

Town of Clarence  
Planning Board Minutes  
Wednesday April 7, 2010

**Work Session 6:30 pm**

Roll Call  
Update on Pending Items  
Zoning Reports  
Committee Reports  
Miscellaneous

**Agenda Items 7:30 pm**

**Item 1**

Master Plan 2015 Amendment

Segment B-Transit Road Corridor north of Roll Road.

**Item 2**

Master Plan 2015 Amendment

Increased Depth of Major Arterial Zone along Transit Road south of Roll Road.

**Item 3**

Master Plan 2015 Amendment

Planning Process.

Chairman Al Schultz called the meeting to order at 7:30 p.m.

Supervisor Scott Bylewski led the pledge to the flag.

Planning Board Members present:

Chairman Al Schultz  
Timothy Pazda  
Gregory Todaro

Vice-Chairperson Wendy Salvati  
Richard Bigler

Planning Board Members absent:

George Van Nest

Town Officials Present:

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

## Other Interested Parties Present:

Scott Parks  
 Robert Bigos  
 Khalid Mahran  
 Michael Biedny

Doug McCallum  
 Doug Olson  
 Joe Kleinmann

Chairman Schultz notes that the Planning Board is still a seven (7) member board. There have been five (5) appointments to the board this year plus one appointment for the alternate position.

Chairman Schultz explained that the Planning Board is a recommending body that may vote to refer agenda items to other committees such as the TEQR Committee, Fire Advisory and Traffic Safety for their study and comment. The Planning Board may vote to recommend an action to the Town Board with conditions. The Planning Board may also vote to table an agenda item pending further information. The Town Board is the governing body and as such will have the final vote on all items. The Planning Board meeting is conducted based on Robert's Rules of Order. The procedure for agenda items starts with Jim Callahan introducing and providing a brief history of each project. The applicant will then have the opportunity to speak on the project. The Planning Board members will then have an opportunity to ask questions. The public will be offered the opportunity to speak on the subject; all commentary will be addressed to the Planning Board and will be limited to three (3) minutes. The applicant will then have the opportunity to respond to the public comment. A motion will be called for with a roll call vote.

**Item 1**

Master Plan 2015 Amendment

Segment B-Transit Road Corridor north of Roll Road.

**DISCUSSION:**

Jim Callahan explained that every year there is a mechanism to keep Master Plan 2015 current. The Town Board holds the public hearing to obtain comments related to the Master Plan. The annual review of the Master Plan occurred on February 24, 2010; the Town Board received numerous comments which have been forwarded to the Planning Board for review, comment and recommendation. This meeting represents the introduction of those comments to the full Planning Board for the first time. Agenda Item #1 is the first comment received and identified the efforts of the Planning Board over the past several years (2008 and 2009) and recommended that the Town Board adopt the recommendations as forwarded by the Planning Board.

Chairman Schultz explained that the Planning Board and the Planning and Zoning Office did an assessment of every business in this segment and concluded that every business fits into the Commercial Zoning category. Thus, the Planning Board recommended this segment be downzoned to Commercial.

The Clarence First Group, at the annual Master Plan public hearing, suggested the Town Board downzone Segment B as recommended by the Planning Board. Clarence First is represented at this meeting however, there is no spokesperson present.

Joyce Archambeault, owner of R-Chambeault Salon and Day Spa at 5623 and 5631 Transit Road, can't imagine why Clarence First would want the downzoning; it's not proper. Since the last meeting she

wrote a letter and distributed it to the Clarence residents. The letter is on file. She spoke with 100's of Clarence residents, many of them did not know about the rezoning request and not one of them was in favor of the rezoning. It is the Board's responsibility to do what the people want. This section of Transit Road is zoned Major Arterial in the Master Plan and it should stay that way. She is asking the Board to do what the voters want. A few Board members should not make the decision on the property that she has paid for; this property is her retirement. She asked the Board to reconsider the downzoning of Segment B.

Chairman Schultz noted that seven (7) e-mails have recently been received. The Planning Board members have read the e-mails and copies are on file.

Khalid Mahran supports the recommendation to downsize Segment B. He said a big box store across from a school has serious health hazards and impacts the safety of the children.

Robert Bigos, of 5653 Kippen Drive, said the downzoning was well explained by the Planning Board and the Town Board members, indicating that it will not affect Ms. Archambeault's business nor will it affect any other business in the Commercial Zone. He strongly suggests the Planning Board keep the same recommendation they've made for the third straight year in a row.

Scott Parks, of 5668 Kippen Drive, said with all the reviews and studies by the Planning Board their recommendation is "spot on". He thinks the recommendation to downzone is consistent with the Master Plan and the community.

Doug McCallum, of 8087 Highland Farms Drive, agrees with what the Planning Board has passed to the Town Board for the past three (3) years. It's not about taxes; it's not going to affect property taxes in this area. He thanks the Board and asked that they pass the same recommendation without any changes back to the Town Board.

Jerry Rich owns property at 6449 Transit Road. His property is not affected by this rezoning recommendation because it is north of Segment B. He bought the property for future investment and now with this proposed change it will eventually affect his property and diminish his opportunities. There are not many restaurants on Transit Road and he was thinking of opening a chain restaurant in the future. He is sensitive to the residents but said options need to be kept open.

Pat Cipolla, of 10 Troy Del Way, Williamsville, said he originally presented the Wegman's project. He met with Jim Callahan and Wendy Salvati regarding the custard stand which was discussed as having wetlands and did not meet the zoning criteria of the existing Master Plan. Chairman Schultz reminded Mr. Cipolla that this agenda item is not about Wegman's. Mr. Cipolla went on to say that not all Clarence taxpayers are as wealthy as those in the immediate area. The Planning Board's decision is supposed to help the majority of the taxpayers. Mr. Cipolla said the Planning Board did not follow their rules and regulations in which it is stated that rezoning requests shall be referred to TEQR. He said the Planning Board cost the taxpayers 55 million dollars over the next 30 years.

Chairman Schultz explained that there is nothing that can be done in the Major Arterial Zone that cannot be done in the Commercial Zone. The main difference is a project will receive much more scrutiny. In the Commercial Zone parking is allowed in front of the building and closer to the street. Mr. Schultz said the rezoning will not change any land use in Segment B.

Ms. Archambeault asked why change the zoning if it is not going to change anything along Transit Road. There are limits on the size of the building, so this is a change. In Major Arterial a larger building is allowed. This will affect the value of her property. Chairman Schultz explained that in a Commercial area a 30,000 square foot building is allowed, anything larger requires special approval from the Town Board. In Major Arterial a 50,000 square foot building is allowed, anything larger requires special approval from the Town Board. The Major Arterial zone will require more careful scrutiny of parking, access and egress, and setbacks. The setback in Major Arterial is 135', in Commercial it is 80'. Every business that is currently in this Segment B works in the Commercial Zone. Any business can work in either zone. The downzoning will not change the value of Ms. Archambeault's property. Ms. Archambeault asked why change the zoning at all if it is not going to make that much of a difference. Ms. Salvati explained that all the businesses in this Segment fall within the Commercial Zone so it makes sense that this Segment is already built out as a Commercial District and should be zoned accordingly. Based on available land in this Segment it will continue to be built out as a Commercial District.

Ms. Salvati notes that this recommendation was reviewed by the Town Environmental Quality Review (TEQR) Committee two (2) years ago. It was reviewed and a Negative Declaration was issued. When the Planning Board made their second recommendation, because that recommendation did not change and had already been reviewed by the TEQR Committee, there was no need to refer it again.

#### **ACTION:**

Motion by Timothy Pazda, seconded by Wendy Salvati, that in light of the studies done by the various boards and previous information discussed (and on file) at the Planning Board level, **recommend** the Town Board rezone the segment of Transit Road between Clarence Center Road and Roll Road (Segment B) from Major Arterial to Commercial as previously recommended by the Planning Board.

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

Jim Callahan reiterates that this recommendation was sent to the TEQR Committee for review under the State Environmental Quality Review Act (SEQRA) and a Negative Declaration was issued by the Town Board.

Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

#### **MOTION CARRIED.**

#### **Item 2**

Master Plan 2015 Amendment

Increased Depth of Major Arterial Zone along Transit Road south of Roll Road.

#### **DISCUSSION:**

Jim Callahan explained the second comment that was received at the annual public hearing for Master Plan 2015. It is a request for the Town to consider extending the existing Major Arterial Zone along Transit Road south of Roll Road deeper to accommodate additional commercial development in that area. The request was forwarded from the West Herr Group who owns property along that segment.

Sean Hopkins, of Hopkins & Sorgi, PLLC, is representing the applicant. John Wabick, Vice President of West Herr, is present along with Jim Fittante of Silvestri Architects. Mr. Hopkins is requesting the Major Arterial classification for a portion of 5505 Transit Road be extended approximately 220' to the east. The extension would be 1.7 acres in size. The reason for the request is West Herr is interested in pursuing redevelopment opportunities for the site. The 220' area has already been disturbed. The parcel extends approximately 500' further to the east, it is zoned Residential Single-Family, the applicant is not proposing a change to this area, thus there will be a buffer of approximately 500' from the eastern most portion between the parking area and the residential subdivision. This includes a 45' greenbelt. Mr. Hopkins said the request is for additional parking. He has provided 10 copies of the Environmental Assessment Form Part I; this is an Unlisted Action. He asked that the project be referred to the TEQR Committee.

Chairman Schultz asked for an explanation on the proposed lighting for the project. Mr. Wabick said lighting is a sensitive issue. It will be downcast and sensitive to the neighbors. Berms will also be built. They are willing to do what they can to be environmentally friendly. They would like to develop what would otherwise be an abandoned piece of property. The building on the north of the property will be demolished. West Herr has spent approximately 1.5 million dollars cleaning up the frontage on Transit Road.

Gregory Todaro suggests properties at 5535 and 5555 Transit Road be zoned similarly to that of 5505 Transit Road. Wendy Salvati agrees.

#### **ACTION:**

Motion by Gregory Todaro, seconded by Richard Bigler, to **refer** agenda item #2 to the TEQR Committee for SEQRA review. This is the proposal to extend the Major Arterial Zone at 5505, 5535 and 5555 Transit Road by approximately 220' to the east.

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

The TEQR Committee will decide if coordinated review is needed.

Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

#### **MOTION CARRIED.**

#### **Item 3**

Master Plan 2015 Amendment

Planning Process.

#### **DISCUSSION:**

Jim Callahan explained that agenda item 3 is a request by the Town Board for the Planning Board to fully analyze the existing project review process to identify mechanisms for streamlining the review process and make any recommendations.

Chairman Schultz said it is appropriate to periodically look at the project review process as it is a lengthy process with many steps; he appreciates the Town Board asking the Planning Board to do this. Wendy Salvati agrees.

Wendy Salvati suggests using the Six Sigma Presentation prepared by Jim Callahan as a template for reviewing the process. Gregory Todaro agrees.

**ACTION:**

Motion by Richard Bigler, seconded by Gregory Todaro, to **table** the Town Board’s request to review the planning process.

**ON THE QUESTION:**

Jim Callahan will forward a copy of the Six Sigma Presentation to all the Planning Board Members. The Planning Board Members will discuss the planning process with the Town Board at the joint meeting to be held in June 2010. Mr. Callahan said reviewing the process fits in with the Town’s Six Sigma recommendations. The Planning and Zoning office has a Greenbelt and a Greenbelt candidate who is ready to take on this assignment and work with the Planning Board.

Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

**MOTION CARRIED.**

Meeting adjourned at 8:15 p.m.

Carolyn Delgato  
Senior Clerk Typist