

Town of Clarence  
Planning Board Minutes  
Wednesday April 16, 2008

**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**

Kelkco/Thomas Kelkenberg  
Industrial Business Park

Requests Recommendation on Development Plan  
Approval for an Industrial Business Park at 10060  
County Road.

**Item 2**

Master Plan Amendments  
Transit Road Corridor

Recommendation on Master Plan 2015  
Amendments.

1<sup>st</sup> Vice-Chairperson Wendy Salvati called the meeting to order at 7:30 p.m. Deputy Town Attorney David Donohue led the pledge to the flag.

Planning Board Members Present:

1<sup>st</sup> Vice Chairperson Wendy Salvati  
Jeffrey Grenzebach  
Richard Bigler  
Gregory Todaro

2<sup>nd</sup> Vice Chairman Timothy Pazda  
George Van Nest  
Albert Schultz

Planning Board Members Absent:

Chairman Gerald Drinkard

Other Town Officials Present:

Planner Brad Packard  
Deputy Town Attorney David Donohue

Other Interested Parties Present:

|                   |                      |
|-------------------|----------------------|
| Ron Schumacker    | Becky Schumacker     |
| Mike Arnold       | Scott Snyder         |
| Sue Freeman Russo | Marlene Grygorcewicz |
| Pauline Callan    | Bob Callan           |
| Cindy Navarro     | John Oldach          |
| Margaret Shelton  | Jim Shelton          |
| David Huck        |                      |

1<sup>st</sup> Vice-Chairperson Wendy Salvati explains that the Planning Board is a recommending body only. They may refer agenda items to other Town committees such as TEQR and Fire Advisory for further review. The Planning Board may also recommend an action to the Town Board with conditions; the Town Board is the governing body for every action.

**Item 1**

Kelco/Thomas Kelkenberg  
Industrial Business Park

Requests Recommendation on Development Plan  
Approval for an Industrial Business Park at 10060  
County Road.

**DISCUSSION:**

Brad Packard provides the history on the project. It is located on the north side of County Road, west of Strickler Road and consists of 3.6 acres with 225 feet of frontage on County Road. The project would involve the construction of three (3) new buildings. The project was referred to the Traffic Safety and Fire Advisory Committees on August 15, 2007. Coordinated review under SEQRA was initiated and a Negative Declaration was issued for this project. The project has received approval from the Town Engineering Department and the Landscape Review Committee. It is consistent with Master Plan 2015 and local land use regulations.

Douglas Klotzbach, of K2 Architecture in Clarence, is representing the applicant. Andy Kelkenberg, one of the owners, is also present.

Timothy Pazda points out that the applicant has met all the previous requests and conditions of the Board.

**ACTION:**

Motion by Timothy Pazda, seconded by Albert Schultz, to **recommend** Development Plan Approval for an Industrial Business Park at 10060 County Road.

|                    |     |                 |     |
|--------------------|-----|-----------------|-----|
| Gregory Todaro     | Aye | Albert Schultz  | Aye |
| Richard Bigler     | Aye | George Van Nest | Aye |
| Jeffrey Grenzebach | Aye | Timothy Pazda   | Aye |
| Wendy Salvati      | Aye |                 |     |

MOTION CARRIED.

Motion by Jeffrey Grenzebach, seconded by Richard Bigler, to **approve** the minutes of the meeting held on April 2, 2008, as written.

|                    |     |                 |     |
|--------------------|-----|-----------------|-----|
| Gregory Todaro     | Aye | Albert Schultz  | Aye |
| Richard Bigler     | Aye | George Van Nest | Aye |
| Jeffrey Grenzebach | Aye | Timothy Pazda   | Aye |
| Wendy Salvati      | Aye |                 |     |

MOTION CARRIED.

**Item 2**

Master Plan Amendments  
Transit Road Corridor

Recommendation on Master Plan 2015  
Amendments.

**DISCUSSION:**

Brad Packard provides the background on agenda item #2. The annual meeting to review the Master Plan 2015 with public comment was held on February 27, 2008. The Town Board received multiple requests for specific changes in the Master Plan and the requests have been forwarded to the Planning Board for review; the requests involve the rezoning of the Transit Road corridor.

Albert Schultz explains that the Planning Board broke the Transit Road corridor into segments and looked at the current usage of each parcel. The Planning Board assessed what zoning category each of those parcels would be in if zoned separately and then looked at the parcel overall. They looked at patterns, adjacent usages and split zoning.

The first segment runs from Greiner Road to Roll Road which is currently zoned Major Arterial; all the uses along this segment would fit into the Commerical Zone; however, the uses are “big” commercial uses. Perhaps this stretch should remain Major Arterial.

The next segment is from Roll Road to Clarence Center Road and approximately one-third of the stretch consists of Restricted Business, the remaining uses are that of Commercial. There are a couple of large properties, one with woods and one with access to Roll Road. Mr. Schultz suggests down zoning this stretch to Commercial, currently there are no Major Arterial uses for the parcels in this segment. Down Zoning this segment maintains the current character.

The next segment is from Clarence Center Road to Miles Road and approximately 75% to 80% of the usage is small community-type use; they are all Restricted Business types. Mr. Schultz recommends down zoning this segment to Restricted Business to maintain the small community-type character of this stretch of Transit Road. This stretch is probably the most attractive stretch of Transit Road between Lockport and Lancaster. There would be a few non-conforming uses that would have to be addressed and dealt with.

The final segment runs from Miles Road to the Swormville TND, which is just south of County Road. There is a proposal to extend Major Arterial back within one large parcel in this stretch. This stretch is largely Commerical use and Mr. Schultz suggests that the zoning be no higher than Commerical; this will prevent a “big box” store from being built on the large parcels.

There are two (2) parcels that the Planning Board has been considering where there are proposals before the Board. Mr. Schultz suggests the first parcel in consideration be zoned Restricted Business and extend this classification to the end of the parcel to allow an office park. Most adjacent neighbors have expressed support for the rezoning. The proposal for the second parcel is to extend the Commercial classification to a greater depth to allow for a high-end boutique type plaza. Mr. Schultz suggested considering the alternative to this proposal; it could be a residential development. This would result in no buffer between the existing residential neighborhood and a proposed development, whereas a Commercial classification must have a 45' minimum greenbelt between a proposed Commercial project and the residential neighborhood. The applicant has made a pledge to never use Miles Road as an access point; a residential area would certainly go on to Miles Road. The current restriction to residential building in Clarence is the availability of sewers; this property is in Sewer District #5 which means it would be a decent target for a fairly high density residential development, if someone chose to do so.

It is clarified that Mr. Hopkins is the project sponsor.

Mr. Pazda reiterates that the Town Board referred the rezoning of two (2) properties to the Planning Board; in order to do this the Planning Board has outlined the entire stretch of Transit Road to be reviewed.

Ms. Salvati supports the idea of leaving the stretch of Transit Road between Greiner Road and Roll Road as is. She agrees with down zoning the segment of Transit Road between Roll Road and Clarence Center Road to Commercial. She also agrees with down zoning the segment of Transit Road between Clarence Center Road and Miles Road to Restricted Business even though this will create some non-conforming use of a few properties. The non-conforming uses would be addressed. Ms. Salvati refers to the next stretch of Transit Road, which is Miles Road to County Road, and asked if the proposed Commercial classification is right for this area.

Mr. Van Nest said it is appropriate to look at the available parcels on Transit Road between Greiner Road and Roll Road; he supports the idea to keep the zoning at Major Arterial in this segment. He said it makes sense to down zone the last segment between Miles Road and County Road to Commercial given the types of uses that are already there and the size of the lots.

Sue Freeman Russo, of Poplar Hill, submits copies of a petition opposing the rezoning of the parcel between Miles Road and County Road; the petition is signed by residents in this area. Ms. Freeman Russo said there are some concerns that the Berkshire proposal is not the guaranteed final developer at this site once the parcel is rezoned. Ms. Salvati asked for clarification on the focus of what the residents are opposing. Ms. Freeman Russo said the focus is on the parcel that the Berkshire Development is asking to be rezoned; the residents are opposing the extension of zoning to a greater depth at this parcel. Ms. Freeman Russo said there were pockets of residents that did not receive notice of this meeting, nor did they receive notice from Berkshire.

Bob Callan, of 8075 Miles Road, asked the Board to downzone the parcel to Restricted Business. He said as you go north on Transit Road it seems as though the Town is regressing back into a more commercial nature; it makes more sense to have smaller businesses in this area.

Scott Snyder, of 8100 Miles Road, said the proposed rezoning from Residential to Major Arterial clearly infringes on two (2) items in the Master Plan. The first is to preserve and protect the open character of the Town through development of an Open Space plan and the second is preserving

existing green space through landscape regulations and guidelines. Rezoning will allow developers to destroy over 20 acres of forest containing an estimated 3,000 trees and annihilate major wild life habitat. Proposed projects such as the Berkshire Development will be built on both a 100 year flood plain and on National Wetlands. This development will cause a significant increase in the amount of impervious surfaces which will cause considerable run-off and further extend the flood plain to neighboring houses. Houses that currently don't have to worry about flooding will now have to be concerned about water in the basement and possible sinking foundations. Not only will the flood plain increase, but the underlying water table will be polluted with contaminants. The Master Plan mentions that the community wants to remain a semi-rural small town; it wants to protect existing farmland and open spaces instead of allowing additional cookie-cutter subdivisions. The proposed rezoning of land will allow developers to build these cookie-cutter developments which have obviously been seen in the proposed Berkshire development. Part of the proposed extension to Major Arterial falls directly between two residential lots and backs up to other residential lots. This essentially compromises the safety and general welfare of surrounding houses. Parents will have to keep a closer eye on their children when they play in their backyards since there will now be a parking lot with cars going back and forth. The Master Plan was approved for the purpose of preventing cookie-cutter developments and to preserve and protect the character of the Town. Rezoning of the land goes against everything the Master Plan stands for. Two weeks ago the proposed rezoning was different from what is currently being proposed; he wonders which is correct. Ms. Salvati clarifies by saying that the original rezoning request was to extend Major Arterial; this request was referred by the Town Board to the Planning Board. In the Planning Board's study of this referral they are looking at getting rid of the Major Arterial and possibly allowing Commercial; this would be a lowing intensity use. Mr. Snyder said the rezoning that was proposed two (2) weeks ago showed the rezoning extending into a pie shaped part of the parcel that extended between two (2) residential lots. Ms. Salvati clarifies that if the Planning Board recommends rezoning this parcel, they would not allow the rezoning to extend into the pie shaped parcel that lies between two (2) residential lots; that pie shaped piece will remain Residential. Mr. Bigler said the applicant indicated that he had no intention of ever using that pie shaped piece of property anyway. It is clarified that the proposal for rezoning that is currently on display is what is being discussed and considered, not the slide from two weeks ago.

Mr. Van Nest points out that the discussion this evening is not for the project but for the consideration of rezoning the parcel. In the future the project would have to be specifically addressed and come before the Planning Board.

Marlene Grygorcewicz, of 8080 Miles Road, is concerned with the possibility of Berkshire Development deciding not to go through with this project and the property being sold to someone else, what happens to the property that is supposed to remain as a sanctuary. Mrs. Salvati said there are no guarantees. If the land was rezoned and the project was to move forward, the land to remain as green space would need to be made a solid condition of the approval. If the land was sold and another project was proposed, that project would have to come back before the Board as well. Mr. Van Nest said the only way to guarantee green space is to put it in the conditions of a site plan approval or put it in an environmental easement that would be reviewed the Town Attorney's office and filed with the Erie County Clerk's office. Ms. Grygorcewicz asked if the Town could condition the owner to maintain the pie shaped piece of land as it is currently a dumping area. Ms. Salvati said the Town could make the maintenance of that piece a condition of the approval.

David Huck, of 6278 Gott Creek Trail, refers to the rezoning request for the parcel at Clarence Center Road and Transit Road and said this would be the only parcel that would go back that far in

Commerical Zoning, intruding into the Residential area. There would be drainage issues and Mr. Huck wonders how the drainage will be engineered. The change seems inappropriate.

Ms. Salvati refers to a letter by Mr. Hopkins dated April 14, 2008 that indicates that Berkshire Development is planning an informational session with property owners to be held on April 23, 2008 between 5:30 pm and 8:00 pm at the Clarence Center Volunteer Fire Department.

Mr. Packard said the applicant has moved forward within their office and have begun an environmental assessment form and have contacted involved agencies; this shows their seriousness in the project.

If this proposal is referred to TEQR it is for the amendment to the Master Plan not the rezoning.

Ms. Salvati refers the Jordan parcel on Transit Road in which the applicant is seeking rezoning and indicates that the Board has to contemplate whether it is appropriate or not to put Commercial zoning that deep.

Mr. Schultz said the motion must be very precise.

**ACTION:**

Motion by Albert Schultz, seconded by Timothy Pazda, to **refer** to TEQR for review under NYS SEQR Regulations, the following amendment to Master Plan 2015:

Down zone from Major Arterial to Commercial the current Major Arterial Zone along Transit Road between Roll Road and the Swormville Traditional Neighborhood District; maintain the same commercial zoning depth as currently exists.

**ON THE QUESTION:**

Motion by Albert Schultz, seconded by Wendy Salvati, to **amend** the previous motion by adding the following exception to the Planning Board referral:

Down zone the area beginning with parcel SBL #43.17-5-1.1 (the parcel just north of the NOCO Station and car wash at Roll Road) and extending north to Miles Road, from Major Arterial to Restricted Business; maintain the same commercial zoning depth as currently exists.

|                    |     |                 |     |
|--------------------|-----|-----------------|-----|
| Gregory Todaro     | Aye | Albert Schultz  | Aye |
| Richard Bigler     | Aye | George Van Nest | Aye |
| Jeffrey Grenzebach | Aye | Timothy Pazda   | Aye |
| Wendy Salvati      | Aye |                 |     |

MOTION CARRIED.

Motion by Albert Schultz, seconded by Timothy Pazda, to **amend** the previous motion by adding the following to the Planning Board referral:

Extend the Restricted Business Zone depth on parcel SBL #43.17-5-1.1 to a depth of 1130’.

Mr. Van Nest said the original Master Plan cut the Woodbridge Village in half; he wonders what this accomplished and what the effect of this proposed amendment might be. Mr. Packard said when the Woodbridge Village project was proposed it was an accepted use under Major Arterial; this changed the area to residential use. With regards to the proposed extension, he notes that the law requires a 45’ greenbelt in the Restricted Business classification.

|                    |     |                 |     |
|--------------------|-----|-----------------|-----|
| Gregory Todaro     | Aye | Albert Schultz  | Aye |
| Richard Bigler     | Aye | George Van Nest | Aye |
| Jeffrey Grenzebach | Aye | Timothy Pazda   | Aye |
| Wendy Salvati      | Aye |                 |     |

MOTION CARRIED.

Motion by Albert Schultz, seconded by Jeffrey Grenzebach, to **amend** the previous motion by adding the following to the Planning Board referral:

Extend the Commerical Zone depth on parcel SBL #43.05-2-1.1 to a depth of 1050’.

|                    |     |                 |     |
|--------------------|-----|-----------------|-----|
| Gregory Todaro     | Aye | Albert Schultz  | Aye |
| Richard Bigler     | Aye | George Van Nest | Aye |
| Jeffrey Grenzebach | Aye | Timothy Pazda   | Aye |
| Wendy Salvati      | Aye |                 |     |

MOTION CARRIED.

**VOTE ON ORIGINAL MOTION:**

The Planning Board refers the following amendments to Master Plan 2015 to the TEQR Committee for review under NYS SEQR regulations:

Down zone from Major Arterial to Commercial the current Major Arterial Zone along Transit Road between Greiner Road and the Swormville Traditional Neighborhood District; maintain the same commercial zoning depth as currently exists, except:

- 1.) Down zone from Major Arterial to Restricted Business the section along Transit Road beginning with parcel SBL #43.17-5-1, extending north to Miles Road; maintain the same commercial zoning depth as currently exists, except:
- 2.) Extend the Restricted Business Zone depth on parcel SBL #43.17-5-1.1 to a depth of 1130 feet.
- 3.) Extend the Commercial Zone depth on parcel SBL #43.05-2-1.1 to a depth of 1050 feet.

This is a Type 1 action under SEQRA, and will require a coordinated review. As presented to this Board on April 2, 2008, it is the owner's intent to deed restrict the portion of SBL #43.05-2-1.1 that remains residentially zoned as a conservation easement to never be developed. It is further understood that development of SBL #43.05-2-1.1 will not involve direct access to Miles Road.

|                    |     |                 |     |
|--------------------|-----|-----------------|-----|
| Gregory Todaro     | Aye | Albert Schultz  | Aye |
| Richard Bigler     | Aye | George Van Nest | Aye |
| Jeffrey Grenzebach | Aye | Timothy Pazda   | Aye |
| Wendy Salvati      | Aye |                 |     |

MOTION CARRIED.

Albert Schultz explains that the TEQR Committee will look at many environmental aspects including traffic, community character and wetlands. Ms. Salvati said the TEQR Committee will not look at the details of the particular projects; they will look at the projects only in a concept manner. If the rezoning is recommended and the projects move forward, the projects themselves will have to go back before the TEQR Committee for detailed study.

Meeting adjourned at 8:50 p.m.

Carolyn Delgato  
Senior Clerk Typist