

Town of Clarence
Planning Board Minutes
Wednesday October 7, 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

Waterford Village
Planned Unit Residential Development

Requests a recommendation on Site Plan
Approval for Waterford Landings and Greens.

Item 2

Patrick Development/Metzger Civil Engineering
Residential Single-Family

Requests a recommendation on Concept Approval
of a proposed 4-lot Open Development Area on
Roll Road west of Shimerville 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 Wendy Salvati
Timothy Pazda
Richard Bigler

1st Vice Chairman Albert Schultz
Jeffrey Grenzebach
George Van Nest
Gregory Todaro

Planning Board Members Absent:

None

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:

Sean Hopkins
Kevin Curry

Michael Metzger
Bernard Kolber

Planning Board alternate Gregory Todaro is sitting in as an alternate; he will not be voting on agenda items but will participate in the discussions.

Motion by Wendy Salvati, seconded by Jeffrey Grenzebach, to **approve** the minutes of the meeting held on September 16, 2009, as written.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Jeffrey Grenzebach	Aye
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 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

Waterford Village
Planned Unit Residential Development

Requests a recommendation on Site Plan
Approval for Waterford Landings and Greens.

DISCUSSION:

Jim Callahan provides the background on the project. The property is located on the north side of Roll Road, between Shimerville Road and Thompson Road. Development Plan Approval for the Waterford Greens, Landings and Campus was amended on August 13, 2003. Under the Planned Unit Residential Development (PURD) final site plan approval is the final step in the review process. As established in the Development Plan approval the number of units, the general design layout, access road and building setbacks have been established. The applicant is present seeking final site plan approval for the Waterford Greens and Landings. The applicant has asked that final site plan approval for the Campus portion be held until a later date.

Chairman Drinkard reads the following: "This opening statement is read into the record at the Planning Board meeting this day October 7, 2009. It is in full consideration of the multiple phased Waterford projects where substantial work has already been approved and is being developed.

The intent of this statement is to frame the remaining projects being considered and before us this evening.

The PURD law, under which this development was agreed, is a whole unit with different parts or phases. In all subsequent reviews such as the one before the Planning Board, all aspects of the PURD law must be considered. To splinter off a part as requested for consideration later has the potential of not considering the whole PURD in the entirety and therefore violating the intent of the PURD.

What is proposed is site plan approval for two of three remaining phases as just described, leaving the “campus” portion for another day. This will result in the remaining campus phase to be proposed for development at some future date and doing so based on the requirements that it be a business-service area to serve exclusively the homes within the PURD itself. The “campus” phase would then stand its own merits for evaluation at that time.”

Al Schultz reads the following from the PURD Law: § 30-28.11. “Site Plan Approval. (B) Factors for consideration. The Planning Board’s review of a site plan shall be directed to the extent to which the site plan embodies the objectives of this Article and the development plan previously approved by the Town Board.” In other words, the Planning Board’s review must be done against the basics of what a PURD is intended to be. The objectives of the Article are embodied in an earlier section. Of particular interest are the commercial-civic-community facilities. Mr. Schultz then reads from § 30-28.7. “Statement of intent and objective: (B) Objectives of a PURD. In order to carry out the intent of this article, a PURD shall achieve the following objectives:

- (1) Addresses a choice in the types and cost of residential housing.
- (2) Requires “Usable open space and recreation areas.”
- (3) Requires “Convenience in location of any accessory commercial and service areas.”
- (4) Addresses “creation and preservation of...natural features.”
- (5) Requires “Increased safety for all modes of vehicular and pedestrian traffic.”
- (6) Requires “Sufficient civic and community facilities, carefully integrated with adjoining areas.”
- (7) Addresses transition from rural to suburban uses.

Mr. Schultz goes on to read the SEQRA findings statement dated August 22, 2001: “Part VI. Other Conditions. 44....Any final approved plans must be consistent with the Town’s zoning ordinance including, but not limited to, the Planned Unit Residential Development requirements. In particular, the Roll Road PURD must comply with density requirements, recreational requirements, clustering concepts and PURD open space preservations techniques. Moreover, the commercial component must be accessory in nature to the proposed development.” Mr. Schultz said future plans need to be discussed for the commercial area.

Sean Hopkins, of Hopkins & Sorgi, is present on behalf of the applicant. Kevin Curry and project engineer Michael Metzger are present as well. Mr. Hopkins said the Site Plan approval is the final in a three (3) step review process that applies to a PURD. The first step was the issuance of a Findings Statement after a lengthy coordinated environmental review pursuant to SEQRA and Concept Approval; this occurred in December 2001. Subsequently, Development Plan was amended and approved in 2003; the basis of the amendment was to reduce the overall density. The final step is Site Plan approval, which is what the applicant is currently asking for. The applicant does not have a user for the Campus portion of the project site. A letter dated September 17, 2009 indicates the applicant is

not seeking Site Plan Approval on the Campus portion. The applicant understands that when they are ready to pursue the Campus portion they will need to come back before the Board. Last year the Planning Board issued a comment letter with nine (9) comments in it. Two (2) comments applied specifically to the Campus portion. The applicant provided responses to the remaining seven (7) comments.

Mr. Schultz voices his concern with the applicant's inability to make a proposal for the Campus portion because there is no developer with a proposal. Mr. Schultz said if civic and community facilities, such as playgrounds, recreation rooms and/or a gym are to be built, he thought Patrick Development would do that. Mr. Hopkins said it probably would be Patrick Development to build the facilities.

Ms. Salvati is concerned with setting the Campus area aside; the Planning Board needs to have some idea of how the applicant intends to use it in the future. Mr. Hopkins said the PURD Law was designed to work in phases. He cannot guarantee that the applicant will not come before the board with a large retailer in mind for discussion in the Campus area, however he does not believe this will happen.

Mr. Pazda said a complete idea of what will be built on the Campus area should be known before the Planning Board takes any action. He refers to the Findings Statement of August 22, 2001 Part VI. Other Conditions. 44...the commercial component must be accessory in nature to the proposed development. Mr. Pazda asked how the applicant will put in a business that will not be used by other visitors; it is supposed to be directed simply to the PURD. Mr. Hopkins said when the applicant gets to that point in the future, dialogue will then be entertained. Mr. Pazda said if the applicant has no idea of what is planned for the Campus area, how does the Planning Board know they are making the right decision for planning around it.

Mr. Schultz is concerned with the community facilities. The applicant will make money each time they sell a house, but they will not make any money building a tennis court. What incentive is there to put the community facilities in after the applicant obtains approval to put the houses in. Mr. Hopkins said they will have to offer additional amenities when selling the houses. Mr. Pazda said the surrounding hamlets in Clarence are struggling in competition with Transit Road. Ms. Salvati asked how these hamlets can be helped in order to prosper; the Campus would become a competitor of the hamlets. Mr. Hopkins said the applicant understands the project is governed by the PURD ordinance.

Chairman Drinkard asked if the applicant would want to market something that will be immediately next to a house that is being built. Mr. Hopkins said Kevin Curry will work with the neighbors of the Campus portion of the site to build something that is not objectionable.

Mr. Schultz said the PURD Law says, "...You shall achieve this objective, you shall achieve sufficient civic, community facilities carefully integrated with adjoining areas." The applicant does not have this. Mr. Hopkins said they agreed to contribute the asphalt for the recreational trail and dedicate 33 acres to the Western New York Land Conservancy. It is pointed out that the 33 acres is a separate piece regarding open land that is available to people. Mr. Pazda asked how the applicant will integrate with adjoining areas when it is unknown as to what will be in the adjoining area. Mr. Hopkins said that will be discussed when the applicant comes before the Board for that phase. He goes on to say there was no requirement set forth in the Findings Statement that a certain amount of space was needed for community facilities. Mr. Grenzebach asked what if the applicant cannot obtain a

commercial business for the Campus area. Mr. Hopkins said he would come back to the Board to discuss an alternative use.

Chairman Drinkard said the project is to be a walkable community and will have private road aspects. There will be a sidewalk on one side of every road. Mr. Hopkins agrees.

The Landscape plan for the site was rejected 5 years ago. The applicant will have to submit a Landscape Plan under the current Landscape Law. Ms. Salvati suggests mixing the tree types.

Mr. Van Nest said he does not see how the Board or the Town can mandate the developer have only commercial or civic uses that are completely accessory in a PURD. From an economical and logistical standpoint he does not see any developer looking at a development of this size and trying to plan a project from a commercial perspective that would serve only that limited project size; it wouldn't make sense. Mr. Van Nest thinks the Planning Board needs to be more flexible. The possibility of a micro shopping area should be considered for those residents that are a distance away from the major shopping areas.

Ms. Salvati referred to the Planning Board Executive minutes of July 2008 in which discussion was had suggesting mixed uses and using the Traditional Neighborhood District (TND) as a guide for the Campus area.

Chairman Drinkard said the Campus area should be monumented and is off limits for a staging area for construction equipment. A water line will have to run through the Campus area; the disturbance should be minimal and the area kept in its natural state. Mr. Hopkins said another improvement to the Campus area would be to install a portion of the pavement to access the eastern most residential use. Ms. Salvati asked if the applicant would put in a crosswalk so people could access the road and the sidewalk on the other side of the project. Mr. Curry agreed to work with this idea.

Ms. Salvati asked the applicant if it is his intention to create the direct connection from Dana Marie Parkway to the road off Curry Drive now. Mr. Curry said if it is not done immediately it will definitely be the next step.

Mr. Pazda is opposed to looking at only a portion of the project; he would like to review it as a whole. He refers to the current street signs in the Waterford Development and said they are illegal and wants to see them corrected now. Mr. Pazda has had discussions with the Fire Chief who indicated he wants to see the signage change before anything goes forward. Recently, there was an emergency where three (3) emergency vehicles passed by a street within the Waterford Development because the street sign was unreadable. The street signs need to be brought up to code, they do not reflect and cannot be read at night. Mr. Curry said the signs will be brought up to code; they will work to the satisfaction of the recommendation from the Highway Department. Mr. Pazda doesn't know why they have to wait for a recommendation; the signs just have to be legal.

Ms. Salvati asked if there were any requirements for central amenities under prior approvals. Mr. Callahan said the Development Plan Approval for the entire PURD identified those parks and then the applicant has come back in phases. It is required as part of the PURD; it is a matter of when the particular phase is developed.

Mr. Curry said he wants to start construction immediately.

Chairman Drinkard refers to the Findings Statement items 36 and 41, in which traffic studies are discussed. Once Dana Marie is connected the traffic flow will change. Chairman Drinkard suggests a requirement be placed in the conditions to have a traffic study updated at this point and inserted into the Findings Statement for future reference. The study should be performed a year after Dana Marie is opened up. Mr. Hopkins asked if the study should be based on time and/or the number of units. He goes on to say that the study should be done while school is in session in order to obtain the most accurate information. Mr. Van Nest suggests the condition be one (1) year from Dana Marie being completed and/or 50% of the units being constructed and in use, and while school is in session.

A Landscape Plan was submitted on September 19, 2009. Mr. Curry said he is willing to comply if the plan needs to be adjusted or augmented.

The houses on double frontage lots on Dana Marie will face Dana Marie.

Joe Meyers, of 8920 Roll Road, asked if the total distance of the entire PURD is along Roll Road. Chairman Drinkard said not the Campus portion; the Campus portion will be the immediate Roll Road area. Mr. Meyers asked what will be seen along Roll Road; he presumes there will be one cut on the eastern end. It is confirmed that the road will come out on the eastern end of Roll Road. Mr. Meyers asked if either a traffic light or a stop sign is being considered at this location. Chairman Drinkard said a stop sign is being considered. Mr. Meyers asked what the distance is going to be off of Roll Road; he asked what the entire project will look like. Chairman Drinkard encourages Mr. Meyers to visit the Planning and Zoning Office to look at the full size print and all the documentation that is on file.

Bernie Kolber, Town Board member, said there is a report of a Gypsum Mine at the project site. Mr. Hopkins said there is not a known entrance way on the site. Mr. Kolber said it was sealed off with concrete and back filled, he doesn't know exactly where it is. Mr. Curry said there is a concrete structure on one of the adjacent properties but not on his property.

ACTION:

Motion by George Van Nest, seconded by Jeffrey Grenzebach, to **recommend** site plan approval for the Waterford Greens and Waterford Landings phases of the Waterford project (PURD) based on the following conditions:

- Sidewalks are to be installed on one side of all private roads.
- Based on specifications of the memo dated December 10, 2003 entitled Overall Project Requirements.
- Based on conditions outlined in the TEQR Findings Statement dated August 22, 2001.
- Landscape Committee approval is required based on the current law.
- An updated traffic study within one (1) year of completion of Dana Marie to Roll Road or the completion of 50% of the homes in the subject area. The study is to be done while school is in session.
- The portion of the parcel designated as commercial/community campus is to be monumented and remain essentially undisturbed until such time as a buildout is approved. Disturbance necessary to install alleyway along the eastern edge as well as a water line must be held to a minimum.
- The Town Board shall have the Town Highway Superintendant review and approve replacement street signs.

-Progress the phase for the central circle and park amenities.

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

MOTION CARRIED.

Chairman Drinkard recuses himself from the meeting as his daughter owns property adjacent to the project site for Agenda Item Number 2.

Item 2

Patrick Development/Metzger Civil Engineering Residential Single-Family	Requests a recommendation on Concept Approval of a proposed 4-lot Open Development Area on Roll Road west of Shimerville Road.
---	--

DISCUSSION:

Jim Callahan provides the history on the project. It is located on the south side of Roll road, west of Shimerville Road and consists of approximately 8.37 acres. A Negative Declaration under the SEQRA was issued by the Town Board on September 23, 2009.

Mr. Schultz said this agenda item is an Open Development proposal which is not as-of-right land use. The Town Board has, at their option, to approve or deny either or both of the two (2) concepts that were looked at. The Negative Declaration under SEQRA was for four (4) residential units. The drainage swale came up as an issue but does not limit the use of the property. The Planning Board needs to look at both concepts and recommend, deny or table.

Michael Metzger, of Metzger Civil Engineering, is representing the applicant. Kevin Curry is also present. Mr. Metzger said proposal #2, the four (4) lot Open Development, is the applicant's preferred concept. The house placement is better.

Mr. Schultz said the acreage was an issue. The preferred plan has a minimum of two (2) acres for every lot even with subtracting out the right-of-way for the road. The front lot falls about 5% short if the gas line right-of-way is subtracted. This is acceptable.

Ms. Salvati reads from the Town Code § 193-19 Preservation of natural features: The subdivision shall be designed with consideration being given to the preservation of natural features. Precautions shall be taken to protect existing trees and shrubbery during the process of grading the lots and roads. Ms. Salvati asked that the trees along the back of the lots remain. Mr. Metzger agrees.

Mr. Bigler asked which direction the house on Roll Road will face; Mr. Curry said the buyer will decide that. The driveway will not go out on to Roll Road.

Mr. Pazda thinks this preferred concept will work, Mr. Grenzebach agrees.

Mr. Schultz said, for the record, there were six (6) issues raised by the TEQR Committee, mostly having to do with drainage, water movement off the site and maintaining the drainage ditch. He wants the applicant to be aware of these issues.

Mr. Van Nest said it is a well put together plan.

Mr. Metzger said there is a possibility that once they get into the engineering of the project that there may be a need for some storm water detention or a water feature. Ms. Salvati suggested locating it in the area next to the driveway. Mr. Curry said that would be the first place they look to locate it however engineering will dictate the location. If the water feature cannot go next to the driveway, another possible location is near the ditch on the southwest corner of the property.

ACTION:

Motion by Jeffrey Grenzebach, seconded by Wendy Salvati, to **recommend** Concept Plan Approval for a four (4) lot Open Development.

ON THE QUESTION:

The plan that is being recommended is identified as CP-3.

The motion is conditioned on the following:

- Meeting the requirements that were established in the SEQRA Review.
- The trees along the southern boundary are to be preserved.

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

MOTION CARRIED.

Meeting adjourned at 8:55 p.m.

Carolyn Delgato
Senior Clerk Typist