

Town of Clarence
Planning Board Minutes
Wednesday July 2, 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

Chalets at Red Rock
Traditional Neighborhood District

Requests Concept Approval for six (6) additional
Units at 8880 Main Street.

Item 2

Newhouse Acres
Residential Single-Family

Requests Preliminary Concept Approval for a
sixty (60) lot Incentive Lot Subdivision on
Newhouse Road.

Item 3

Spaulding Greens
Residential Single-Family

Requests Concept Plan Approval for a 380 unit
Open Space Development on Goodrich Road.

Chairman Gerald Drinkard called the meeting to order at 7:30 p.m. Councilman Peter DiCostanzo led the pledge to the flag.

Planning Board Members Present:

Chairman Gerald Drinkard
2nd Vice Chairman Timothy Pazda
Richard Bigler

Albert Schultz
Gregory Todaro

Planning Board Members Absent:

George Van Nest
Jeffrey Grenzebach

1st Vice Chairperson Wendy Salvati

Other Town Officials Present:

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

Other Interested Parties Present:

Robert Sackett
 Paul Casilio
 David Wisnoski
 Jane Thompson

Mary Powell
 Kevin & Gail Sexton
 Art Lovell
 Paul & Lori Winzenried

Chairman Drinkard announces that with the absence of three (3) members of the Planning Board the alternate, Gregory Todaro, will be participating in all discussions and voting on all agenda items.

Motion by Timothy Pazda, seconded by Albert Schultz, to **approve** the minutes of the meeting held on June 18, 2008, as written.

Gregory Todaro	Aye	Albert Schultz	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Chairman Drinkard explains 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 Town Board is the governing body and as such will have the final vote on all items. The procedure for agenda items starts with Jim Callahan introducing and providing a brief history of the item. 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

Chalets at Red Rock
 Traditional Neighborhood District

Requests Concept Approval for six (6) additional
 Units at 8880 Main Street.

DISCUSSION:

Jim Callahan provides the history on the project. It is located on the north side of Main Street west of Shimerville Road and consists of approximately 2 ½ acres. It is zoned Traditional Neighborhood District and Residential Single-Family. The applicant was originally approved by the Town Board for ten (10) new and redeveloped units within the Traditional Neighborhood District. The applicant has received a variance to allow six (6) additional units in the Residential Single-Family Zone.

Douglas Klotzbach, of K2 Architecture, is present along with Paul Steven, developer and owner of the project. Mr. Klotzbach refers to the plan and explains that units 1 and 2 are in the Traditional Neighborhood District, while units 3, 4, 5 and 6 in the Residential Single-Family District. There is a buffer all around the project. Chairman Drinkard points out, for the record, that a cul-de-sac is not in the plan.

In response to Tim Pazda's question regarding the size of the buildings, Mr. Klotzbach said they are 576 square feet downstairs and 120 square feet upstairs. There will be a total of 16 units, plus the 4 existing units.

Mr. Klotzbach explains the plan is for a fire hydrant to be installed along the east side of the property with the line running between units 2 and 3. There is also a fire turn-around near units 5 and 6. The units are one and a half stories.

Albert Schultz asked the applicant if he compared the size of the proposed units with the Town Zoning Code. Mr. Klotzbach said he has not. Mr. Callahan said the project meets the building size requirement according to the Traditional Neighborhood District. Mr. Pazda said it is confusing as to which zone the units will be in. Mr. Callahan goes on to explain that the Zoning Board of Appeals acted to allow the extension of the Traditional Neighborhood District. Mr. Pazda refers to the Residential Single-Family Section 229-51 of the Town Code which indicates no building or buildings, exclusive of accessory buildings, porches, entries, garages and terraces, shall contain less than 1,350 square feet for a one-story building. Mr. Callahan refers to Section 229-62, this is the Traditional Neighborhood District section and it allows for 600 square feet. Mr. Pazda said if the true zoning district of the project is Traditional Neighborhood, that is the section of the code the Planning Board should be looking at.

Chairman Drinkard asked what type of landscaping is planned for the project. Mr. Steven said he likes to upgrade his properties with maintained landscaping.

Mr. Schultz asked if the applicant needs to expand the square footage of the units by 24 square feet or does he need a variance. He reads from the Traditional Neighborhood Section of the Town Code which states a building used in whole or in part for residential purposes, exclusive of accessory buildings and exclusive of porches, entries, garages and terraces, shall contain no less than 900 square feet of usable living space if a one-story building used as a one-family dwelling, nor less than 600 square feet of usable first floor living space if more than one story. The applicant agrees to add 24 square feet to the first floor of each unit to bring the total of 600 square feet to the first floor of each unit. Chairman Drinkard advises this will be made a condition of the action taken.

Mr. Pazda wants the Fire Advisory Board to review this project; this should be a two (2) week turn around.

ACTION:

Motion by Timothy Pazda, seconded by Richard Bigler, to **refer** the project to the Fire Advisory Board and **table** any action until comments have been received from such Board.

ON THE QUESTION:

The following conditions apply to the motion:

- A fire hydrant will be placed in the rear area.
- All buildings will be 600 square feet on the first floor.

Mr. Schultz hopes there will be a two (2) week turn around so the Planning Board can address the project at their next meeting.

Gregory Todaro	Aye	Albert Schultz	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Item 2

Newhouse Acres
Residential Single-Family

Requests Preliminary Concept Approval for a
Sixty (60) lot Incentive Lot Subdivision on
Newhouse Road.

DISCUSSION:

Jim Callahan provides the history on the project. It is located on the west side of Newhouse Road between Roll Road and Clarence Center Road and consists of 57+ acres. The applicant has received Town Board approval for a density yield of 60 incentive lots. The applicant is present seeking design approval for Preliminary Concept Review on the project.

Sean Hopkins, of Hopkins, Garas and Sorgi is present, along with project sponsor Fred Cimato and project engineer Leanne Voit of Greenman Pedersen Inc.

Mr. Hopkins said the first issue that was previously brought up was the shared driveway for lots 1 and 2 on Newhouse Road. The applicant's preference would be separate driveways but he will consider the possibility of a single curb cut with separate driveways going off that single curb cut. A second issue that was raised was the possibility of a future connection to the bike path that would reach the project site from the opposite side of Newhouse Road. The third issue involves the cul-de-sac. The cul-de-sac includes 12 lots, which meets the criteria of the code. Should the cul-de-sac be eliminated and connect it to the other side of the roadway. Mr. Hopkins refers to the Subdivision Code which indicates cul-de-sacs should be provided in connection with through streets. "Through" streets are not defined in the Code. Mr. Hopkins thinks the goal of the Town is to ensure interconnectivity between subdivisions. The plan shows a natural easement preserved between lots 37 and 38.

Mr. Callahan explained that when the Vinecroft Bristol Home project was approved by the Town Board, they identified that there will be a bike path through the project; it was never built but was approved as part of the Concept Plan. The Newhouse project is directly opposite the entrance to Vinecroft. It makes sense to provide access to an existing recreational amenity rather than providing a recreational amenity on the site, which is required by the Subdivision Law.

The applicant has minimized the number of lots that back up to the permanent Open Space which will help to ensure the space is protected; if the road ran through the subdivision the number of lots would increase. Besides a conservation easement and documentation in the deeds, Mr. Cimato has agreed to place markers at the corners of the lots to ensure protection of the Open Space.

Mr. Pazda questions the ownership of the pond. Mr. Cimato said the property lines are going to be pulled back and leave the pond in the Open Space; the Homeowners Association will own the pond. Mr. Hopkins will consider markers for the pond area.

Chairman Drinkard refers to the plan and asked what the options are to buffer the area that abuts the horse farm. He points out that the Code indicates that the Town Board has the opportunity to

require up to a 45' greenbelt in this area, which means no accessory buildings or pools in that area. He asked if the applicant has considered restricting the use of the back end of these lots so that accessory buildings or pools could not be placed in the area. Mr. Hopkins said he would consider this, he goes on to say that he is familiar with the Town's Right to Farm Law and its intent. The first intent is to prevent any perspective purchaser from asserting some type of nuisance claim either against the owner of the agricultural use or the Town. Secondly, the proposed driveway runs concurrent with the property line; he assures the Town that there will be no encroachments onto the neighboring property. The lots run between 173' and 212' deep.

Mr. Schultz refers to Section 193-27(B)(8) of the Town Code which indicates cul-de-sac streets shall not be created to provide access to residential lots except in situations where, in the view of the Town Board, and with review and recommendation from the Planning Board, a through street cannot reasonably be provided due to the physical characteristics of the subdivision parcel and adjoining properties. Mr. Schultz said this issue needs to be addressed. He asked if there is a creative way to layout 60 lots, still maintain 35% to 38% Open Space and does not violate this portion of the code. Mr. Hopkins said the only way to do this is to switch back to an Open Space Design. Mr. Hopkins points out that the plan has 40% more Open Space than what is required for this type of project. He also states the applicant would like to leave the cul-de-sac as planned.

Mr. Bigler points out that the Highway Superintendent recently explained that cul-de-sacs are really not a problem anymore. Mr. Cimato said he has worked hand-in-hand with the Highway Superintendent in the past. The Code requires the radius of cul-de-sac to be 50', Mr. Hopkins said his plan will meet or exceed this requirement. The right-of-way on the submitted plan meets the 60' requirement.

Mary Powell, of 4354 Homestead, owns property to the north of the project site. She voices her concern with the driveway being 5' from the lot line as the property is a horse farm and the horses spook easily. Riding lessons are given at the horse farm and there are shows 3-4 times a year. She is concerned with the liability of the closeness of the backyards of the proposed homes. She points out that there is 200' off Newhouse Road and 5' off the stables and riding academy. She hopes the Planning Board would give consideration and the developer will give a second look to how the lots are laid out. She is not sure that a 45' buffer is adequate.

Denise Castiglia, of 5853 Forest Creek Drive, explains that his property borders the proposed retention pond. He asked if there was a study done related to all the properties that drain into the creek. He goes on to explain that the Ryan Home development that was built across from Gott Creek ten (10) years ago, drains into the creek. The water will climb up to the foundations of houses that are north of his property with a snow melt or a heavy rain fall. He asked if the Planning Board has considered the drainage issue. Some type of barrier berms should be considered. Chairman Drinkard explains that if the project moves forward it will ultimately be reviewed by the Engineering Department. The Engineering Department will review the drainage and water flow issues. Mr. Schultz explains the project would be referred to the TEQR committee for an extensive environmental review.

Chuck Vallone, of 5855 Forest Creek Drive, agrees with Mr. Castiglia's comments. He voices his concern with the look of the retention pond area. If it will be a big bermed area that totally changes the character of the backyards of all the bordering properties; it will look like a commercial device. He asked if the pond was included in the greenspace calculations, he does not think it should be included.

Scott Pearson of 5563 Fieldbrook, voices his concern with the creek as it floods regularly onto his property. Chairman Drinkard said the TEQR Committee will look at this issue prior to the project receiving Concept Approval. Mr. Pearson asked if there are any plans for the rectangular parcel that lies on the south east portion of the site.

Paul Casilio, brother of Mary Powell, voices his concern with respect to the driveway that runs parallel with the north property line of the development. The driveway is used for vehicle access but is also used for horses on the property.

Mr. Hopkins said a consideration can be made to provide a 15' wide conservation easement at the northern property line; the setbacks would still have to be met.

With regards to the drainage/storm water issues, Mr. Hopkins explains that a drainage plan will have to be approved by the Town Engineer and the NYS DEC; the project will meet all requirements. The storm water management system is part of the Open Space per the code.

Mr. Hopkins explains that the applicant has no control over the rectangular parcel at the south east portion of the site as it is owned by one of the other members of the LLC.

Chairman Drinkard explains that the Planning Board must research information regarding the separation between currently used agricultural area and the project site.

Mr. Pazda said the issues have been narrowed down to include the driveway, the cul-de-sac, the horse farm and the bike path. Mr. Pazda asked the applicant if he would consider making the lots smaller to allow a larger buffer for the horse farm.

Mr. Hopkins explains the plan for the bike path is to have it wind around the right-of-way and potentially go along the Newhouse Road frontage with the connection to the cul-de-sac. There would be an easement between lots 37 and 38, so every lot in the subdivision would have access to the recreational trail.

Mr. Hopkins wants to meet with the Casilio family to obtain their input.

Mr. Schultz suggests interconnecting the green spaces. Mr. Hopkins will consider this suggestion.

Mr. Schultz refers to the two (2) at the south portion of the project site and points out that Mr. Cimato would prefer two (2) different curb cuts, this can be allowed with a super majority vote of the Town Board.

Chairman Drinkard asked the Deputy Town Attorney if the conditions of tabling this project need to be read into the record or is the dialogue sufficient. Deputy Town Attorney David Donohue said the specific conditions do not need to be listed.

ACTION:

Motion by Timothy Pazda, seconded by Gregory Todaro, to **table** agenda item #2.

Gregory Todaro	Aye	Albert Schultz	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Item 3

Spaulding Greens
Residential Single-Family

Requests Concept Plan Approval for a 380 unit
Open Space Development on Goodrich Road.

DISCUSSION:

Jim Callahan provides the history on the project. It is located east of Goodrich Road, north of Greiner Road. The proposed Open Space Design Subdivision has been reviewed under SEQRA and received formal findings as approved by the Town Board. The applicant is seeking Concept Approval on the proposed design. The application was tabled at the June 4, 2008 Planning Board meeting to work out certain details mainly related to Open Space, connectivity, bike path location, road access points, sidewalks and addressing public comment.

Developers Dominic Piestrak and Nick Piestrak are present. Dominic Piestrak explains the project is approximately 200 acres of potential Open Space. Nick Piestrak explains a major change to the plan shows a connection to the exit onto Greiner as opposed to an exit out onto Goodrich Road. The other exit onto Greiner Road has been moved further up, to the other side of the house that is there.

Chairman Drinkard said the project was tabled at the last Planning Board meeting to allow the applicant time to provide information that the Board requested. The Board requested three (3) items: a set of meetings, a table of facts and the latest blueprint. All these items have been received. For the record, a signed petition was presented by Mr. Cordaro. Approximately 60 people, who reside on the road that exits out onto Greiner Road, signed the petition that opposes the extension of Green Valley. The petition is in the project file. The TEQR Committee provided the Planning Board with a Findings Statement which indicates that the extension of Green Valley should be allowed, it has always been planned to be an extension as it is a stub road. A conservation easement also needs to be addressed.

Mr. Pazda voices his concern with approving the Concept Plan for this project without further information; he wants to see more details. He feels cul-de-sacs are being treated differently on this project than on the last. It seems that some of the cul-de-sacs are proposed only to add value to the project. Mr. Pazda wants to know how the conservation easement will be done; he has not seen anything in writing. He thought attorneys from both sides were going to sit down and come with a proposal on the land conservancy. He also wants to see exactly how the bike path will be set up.

Mr. Callahan explains that whatever the Planning Board recommends can be put in the easement. The detail will come at Development Plan. The bike path has been identified on the plan throughout the project and in Concept that is exactly where it should go; the path goes to Greiner Road.

Mr. Pazda asked how the legal department is treating the quad-plexes, he understands that they are not allowed per the Town Code. Mr. Callahan explains that they are one of the preferred housing types in an Open Space Design Development; it helps to maintain the 50% Open Space. Mr. Pazda asked how they are being counted; Dominic Piestrak explains each unit is counted as four (4) houses.

Chairman Drinkard said if the Development process is not begun, some issues will never be addressed.

Mr. Schultz voices his opinion with regards to the comment of treating cul-de-sacs differently. He goes on to say that the Planning Board softened their position on the Newhouse Road proposal to be more consistent with the idea that a cul-de-sac helps enhance the Open Space.

Chairman Drinkard said the proposal seems to lend itself to walkability and accessibility to the general public.

Gregory Todaro asked if National Fuel had been contacted with regards to the bike path. Dominic Piestrak said he has not contacted National Fuel, as the project is not through this stage yet.

Mr. Pazda voices his concern by saying once the Concept Approval is granted and the project goes through Engineering, plans may change. The changes may not be what the Planning Board wanted. At this point the developer will not change the plan again because a lot of money has been spent on engineering.

Dominic Piestrak said flexibility is important.

Mr. Pazda points out that Dominic Piestrak said he would be willing to use the space at Clarence Center Road to meet the Open Space requirements if needed. Currently, this space is not part of the project. Dominic Piestrak confirms this statement. There has been no determination as to which streets will have sidewalks and which ones will not. Chairman Drinkard reads from previous Executive Session minutes which indicate the development shall install sidewalks to make roads walkable but not necessarily in a cul-de-sac, connecting sidewalks will help bring foot traffic to the bike path and will be included in the Development Plan print.

Frank Cordaro, of 5275 Green Valley Drive, reports that the families of Green Valley Drive, Ashford Court, Mayfield Court are very upset that the TEQR Committee has recommended the Planning Board presume making Green Valley into an express road without considering the character of the neighborhood. There has not been an accident for 24 years, this is how long Mr. Cordaro has lived in the neighborhood. All residents are aware of the children crossing the street. If the development is approved, by the time it is completed there will be 1520 additional cars traveling on the roads each day: 380 units times 2 cars per unit times 2 trips per car per day. Green Valley Drive will carry an extra 500 trips per day. The neighborhood will be inundated with gas fumes and noise from vehicle engines and radios. The sign at the end of the street says "Dead End" not "Temporary Dead End". Mr. Cordaro asked the representatives on the Planning Board to withhold their recommendation for the Green Valley extension, they request that another exit be researched.

Chuck McCarty, of 5337 Ashwood Court, is opposed to the Green Valley extension; this has been a dead end for 45 years; he had no idea there was a road planned for the stub. He has lived there for 24 years and has enjoyed the quiet ambiance. Mr. McCarty understands that growth is inevitable but points out that this is a private enterprise; it is not a public entity where the residents need to sacrifice for the general good. There is no benefit to any resident on Greiner Road, Green Valley or Goodrich Road. He explains there is a deer problem in the area and this will not help it. Greiner Road is a 2-lane road with no shoulders, if Green Valley is extended it will add traffic to a road that is already maxed out. Road improvements will have to be made from Goodrich Road to Kraus Road, who will pay for this?

Alexis and Elizabeth Baker and Maggie Anderson are present. Alexis said Green Valley should not be extended because she can ride her bike there now. It is also easier to sleep with less traffic and sleep is important. Elizabeth said more homes should not be built because little kids could get lost in Spaulding Greens. The added pollution will not help if a person has asthma.

Dave Wisnoski, of 5324 Mayfield Court, said Green Valley is like a cul-de-sac and he feels safe with his children playing outside. He knows the neighbors and he knows they will drive slowly in the area. He recommends each Planning Board member visit the Green Valley site as the children play out doors every day, this will not be the same if the extension goes through.

Heather, of 5252 Green Valley Drive, has lived there approximately 1 year. She is not against development but the proposed road extension. She bought the house because she has four (4) children and the neighborhood is family-orientated. She said there has got to be another way; she does not understand why Green Valley has to be the through street.

Dominic Piestrak said the original plan did not disrupt Green Valley; however Traffic Safety recommended this current proposal as the better way. The road connection would not be done for at least 6 to 7 years from now. Mr. Piestrak is willing to listen to other options.

Nick Piestrak points out the phases of the plan. He also points out that the road extension will aid in emergency services. There are other entrances and exits for people within the subdivision to drive through as opposed to exclusively using the Green Valley extension.

Chairman Drinkard asked what latitude the Planning Board has with regards to the Findings Statement in the context of making a recommendation. Deputy Town Attorney David Donohue does not think the Planning Board has any latitude. Mr. Callahan said the recommendation can be something that is consistent with the findings. Chairman Drinkard reads from the Findings Statement which indicates that connectivity between land uses is necessary to encourage physical activity such as walking and bicycling. The final design of the subdivision should not isolate open space but rather provide connectivity to enhance physical activity.

ACTION:

Motion by Albert Schultz, seconded by Richard Bigler, to **recommend** Concept Approval to the Town Board with conditions.

ON THE QUESTION:

- The recreation trail installation will satisfy the recreation requirements per the Subdivision Law.
- The chart of facts will be used as baseline going forward. A copy of the chart is on file.
- Payment of all fees.
- A Conservation Easement be drafted for approval by the Town Attorneys office. Said Conservation Easement will cover all Open Space identified on the approved Concept plan as follows:

1. Public drainage easements shall be developed allowing Town access to all proposed public drainage facilities identified on the Concept Plan. The Public

Drainage Easement shall provide a means of accessing all public drainage. Facilities that allow for long term maintenance of such facilities. Such drainage facilities shall be excluded form the Open Space Conservation Easement area.

2. A recreational trail shall be developed and deeded to the Town as identified in the approved Concept Plan. The trail shall be identified as a public and recreational amenity and excluded from the Open Space Conservation Easement area. It is conceptually recommended that the Western New York Land Conservancy monitor the Conservation Easement and undertake long term stewardship to maintain the Open Space as Open Space. All stewardship fees shall be the responsibility of the applicant.

Gregory Todaro	Aye	Albert Schultz	Aye
Richard Bigler	Aye	Timothy Pazda	Nay
Gerald Drinkard	Aye		

MOTION CARRIED.

Meeting adjourned at 9:25 p.m.

Carolyn Delgato
Senior Clerk Typist