

Town of Clarence
Planning Board Minutes
Wednesday August 5, 2009

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

Verizon Wireless
Agricultural Flood Zone

Requests Preliminary Concept Approval for a proposed telecommunications tower at 8095 Tonawanda Creek Road.

Item 2

Stone Ridge Estates
Agricultural Rural Residential Zone

Requests Development Plan Approval of a proposed major subdivision at Stage and Ransom Roads.

Item 3

Sign Law

Review, Recommendation and Action.

Item 4

Master Plan 2015 Amendment

Transit Road Corridor, north of Roll Road, Discussion.

Chairman Gerald Drinkard called the meeting to order at 7:30 p.m. Jeffrey Grenzebach led the pledge to the flag.

Planning Board Members Present:

Chairman Gerald Drinkard
2nd Vice Chairman Wendy Salvati
Timothy Pazda
Richard Bigler

1st Vice Chairman Albert Schultz
Jeffrey Grenzebach
George Van Nest

Planning Board Members Absent:

Gregory Todaro

Other Town Officials Present:

Planner Brad Packard
 Councilman Peter DiCostanzo

Other Interested Parties Present:

Paul Wheeler	Clayt Ertel
Pat Cipolla	Edith Clouse
Joseph Clouse	Hedwig Fischer
Larry Rubin	Carol Minnick
Sujuta Kishore	John Engelbert
Brett Morgon	Jared Lusk
Dolores Liebner	Holle Forczek
Lynn Collis	Robert Geiger
Mike Metzger	Mark Dempsey
M. Williams	Khalid Mahran
Dan Palumbo	Shyam Kumar
S. Kumar	E. A. Gurt
Jim Morabito	Anthony Pacenzia

Chairman Drinkard explains that in the absence of the Director of Community Development, James Callahan, his assistant, Brad Packard, will take his place.

Motion by Jeffrey Grenzebach, seconded by Al Schultz, to **approve** the minutes of the meeting held on July 15, 2009, as written.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Jeffrey Grenzebach	Abstain
Wendy Salvati	Aye	Al Schultz	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 Brad Packard 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

Verizon Wireless
 Agricultural Flood Zone

Requests Preliminary Concept Approval for a proposed telecommunications tower at 8095 Tonawanda Creek Road.

DISCUSSION:

Brad Packard provides the project history. It is located at 8095 Tonawanda Creek Road on the south side of Tonawanda Creek Road, east of Transit Road consisting of approximately 36 acres of vacant land in the Agricultural Flood Zone. This project was originally referred from the Town Board to the Planning Board on April 22, 2009. On June 3, 2009 the applicant was present at a Planning Board meeting at which time the Board recommended the applicant consider the feasibility of a 100' tower, a proposal that would meet the maximum height restrictions of the Agricultural Flood Zone. The applicant is present this evening and has revised their original submission, requesting preliminary concept review of a 99' proposed telecommunications tower.

Jared Lusk of Nixon Peabody is representing the applicant. Brett Morgan and John Engelbert are also present, both with Verizon Wireless. Mr. Lusk explains that in the interest of the Planning Board's request, the height of the proposed tower has been adjusted to 99'; this is marginally acceptable for cell tower coverage. Nothing else has changed in the submission. Chairman Drinkard said the re-submission is very thorough.

Hedwig Fischer, of Transit Road, voices her concern with regards to the tower being in a flood area and the height of the tower. She asked if the tower will be on Tonawanda Creek Road or on an access road off Tonawanda Creek Road. How visible is the tower going to be? What kind of service will it be rendering?

Frank Buffomante, Clarence resident of 40 years, is pleased that the environmental people will look at this project because he understands there are Federal Wetlands at the proposed project site. His home is indicated by the triangle immediately to the right of the site on the survey. He voices his concern with the access road as it is approximately 60' from the south east corner of his property. He is not sure if the applicant will use the existing building as part of the project. His home is 150' off Tonawanda Creek Road. He is concerned that the access road is no more than 50' from the corner of his house. The access road was an old logging road and he doesn't think the character should change very much. He questions if a cell tower is needed at this location. He said if the tower should fall it will land on some Buffomante land somewhere. Chairman Drinkard said the "fall zone" of the cell tower must be on property that the applicant leases. He goes on to clarify that a cell tower is permitted use in this zone with a Special Exception Use Permit (SEUP).

Mr. Packard clarifies that the neighbor notifications went out to those within 500' of the parcel, not the project site; this is a deep parcel.

Mr. Schultz said the Planning Board was very cognizant of the height of the tower and the visual impact it would have, thus the request for a decrease in height.

Mr. Lusk explained there is a gap in coverage in the area and the proposed tower will provide that coverage. Mr. Lusk confirms the access road will be off Tonawanda Creek Road. There will be improvements to the driveway that is already there; it will be maintained as a gravel driveway. There will be a van traveling the access road once or twice a month to service the tower. The re-submission fully complies with the Town Code. The existing structure will be demolished; the tower will be placed in the footprint of that structure so the "fall zone" won't be an issue. The applicant has applied for and expects to receive a Wetlands permit.

Mr. Schultz explained that the next referral of this project, if the Planning Board elects to do so is to the TEQR Committee. The TEQR Committee will look specifically at wetlands and the road and any mitigation that is required working with the State and Federal agencies.

Mr. Buffamonte said the applicant will have to do a lot of clearing for the access road. The road is actually a 12' driveway as it exists today. Ms. Salvati explained that the road will be unused most of the time, with a service truck visiting the site once or twice a month.

Chairman Drinkard explains that this project would need Landscape approval as one of the conditions set forth. Any meeting held on this project is a public meeting.

Mr. Lusk said the tower will be hidden by many trees, only the top of the tower will be visible. The tower has to be above the trees to deliver the service.

Tom Critelli, of 8061 Tonawanda Creek Road, asked if the applicant is purchasing the land. Will the land become commercial property? Chairman Drinkard said the property will remain as zoned, he explained again that a cell tower location is an allowed use with a Special Exception Use Permit. Mr. Critelli wonders why the applicant picked this area to locate a cell tower when it is commercial up and down Transit Road. He knows this is not the only spot they could put the cell tower in. Chairman Drinkard suggests Mr. Critelli go to the Planning Department and review the file which is complete with information.

ACTION:

Motion by Al Schultz, seconded by Wendy Salvati, to **refer** the Verizon Tower application for 8095 Tonawanda Creek Road to the TEQR Committee for review under the SEQRA process.

ON THE QUESTION:

Al Schultz explained that the TEQR Committee will address many issues. Among the issues will be the impact on the character of the neighborhood, they also look specifically at wetlands and any mitigation that needs to be done. A Landscape Approval will be required.

Mr. Van Nest clarifies that the referral is on the 99' tower.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Jeffrey Grenzebach	Aye
Wendy Salvati	Aye	Al Schultz	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Item 2

Stone Ridge Estates
Agricultural Rural Residential Zone

Requests Development Plan Approval of a proposed major subdivision at Stage and Ransom Roads.

DISCUSSION:

This project is located at the south east intersection of Stage and Ransom roads and consists of approximately 127 acres in the Agricultural Rural Residential zone. The applicant is seeking recommendation on Development Plan approval for a 15 lot Open Development Area. This project was originally referred by the Town Board to the Planning Board on March 26, 2008. This project received a Negative Declaration under SEQR as per the Town Board on February 11, 2009. This project received Concept Plan Approval during a public hearing as per the Town Board on March 25, 2009. The Engineering department has reviewed the Development Plans and has issued a letter of approval with appropriate conditions, on file with the Office of Planning and Zoning. The applicant is present this evening and is seeking recommendation on Development Plan approval.

Michael Metzger, of Metzger Civil Engineering, is present. Clayt Ertel of Realty USA is also present. An associate of the owner of the property, Mark Dempsey is present as well. Mr. Metzger thanks the Planning Board for their input on the plan.

Chairman Drinkard points out there were a number of conditions in the Concept Plan Approval and asked if Mr. Metzger is comfortable with them. Mr. Metzger said he is.

The land to the west will remain undeveloped; this will be monumented through a deed restriction and will be presented to the Town Attorney's office for approval. Chairman Drinkard explained Development Plan Approval would have Landscape approval as a condition. Currently, the applicant does not have a Landscape print on file.

Carol Minnick, of 4220 Ransom Road, hopes that something can be done with the water pressure in the area; the more houses put in the area the worse the water pressure will be for the existing homes. She is concerned for the blasting that will take place. Chairman Drinkard said there will be no blasting for the project. Ms. Minnick explained there is a lot of wild milkweed at the corner of Ransom Road and Stage Road. Milkweed is a home for Monarch Butterflies and she hopes it will remain untouched. Chairman Drinkard said that is the deed restriction they were discussing earlier, that area will not even be mowed, it will remain as is.

Mike Williams, of 4385 Ransom Road, voices his concern with surveyors that were recently out on his property, it appears that their measurements do not coincide with what Mr. Williams has for a lot. Mr. Williams is advised to visit the Planning and Zoning office for clarification on his property lines.

Scott Glassman, of 10725 State Road, asked if the neighbors will be involved in the landscape planning regarding the buffering/privacy issue. Chairman Drinkard said the developer is always asked if they have talked to the neighbors about the buffering/privacy. He goes on to explain that, since Mr. Glassman has brought this issue up in past meetings, the developer will be asked if they have discussed the issue with him. Mr. Glassman asked what the typical hours will be for construction. Chairman Drinkard said reasonable daylight will be the hours for construction.

Mr. Metzger said he has worked closely with the Town Engineer and the Erie County Water Authority on the water pressure issue. There were water pressure readings taken two separate times by the Water Authority and they and the Town Engineer are comfortable with the calculations. They tested the normal day to day use and fire flow.

Mr. Metzger explained the construction access will be at the proposed road. In discussing the issue with the Town Engineer it seemed reasonable to make a slight adjustment; it is now depicted as directly across from the Town road. The location of the road has been moved over approximately 20'-25', so it is further away from Mr. Glassman's property.

Mr. Metzger said they have not yet worked out the details on how far in the road will be go and if it will initially be paved as this will be market driven.

Mr. Ertel said he has assured Mr. Glassman that he will be involved in any decisions made on the entrance way of the project.

ACTION:

Motion by Wendy Salvati, seconded by Richard Bigler, to **recommend** Development Approval for a 15 lot Open Development Major Subdivision at Stage Road and Ransom Road, referred to as Stone Ridge Estates, with the following conditions:

- A deed restriction for the corner lot at Stage Road and Ransom Road will remain undeveloped and in its natural state.
- Open Space and Recreational fee payment.
- Landscape approval with deference to the adjacent neighbors.
- A variance will be required for the number of homes on a dead-end cul-de-sac.
- A variance will be required for the length of the private road plus a private driveway of approximately 1700'. The law allows 1500'.
- A Home Owners Associations agreement to be submitted to the Town Attorney for review and approval.
- There will be no further splits of any of the properties.
- Based on conditions noted in the Town Engineer's letter dated August 3, 2009.

ON THE QUESTION:

Mr. Van Nest adds a condition to the motion: prior to construction the western most lot, which is on the corner of Stage and Ransom Roads, is to have snow fencing or other appropriate protection placed around the trees that are to be preserved so there are no accidents during the course of construction.

Wendy Salvati and Richard Bigler both agree to amend their motion to include the requirement of appropriate protection for the trees as stated above.

Chairman Drinkard said it is recognized that the entire parcel is unique in layout, soil conditions, topography and rock formations. The proposed development is very good use of the land.

Mr. Metzger asked for clarification on the condition regarding the orange fencing of trees. That part of the motion is amended to read: a deed restriction for the part of the corner lot at Stage and Ransom Roads to remain undeveloped and in a natural state from approximately the tree line west.

Wendy Salvati and Richard Bigler both agree to amend their motion as stated above.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Jeffrey Grenzebach	Aye
Wendy Salvati	Aye	Al Schultz	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Mr. Ertel does not want to use orange snow fencing as it is not attractive. He would like to put up something that is less offensive. Planning Board members agree as long as the area is protected.

Item 3

Sign Law

Review, Recommendation and Action.

DISCUSSION:

This proposed Law Amendment was originally introduced and discussed by the Planning Board on December 13, 2006. Since that time there has been a legal review, a Town Board Public Hearing held on October 10, 2007, and a Negative Declaration was issued under SEQR on August 22, 2007 as per the Town Board regarding this proposed Law Amendment. After several years of review, the Town Board recommendation and consideration, legal and public input, the Planning Board has drafted a revised Sign Law which they are prepared to forward to the Town Board for consideration.

Jim Morabito, owner of 8200 Main Street, said the portion of the Sign Law that refers a 48 square foot plaza sign does not take into account certain criteria like setback from the road, how high the sign is and how fast the traffic is going by the sign.

Chairman Drinkard notes that any and all information Mr. Morabito provided has been reviewed by the Town Board members and the Planning Board members. The current Sign Law draft is a result of much dialogue between the Boards; it is a result of extensive research of other Towns and New York State Highway guidelines.

Mr. Morabito is confused by Section M items 2, 5, and 6. Chairman Drinkard said if a proposed sign is non-conforming; the outlet is to go before the Zoning Board of Appeals and the sign will be reviewed. This will be done on a case by case basis. The Sign Law is not meant to penalize but to help business owners.

Anthony Pacenzia, owner of 9269 Main Street, is still concerned about the 48 square foot sign requirement for a plaza. There is not enough room on a 48 square foot sign for the businesses in the plaza to advertise. He thinks the size of the sign needs to be taken into consideration with the size of the plaza. Chairman Drinkard said the alternative to the 48 square foot is to go to the Zoning Board of Appeals for a variance.

ACTION:

Motion by Al Schultz, seconded by Jeffrey Grenzebach, to **forward** the Sign Law draft dated July 15, 2009 to the Town Board for approval.

ON THE QUESTION:

Motion by Al Schultz, seconded by Jeffrey Grenzebach, to **recommend** adding the following sentence to Section 181-2 (A) (4): The Sign Review Board may, at its discretion, approve minor variations (up to 10%) from sign dimensions contained in this law.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Jeffrey Grenzebach	Aye
Wendy Salvati	Aye	Al Schultz	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Mr. Van Nest asked if there was a direct correlation between the size of a plaza and its sign in other towns. Chairman Drinkard said nothing that can be correlated.

Motion by George Van Nest, seconded by Al Schultz, to **recommend** Section 181-3 (B) (4) be amended as follows: Delete the sentence: L.E.D. signs shall be prohibited. Add in its place: The total area for the changeable copy portion of a sign shall not exceed 10 square feet in area per side.

The Law is silent on L.E.D. signs so L.E.D. signs would be included in the changeable portion.

ON THE QUESTION:

Chairman Drinkard notes that members of the public voiced their opinions stating L.E.D. signs are efficient and reasonable; needed by businesses.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Jeffrey Grenzebach	Aye
Wendy Salvati	Aye	Al Schultz	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Motion by George Van Nest, seconded by Richard Bigler, to **recommend** Section 181-3 (C) (4) be amended as follows: Delete the sentence: L.E.D. signs shall be prohibited. Add in its place: The total area for the changeable copy portion of a sign shall not exceed 10 square feet in area per side.

ON THE QUESTION:

Chairman Drinkard said the Planning Board wanted to treat Restricted Business zoning the same as Commercial Zoning.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Jeffrey Grenzebach	Nay
Wendy Salvati	Nay	Al Schultz	Aye
Gerald Drinkard	Nay		

MOTION CARRIED.

Motion by Timothy Pazda, seconded by Wendy Salvati, to **recommend** Section 181-6 (O) beginning with the second line be amended as follows: Such signs shall be allowed 30 days prior to a special election or political event provided they meet the restrictions in 181-4B(2) above. All signs shall be removed within one (1) week after the election or political event.

ON THE QUESTION:

Mr. Pazda explained he left out the last line of the referenced section that states signs may not be placed in the right of way because it is included in another section.

Richard Bigler	Aye	George Van Nest	Nay
Timothy Pazda	Aye	Jeffrey Grenzebach	Aye
Wendy Salvati	Aye	Al Schultz	Nay
Gerald Drinkard	Aye		

MOTION CARRIED.

The following roll call vote pertains to the original motion which is to **forward** the Sign Law draft dated July 15, 2009 to the Town Board for approval.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Jeffrey Grenzebach	Aye
Wendy Salvati	Aye	Al Schultz	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Item 4

Master Plan 2015 Amendment

Transit Road Corridor, north of Roll Road,
Discussion.

DISCUSSION:

This item concerns the proposal of the Bella Vista Group to extend commercial land use classification further east of the existing zone along Transit Road at the approximate intersection of Transit and Roll Road, as detailed in the current Future Land Use Map of Master Plan 2015. This proposal does not concern in any capacity the review of a project or consideration of a site plan. Instead, this proposal concerns an amendment to the Master Plan to allow for an extension of commercial land use and conversion of existing proposed Residential land use. This proposal is strictly land use related, not project related. The vehicle for amending the existing Master Plan and Future Land Use map is detailed within Chapter 11 of Master Plan 2015. Applications are received once

annually, typically in late February, for consideration of specific changes of the document itself or Future Land Use map therein. On February 25, 2009 the Bella Vista Group proposed a Land Use Amendment that would allow for the extension of commercial class land use east of Transit Road. That recommendation had been forwarded to the Planning Board by the Town Board for their review. The Planning Board had recommended no alteration to the existing Land Use standard at this site, a recommendation that received a Negative Declaration under the State Environmental Quality Review Act, the year prior to this request. After review of this proposal between April 1, 2009 to May 6, 2009 the Planning Board once again recommended no alteration to the existing Commercial Land Use standard at this site. The Town Board again received this recommendation on July 8, 2009 and has referred the proposal back to the Planning Board for the pursuit of an alteration to the current proposal that would adequately protect and buffer adjacent residential property owners.

Chairman Drinkard said it is very important that the Planning Board protects the Master Plan in the context of what the Master Plan says the community wants to have happen in the future. The proper process must be followed. The studies and recommendations made by the Planning Board in 2008 and again in 2009 to down-zone the subject segment B corridor was not in any way arbitrary and not well thought out. The Planning Board will not dwell on the many facts that went into that analysis nor the recommendation itself since the Town Board did not act on them. But some of the fundamental data and facts that went into the thinking at that time are still before the Planning Board:

- 1.) Proximity to residential neighborhoods and homes just off of Transit Road.
- 2.) Businesses and land use in place all along the segment B corridor. They would be allowed in a "Commercial zone".
- 3.) The fact that Major Arterial zoning depth was already built into and therefore left less Major Arterial zone footage and therefore less large-box options from a footage perspective.
- 4.) The Amherst side of Transit Road was in harmony with the Clarence side from a land-use perspective.
- 5.) The Transit-Middle school was an anchor pivot point in establishing a defined character of the corridor. It didn't go there because it could-it went there because is served a surrounding community that is highly residential in nature.

So the Planning Board has a big hurdle to get over as they work toward a recommendation by this Board.

The issue is not to center on what Major Arterial depth has been requested by a prospective project developer. The issue is to discover what additional Major Arterial depth could be considered that would also allow a "transitional zone" to the north and east that would not compromise what is clearly outlined in the Clarence Master Plan.

Questions that need to be answered are:

- 1.) What change can be made to the current Major Arterial zone footage depth?
- 2.) What is a reasonable and respectable "transitional zone" footage depth?
- 3.) What needs to be done to the "transitional zone" to make sure it respects the neighboring community?

Once the Planning Board has arrived at some reasonable set of number and criterion that are fact based and they can be agreed, the Planning Board will have something to send to TEQR for their

study and review, which was the request of the Town Board. The TEQR group will then be able to center their analysis and studies on a specific criterion.

There are two (2) very specific points that come from the Master Plan:

- 1.) Identify areas along Transit Road in the Major Arterial zone where the depth of the zone can be increased to accommodate more substantial projects without negatively impacting upon existing residential neighborhoods.
- 2.) Zoning map amendments should not be a routine consequence of a proposed project, but rather the consequence of planning, which is acceptable to the community.

It is preferred that the public is not heard from about Wegmans as it is not a current project that the Planning Board can entertain. Comments from the public should focus on the Master Plan.

Chairman Drinkard refers to the Town Board minutes of a previous meeting where every Town Board member said they wanted to see a significant change to the proposal that they looked at. Most recently the Wegmans company submitted another project plan that moved the transitional area from approximately 100' to 119'; it reduced the parking lot but did not reduce the store. For all intended purposes this was not good faith shown by the developer and the Wegmans store to resubmit a plan that took all of the conversation that took place in the minutes into consideration. Chairman Drinkard would like to see the Planning Department provide information on how much of a transitional area there is at Wal-Mart and along that whole corridor on Transit Road.

Ms. Salvati states for the record that the discussion to date has been confusing. This is not about site plan review. The action before the Planning Board is to amend or not amend the Master Plan; it is not to discuss the details of a Wegmans project.

Mr. Van Nest said the request for the extension of depth, which is done at the same time as the Master Plan review process, brings with it a specific request. This request is effective and necessary as to whether or not the Planning Board should recommend the request as part of the Master Plan amendment. The specifics of a site plan review do not become relevant and appropriate for full evaluation unless and until the Town Board determines that the Master Plan is amended as put forth.

Sean Hopkins, of Hopkins & Sorgi, is representing the Bella Vista Group. Mr. Hopkins refers to Section 11 of the Master Plan 2015 and indicates that the Planning Board is allowed to consider changes that are brought forward by a specific project sponsor. The Amendment Review Process on page 40 of the Master Plan 2015 indicates there are three classes of changes: (A) Specific Changes: land use change requested by private interests. (B) General Changes, Mr. Hopkins thinks a corridor would be an example and (C) Structural Changes to the Master Plan 2015. The language in the Plan says that prior to finalizing any proposed amendment of the Master Plan 2015; the Planning Board shall refer said action to the TEQR Committee for review and recommendation to the Town Board in accordance with the State Environmental Quality Review Act (SEQRA). Mr. Hopkins is asking for this project to be referred to the TEQR Committee so they can begin their environmental review. He envisions the project then coming back to the Planning Board to finalize the recommendation to the Town Board where they can make an informed decision. Mr. Hopkins references the SEQRA Regulations which states the environmental review pursuant to SEQRA needs to begin to allow informed decision making and provide necessary information in consideration of environmental impacts; this should begin at the earliest possible time. In terms of the land use, Mr. Hopkins said the

project has been revised to show an increase in the buffer area from 110' to 128' along the eastern property line. Along the northern property line the buffer area was increased from 104' to 119'. The Master Plan calls for a transitional area to separate business and residential; the best way to assure the transitional area is provided is to leave that property zoned Residential Single-Family and subject it to permanent declaration of restrictions that would be recorded at the Erie County Clerks Office. Mr. Hopkins knows that he will have to come back before the Planning Board when and if the Master Plan is amended and the zoning is changed with a specific site plan for the Wegmans project.

Ms. Salvati does not agree with Mr. Hopkins in the sense that there is a project because there is not land zoned to support the project. If the Planning Board referred anything to the TEQR Committee it would be the Master Plan Amendment proposal and the Environmental Impact Statement (EIS) would be done by the Town. Mr. Schultz said the Planning Board does not have a proposal they are comfortable with referring to TEQR. He goes on to explain two (2) years ago the Planning Board referred a proposal to TEQR, this was done early on in the process and the TEQR Committee approved it. Chairman Drinkard said criterion has to be sent to the TEQR Committee so they can make an informed decision to meet the intent of the Master Plan.

Chairman Drinkard said the Planning Board should give constraints to the applicant so they can plan their proposal. Mr. Van Nest disagrees and said the Planning Board made recommendations twice and has provided guidance. He said more information is needed on the transitional areas; he would like to see this third review of Segment B done as thoroughly and quickly as possible so that a recommendation can be made to the Town Board.

Mr. Hopkins offers to assist the Planning Board by providing various studies for their review. Chairman Drinkard said it would be premature at this point.

Chairman Drinkard suggests the Planning Department provide information pertaining to transitional areas, transitional land uses and current standard setbacks for any development within the last then (10) years in the Major Arterial Zone on Transit Road. Mr. Hopkins asked for a copy of this analysis when it is complete.

Ms. Salvati said if the Planning Board reaches the same conclusion on the Master Plan as they did with the two (2) previous recommendations there is no point in referring it to TEQR because they have already reviewed it for that reason.

Rich Stanton, an attorney representing a number of individuals which form the Clarence First group, said one of the reasons people bought property in this area is because of the existing zoning and they do not want it changed. The buffer area should match up with the backyard lines which is about 460' not 100'. Chairman Drinkard said the residents in the area should know that a patio home could be in their backyard because of the current Residential Single-Family zoning. There is no EAF for any other project. The EIS is the Town's document; the Town can prepare it or have someone else prepare it. Mr. Stanton said there are other developable parcels inside the Town.

Ralph Lorigo owns 10.5 acres that have been proposed for the Wegmans project. Mr. Lorigo refers to the SEQRA regulations Section 617.9 which indicates the project sponsor or the lead agency, at the project sponsor's option, will prepare the draft EIS. Mr. Lorigo said the Town Board sent the Planning Board's recommendation back twice. He refers to the July 8, 2009 Town Board meeting and said it was clearly stated that all the Town Board members want the Wegmans project, they want something to go to TEQR with regard to this project. If some agreeable type of mitigation can be

reached, everybody wins. Ms. Salvati reminds Mr. Lorigo there is no project. Mr. Lorigo said if the Town Board has sent the Planning Board's recommendation back twice, clearly they are sending a message to review the recommendation in light of this type of project. Ms. Salvati said another review and recommendation will be done by the Planning Board. Mr. Lorigo refers to the Master Plan and recites the line: the Planning Board shall refer the action. He said it is clear the Town Board referred the matter back to the Planning Board to go to TEQR to see if a project such as this fits. He goes on to say that the Planning Board can not make references to specific measurements such as the transitional area and then say they are not going to be project specific. Ms. Salvati agrees. Chairman Drinkard said the Town Board wants to see a meaningful change in the plan; the increased buffer area is not meaningful. Mr. Lorigo said changes are not just distance and square footage but what the reaction is at the property line. It is clear to Mr. Lorigo that the Town Board was looking for a method to mitigate and resolve the issues.

Mr. Van Nest said there is no lock step as it relates to the Planning Board view of process and procedure and the Town Board view of process and procedure. In reviewing the Master Plan the Planning Board will be guided by planning principles. The Town Board may agree or disagree with the Planning Board's recommendation. Once the Planning Board makes their recommendation it is the Town Board's prerogative as to what they wish to do with the Master Plan.

Khalid Mahran, of 5722 Field Brook Drive, does not agree with the 100' proposed transitional area. His correspondence is on file.

Lynn Collis, of 8081 Highland Farms, said the Planning Board should stick to the proposal and not upgrade. If the Master Plan is changed a negative message is being sent to all of Clarence that the Master Plan does not mean anything.

Joyce Archambeault owns two (2) pieces of property that the Town is looking to down zone. If the area is down zoned it will hamper her ability to get her retirement money out of her property, this is the reason she purchased it. She asked the Planning Board to reconsider the ramifications of down zoning. She thinks it is unfair. She realizes the down zoning is from one commercial classification to another, but her property is worth more money if it is zoned Major Arterial. She doesn't know who came up with the Master Plan that would affect so many lives and hurt a lot of people. Mr. Schultz explains that the recommendation to down zone was based on information and data that was gathered by driving up and down Transit Road looking at every business in order to see the land use that has evolved. The Amherst side of Transit was also taken into consideration. Every business that is there fits into a Commercial Zone. Ms. Archambeault said she obtained a piece of paper that indicated what is allowed on her property and she said it is a joke. Ms. Salvati explained that the uses in the Major Arterial and the Commercial Zone are almost the same. Mr. Packard clarifies that the discussion to amend the Master Plan is really discussion to amend the Future Land Use map, which is a broad brush map that identifies very generally residential land uses and commercial uses. The Planning Board's recommendation to down zone to Commercial is strictly within the narrative of the Master Plan, it does not in any way, shape or form amend any map. The only vehicle to amend a piece of property to Commercial is on a per project basis and has to be proposed by an applicant and there must be a Town Board Public Hearing. The Restricted Business Zone is the minimum zoning classification required for a beauty salon. Ms. Archambeault asked why the zone has to be changed if the uses are so similar. Mr. Van Nest explains it is for the proposed future land use of the Town.

The owner of 5651 Transit Road said he is against the proposed down zoning as it will reduce the value of his property.

Dan Palumbo, owner of 5681 Transit Road, feels down zoning will reduce the value of his property.

Paul Wheeler, of 5647 Kippen Drive, said the buffer zone between Wal-Mart and the residents behind the store on Transit Road is between 350' and 400'. The transition zone at Village Station is 650', the Value Plaza is 670', the new Laurel Park is 750'; this is proper land use.

Robert Bigos, of 5653 Kippen Drive, was disappointed with the Town Board that they could not reach a decision on July 8, 2009. The new design submitted by the developer in hopes of being referred to TEQR is bordering on ridiculous; it is an insult to the Town Board, the Planning Board and the home owners. He would like to urge the Planning Board to reaffirm the unanimous decision they made in May and send this back to the Town Board with the same recommendation. This is not the proper piece of land for this project.

Dorothy Gerstner, resident of Roll Road for 50 years plus, said more and more houses are being built in the area, Transit Middle School had to built to accommodate all the children in the area. She did not like loosing her rural neighborhood; but she would not stop progress. She asked the Planning Board to keep the Major Arterial zoning between Roll Road and Clarence Center Road as this would be best for Clarence.

Pat Cipolla, of Bella Vista Group, said the Wal-Mart buffer is 50' with sparse trees. There has not been one police complaint from this area. He asked the Planning Board to look at the facts.

Scott Parks, of 5668 Kippen Drive, read the Master Plan and found 36 points that the proposed project is not consistent with. He bought his house in 1998 and was reassured that the property around his is Residential Single-Family. He was part of the group that went out to get petitions signed, he assured the Board that there was no pressure put on the people he visited; there was nothing deliberately done to try and artificially inflate the numbers.

Mr. Van Nest said the Planning Board members must be faithful to the planning process and to the Master Plan in order to make a sound decision; it is not a question of poling.

Mr. Schultz said there is no confusion on the Planning Board's part; they are trying to assess, from a long term land use perspective, what the appropriate transition zone will be between Major Arterial and Residential in that area.

Ms. Salvati notes that it is not about the Board being for or against Wegmans; it's about keeping with the intentions of the Master Plan.

ACTION:

Motion by Jeffrey Grenzebach, seconded by George Van Nest, to **table** discussion on the Master Plan 2015 amendment to provide the Planning Department time to gather the following:

- information on all transition zones, which includes greenspace and buffer zones, for the developments on Transit Road.
- any and all complaints registered during the period for any of the properties, projects or developments.

-when were the original Major Arterial Zones struck from Wehrle Drive to County Road and list any adjustments that were made.

-show the nature of the buffering that exists in the transitional area.

Richard Bigler	Aye
Timothy Pazda	Aye
Wendy Salvati	Aye
Gerald Drinkard	Aye

George Van Nest	Aye
Jeffrey Grenzebach	Aye
Al Schultz	Aye

MOTION CARRIED.

Meeting adjourned at 10:00 p.m.

Carolyn Delgato
Senior Clerk Typist