

PLANNING BOARD MINUTES

February 19, 2003

AGENDA 8:00 P.M.

ITEM I

Mike Petroci
Commercial

ITEM II
Blaze Caruana
Agricultural

ITEM III

Kevin Curry/Patrick Homes
Agricultural

ITEM IV
Alan Olhoeft
Agricultural

ITEM V
Orazio Ippilito
Commercial

ITEM VI
Town of Clarence

WORK SESSION 7:00 P.M.

Roll call Miscellaneous
Minutes Agenda items
Sign review Communications
Updates on pending items
Committee reports

REQUESTS A SPECIAL EXCEPTION USE
PERMIT
FOR AUTOMOTIVE SERVICE FACILITY AT 9605
CLARENCE CENTER ROAD.

REQUESTS CONCEPT PLAN APPROVAL FOR AN
OPEN DEVELOPMENT AREA AT 9860-9890 GREINER
ROAD.

REQUESTS CONCEPT PLAN APPROVAL FOR A 66
UNIT TRADITIONAL NEIGHBORHOOD HOUSING
DEVELOPMENT AT 6680 HEISE ROAD.

REQUESTS A ONE LOT ADDITION TO PREVIOUSLY
APPROVED THREE LOT OPEN DEVELOPMENT AT
4980 WINDING LANE.

REQUESTS CONCEPT PLAN APPROVAL FOR 3000
SQUARE FOOT ADDITION TO EXISTING
RESTAURANT AT 9415 MAIN STREET.

REQUESTS CONCEPT PLAN APPROVAL AND
RE-ZONING FROM RESIDENTIAL A TO
RESTRICTED
BUSINESS FOR EASTERN HILLS CORRIDOR

ATTENDING: Joseph Floss
Patricia Powers
Reas Graber
Henry Bourg
Frank Raquet
Christine Schneegold

INTERESTED
PERSONS: Councilman Scott Bylewski
Lowell Grosse
David Klingensmith
Kristina Young
Victor Trabucco
Jon Trabucco
Doug Maggione
Kevin Crotty
Richard Teso
Frank Kennedy
Robert Roach
Matt Balling
Kevin Curry
Mike Metzger
Alan & Sue Olhoeft
Blase Carauana
Blase Carauana
Mike Petroci
Mike Petroci Jr
Orazio Ippolito
Kathryn Tiffany
James Callahan
James Hartz

MINUTES Motion by Patricia Powers, seconded by Henry Bourg to
approve the minutes of the meeting held on January 29,
2003 AS WRITTEN.

ALL VOTING AYE. MOTION CARRIED..

Motion by Patricia Powers, seconded by Reas Graber to
approve the minutes of the meeting held on February 5,
2003 with the correction that Patricia Powers voted NAY
on Item V, not AYE.

ALL VOTING AYE. MOTION CARRIED.

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ITEM I

REQUESTS A SPECIAL EXCEPTION USE
PERMIT
FOR AUTOMOTIVE SERVICE FACILITY AT 9605
CLARENCE CENTER ROAD.

Mike Petroci
Commercial

DISCUSSION:

Jim Callahan gave a brief history of this project. The first 300 feet of the property is zoned commercial, and the rear of the property is zoned residential A. The master plan identifies this area as a mixed use traditional neighborhood concept with the residential remaining to the rear. The Town Board approved the change in use for the expansion of Bison Nursery and referred the request for a Special Exception Use Permit for automotive repair to the Planning Board. The premises was previously occupied by Yoder Brothers for fifty years. They sold and repaired tractors and farm equipment. A letter was received from the neighbors expressing their concerns regarding an automotive use. They included noise, loss of privacy, outside storage, property values, extra traffic, and road testing of repaired vehicles. They also offered some solutions to their concerns. Mr. Petroci said they would like to use the back part of the property for their nursery expansion, and the front buildings for rental space. The back building which is large lends itself to auto repair. They do not have a tenant at this point, however, they would like to have the option of renting it for automotive use, and that requires a special exception use permit. They do have some people in mind that would like to continue along the lines of Yoder Brothers with equipment repair. It would be truck, and possibly some tractor repair. It would be a use similar to what was there before, but they would not preclude renting it to someone for storage, a contractor, or something more benign. Chairman Floss said the only reason they are here is for the automotive option which requires a special exception use permit. They would like to expand the nursery twenty feet to the west on this property in the front. The nursery stock will take up approximately 60% of the property. The back property where the residential homes are, will have a berm to provide some screening. Pat Powers asked Mr. Petroci if he attracted a vehicular repair shop - there wouldn't be any collision work involved would there? Mike Petroci said "Probably not, isn't that included in a special exception use permit, or is that a separate

permit? Pat said a collision shop would involve painting, noise and a whole other set of problems. Joe Floss said We can actually set limitations such as only automobile repair, so as we are talking we are writing down some limitations. There will be piles of mulch, stone, just to the west of their existing pole barn, but they can provide some buffering along the fence line for the neighbors. At the present time they keep the

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piles in slots where they are reasonably tidy. It will not be unsightly. They do not want their property to look unsightly. The front of the building if paved, and to the west of the building (16 plus feet) it is stoned which they may possibly want for driveway access in the future. They do not intend to light the back of the property where they will keep the nursery stock. Chairman Floss read the list of limitations that he has been compiling.

1. No stock storage outside such as tires.
2. Any signage for the facility is a separate review. It is reasonable to have a sign saying You are entering a school zone.
3. Hours of operation cannot be answered specifically - but 7:30 a.m. until 8:00 p.m. Monday through Friday. Saturday 8:00 a.m. until 5:00 p.m. No Sundays.
4. No collision shop.
5. Identify an area where the vehicles would be stored. Mr. Petroci suggested the front.
6. An acceptable landscape and parking plan must be approved by the Landscaping Committee.

Barbara Bryce of Hartwig Drive said they welcome the Petroci-s and she feels it would be an improvement. She also would like to see a living fence.

ACTION:

Motion by Patricia Powers, seconded by Reas Graber to recommend a negative declaration to the Town Board based on the information analysis received that the proposed project will not have any significant environmental impacts.

ALL VOTING AYE. MOTION CARRIED.

ACTION:

Motion by Henry Bourg, seconded by Reas Graber to recommend a special exception use permit to the Town Board with the conditions listed above. Also, the public is

to be notified when the landscape plan and parking plan has been received for review by the landscape committee. It will then go to the Town Board for a public hearing.

ALL VOTING AYE. MOTION CARRIED.

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ITEM II
Blase Carauna
Agricultural

REQUESTS CONCEPT PLAN APPROVAL FOR AN
OPEN DEVELOPMENT AREA AT 9860-9890 GREINER
ROAD.

DISCUSSION:

This property is located on the north side of Greiner Road opposite Hollingson just west of Hollingson. The property is zoned agricultural, and the master plan identifies this area as a future residential area. The proposed open area development would be consistent with those particular land classifications. Mr. Caruana Sr, and Mr. Caruana Jr. would like to get an open development approved, and then sell it for someone else to develop it. Christine Schneegold asked Mr. Caruana the width of the proposed road, and if he intended to remove one of the homes. The road is 40 feet wide, and he does not intend to remove either home. There are a little more than 6 acres in the back of the property, and he is interested in developing it into three two acre lots. Reas Graber asked about the incline to the back, is there much of a drop off in the back? Yes, there certainly is an incline, but it is negotiable. Reas asked who owns the property behind you? Jim Callahan said there is Paddock View, Spaulding Greens, Pine Meadows golf course. Pat Powers asked how much frontage there is. Mr. Caruana stated there is 357 feet of frontage. Pat asked if there have been any studies done regarding the sight line on that portion of Greiner Road trying to exit your driveway. Mr. Caruana said he doesn't have a problem seeing in both directions, the only problem is with the traffic. Frank asked the distance between the driveways and the proposed new driveway. Mr. Caruana said it would set in between two driveways that are two hundred feet apart. Jim Callahan said there are some issues that have to be discussed. One is that the distance between the new and

proposed driveways will have to be adequate (100') and secondly whether the front lots meet the requirements of a minimum of two acres. Frank said he was concerned that there would be three driveways within two hundred feet. Frank said he would like to see a more detailed site plan with dimensions. Henry Bourg said he has a problem approving an open development that will be sold before it is actually developed. The number of lots could change. Chairman Floss asked if the neighbors would like to comment. Kevin Crotty of Greiner Road said there are enough accidents on

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Greiner Road now. Mr. Caruana recently purchased additional property to make this all one parcel, so he could do this. Doug Maggione said he had a safety issue for a road going in there because there isn't much of a shoulder. He has seen quite a few accidents. The visibility is not good. Rick Teso said the road would be located at the most dangerous curve on Greiner Road. It is difficult to get out of the driveway. There is so much more traffic on Greiner Road. He would like to see another access to the property, maybe off of Kraus Road. Victor Trabucco and Jon Trabbuco live on Paddock View, which is adjacent to the proposed project. There is no way to access that property from their development. Also, they have made a lot of provisions for the drainage on their property, and the water shed coming down the street, could affect their drainage. Also, they would like to know which way the houses would be facing. It is a concern for their privacy.

ACTION:

Motion by Patricia Powers, seconded by Frank Raquet to table this item, ask Mr, Carauna to come in and discuss this with the Executive Committee and come back with a more detailed plan.

ALL VOTING AYE. MOTION CARRIED.

ITEM III
Kevin Curry/Patrick Homes
Agricultural

REQUESTS CONCEPT PLAN APPROVAL FOR A 66
UNIT TRADITIONAL NEIGHBORHOOD HOUSING
DEVELOPMENT AT 6680 HEISE ROAD.

DISCUSSION:

Jim Callahan gave a brief history and location of this project. It is located at the southwest corner of Heise & County Road. The zoning is Agricultural, and the long

range Master plan shows this area as agricultural rural residential. This is the preliminary introduction to the Planning Board. Kevin Curry and Michael Metzger represented the project. They are trying to accomplish a traditional neighborhood design. Traditional neighborhood designs are now being used across the country as a solution to overdone curvilinear cul-de-sac subdivisions. The benefits are that they utilize less land, they tend to preserve open vistas, also allow for cost effective implementation, and they typically have a low maintenance level required by the Town. Mr. Curry said the reason why we are

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presenting this traditional neighborhood design in this area is threefold. First of all, we wish to preserve open space. We also wish to preserve the vista along the collector roads of Heise and County. Secondly, we are looking to provide needed housing units in our community, specifically the senior market, and the empty nester market. We are attempting to provide an active adult community. This is different and very much distinguished from other projects. Mr. Curry passed out some photos of examples he has collected from different areas across the country. They are indicative of some of the things we are trying to create here, in our neighborhood. Within our neighborhood, which we will define as executive homes, we will provide a level of services which will be called executive services. Through the administration of the Homeowners Association, it will allow for the complete maintenance of the properties, the community properties and the individual properties both interior and exterior. Residents in this neighborhood will be in a position to have provided to them, from our Homeowners Association, snow plowing, lawn maintenance, other exterior maintenance, interior maintenance such as plumbers, electricians, decorators, painters, carpenters. Every physical need of the residents relative to the structures will be provided by the Homeowners Association. It will allow us to bring the product to the market at a reasonable cost. We are trying to provide a product at a more reasonable cost, than what we are seeing in many other communities in Western New York, as well as in Clarence. The third major component of our presentation is that we are looking to present a traditional neighborhood. We are looking to present orchards, a gazebo, picket fences, a walkable community. We are providing a significant amount of open space, a one

acre lake, a reflecting terrace with benches overlooking the lake, a perennial garden with stone walks, a gazebo, and a picnic grove. All those amenities will be located within the village square. At the entrance to the area we are providing planting beds, and fruit orchards. This will allow us to take our housing, and keep it off of the Heise Road frontage to preserve the collector road vista. Chris Schneegold asked if the roads were going to be private, and if they would have sidewalks seeing as it is a walkable community. Their desire is to have private roads, and they will be happy to provide sidewalks if that is

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deemed appropriate. The Homeowners Association will maintain the roads. There will be a stop sign at Heise as well as some of the interior intersections. Reas Graber said this will have to be re-zoned, and the number of units is an issue. Reas said that area does not have sewers, right? Mr. Curry said ACurrently, it is not sewerred, but we do have several options available to us, to provide for public waste disposal - sewers. Our plan is to work with the Engineering Department and the County to do the best method. Reas asked ASo it would be an on site sewage treatment? Or would it be a hook up to sewers?@ Mr. Curry said that has not been determined at this point. Mike Metzger said it is not in any sewer district at the present time. They are looking at the possibility of running sewers up from other areas - possibly from Heise Road, possibly from the west. On site sewage treatment is an option, package treatment plants are becoming more and more affordable and dependable all the time, and cost effective to operate. The Town has always had the goal of providing sewers to the Industrial zone on County Road. If that one option did prevail, where we came up Heise Road with sewers from the south, it brings it that much closer to achieving the goal. Patricia Powers said she thought it was an interesting project. In November or late December, we had a similar project to what you are proposing. It was tabled because of the density, and they had sewers. Personally, as a member of the Planning Board in the interest of consistency, this project doesn't have sewers, and at this time we don't know where or how you plan to do this. That project is in sewer district # 5, but there are other issues such as capacity. Mr. Curry said AI am willing to move forward based on the professional opinion of my Engineer, that this property is definitely serviceable by

sewers, and that there are a variety of options available. What we are going to do is achieve the best option. Frank Raquet asked if this was in the flood plain. No, it isn't. Frank asked if the project is the entire corner. No it isn't. It is the interior. The property does not go out to County Road. Frank asked if he owned the property on County Road. Mr. Curry said he and his partner own two parcels on County Road. Frank said if this project goes forward, he would like to see another exit to County Road. Frank said he didn't understand how you can build homes and preserve the vista. This is a big open field, and you can see

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for a quarter of a mile. Anything you put there, is going to be in the middle of the vista. Mr. Curry said the first homes are located more than 150 feet off of Heise Road. Mike Metzger said they attempted to preserve the vista on the frontage property. There is a densification of the interior for preservation of the open space on the frontage. Frank Raquet asked "Are you going to berm the property that is visible from Heise Road?" Mr. Curry said that is something they would consider. One of our architectural requirements for this neighborhood will be approval of the landscape plans for individual homes. We are going to have a very strictly maintained neighborhood. Frank asked Mr. Curry to point out the park. It will be around the lake for a total of 2.7 acres. The homes around the village green will all front on to the village green. Mike Metzger explained about the lots off Heise - what you will see is the home - there are no driveways. There will be alleys behind, the garages will be behind, the driveways and cars will all be behind the homes. On the opposite side of the green, all those homes there, that is all an alley. All those interior lots on the frontage roads where they front will not have driveways, they will have alleys. Even on the exterior of the project, where there will be vehicles and access to the garages from the front, the intent of the architecture is to set the garages back, so that it is behind the home and the cars are in the driveway. The street scape that you have as you go down the street is not cars. You see the beautiful homes, the trellises, the arbors, the picket fences, the porches, the landscaping. It is a tremendous concept. Frank Raquet asked Mr. Curry "Do you own the corner parcel of County and Heise?" Mr. Curry said "No we don't." Frank Raquet asked Mr. Curry "So there is not going to be anything commercial involved with the property?" Mr.

Curry said "There are zero plans for anything other than single family residential to service the active adult community. Henry Bourg asked what size homes he is proposing for the lots. Mr. Curry said "That will be market driven - probably from 1600 to the high 2000's. One of the misnomers of the empty nesters is that they are downsizing. Where it is stated a lot, it doesn't occur as often. So frequently we find that the size of the new home is quite similar to the family home that they owned. They just re-proportion the home with maybe a larger gathering area. Henry Bourg said "Right now, we do not have a zoning

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classification that allows more than three units per acre. I guess I don't understand how we are going to fit four units per acre when we don't have a classification that allows more than three units per acre. Educate me.@ Mike Metzger said "We are hoping for some guidance on that as well. As you know this type of project is difficult with the zoning ordinance as it currently exists. Multi family residential does allow up to eight units per acre, currently in the zoning ordinance. But there are other provisions of that, that make it a little onerous to work with, you wind up having to secure some variances. But that is something we are looking at and assessing. We will try to come up with the best option. Obviously the PURD is one option that has been employed elsewhere in the Town. We don't necessarily want to lock in on that, and say that is the route we are going to go. We want to see if the other options are better suited for this project. As multi family projects go, this is a relatively low density project, in comparison to other projects I have worked on and seen. It is just unfortunate that our code in the Town is set up in the way it is right now, so we are going to have to work through that.@

Mr. Curry said "We have worked with various boards in these matters. We have a similar neighborhood, we are just kicking off in Lewiston, and another neighborhood that will be kicking off in the Town of Hamburg later this year. We want to work within your guidelines, and we have experienced that with various communities. We are looking for some guidance from you. The PURD ordinance does not necessarily restrict us to 3 units per acre, there is some leeway in that regard. We have addressed the sewer issue, and we are comfortable in moving forward on that. The density is the other main issue. We do believe there is a variety of alternatives as to

how we can appropriately address the density, and we are also looking for a referral to the Municipal Review Committee so we can begin researching environmental issues.@ Mike Metzger said the Town Board has the ability to vary the density in a PURD. They have done that in the past because the Town Board and the Planning Board thought it was good land use. Henry Bourg said AYou say you have the sewers coming, at least conceptually. Getting sewers is not easy. I am a little concerned about that part of it.@Mike Metzger said AAgain there are options available. I can talk about one which would be on-site treatment. I am not talking about septic

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systems - not individual systems for every lot. There are numerous communities where individual sewage treatment systems have been put in place. They are out there, they are viable and cost effective. There is going to be a Homeowner-s Association involved, so that mechanism is already in place to handle it. Obviously, public sewers is always the way to go. We have the ability technically to head south on Heise Road, it is not that far.@ Henry Bourg said AYou have to get it there. You have to have capacity. There are a lot of issues with the sewers in this Town, that are not easy to solve in the best of situations.@ Kevin Curry said AWe do recognize that sewers are a constraining factor within this Town. At the same time, we researched the item prior to acquiring this land. In this area, sewer districts are relatively new, and very recently we have had out of district customers and extensions of public sewer lines.@ Henry Bourg said AThe only other question I have is relative to the master plan. This is in the master plan as rural residential - which is low density residential. You are asking us to make a big change in any zoning we would put on this project relative to the master plan. I don't think I am very comfortable with that, we will get a lot of criticism for violating the master plan with this kind of a project. Mike Metzger said AAs I am sure you are aware, when the master plan was put together, there was not a detailed review of each and every parcel in an area. There are some wide swaths of area that have a certain color painted across them. So, really each property has to be looked at on a case by case basis. There was more discussion on the issues of the master plan, sewers, density, and the motion that was made by Councilwoman Guida, and seconded by Councilman Sweeney to send this project to the Planning

Board. Councilman Bylewski said he voted for this project to be sent to the Planning Board based on 51 units. Councilman Bylewski said that the minutes were approved, so there was an opportunity to change the number, and it stood at 51 units. Chairman Floss offered three alternatives to the board. One option is to send it out to Municipal Review Committee, Traffic Safety, and Fire Advisory. Another option is to table the item until it comes back as set forth at 51 units. Kevin Curry said "What we have here is a case of circuitous reasoning. We have already identified at the Planning Board level, that there are at least three options on how to address the

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density. We are just not certain what the best option is, and we are looking for some guidance from you, and we are willing to work with you in that regard. However, if all we can do is be referred to you based on one of those options, other options that you may deem to be superior options, can be considered. So clearly there is a case of circuitous reasoning. The motion once again, was intended to and confirmed by two council members who did not feel the need to qualify their motion at 51 units, but they felt the need to qualify the fact that, and to insure the fact, that I would agree on the ultimate density method that you all determined appropriate. Not them at this point, but you at this point. They wanted me to commit to that, and I did commit to that. I do not wish to be part of a circuitous reasoning." Jim Callahan said "There has been a lot of reference to the master plan. And yet in many circumstances this is the type of design we want. But is this the right location? That is the big question. The master plan clearly shows this as being rural residential, which is outside of any sewer district. The potential is, as stated by the applicant, that there could be sewers, I don't know how. I would like to find that out first before we go. The option of an on site system is moot, the Town of Clarence has an agreement with the Town of Amherst in terms of drainage, there is an agreement in place that says you can't do that - you have to tie it to a public sewer system. The other issue that I brought up at the executive session is the frontage aspect here. If this frontage develops, that is not identified on this plan, in full duplexes, like has been started, you certainly destroy the character of the area. The development of this is wasted with what is hiding it along the frontage. That certainly does not meet the goals of the

master plan. I would recommend that we table this, let's look at the sewer issue specifically. We are in the middle of an environmental review draft impact statement scoping session of Gables on the Green, that also doesn't have public sewers. One of the main questions is, is it setting a precedent for the Town of Clarence? The same question could be asked here. So before we move this to MRC, I think we need to nail this done and make it clearer. Kevin Curry said "May I make a comment? Relative to the sewers - sewers extending to the Town's Industrial Park is a long range goal which would bring the sewers either across our property or very close to our property. I am just not

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sure, as the conversation of sewers is going on right now. It seems to me we have a Professional Engineer that is very familiar with the sewer design in this Town, that is stating overtly this property is serviceable. And you have an applicant that is stating he is willing to move forward in that regard. Now, it seems as though we are going to try and use sewer access for land planning, and I am not sure if that is our goal in this Town to use sewers as a way to constrict development. That is what I am hearing from this, that we are using sewers to constrict development. If that is the case than let's just say it and let's just do it. Let's not hide behind the issue. Jim Callahan said "I think you have reversed it. We have a master plan that says this is low density. If there is sewer access maybe that could change." Henry Bourg said "If you have a plan for sewers, we should have it before we even consider this project. You don't have a plan for sewers, you have a statement that there are sewers close by that you can link up to. That doesn't mean you are there. You are not there." Chairman Floss said "I concur that this is likely to be serviceable. We know who is building some infrastructure, and we know that it is probably heading your way. However, it doesn't mean that we are assured that it is ever going to occur. We have sent things to MRC, Fire Advisory, and Traffic Safety with higher density than we prefer. The concern has always been that we don't want it to be an indication of support of the density that has been presented. You can always come in with higher density and go to MRC, and come back with lower. You can't come in with lower, and go to higher after your SEQR review is done." There was more discussion about the agreement with the Town of Amherst. Frank Raquet said "Being that this is the first

time we have officially looked at this as a Planning Board, and a project of this magnitude is not happening overnight anyway, I don't see the harm in tabling this, there are a lot of unanswered questions.

ACTION:

Motion by Frank Raquet, seconded by Patricia Powers to table this item.

On the Question?

Henry Bourq said A What are we accomplishing by tabling it? What other information are we looking for? We need to give them a sense of direction. Tabling it doesn't tell them anything. There are a lot of nebulous questions. You

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talk about a package sewage plant, and maybe that is viable. But where would you put it? I don't see anyplace on your layout, to put a package sewage plant. Sewers are the big thing here, if you can't get sewers to this, or come up with a different plan that has a package plant drawn in you don't have anything.@ Mr. Curry asked Mr. Bourq AAre you suggesting that we entertain a package plant at this time?@ Mr. Bourq said ANo, I am not suggesting that.@ Chairman Floss said AIf you want to build this at this site, I suggest you come back with 51 units as directed by the Town Board, or go back to the Town Board and ask for this to be clarified. I don't see Councilwoman Guida's statement at the end as an amendment to the motion that she made. If I did, I would be fair to you as well and say she amended it. I think it is quite clear we are looking at 51 units. I could see sending this out to MRC with the clear understanding that you come back with 51. The issue that Mr. Callahan brought out is that we would like some proof that sewers are going to be coming, before we even send you down that path. Are you saying that you need SEQR referral to do that? Mr. Curry said AWell we certainly would like to move in that direction. At the same time we will work with the Town Board to receive the intended referral back to your board.@

On the Question?

Patricia Powers said AIf we are going to table this, Mr. Curry if he would be willing to attend a Tuesday morning meeting with the Executive Committee and discuss with us what kind of commitment you may have from the Town of Amherst relative to sewers? Mr. Curry said AAbsolutely we will discuss with you, the sewer issue.@

ALL VOTING AYE. MOTION CARRIED.

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ITEM IV
Alan Olhoeft
Agricultural

REQUESTS A ONE LOT ADDITION TO PREVIOUSLY
APPROVED THREE LOT OPEN DEVELOPMENT AT
4980 WINDING LANE.

DISCUSSION:

Jim Callahan gave a brief history on the open development area project. Initially, there was a three lot open development approved by the Town Board on April 10, 2002. An additional lot has been requested and reviewed by the Planning Board on 2-5-2003, and referred to the Town Engineer. A negative declaration was recommended to the Town Board on 2-5-2003, and approved by the Town Board on 2-12-2003. Comments from the Town Engineer were received today. Chairman Floss read the comments from the Engineering Department. Two weeks ago we spoke with your neighbors, Mr. Olhoeft could you give us an update.@ Mr. Olhoeft said he agrees with the requirements of the Engineering Department. He met with the Steinharts and have reconciled their issues, they have agreed on some modifications to the privacy berm and putting up a privacy fence. The Steinharts have agreed to repair their leach bed. We have a signed agreement between the two of us, of exactly what those changes are going to be. We also met with the Sweets, and their concern is privacy around their pool. Our intention is to build our home, and we also may consider a pool and will do some landscaping to provide a privacy barrier. After that landscaping is done, we will privately re-visit the issue, and if we need to put up any fences or modifications that will insure their privacy we have aa handshake agreement that we will do that. Chairman Floss said just for clarification did you say you damaged someone=s septic system or that you are repairing it? Mr. Olhoeft said AThe Steinharts are

repairing their septic system. Our contention is the issue of smell that was raised by one of the neighbors wasn't from the horses, it was in fact the Steinharts septic system. Chairman Floss said I have a letter from Lowell Grosse regarding drainage. I think the requirement that our Town Engineer set forth is to make sure that all impervious surface is retained on your property, and doesn't drain on anyone else's property. Mr. Olhoeft said Before we actually added that lot, there was a drainage line that was approved by the Engineering Department taking a six inch line from about the center of that property, going south and actually draining it in the drain line. That was approved

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with our first submittal. We were not totally comfortable with that solution, so we will work with the Town Engineer to best come up with the drainage for that. We do not object to putting everything to the road, and to the front. There may be other options that he will consider as well. Lowell Grosse said There was that drainage line that comes right in to my drainage area. It concerns me. Will that be removed? Mr. Olhoeft said We are not with this submission including that drainage line. Originally there was a six inch drainage line - we are no longer putting it there. Lowell Grosse said there is a pipe there, that I inspected last fall, it seems to come out right where the drainage line along the east side of my property is. I don't know if that is in use or not. Mr. Olhoeft said From the existing house there is a sump pump line that goes to the drain that is on our property. There is no open development drainage going into that drain. Mr. Grosse said a lot of trees have fallen and been taken down, I am wondering what the impact of that is on that type of drainage. Joe Floss said I am not an engineer, but the requirements set forth by the engineering office requires that the applicant cannot put water on to any one else's property, it must be contained within his own property. A detailed drainage and grading plan will be required and will be reviewed during the building permit process for each home built in the open development. Lowell Grosse asked about the bridle path, and how close it will come to the property line. Mr. Olhoeft said he would agree to the path being twenty five feet from the property line. That was agreeable to Mr. Grosse. David Klingensmith is the neighbor to the left. His concern is a privacy fence such as a berm or plantings for his property. Mr. Olhoeft said there

is already a buffer of 20 to 30 feet of thick brush in that area, he doesn't feel it needs any more buffering. He does not intend to clear anymore to the south end than what exists today. Mr. Grosse asked about the barns - would they be used for any other purpose than to stable the horses owned by the residents of the open development. There is a limit of eight horses, and they would belong to the residents.

ACTION:

Motion by Patricia Powers, seconded by Reas Graber to recommend a one lot addition to the previously approved three lot open development at 4980 Winding Lane with the horse trail at least 25 feet from the property line

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ALL VOTING AYE. MOTION CARRIED.

ITEM V

Orazio Ippolito
Commercial

REQUESTS CONCEPT PLAN APPROVAL FOR A 3000 SQUARE FOOT ADDITION TO EXISTING RESTAURANT AT 9415 MAIN STREET.

DISCUSSION:

Jim Callahan gave a brief history of the project. The project was introduced in August 14, 2002. The project received a negative declaration on November 20, 2002. We have received comment back from the Erie County Health Department related to the on-site system that is proposed. Mr. Ippolito said this addition is vital to their future in Clarence. The money is in the banquets, and they have requests for banquets on a frequent basis. They want their business to be profitable, and they want to stay in Clarence. This addition is what they need to do. Their neighbor, Clarence Wall & Ceiling has offered to open up their parking lot for additional parking in the rear, and literally combine driveways. Pat Powers asked if they had a lease agreement with Clarence Wall & Ceiling. Yes, they do, and he will provide additional insurance for their property. The seating capacity will be between 90 to 100 people. They will have a divider in the room, most of the parties are for 45 to 50 people. Chairman Floss said we know you have an agreement for overflow parking with your neighbor, but your driveways are so close. Ideally, it would be nice to have one curb cut on Main Street with access to both businesses. Is that possible? Mr. Ippolito said he didn't know, they would like to keep the green area between them. Clarence Wall & Ceiling doesn't have a lot of traffic. They leave in the morning, and come back at

five o'clock at night.

ACTION: Motion by Frank Raquet, seconded by Patricia Powers to recommend a 3000 square foot addition to Orazio's Restaurant.

On the Question? Pat Powers told the applicant he will need an approved landscape plan, and the addition will be subject to an open space fee of 15 cents per square foot. Signage is a separate matter.

ALL VOTING AYE. MOTION CARRIED.

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ITEM VI
Town of Clarence

REQUESTS CONCEPT PLAN APPROVAL AND RE-ZONING FROM RESIDENTIAL A TO RESTRICTED BUSINESS FOR EASTERN HILLS CORRIDOR.

DISCUSSION:

Jim Callahan gave an overview. The location is immediately east of the Eastern Hills Mall. The current zoning to the east is all Residential A. The Master plan identifies this area that it could be commercial, recommends that we move forward with what is proposed in the Eastern Hills Corridor plan. Jim gave a quick history of this project. It developed as an alternative to the housing project that was initially proposed on this land in the Residential A zone, in conformance with that zone. In August of 2000, the Town hired a consultant, TVGA to initiate a study of the Bryant Stratton Way extension. The study was funded through a Community Development Block Grant through Erie County. In May of 2001 the Town Board referred the plan upon its completion, to the Planning Board for formal review and recommendations. In June of 2001, the Planning Board did hold a public meeting on the concept as developed and received a significant number of concerns from residents on Ledge Lane. In June of 2001 the Municipal Review Committee recommended to seek lead agency, and began a coordinated review of the State Environmental Quality Review Act. Throughout 2002, the Town attempted to coordinate the plan development with Simon Company, the owner of Eastern Hills Mall with limited success. The proposed project from Uniland and Calamar precipitated the concept,

instead of extending the road directly from Main Street to Sheridan Drive in a straight line, that the existing access road to Sheridan Drive be utilized as the principal access for the corridor. This also, in addition to those projects, the comments received from Ledge Lane did certainly influence that would be a preferred alternative. As well as the fact that a future traffic light in the area, could only fit on that access road to Sheridan Drive. The D.O.T. comments, the comments from Ledge Lane, and the proposed development, the Planning Board re-focused to look at that as being the principal access to the Eastern Hills corridor. Most recently, some preliminary discussions with representatives of Ciminelli who is managing the Clarence Mall, identify that maybe there is an opportunity

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to utilize an existing traffic light on Main Street as an access point to a future corridor plan. With those two changes, the Planning Board felt that maybe it was time to re-energize this plan. In addition there is word that there is a new owner of Eastern Hills Mall - or at least there is a sale in transition. With all those factors, it was time to re-energize this plan, take a look, let's get public comment, and move some action forward. Chairman Floss said

There are several benefits to the land use access management plan that is being presented. Whatever variation is ultimately built - one of the residual benefits is that we have some commercial outposts in lieu of homes, that would erode into green space. That is what we were really hoping to preserve as well.

Chairman Floss introduced Matt Balling, a planner for Genesee County, who asked to speak on this topic. Matt Balling told the Planning Board

In Genesee County we have been trying to extend a road called State Street road to allow us to expand our airport. It has taken us twelve years to get that road constructed. If this road doesn't become a part of a formal plan, that the Town of Clarence has, it may never become a reality. Our community needs this badly. We have inundated ourselves with enormous amounts of traffic, Transit Road needs a relief valve, the neighborhoods need a relief valve. There needs to be another way to get to developments in our Town. This road is a perfect way to do it. We need future commercial and industrial growth, and this road is an opportunity to do that in an ideal location. The residents in the neighborhood want

commercial development there instead of residential. We are asking this Planning Board take whatever action is necessary to pursue having this road become a part of the formal 2015 Comprehensive plan. Also, to seek Town Board support for future capital expenses to get this road built. And please work with the developers. They have a stake in this community too, and can help fund this road. Frank Kennedy lives in the area that is being discussed. He is in favor of this Bryant & Stratton plan, and encourages the board to bring this to fruition. Chairman Floss said Mr. Kennedy, just for clarification, you are in favor of this land use access management plan whether it goes out to Bryant & Stratton, or whether it goes a little further and ends up exiting on Main Street a little further to the west? I just want to make sure that your comments are properly

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read. Mr. Kennedy said he can live with the fact we could put professional office buildings back there, that would give us a lot more relief over in our area. Whatever the name is or if it changes name, I don't want the extension of Gentwood Drive. Ray Stauffer said he is in favor of the extension of the road. Forbes Homes have begun Phase I, and they have cleared a lot of trees. Is that for the sewers? Are they going to knock down those trees if the road is extended? Bob Roach said he is concerned about the way the developer has carved up the woods. The Engineering Department told him there is a thirty foot easement. They also referred him to the County Sewer agency, who in turn referred him to the Erie County Health Department. The lady at the Health Department suggested calling the DEC, and they said the easement is 25 feet. They have carved a path through the woods that in some places is 100 feet. In all places it is in excess of 25 feet. The DEC said they would check on it. The DEC went in and measured it, and it is in excess of 30 feet in places and 50 and 60 feet in other places. They are clearly in violation of the DEC permit. The DEC said they don't know what they are going to do. Who monitors things? Who follows up? Nobody is monitoring anything. To this point, the Town Engineering Department does not have an up to date permit from the Corps of Engineers or DEC. Permits go back to 1994 and before that. Those are not valid. Someone should be monitoring what goes on. The Western New York Land Conservancy will have to accept this property before this could go on, in the approved area that was shown on the

map, told him they would never accept land with a car on it, and there are at least two cars in there. The Land Conservancy thinks they accepted the land January 18th and they have only received \$500.00 of the \$12,5000. He asked the Land Conservancy if they were monitoring what is happening to the wetlands they have taken possession of. No, they aren't. Joe Floss said most of the Planning Board has been up there to see the sewer line, and the trees they have removed off of Gentwood. Eliot Lasky, the owner of the property that you want to re-zone. A couple of years ago, he was asked to cooperate with the Town in exploring the north south connector road. If it was built, would I abandon my residential subdivision plans for Gentwood and cooperate in a commercial plan? I also agreed if it went through we would create a significant buffer area

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to allow green space for the commercial space. I said I would cooperate with that. It has been approximately three years with no activity. In large part because Simon Property ownership was not responsive to Town communications, trying to establish a dialogue and find out their interest is. He has spoken to the proposed purchasers the owner of Mountain Properties in New Jersey. I would hope they would be cooperative. I think it is a good land use, and I want to go on record with why I have spent eight years trying to get Roxbury approved. All work that has ever been done there, and is being done there, is done under valid, proper permits. We never had anyone enter the property without a permit. We have prevailed on two lawsuits where the residents were trying to stop the project. There are still people unhappy with the residential portion that is going in now. The clearing that was done was solely to accomplish putting a sewer line in. There is bedrock over there and there are very tough ground conditions. The P.I.P-s have been granted, there are inspections, the work is supervised. The issue is re-zoning here. I would cooperate in letting my land be re-zoned under one stipulation - that the roadway goes in. If I re-zone the land, and there is no roadway, then I am precluded from bringing commercial to a residential area, and then I will have a land locked piece that cannot be used. I know this is not going to happen overnight, sitting on land is very expensive, but I think it is a good process for the Town to explore because a north south arterial is needed to alleviate traffic. There will be no resistance from me in cooperating in letting this re-zoning take place. It is my intention not to remove any trees, for

the portions immediately east of Eastern Hills Mall other than what was already removed for utility purposes. There may or may not be a gas main issue that would involve the utility company doing some work. I don't know if that will involve some clearing or not.@Joe Floss said there are some unknown variables, I hope Mountain Properties wants to cooperate with us, and we don't intend to let this issue lie dormant. Eliot Lasky said "Anyone who is familiar with the history with the installation of Alberta Drive by the Boulevard Mall, knows how it totally revitalized the mall when it was running into problems. It would give tremendous revitalization economically, the mall would become more vibrant, and it provides a sorely needed alternate road to Haris Hill and Transit. I will be patient, I

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know it is not going to happen overnight, but I need the stipulation that the re-zoning is only linked to the road way actually going in. If not, I don't want to give my property rights up in terms of potential development, but I am not going to put any pressure on the Town to act quickly, because I know that it doesn't happen overnight.@ Bob Roach said he would like to question one statement that Mr. Lasky made, he mentioned two lawsuits against him. Members (residents) of the Town at their own expense sued the Town. One of the courts came back and said you have to include Forbes Development in the suit. I don't know why, because it was an Article 78 suit, which is a suit against the government. The Judge proceeded to throw the suit out because we were an unincorporated group. I have never heard of such a thing. An unincorporated group in Hamburg just prevailed a few months ago. So essentially the suits against the Town and Forbes were never in court at all. I just want to have that in the record, because he made the same statement at a meeting in June and it never showed up in the record.@ Chairman Floss said we can do two things. Either we can request concept approval subject to the MRC, or we can simply refer it back to MRC and Traffic Safety and ask them to review two versions. One would be coming out on to Bryant & Stratton Way and the other coming along Ciminelli's property line out to the light on Main Street.

ACTION:

Motion by Patricia Powers, seconded by Henry Bourg to recommend concept plan approval for the Eastern Hills Corridor.

On the Question?

Henry Bourg said AI also think this should be brought up at the public hearing for the amendments to the master plan next week at the Town Board meeting. Joe Floss said either he would bring it up at the meeting, or Jim Callahan would.

Jim Callahan said AJust to clarify identifying the alternative access points to Main Street and the new access point to Sheridan is discussed. Is that part of the motion, the concept of looking at those two alternatives? Par Powers said she would make that part of the motion for MRC. She

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will ask them to look at both plans. Jim Callahan said the straight line version. was referred to the MRC.

ALL VOTING AYE. MOTION CARRIED.

ACTION:

Motion by Patricia Powers, seconded by Reas Graber to send two versions of Eastern Hills Corridor plan to the Municipal Review Committee, Traffic Safety, and Fire Advisory. The original plan was to run north of Bryant & Stratton Way, and the alternate way we are looking at from Main Street where the traffic light is at Culligans, to the rear of Ciminelli's property.

ALL VOTING AYE. MOTION CARRIED.

Motion by Frank Raquet, seconded by Christine Schneegold to adjourn the meeting.

Meeting adjourned at 11:00 p.m.
Joseph Floss, Chairman