

PLANNING BOARD MINUTES

Wednesday July 30, 2003

WORK SESSION 6:30 P.M.

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

AGENDA 7:30 P.M.

ITEM I

ARBORETUM UPDATE.

ITEM II

RECREATION ADVISORY UPDATE.

ITEM III

Cimato Enterprises
Agricultural

REQUESTS CONCEPT PLAN APPROVAL AND
RE-ZONING REQUEST FROM AGRICULTURAL TO
RESIDENTIAL A FOR FOX TRACE EAST
SUBDIVISION (93 LOTS) LOCATED SOUTH OF
GREINER AND WEST OF MEADOWBROOK ROAD.

ITEM IV

Waterford Village LLC
PURD

REQUESTS AMENDED DEVELOPMENT PLAN FOR
WATERFORD LANDINGS, WATERFORD GREENS,
AND WATERFORD CAMPUS.

ITEM V

Frank Chinnicci
PURD

REQUESTS AMENDED PURD FOR 54 PATIO HOMES
AT 5841 TRANSIT ROAD. (TRANSIT VALLEY
GARDENS)

ITEM VI

Matt Baldwin
Major Arterial/Agricultural

REQUESTS CONCEPT PLAN APPROVAL AND
RE-ZONING FOR RESTAURANT AT 8005 SHERIDAN
DRIVE. (SHERIDAN COURT MOTEL)

ATTENDING: Christine Schneegold
Reas Graber
Joseph Floss
Patricia Powers
Frank Raquet
Jeff Grenzebach

INTERESTED
PERSONS: Councilman Bylewski
Deputy Supervisor Anne Case
Stephen Murtaugh
Betty Murtaugh
Carol Cornwall
John Ballow
Peter Sorgi
J. E. Owen
James Gale
Michael Hackford
Renee Reade
Randall Reade
Kevin Curry
Frank Chinnici
John Garris
Paul Shear
Fred Cimato
Jeff Henner
Natalie Owen
Rob Pidanick
Paul Thoms
Margaret Kielsel
James Callahan
James Hartz
Kathryn Tiffany

MINUTES Motion by Patricia Powers, seconded by Christine
Schneegold to approve the minutes of the meeting held on
July 16, 2003 as written

ALL VOTING AYE. MOTION CARRIED.

ITEM I

ARBORETUM UPDATE.

Stephen Murtaugh presented the plans for the proposed arboretum. The project encompasses twenty two acres around the Town Hall and the Library, and is expected to take ten to fifteen years to complete. Features include an eight foot wide walking path, foot bridges, an additional pond with fountains, benches for people to rest, possibly a gazebo and 270 trees and shrubs. At the present time there are 40-45 trees on the property. Trees and shrubs can be purchased and donated by individuals, companies and organizations. There will be plaques signifying the donor, as well as the species of the plantings. Additional parking at the Town Hall and the Library will be added in the future. Chairman Floss, Vice Chairman Patricia Powers and all the members of the Planning Board expressed their appreciation to Steve and Betty Murtaugh, Roy McCready, Jim Burkard, Todd Norris, Lydon Landscape Design of Orchard Park, members of the Conservation Committee, and members of the Recreation Committee for all their efforts. A short Environmental Assessment Form was reviewed by the Planning Board.

ACTION:

Motion by Jeff Grenzebach, seconded by Patricia Powers to recommend a Negative Declaration to the Town Board for the Arboretum project.

ALL VOTING AYE. MOTION CARRIED.

Motion by Reas Graber, seconded by Christine Schneegold to recommend concept plan approval to the Town Board.

ALL VOTING AYE. MOTION CARRIED.

ITEM II

RECREATION ADVISORY UPDATE

This item was removed from the agenda and will be presented at a future date.

ITEM III

REQUESTS CONCEPT PLAN APPROVAL AND

Cimato Enterprises
Agricultural

RE-ZONING REQUEST FROM AGRICULTURAL TO
RESIDENTIAL A FOR FOX TRACE EAST
SUBDIVISION (92 LOTS) LOCATED SOUTH OF
GREINER AND WEST OF MEADOWBROOK RD.

DISCUSSION:

Rob Pidanick of Pratt & Huth along with Peter Sorgi of Renaldo & Myer presented the project to the Planning Board. MR. Pidanick said this is a 58 acre parcel located on the south side of Greiner Road between Harris Hill and Meadowbrook Road. They have revised the plan slightly from what had been previously presented. They had lots that backed up to Greiner Road, and the board expressed concern at the June 18th meeting, that they would prefer not to see that. They have re-configured the lots in that area, they made these lots a little wider, and also re-located the cul-de-sac by moving it over. The detention lake has now been moved over adjacent to these lots. We have modified the plan to enhance the view from Greiner Road. One of the other issues we have discussed regarding this project is sewer capacity. That is yet to be worked out. We have indicated that the Town of Amherst has committed that there is capacity for this development. As this goes through the review process the Town Engineer will have input into that and bring this Board and the Town Board to a level of comfort. We also talked about recreation areas on this site. We don't really have an opportunity on this site to create recreation land. The petitioner is offering up front, the full recreation fee that would be paid per lot, for the entire subdivision - that is roughly \$45,000.00 in a lump sum. That money could be used to beautify one of the existing parks in Town. We think \$45,000.00 would go a long way toward an existing park in the Town of Clarence. The site will need to be re-zoned. It is consistent with the Master Plan proposal to re-zone this land to Residential A. Christine Schneegold said she would prefer to see a recreation area in this subdivision. Reas Graber agreed that a recreation area is needed for this subdivision. Frank Raquet asked if they ever considered a round about on the main entrance off of Harris Hill Road, with a little bit of a park setting in the middle there. Rob said they discussed the possibility of a round about with the executive committee. It is a possibility. Frank said "On Greiner

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Road, where you are leaving the space, so that the properties aren't backing right up on to Greiner Road

..what are you planning with that strip along there? Is that going to be a berm? Rob Pidanick said "We haven't worked those details out on that, this is a concept plan for 92 lots. We have made these lots larger, and we have an opportunity there for some screening, some landscape screening, or some berming. We will discuss that with Mr. Cimato, and I think some good things may come out of that. I think we have gone a long way. There will be a rather sizable lake, and I think it will be very attractive from Greiner Road - similar to the lake on Roll Road in Loch Lea subdivision. It won't be as large, but it will be attractive. Frank said "My thought would be that you wouldn't make that lot larger, because whoever gets those end lots, it will just give them a bigger lot, and they probably will mow it all the way out to Greiner Road. I would really like to see that area separate, make it part of the Homeowner's Association land, so it doesn't belong to the homeowner who buys the corner lots. What is the dimension of that lot?" Rob Pidanick said "I think it is 130 feet in width, our initial plan it was 110 feet." Frank said "Jim, what is the requirement for a corner lot?" Jim Callahan said it is 125 feet. Pat Powers said "Mr. Pidanick, would it be your plan if this were to move on to the MRC , to respond to the concerns of the letter from Mr. Conwall that was stated for the record, the last time you were here? I want to make sure that they are addressed." Mr. Pidanick said "Would you be looking for a written response to that? I don't know that all those issues are relevant, but certainly there were some key issues that were brought out in that letter that are relevant to SEQR, and we would address those during the process. Pat Powers said "There are a lot of problems here with - you have addressed the sewer project, and of course it goes without saying that if there is no sewer there is no project. Folks are concerned about the traffic on Harris Hill Road. Some are concerned about the density, and I have a problem with the design. I think that we as planning Board members have a responsibility to challenge you to do better. I think this project can be improved over time. I know that land is as valuable to the applicant, builders, and developers. But land is just as valuable to the citizens of Clarence in the form of recreation or open space. We are charged by the Master

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plan as well as the subdivision law on land versus money. There is an old saying "Money isn't everything." Land may be better. I think if the applicant would consider

putting some open space in there, consider the possibility of forming a Homeowners Association to take care of the open space. It doesn't necessarily have to be a park. It could be a passive park, green space where people could just go to sit and gather, where children could play games, they don't need playground equipment necessarily. But that is something I would like to be considered." Chairman Floss said "Rob, you are aware of the fact that tonight you are not exactly going to get what you are asking for. The best we could do is refer you to the Municipal Review Committee which will address issues such as the environmental issues, traffic, perhaps a little recreation. There is concern about the design, and the park. The Master plan did come up, and indeed there is a section on page 28 that gets into recreation. It does read that in subdivisions of more than 25 of more single family units, a dedicated recreation area should be mandatory aspect of subdivision design. It doesn't say shall it says should. We want to make sure that it is recognized. And that could be recognized in regards to the design. Perhaps it isn't the full 8%, but the majority of this group would like to see some sort of additional open space. That does not necessitate us holding you up from being reviewed. We want to make sure that you consider those items before you come to this board again for concept plan approval, if indeed this board wants to refer you on with the maximum build out. We need additional information before we can act on the applicants request. Chairman Floss asked if there were any comments or questions from the audience. Paul Thoms of Meadowbrook Road said he had a series of questions. How large are the lots now? Mr. Pidanick said they meet the existing requirement of Residential A at a minimum of 15,000 square feet or 100' x 150'. Mr. Thoms said "Once you as a developer have moved out of there, who will be responsible for the pond?. Mr. Pidanick said "As we are proposing it, that pond is going to be deeded to the homeowners of those six lots." Who will be responsible for the berms that you build and who will be caring for those? Would that be the homeowners as well?" Mr. Pidanick said "If any berms are built along Greiner Road, and they are in the public right of way, then it would be

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the responsibility of the Town or the County to maintain the berms. If they remain as part of the lot, as we currently have them, they would be maintained by the homeowners.

I think there is a better opportunity for care by a

homeowner rather than the town or County. Mr. Thoms said he was struck by the comments Mr. Pidancik made about Mr. Conwalls letter. It cites many of the problems that he sees and has studied in the past couple of weeks. Mr. Thoms would like to see all of the items in the letter addressed. Chairman Floss said Mr. Conwalls letter was read into the record on June 18, 2003 and those items will be addressed if this is referred to the MRC. We will want you to have each and any of the items addressed the next time you come to the Planning Board. Frances Foy wanted to know the distance from the new road to Meadowbrook Toad. Mr. Pidanic said it will be between 400 and 500 feet from Meadowbrook. There are two exits - one off of Greiner Road and one from Harris Hill Road. Margaret Kiesel of 5145 Harris Hill Road said there is a park right on Greiner Road very close to this subdivision. Why would you want two parks so close? She would rather they would take the \$45,000.00 and enhance that existing park. She also commented that it would be dangerous to put a park in the round about that was suggested. Jeff Henner a new resident said he was curious about the ponds. Are they designed to address the drainage from the development into the backyards on the west side of Meadowbrook? Right now there is a lot of water over there. Rob Pidanic said one of the Town requirements is not to discharge water off of your site. There is an area where we are proposing backyard drainage for these lots, and we think it will also benefit the people on Meadowbrook. They will certainly be sized accordingly. Where there currently is no storm water management plan, we are proposing to implement a storm water management plan. It certainly is not going to solve all the problems in the neighborhood, but the development of this site is not going to have a negative impact on these homes. Joe Floss asked "Will you allow them to tap in, an easement for them to tap in to your rear yard drainage lines?" Mr. Pidanic said "Well, our drainage easement that is proposed there is a private drainage easement for these owners, but, if there is standing water back there it is going to seek that outlet, there is that possibility. Natalie Owens asked about the wildlife. They moved to Clarence

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for the wildlife because they enjoy the wildlife. She would like to see this addressed and she would like to know whether we could perhaps have that green space between the Meadowbrook lots and this development. Peter Sorgi

said "One of the reasons we are asking to be referred to the MRC, is because that is the avenue to address all of these issues. SEQR involves everything from wildlife to traffic, to land values. Rob Pidanick said the project will likely be built in three phases, and will take 5 to 7 years to build out.

Paul Thoms said he has a huge concern about the soil. He has been following the problem in Amherst. Has the developer done anything to alleviate those concerns? Have they looked at the soil composition? He would like to hear from the developer that there are no concerns. The soil survey for Erie County is used extensively when they examine the soils for a new subdivision. The new building code requires the potential home buyers are going to have to excavate each lot so that a proper foundation can be designed on a lot by lot basis. If a questionable soil area should occur you would need to reinforce the foundation. That code is in place in Clarence and New York State. Jeff Henner asked if a traffic light is proposed at the corner of Greiner. No signal is proposed for this subdivision. Chairman Floss said the Municipal Review Committee will meet on August 11, 2003 at 7 p.m. in this building. Fox Trace will be on the agenda if that is the pleasure of this board to forward this project to the Municipal Review Committee.

ACTION:

Motion by Patricia Powers, seconded by Jeffrey Grenzbach to further the request for concept plan approval and re-zoning request from agricultural to Residential A for Fox Trace East Subdivision 92 lots located south of Greiner and west of Meadowbrook Road with the provision that there is absolutely no guarantee of a positive recommendation from the Planning Board bases on the presented design.

On the Question?

Pat Powers said "As I was reading it, re-zoning is included in that. Are we ready to proceed with re-zoning or is it a little early?"

Joseph Floss said "Mr. Callahan?"

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James Callahan said "That absolutely should be part of the environmental review."

Joe Floss said "So we are going to ask that you amend that motion, and table the request for the re-zoning pending the

environmental review.”

Pat Powers said “I will be happy to do so. I will remove the re-zoning request from my motion.”

Joe Floss said “Mr. Grenzebach will you second that amended motion?”

Mr. Grenzebach said “Yes, I will.”

Joe Floss said “Thank you. Is there anything else on the question?”

On the Question?

Frank Raquet said “Mr. Chairman it is my feeling that this is a little premature. I think that this plan, although it has merit, needs some tweaking. I don’t think we should send it on anywhere until we come back with a plan that we are all happy with. I think it needs more green space and I think it needs some tweaking.”

Chairman Floss said “Thank you Mr. Raquet. Anything else on the question?”

On the Question?

Chairman Floss said “Very often we ask an applicant with unknown variables to bring in a maximum build out, with a stern warning he may not get that. But, we would rather he go to the Municipal Review Committee and do the environmental based on a max build out, and then we can always bring it back down. You can’t go to them with a lesser plan, and then ask for something more later. So, in my view there is no harm in going with the full build out as long as they are aware, and the warning is out there and on the record, that you are not likely to get exactly what you asking for in this max build out plan.”

Christine Schneegold	AYE	Joseph Floss	AYE
Reas Graber	AYE	Frank Raquet	NAY
Patricia Powers	AYE	Jeff Grenzebach	AYE

MOTION CARRIED

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ITEM IV
Waterford Village LLC
PURD

REQUESTS AMENDED DEVELOPMENT PLAN FOR
WATERFORD LANDINGS, WATERFORD GREENS,
AND WATERFORD CAMPUS.

DISCUSSION:

Jim Callahan gave a brief history of the project. Waterford Village is located on the north side of Roll Road between

Shimerville Road and Thompson Road. The area was rezoned PURD by the Town Board in December of 2001. The requested amendment is for Waterford Landings, Waterford Greens, and the Waterford Campus portions of the approved PURD. This particular proposed amendment was referred on July 23, 2003 by the Town Board to the Planning Board. Kevin Curry presented the proposal to the Planning Board. They are presenting an amended development plan that will incorporate a significant amount of improvements. They are taking the commercial “big box” and turning it into a miniature Main Street, which would be more appropriate for the area. The square footage of the commercial will not be increased. Rather than having three separate pods of uses, one being patio homes, two being town homes, and the third being neighborhood services, we have integrated those pods. They have re-located the town homes which is a more intensive use, from the pod you see located just south of Roll Road, and integrated them into the project a little better. They also have created a great amount of connectivity, and they are also in the position to create some nicer public spaces additionally depending on individuals, building plans, and builders. We think we will also be able to diminish the prominence of the garages on the street frontage, and work to present a better street scape as well. We would absolutely not exceed the previously approved square footage in the neighborhood services. With the overall number of units, we think we will be within a few units plus or minus of what was previously approved. Until we lay this out and get into site plans, we won't know the exact number of units that we will have. What we know is it won't be drastically more, or will it be drastically less than the number of units that we have already approved. Frank Raquet asked the distance between the two roads on Roll Road. Mr. Curry said he was uncertain of the distance, I believe it has decreased somewhat. Frank asked exactly what have you done with the town houses, have you eliminated them? Mr. Curry said they were in one big

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cluster along Roll Road, and now they will be spread across the site more liberally. Now they are more interior to the site than when they were in that area. The patio homes have more green space, and they will be placed along the Roll Road frontage. Frank Raquet asked if the commercial buildings on Roll road will face the parking on the interior

of the development or face Roll Road. Mr. Curry said they will face both directions. They will have a finished front on both sides. Frank said "No parking or anything in front on the Roll Road side?" Mr. Curry said "We are not certain of that. We know there is relatively intensive parking here, and we know as this lays out we won't be any more intense than what you see there, and we think we may be actually significantly less intense with the parking along Roll Road. Frank said "You are significantly closer to Roll Road too. Mr. Curry said "The buildings are somewhat closer, but we are still maintaining all of the berm requirements that are in place. We like the idea of going away from all that parking in the frontage and putting in a couple of appropriate buildings. Frank asked why parking wasn't shown on the front of the plan if there is going to be parking on the front of Roll Road. Mr. Curry said "This is a plan that is going to be developed further as we get into the site plan process. In a PURD development plan is site plan." Chairman Floss said this plan has already been approved, and the vote tonight is not to accept or reject the plan as a whole. That has already been done. It is whether we want to amend this new arrangement so to speak, which would need further detail. Pat Powers asked Mr. Curry if he anticipated increasing the number of townhouses and patio homes than were previously planned. Individually they believe there may be fewer townhouses, and more patio homes. Selectively, we believe it may be a little bit greater density, maybe a maximum of ten percent. Pat Powers said "You were at 379 units previously, so you would anticipate then, you wouldn't have any problems staying under the 500 that were proposed at this rate." Mr. Curry said "Absolutely not. I think it has also been discussed at each level, and I talked with Jim a little bit about it today. From an environmental standpoint 500 is what has been looked at, and with these improvements we still are not going to be anywhere near that number. Pat Powers said "It is my understanding that the only road that will be maintained by the Town is the main north south

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road - Dana Drive - is that correct?" Mr. Curry said "That is as we believe it today, yes." Pat said "All the other roads will be private, the Homeowner's Association will take care of snow plowing and things like that, is that correct?" Mr. Curry said "That is our belief, we think during the site plan process that will be confirmed." Pat said "At this point those roads are unnamed is that correct? Mr. Curry

said "That is correct." Reas Graber said he thought the amendment was great. Jeff Grenzebach asked Mr. Curry why the roads were a combination of private and public roads. Mr. Curry said "I think from the standpoint of the patio home communities and the townhouse communities, will generally have a Homeowner's Association in effect, that will be the case here for the entire village. Those people will maintain the roads." Jeff said he liked the way they broke up the commercial, and placing the parking inward, so you don't see cars lined up on the main road. Christine Schneegold asked if the commercial buildings were going to be one or two stories. Mr. Curry said that there will be a site plan review when they apply for a building permit. They will not exceed the 57,000 square feet either way. Christine asked if the liability for the ponds would be with the Homeowner's Association. Mr. Curry said "Absolutely. The Homeowners's Association there will be appropriate insurance in place, and designed for Town standards. Chairman Floss asked if there was anyone in the audience who wanted to comment. John Ballow said he owns 700 feet of frontage on Roll and he has some questions. He said he was confused when he went to the Renaissance show of homes and he talked to Fred Cimato, there was a curb cut somewhere here, that does not appear on this drawing. I want to ask Kevin if there is a curb cut in front of my home? Mr. Curry said "No, absolutely not." They know they need a secondary curb cut, and they will keep it as far to the east as possible. At the same time they can't make it too close from a traffic safety standpoint. It would be great if that curb cut was as close to the woods as possible instead in front of the house. Mr. Ballow asked if there would still be a berm across the street from him. Mr. Curry said yes, there will still be a berm. Chairman Floss asked the pleasure of the board and asked them to consider a few conditions: Subject to no additional commercial square footage from the original plan that was approved, the original screening and

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green space will remain intact. No more than 10% additional density in the privately owned roads, or the town home, patio home area.

ACTION:

Motion by Reas Graber, seconded by Patricia Powers to recommend approval of the amended development plan for Waterford Landings, Waterford Greens, and Waterford Campus to the Town Board with the following conditions:

1. The original screening and green space to remain.
2. Not to exceed the original commercial space square footage of 57,000 square feet.
3. No more than 10% additional density on the residential area as Chairman Floss indicated.

On the Question?

Frank Raquet “The ten percent thing - How many additional residential units are going to be in if we are going up ten percent?”

Kevin Curry said “I think the project as it is approved right now is 379 units.”

Frank Raquet said “ Are we just talking about this phase, or are we talking about the whole project getting ten percent now?”

Joe Floss said “ Just the patio home section. How many are units are there in that? The private roads.

Patricia Powers said “There were 99 patio homes and 56 townhouses the last time we looked at this project.”
Figuring a possible ten percent increase.

Kevin Curry said “ Right. That is 155 units on those numbers. There were 379 on the total project. I don’t believe that there is any way we will reach the 37 units, nor would we want to, but a ten percent increase on our village would be 37 units.”

Frank Raquet said “What is the reason for the increase, I am not sure I understand the concept here?”

Kevin Curry said “I think, as Chairman Floss pointed out we do have sewer taps available to us, which we plan on utilizing, we certainly don’t plan on letting them run fallow.

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The idea is where those taps and residential units are going to be placed . I think one school of thought may be that to contain units in a properly designed site plan might be preferable as opposed to spreading another 37 units in different section of Town. A good site plan and more units make sense. ”

Frank Raquet said “How do you propose to get more units in here? What are you going to do to get more in here? You are not creating any more land. You are just going to make these spaces smaller. Correct?”

Kevin Curry said “The land size won’t increase. The layout we believe is a little bit more of an efficient lay out. The nice thing about connectivity is in itself the connectivity. It also tends to yield a greater density. Two things occur when you create connectivity better walk ability, connectivity, and a little bit greater density.”

Frank Raquet said “Getting back to the commercial buildings on the front on Roll Road. I don’t know if we all understand there is going to be parking on Roll Road in the front of these - correct or not?”

Mr. Curry said “We believe if there is parking in front of them, it will be a minimal amount”.

Frank Raquet said “But there will be some?”

Kevin Curry said “We are not certain. We would like the opportunity to have some, so, I am definitely not saying no there won’t. Mr. Raquet I am not trying to be evasive at all.”

Frank Raquet said “What is the setback from Roll Road to that building?”

Mr. Curry said “It is equal to the previously established set back. We lined it up with the previous requirements.”

Joseph Floss said “Just to clear the air on that issue Frank - that plan that you are looking at - there will be no parking.

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If he comes back at site plan review, and says I moved those two buildings back twenty feet, and we would like some, that is for our consideration. But if this is drawn up to that line.

Frank Raquet said that is what I am getting at. The most forward setback is where you have this building drawn on this plan right now. If there is going to be parking in front of these buildings, they will have to do the detail work and bring it back in.

ALL VOTING AYE. MOTION CARRIED.

ITEM V
Frank Chinnici
PURD

REQUESTS AMENDED PURD FOR 54 PATIO HOMES
AT 5841 TRANSIT ROAD.(TRANSIT VALLEY
GARDENS)

DISCUSSION:

Jim Callahan gave a brief history of this project. Transit Valley Gardens is located on the east side of Transit Road behind the Transit Valley plaza. It was re-zoned PURD by the Town Board at the May 13, 1998 meeting. The amended project was referred from the Town Board to the Planning Board on April 9, 2003. The amended project was introduced to the Planning Board on May 21, 2003. It was referred to the MRC, Fire Advisory, and Traffic Safety stipulating 50 units. The Town Attorney's opinion was forwarded on June 18, 2003 which questioned the previous re-zoning. It states that the revised project must go through full development plan approval. A revised site plan showing 54 units is here for Planning Board consideration.

John Garras from Renaldo and Myer, and Frank Chinnici were the spokesmen for the project. They passed out site plans to the Planning Board. Mr. Garras said the original plan they presented gave the Planning Board concerns for density, safety, and parking. The new plan has addressed those issues by lowering the density from 60 units to 54 units. That is a ten percent reduction. In terms of the traffic safety you will see that the new plan shows a single cul-de-sac not two cul-de-sacs. It gets rid of a couple of right angles and avoids the problem that was expressed by the board. They have added some off street parking to alleviate the boards concern for congestion on the streets. It provides 20 additional parking spaces. Christine

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Schneegold asked if they will own Parcel A or Parcel C. No, they will not be part of the land they will purchase. Those will be retained by Benito Olivieri. Those parcels were re-zoned to PURD along with the land Mr. Chinnici is hoping to develop. Christine asked how much space is there between units. Mr. Chinnici said there is a minimum of ten feet between units, but on average there is about twenty feet between units. Mr. Garris said that the demand for this kind of housing is empty nesters. These are all single floor units, there will be low traffic, a lot less activity than 50 single family residential dwellings. Jeff

Grenzebach said he would like to hear more about the community center. Mr. Chinnici said they don't know if they will actually have enough room for a community center once they scale the pond for the on-site water storage. If there is enough room they will have a small community center with changing rooms, and a waiting room or a small office for property management. If they were going to lose anything for the on-site drainage and the parking requirement for non-residents, it would be the community center. Reas Graber said the Master plan calls for 45 units, and this is more than what it calls for. The plan is better than before, but the density is too great. Pat Powers said she is puzzled. You squeaked by with a 4 to 3 vote to come back with a plan for 50 units, and you came back with 54 units. They met with the Chairman Floss, Jim Hartz, and the Town Attorney and they talked on the issues of the original plan, the zoning, and there was some concern whether or not the original plan was already approved or not in its entirety or just a concept. Mr. Chinnici said they never heard back from the Town Attorney from that meeting. Chairman Floss said "I think he conceded that you enjoy the zoning, I think he conceded to that. There is a lot of uncertainties with that." Frank Raquet said he has a problem with the way this is being presented. It is a much better plan than what you had before. You are saying there is a demand for this type of housing from empty nesters. We have demands from everyone in Town. We want more green space, we want less in a parcel, we want to fill every square inch of buildable land up. We want more green space, that is what we want. (Clapping) I understand you came before us, and said you compromised. Well, we compromised too. We compromised at 50 - giving you more than you are entitled to, as far as the density. Then you are coming back

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with more. I have a problem with that." Mr. Chinnici said "We disagree with more than we are entitled to. We believe that we are zoned for sixty units, so we have compromised now by 10% to 54 units. There is going to be a point in time, in which we agree that we disagree on a revised concept plan for this parcel. We are trying in good faith to give you a reasonable compromise between what you would like to see and what we need as an economic entity. So, if you feel you cannot recommend this plan, we understand. We understand. We are prepared for

whatever the board decides. You say you have compromised by giving us 50, we say we have compromised by taking away 6, which is ten percent. Frank asked Jim Callahan to clarify what density is allowable on that parcel of land. Could you give us a number.” Jim Callahan said “The property was re-zoned PURD as has been discussed. In the zoning law of the Town of Clarence, PURD stipulates a 3 units per acre maximum, and it also requires 100 acres. There is a lot of requirements in the PURD law, that can be amended by the Town Board. But it does state specifically that the maximum density is 3 units per acre. The number would be 46 units on 15.3 total acres. Mr. Garris said “In 1998 the Town Board did much more than just re-zone this property PURD, they also approved this plan with 60 units.

Our opinion is, we believe our client could go back and build that 60 unit development. This board may disagree, the Town Attorney may disagree, but we are very confident that in 1998 they didn’t just re-zone it and leave it at that.

They approved the density as well. Chairman Floss asked the audience if they had any questions. Councilman Bylewski urged the Planning Board to consider is that we have an adopted Master plan, pursuant to Town Law section 272 A-11 all land use regulations must be in accordance with an adopted comprehensive plan. So I would urge the Planning Board to consider that in their deliberations. Chairman Floss said “What section of the Master Plan are we considering?” Councilman Bylewski said You are talking about the Master plan in general. You are talking about the density in general. All land use regulations must flow from that Master plan because it has been adopted. Mr. Chinnici said “Does that mean all prior re-zoning done before the Master plan was adopted are invalidated by the Master Plan?” Councilman Bylewski

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said “The Master plan does contemplate some of the prior re-zoning. In particular it does have this project listed as a PURD on the zoning maps. However, the PURD is also noted on the overlay. So, there is a concern regarding that overlay with the Master plan.” Mr. Chinnici said “Is it your opinion that the re-zoning to sixty units has been invalidated by the Master plan?” Councilman Bylewski said “It is my opinion that the old project is stale.” Mr. Garris said “There is no time limit in a PURD ordinance.” Councilman Bylewski said “I am not talking about in the PURD, I am talking about in the prior approval and

considering that you have the new Master plan that has been adopted, and all land use regulations must flow from that. I urge the Planning Board to consider that.” Mr. Garris said “I guess I would try to be positive about the whole thing. We are presented with the possibility of 60 units of development on this property. We can cut the density from 60 to 54. That is entirely consistent with a Master plan which contemplates more green space and less development. This only looks bad if you start from the proposition that my client is only entitled to build 42 or 46 units. I respectfully disagree with that characterization. I think you can look at this project as being consistent with the desire for more green space and less density.” A resident asked if an approval from the board is open ended. Does that mean in ten years someone could come even though there could be additional development on Transit Road. I commend the members of the board who are concerned with traffic safety, it is a high traveled area. Would the Master plan allow 50 residential homes to be built on 14 acres? Chairman Floss said “The PURD zoning that existed back in 1998 allowed that, in that the Town Board amended the density, amended the acreage, and approved this, at least that is the position of the applicant. And he is saying if we deny, or refuse this plan, he would go back to the original plan.” The same resident said that is how it was presented to them when they met with Mr. Chinnici before they ever came to this board. Mr. Chinnici said “It couldn’t be presented any other way. There is this notion that this is somehow a threat. It is not a threat, we are just saying these are the alternatives. We want to back off the notion that this is somehow a threat.” Chairman Floss said “There is only one known variable, and the fact is that the applicant enjoys a PURD zoning. Councilman

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Bylewski brought up some points, whether it was approved a PURD zoning at that time with 60 units. There may be some issues regarding the Master plan newly adopted today. But the zoning remains. We have to take into account the Master plan as Councilman Bylewski has asked us to recall.” Councilman Bylewski said “ Without addressing the issue of whether the PURD was properly approved as PURD zoning back then, I am trying to avoid bringing that up now. I am just throwing it out there, that it is something that depending on what happens, may need to be looked at.” Chairman Floss said “Okay. I don’t have anything that clearly identifies that, but that is now entered

on to the record.” Marty Battaglia said “To say there is no correlation between density and traffic is almost an embarrassment to all of us. If you put 54 homes there with two cars per home that is 108 cars. They will be taking out the 50 year old trees that are there are right where those patio homes will be. Please come out and take a look to see what really is going to be impacted there before any decision is made. Mr. Chinnici said the plan before you is to scale, and there is a minimum of 20 feet between these buildings. This is not an illusion. Jeff Grenzebach said “If this project is tabled, could this project be legally challenged by the Town? Could the residents challenge this? Chairman Floss said “Absolutely.” Jeff said “Will this plan go to the MRC to be re- looked at? Chairman Floss said “The request of the applicant is an amended PURD . We are not prepared to provide that, we would simply refer it to MRC, Fire Advisory, and Traffic Safety to gather additional data so they can come back with this request again.” Chris Still asked if this PURD is contingent on the original PURD that was approved in 1998, and the residents wanted to contest the original PURD that could be done now. Because apparently there is some concern that possibly that PURD was not approved properly. Is that correct?” Chairman Floss said “That is my understanding. Do I have anything that states firmly that it was done incorrectly? I do not have that.” Chris Still said “There were some relationships possibly in place at this point, that moved this PURD forward.” Chairman Floss suggested hiring an advocate.

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ACTION:

Motion by Frank Raquet, seconded by Jeff Grenzebach to table this item until they bring in a plan that shows a maximum of 50 units, which is what was requested.

On the Question?

Pat Powers asked if they would consider amending the motion to the number it should be under the Master plan?

Fifty has been mentioned, but answered with 54. They don't own parcel A or parcel C so the number under the Master plan at 14.215 acres which equals 42 units.

Frank said he would not, because we instructed the applicant to come back with a plan for 50, so I would move that we stick with that number.

On the Question?

Joe Floss said “Parcel A and parcel C, just for the record are part of the PURD whether there is a separate owner of that, they will be held accountable to the original or the maximum density that was allowable under the original plan. That is my assumption. That PURD could be broken up by different owners, but again that has to be taken into consideration as well.

Mr. Garris said “That is a good point. This PURD consisted of 15.302 acres.

Chairman Floss said “Mr. Raquet I would also have a request on your motion that we do seek a legal opinion again. Reword it, perhaps something in writing, whether or not the original plan. We might as well get something more concrete if this tabling is going to pass. In regards to the original plan being actually re-zoned with 60 units.

Frank Raquet said “I will add to my motion to refer this to the Town Attorney for further review.

Jeff Grenzebach also agreed to amend his second to the motion.

Mr. Chinnici said “Are we going to ask the Town Attorney if we can build the original 60 units if this plan is turned down?” Chairman Floss said “Yes.”

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Mr. Olivieri asked Frank Raquet, Joseph Floss and Patricia Powers if they were members of the Planning Board in 1998.

Chairman Floss asked if there was anything else on the question before the vote. To clarify, the motion is to table the item until the applicant brings back a plan with 50 units. That might not be a preferable motion for you, I will give you an opportunity to either withdraw or ask for an up or down motion or shall I continue?

Mr. Chinnici said “At this stage I think we would prefer a table while we wait on the decision of the Town Attorney to give us the Town’s position on it. While you are doing

that, we want the opportunity also to do final legal work, and we will come back with a legal opinion on our position.

ALL VOTING AYE. MOTION CARRIED.

ITEM VI
Matt Baldwin
Major Arterial/Agricultural

REQUESTS CONCEPT PLAN APPROVAL AND
RE-ZONING FOR RESTAURANT AT 8005 SHERIDAN
DRIVE. (SHERIDAN COURT MOTEL)

DISCUSSION:

Robert Roller represented the project for Matt Baldwin who could not be here tonight. Jim Callahan gave a brief history of the project. The property is located on the southeast corner of Sheridan Drive and Transit Road. It is zoned Major Arterial for the first 300 feet from Transit Road. The Master plan does identify that the commercial classification is an acceptable land use in this area. The applicant was referred by the Town Board on June 11, 2003. This is the initial presentation to the Planning Board, requesting the change in zone, and the concept in general. Mr. Roller passed out copies of the new plan, and said the plan has been modified somewhat since the initial presentation to the Town Board. The difference is we have added the southern most parcel of land owned by David Sweet in the estate of Stanley Sweet, to the development, which adds an acre and a half to the property. It takes the development all the way over to the looped road. Peculiarly, even though the hotel lands are commercial, only about half of them are zoned commercial, so we are requesting that those lands that are now used commercially

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officially be re-zoned to allow for our proposed development. Chairman Floss said "There has been a question of whether or not this land is deed restricted against the zoning that you are requesting. Do you have any ideas or thoughts on that?" Mr. Roller said "I have no knowledge of that. Nothing was mentioned to me by the seller of the hotel lands. Pat Powers asked if Mr. Baldwin has acquired this property yet? Mr. Boller said "The property shown on the plan is all under contract presently. That includes the property owned by Mr. Sweet." Jim Callahan explained that the rear of Sheridan Courts property is zoned agricultural, the request is to re-zone that portion to a commercial classification." Pat Powers said she is was concerned about the green space fronting on Sheridan Drive with mature trees etc. What will happen to

that? They intend to leave the mature growth on the easterly portion of the property to the rear. They will be retained to buffer the cell tower as much as they possibly can. Pat asked the percentage of green space. Mr. Roller wasn't sure, but he was sure it would meet the Town code requirements. They have not determined who will occupy the restaurant and they might possibly have some retail store there as well. Frank Raquet asked the height of the cell tower. It is 97 feet. The fall zone around the tower will not be affected by these buildings? Mr. Roller said "That is correct." Jeff Grenzebach asked the size of the buildings. One is about 5000 square feet, and the other building is about 8000 square feet. All the existing buildings on the site will be demolished. Chairman Floss asked if anyone in the audience had any questions. Renee' Reade said "We own the property adjacent to this at 8051 Sheridan Drive. This is my brother Randall Reade, who is an Attorney. The property was originally owned by her grandparents. They built the motel. Then her Aunt and Uncle ran the motel until it was sold to the present owner Chuck McConnaughey. Those pine trees in the back were hand planted by her family. Under this plan they would come down. Now, in reference to the plan that he has proposed. When her Mother drafted this contract with Chuck McConnaughey, who is fully aware of this, there is a clause in our contract that states we hold the mortgage to Chuck McConnaughey's property. He pays us money for the purchase of the motel, and that will continue until and if this motel property is sold. First of all, we are not aware of

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any of this going on. We are in Town, and we happened to get wind of it. We contacted the Town Board, and the zoning office, and were told there was a meeting tonight. Chuck McConnaughey has not complied with what is in the contract with that we have with him. It states precisely that anything next to our property that is sold, has to be written approved by us. We have an Attorney in Chicago who is fully aware of any other developments that people have proposed to us, and we have gone over agreements with them. We have an Attorney already, he has been notified of what is going on with this case, and my brother will read the statement that is in our contract. Not only does it have to be approved by us, it has to be approved by two other people Jeff and Randy Floss. They also have to be notified so it can be approved by them as well. We are here stating our concerns, what we see wrong with the plan, what could

possibly work, but we would like you to know there is one more person involved, not just Chuck McConnaughey. There is a lot more that needs to be addressed - traffic is a major problem, it needs a major traffic flow plan. We would like to work with these people, we are open to any ideas. Our concerns are what is it going to do to the side of our house, what will we look at every day, what is the volume of noise? That home was built by our parents over 40 years ago, we intend to keep the property in the condition it is now. Randall Reade spoke "Just as a point of clarification, everything my sister said was correct. Mr. Roller did approach us, over a year ago about selling our property, and we did consider it, but we did decline because we prefer to keep the property ourselves. That is when we referred Mr. Roller to our Attorney in Chicago, and they have the contract. It clearly states that no sale of the motel can be made without our prior written consent. The last contact our Attorney had with these prospective buyers was last February when he asked for the latest site plan. He never heard from then. We heard a rumor about the hotel, called the Town, and found out we were on the agenda today. This is the first time we have seen this site plan, we are open to anything, we are not here to kibosh things, but there is a reason why that clause is in the mortgage. Because we intend to keep this house, we don't necessarily want a K Mart or huge lights shining into our kitchen at 10 o'clock at night. There are a lot of traffic issues, because we have had many people come to us, and talk about selling

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this parcel of land. One of the reasons that they go away is because traffic is bad. You can't really build anything on Sweets property as an egress road, because it is too close to the access ramp. So you are really limited to that one road that is already existing there, and if you notice it is very steep. I know they have proposed blasting this to make the grade lower, but that should be part of the site plan. There are a lot of questions that need to be addressed. Chairman Floss asked the applicant if he had anything to say, before he offered a suggestion. Mr. Roller said he had not seen a copy of the document to which they refer. He did talk to the Reade's brother-in-law in Chicago, he did have a conversation with him, but he doesn't recall him mentioning anything about deed restrictions. Those documents may have been forwarded by him to Baldwin Brothers counsel, he personally did not see them. It is a bit

of surprise to me. The steep road is being addressed by the Engineers to make it a more gradual grade and to make it safer to navigate. Chairman Floss said he thought this item should be tabled until the legal issues are cleared up. Chairman Floss asked for a copy of the agreement for our file and for our Town Attorney. For the record Joseph Floss said he is not related to any of the Flosses that were mentioned, and does not have any interest in the adjacent lands.

ACTION:

Motion by Patricia Powers, seconded by Reas Graber to table this item until the legal issues are settled.

ALL VOTING AYE. MOTION CARRIED.

Meeting adjourned at 10:30 p.m.
Joseph Floss, Chairman