. In this situation, it has happened, on occasion, that the Town Board “kicks” the project back to the Planning Board without a recommendation. Mr. Palumbo further clarifies his question: when this project is in front of the Town Board will the members be looking for a recommendation from the Planning Board? Otherwise, why doesn’t this project go right to the Town Board instead of the Planning Board?

Timothy Pazda agrees and states that it seems this project was sent to the Planning Board looking for a recommendation on a design choice, however, the two remaining are for Town Board review. The three issues are tied together, therefore, one can not be voted on without considering the others. Mr. Palumbo suggests approving the design contingent on resolving the other issues.

Councilman Scott Bylewski adds another concern. As the plan goes through an environmental review, he may not be comfortable making a decision, as a Town Board member, without further input. If the alternative design is considered perhaps it should go to TEQR first, however there are two (2) other conditions that the Planning Board needs guidance on. The project is in Sewer District Six (6), however in order to hook up to the sewers the site needs to become an out of district customer of Sewer District Five (5). Mr. Palumbo has a letter to this effect.

Jeffrey Grenzebach suggests referring the incentive plan to the Town Board.

Joe Rubino explains that he has met a number of times with the Executive Planning Board Committee. He knew the two-hundred foot (200’) setback requirement would be an issue. He is confused as to what type of plan the Board wants and what the procedures are for this proposal. Wendy Salvati explains that this project is being referred back to the Town Board due to the two-hundred foot (200’) rule and the sewer issue. The Planning Board is discussing the design; this is a different issue than the setback and sewer issue.

The Town Board will view the Open Space Design, Frontage Lot Design and the Incentive Lot Design.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Jeff Grenzebach	AYE
Phil Sgamma	AYE	Tim Pazda	AYE

ALL AYES. MOTION CARRIED.

**Item 7**

Norm Castine  
Agricultural Rural-Residential

Requests Concept Plan Review for a proposed  
5-Lot Open Development Area at 7050 Goodrich  
Road.

**DISCUSSION:**

Jim Callahan provides the history on the project. The property is located on the west side of Goodrich Road, north of Martin Road. It consists of approximately 28.7 acres and is zoned

Agricultural Rural-Residential. The Master Plan identifies the area in an Agricultural classification. The applicant originally presented a plan for an Open Development with frontage lots in January 2005; the applicant then withdrew the Open Development Concept in November 2005. The applicant presented a public road subdivision for review in February 2006, the Planning Board tabled the application on March 1, 2006 identifying that they would not recommend a public road dedication, they asked the applicant to provide more detail. The applicant is seeking recommendation to the Town Board at this point.

Norm Castine is present. Patricia Powers refers to the plan that is on display and advises it is not the plan that the Board was to review this evening. A letter was sent to Mr. Castine on March 24, 2006 advising him that the Town of Clarence is not obligated to accept public roads for dedication and the Planning Board has identified that they will NOT recommend acceptance of a public road for this area. This limits the design alternatives to either frontage lots on the existing public road or an Open Development Area as previously submitted. Mr. Castine’s options for the April 5, 2006 Planning Board meeting were to present the original Open Development plan with five (5) acre lot sizes or present frontage lots along Goodrich Road in conformance with Zoning. In addition, the Planning Board will need to see how the project will relate to the Dresher lot in terms of driveway connections and frontage along Lapp Road. The letter requested Mr. Castine to forward a final design to the Planning and Zoning Office at his earliest convenience.

Mr. Castine has received this letter. The plan that is on display is Mr. Castine’s answer to the letter.

**ACTION:**

Motion by Patricia Powers, seconded by Wendy Salvati, to DENY Agenda Item 7.

**ON THE QUESTION:**

Mr. Castine asks if there is a law saying he can’t have a subdivision. Patricia Powers advises the Planning Board is not willing to recommend a public road because it serves no one but Mr. Castine, it does not serve the Town’s interest. There is no connectivity. Mr. Castine asks why he can’t have a public road. The Planning Board advised Mr. Castine’s representative that they would not recommend a public road four (4) weeks ago. Mr. Castine wants the Planning Board to send this proposal back to the Town Board and put in writing that a public road will not be recommended. Mr. Castine has the letter with this information in its content.

Mr. Castine originally applied for an Open Development and then turned it down because the Planning Board wanted a 100’ setback. Wendy Salvati said Mr. Castine agreed to the 100’ setback, Mr. Castine disagrees.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Jeff Grenzebach	AYE
Phil Sgamma	AYE	Tim Pazda	AYE

ALL AYES. MOTION CARRIED.

**Item 8**  
Properties Unlimited  
Residential Single-Family

Requests Approval for a minor subdivision at  
Thompson and Greiner Roads.

**DISCUSSION:**

Jim Callahan provides the history on the project. The property is located on the southwest corner of Thompson Road and Greiner Road. The parent property consists of approximately 4.77 acres with 41 acres to the rear. The Master Plan identifies the area in a Residential Single-Family classification. The applicant is seeking a minor subdivision to create three (3) residential building lots in conformance with Zoning. The split of the 4.77 acres occurred several years ago, therefore the frontage parcel is separate from the rear parcel.

Gary Jason, representing Properties Unlimited, indicates that originally the property was divided into four (4) lots. Mr. Jason changed the proposal to three (3) lots in order to consider the way the driveways would come out on to the streets.

Wendy Salvati voices her concern regarding the small parcel on Greiner Road. She asks were the house will be built in relation to the drainage area. Mr. Jason will work with the Town Engineer to move the drainage ditch. The setbacks will be in line with the surrounding setbacks. There will be septic fields.

Wendy Salvati wants to make sure the property is in accordance with the number of splits the County allows in a year. Jim Callahan explains that four (4) splits are allowed every three (3) years. This information needs to be obtained on the proposal.

Councilman Scott Bylewski states there are two (2) concerns from the Town Board. The first is to preserve as much of the vista along the intersection as possible. Perhaps a condition to that effect; having the house (on the corner of Greiner Road and Thompson Road) as far south on Thompson as possible. The second is the issue of segmentation and whether it is permissible or impermissible. Perhaps a recommendation for a Negative Declaration would be in order from the Planning Board to the Town Board. George Van Nest does not think the Planning Board can act on this point until the number of splits is determined. Wendy Salvati is concerned about segmentation as well and has asked for a survey of the entire parcel to help in the determination.

Timothy Pazda, being a member of a fire company that covers this district, adds that this is a very busy intersection for accidents. Most of the accidents occur in broad daylight.

Laurie Eikemeyer lives on the corner of Thomson Road and Greiner road, opposite the proposal site. Mrs. Eikemeyer and her husband would like the intersection evaluated for lighting, the street light that is at the corner is often out. The line of sight and the lighting are very important at this intersection.

Mr. Jason advises there are no plans for the interior piece of the lot.

Councilman Bylewski advises the segmentation is still an issue. This is a separate parcel, however, it is a continuous piece and the larger parcel is owned by Properties Unlimited as well, therefore, there is common ownership.

**ACTION:**

Motion by Phil Sgamma, seconded by Jeffrey Grenzebach, to request APPROVAL of Agenda Item 8. Since the property has been split off over five (5) or six (6) years, segmentation is a minor issue.

**ON THE QUESTION:**

George Van Nest indicates that the Planning Board needs the opportunity to review when and how the parcels were split off. The Planning Board also needs to review the information to determine the segmentation issue. Mr. Van Nest would like to move this project along; however, he feels the Planning Board does not have all the information they need.

**ACTION:**

Motion by Phil Sgamma, seconded by Jeffrey Grenzebach, to WITHDRAW the previous motion on Agenda Item 8.

**ACTION:**

Motion by George Van Nest, seconded by Wendy Salvati, to TABLE Agenda Item 8, pending further information. The dates of the parcel splits are required. The Planning Board needs to review the information on the question of segmentation.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Jeff Grenzebach	AYE
Phil Sgamma	AYE	Tim Pazda	AYE

ALL AYES. MOTION CARRIED.

Gary Jason said the Town Board directed this to happen, that was three (3) weeks ago. Patricia Powers advises Mr. Jason that the Planning Board tries to respond as quickly as possible to items sent by the Town Board, however, there were items that preceded Mr. Jason's.

Gene Jason, father of Gary Jason, advises the parcel was split at least eight (8) years ago. He indicates that Gary has been very sensitive to the view for the lot on the corner. He will do all he can to keep the house as far south as possible.

Meeting adjourned at 10:38 p.m.

Patricia Powers, Chairperson