

Town of Clarence
Planning Board Minutes
Wednesday August 3, 2011

Work Session 6:30 pm

Status of TEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:30 pm

Approval of Minutes

Item 1

Master Plan 2015 Amendments for 2011

SEQRA Recommendation and Master Plan 2015
Amendment Recommendation for Transit Road
Corridor: East of Transit Road, north of Roll
Road-Segment B.

Item 2

Verizon Wireless
Major Arterial

Requests Change In Use from Vacant to Wireless
Communications Store and Architectural
Approval for Building Renovations at 6051
Transit Road.

Item 3

Ron Grimm
Agricultural Rural Residential

Requests SEQRA Determination and Concept
Approval for a 4-Lot Open Development Area at
6491 Conner Road.

Chairman Al Schultz called the meeting to order at 7:33 p.m.

Deputy Town Attorney David Donohue led the pledge to the flag.

Planning Board Members present:

Chairman Al Schultz	Vice-Chairperson Wendy Salvati
2 nd Vice-Chairman Richard Bigler	Timothy Pazda
George Van Nest	Paul Shear
Gregory Todaro	

Planning Board Members absent: Robert Sackett

Town Officials Present:

Assistant Director of Community Development Brad Packard
Deputy Town Attorney David Donohue

Other Interested Parties Present:

Felice Petruzzo	Stephen Reding
Wes Stone	Khalid Mahlin
Sue Gustafson	Jim Gustafson
Rick Dahn	Brianna Dahn
Paul Wheeler	A. Tsiolekis
Edith Clouse	Joe Clouse

In the absence of Planning Board member Robert Sackett, alternate member Gregory Todaro will participate in all discussions and vote on all agenda items.

Motion by Gregory Todaro, seconded by Paul Shear, to **approve** the minutes of the meeting held on July 20, 2011, as written.

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Abstain	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Chairman Schultz explained that each agenda item will be introduced by Brad Packard. The project will be discussed with the applicant. Before the Planning Board takes action, the public will be invited to speak on the project.

Item 1

Master Plan 2015 Amendments for 2011

SEQRA Recommendation and Master Plan 2015 Amendment Recommendation for Transit Road Corridor: East of Transit Road, north of Roll Road-Segment B.

DISCUSSION:

Brad Packard provided the background on the agenda item. This proposal was originally presented to the Town Board at the Annual Master Plan Amendment public hearing in February of this year. The proposal concerns an amendment of the Future Land Use Map and Master Plan 2015 to allow for the conversion of approximately 10.7 acres from Residential to Commercial within Segment B of the Transit Road Corridor. The Town Board has previously referred this consideration for the review and recommendation of the Planning Board. With recommendation of the Planning Board, the Town Board had previously commenced a coordinated review with involved agencies of this proposed amendment under SEQR and the comment period has now expired. The Planning Board has been provided the responses of all agencies and in accordance with SEQR proceedings is now positioned to accept the completed Environmental Assessment Form and can consider a recommendation to the Town Board concerning a determination of environmental significance under SEQR.

Chairman Schultz explained that this is a Master Plan amendment being discussed this evening. The Planning Board is a recommending body for a Master Plan amendment; the Town Board has final authority. The proposal before the Board is the largest single piece of commercially available property

on Transit Road in a sewer district. Recently the Town Board down sized the front portion of the property from Major Arterial to Commercial on recommendation from the Planning Board. This proposal is to extend that Commercial zone back 180' and add 300' of Restricted Business to the back of that. This would provide the maximum available commercial sight available for development and yet still provide for transitional zoning to protect the neighbors in the back. The transitional zone would be very low impact office type use, if used at all. The proposal was put forward by a project sponsor who wants to put something on that site, he is present this evening. The issue before the Board this evening is Land Use.

Mr. Shear clarified that this is strictly a Land Use decision, no project has been reviewed at this point.

Chairman Schultz referred to a letter from Joseph and Margaret Kleinmann dated August 3, 2011 which states they would rather the area behind them remain residential. They live on Kippen Drive. The letter is on file in the Planning and Zoning office.

Khalid Marhan, of 5722 Fieldbrook Drive, strongly opposes changing the residential area.

Chairman Schultz explained that a few years ago there was a request to rezone that entire parcel to Major Arterial which would have given a 100' buffer to the residences; this Board said that did not provide adequate protection for the neighbors. The Planning Board looked at Clarence and found that it is not uncommon to have a Restricted Business Zone abutting a Residential Zone.

Michael Conners, of 348 Harris Hill Road, Suite B, has made the request to change the Master Plan. He is willing to answer any questions the Board may have regarding his request.

Wendy Salvati said the Planning Board has looked at this piece of property extensively. They looked at all the land uses up and down Transit Road to help make a well reasoned decision. She feels this is a good compromise.

Mr. Pazda asked if there is full build-out of the red zone, does that affect the pink zone? Ms. Salvati said yes and goes on to explain that it is all one parcel.

Chairman Schultz believes that changing the first 180' to commercial and leaving the rest residential would be throwing the land away.

ACTION:

Motion by Timothy Pazda, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **accept** as complete, the Final Environmental Assessment Form parts 1, 2 and 3 as prepared and filed.

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

ACTION:

Motion by Wendy Salvati, seconded by George Van Nest, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** a Negative Declaration on the Proposed Master Plan 2015 Amendment related to the Transit Road Corridor, north of Roll Road. This Type I Action involves a change to the Future Land Use Map contained within Master Plan 2015 to extend the Commercial Zoning Classification 180' to the east and identify Restricted Business district as a transitional land use classification between the Commercial Zoning district located along Transit Road and the Residential Single Family Zoning district to the east. After thorough review of the proposed amendment and the Environmental Assessment Form, including the comments generated from the coordinated review with involved and interested agencies, it is determined that the proposed action will not have a significant negative impact upon the environment.

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

ACTION:

Motion by George Van Nest, seconded by Timothy Pazda, to **recommend** to the Clarence Town Board that Master Plan 2015 be amended as follows:

That the Future Land Use Map be amended to extend the Commercial Zone 180 feet to the east and identify a transitional zone of Restricted Business between the extended Commercial Zoning along Transit Road and Residential Single Family Zoning to the east from Roll Road north to Highland Farms Drive on the properties identified with SBL # 57.09-6-12 and 57.05-5-8.

ON THE QUESTION:

Chairman Schultz has been looking at this parcel for the past three (3) years and has listened to all the comments made. He believes this change will make maximum use of commercial availability accessible from Transit Road or Roll Road while providing a significant safe buffer to the neighbors on Kippen Drive.

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 2

Verizon Wireless
Major Arterial

Requests Change In Use from Vacant to Wireless Communications Store and Architectural Approval for Building Renovations at 6051 Transit Road.

DISCUSSION:

Brad Packard provided the background on the project. The project site is located at 6051 Transit Road within the Transit Road Commercial Corridor and consists of approximately one (1) acre. The applicant is present this evening and is proposing a Change in Use to allow for the operation of a Verizon Wireless communications store and architectural approval for an associated façade renovation of an existing commercial structure at the site.

Steve Reding, of Verizon Wireless, is present.

Wendy Salvati thanked the applicant for agreeing to move the driveway to align it with Buffalo Pharmacy.

Chairman Schultz likes this project.

Mr. Pazda asked if this project is a result of consolidating locations. Mr. Reding clarified that it is not a consolidation, it is a new location.

Ms. Salvati likes the plan but has concerns. The height of the proposed sign is excessive at 20'. She suggested a 12' sign, perhaps a monument sign. She would like to see more trees around the back side of the site.

Chairman Schultz said the signs are lower and smaller in the area of the project site. Ms. Salvati said a lower sign will be more in the realm of vision for the passing vehicles. Mr. Reding said one of his concerns is the tree line, which is why they proposed a higher sign. Mr. Pazda warned that when the trees "leaf out" the sign may not be visible, but if the sign is below the leaf line the sign will be visible all the time.

ACTION:

Motion by Gregory Todaro, seconded by Richard Bigler, to **approve** the Change in Use from Vacant Commercial Structure to Wireless Communication Store and the Architectural Style of the Proposed Renovations at 6051 Transit Road with the following conditions:

1. Per the submitted site plan as submitted by Bissell-Stone updated to July 27, 2011.
2. Per the submitted detailed architectural plans as submitted by The Crissey Architectural Group, dated July 1, 2011.
3. Subject to obtaining required permits as issued by the Town Building Department.
4. Subject to Landscape Committee approval of a required Landscape Plan.
5. Subject to appropriate Building Permit Fees.
6. Signage is subject to Sign Review Board approval. It is recommended that the proposed ground sign is to be executed as a monument sign not exceeding 12' in height and 32 square feet in size per side as per the Commercial Sign District Regulations.

ON THE QUESTION:

Ms. Salvati suggested an additional condition: 7. It is recommended that additional trees be added along the parking area at the rear of the site, number and placement to be worked out with the Landscape Committee.

Mr. Todaro and Mr. Bigler agree to accept this addition to the motion.

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 3

Ron Grimm
Agricultural Rural Residential

Requests SEQRA Determination and Concept Approval for a 4-Lot Open Development Area at 6491 Conner Road.

DISCUSSION:

Brad Packard provided the history on the project. It is located at 6491 Conner Road within the Agricultural Rural Residential zoning district and consists of approximately 9 acres. The applicant is requesting a determination under SEQRA and Concept Plan approval of a proposed 4-lot Open Development Area. The Planning Board has previously commenced a coordinated review under SEQRA and the comment period has now expired. The Planning Board has been provided the responses of all involved agencies and in accordance with SEQR proceedings is now positioned to accept the completed Environmental Assessment Form and can consider a determination of environmental significance under SEQR. The project sponsor is present this evening and is requesting Concept Plan approval of the Planning Board.

Chairman Schultz said the Planning Board is the deciding authority on this proposed Open Development Area.

Wes Stone, of Bissell Stone Associates, is present and representing Ron Grimm. Mr. Stone explained that each of the four (4) lots would be approximately two (2) acres; a 515' private road is proposed. He understands there are two (2) concerns on this site, one is drainage and the other is driveway location.

Chairman Schultz said drainage concerns were raised by residents and the County. One of the conditions of the County to allow this project to go forward is that the applicant is to provide an assessment of the culvert elevations to make sure they flow properly and do whatever remediation that needs to be done. Currently, the culverts between this project site and Gott Creek are not aligned; they are not at the proper elevations. Mr. Stone understands this; he advised that he has also prepared a topographic survey from this site to the creek. Chairman Schultz noted that sometimes the action taken on drainage for a new project will actually improve drainage in surrounding areas.

Mr. Van Nest asked why the Planning Board would impose a public drainage obligation on a private applicant. If there is a public drainage easement within the purview of the public authority, then perhaps that public authority should step up to do the surveys and/or the corrective work. Chairman Schultz asked who would actually pay for this work. If the project moves forward, he would be comfortable if the applicant said this work would be done, this does not mean the applicant has to do it himself.

Mr. Packard noted that in the correspondence received from the County they identified there are potential downstream impacts in relationship to the current grading condition and coordination of culverts along Conner Road to Gott Creek that could result in negative impacts, and that would be associated with the developers Development Plan and would be directly tied to the offset of their development and the drainage that it then outbased through Conner Road. So they would expect the developer to qualify via a downstream analysis that there is not potential that their additional flow could create a negative impact on Conner Road. As far as who is monetarily responsible for those corrections, the County has not represented in any fashion that it would be the developer, but this would be determined between the Department of Public Works and ultimate issuance of a highway work permit before the developer is allowed to move forward.

Ms. Salvati agreed with Mr. Van Nest in that the applicant should not have to fix an existing problem; if someone in the project area has a culvert that is undersized the County should be fixing that, not the developer of this proposed project. The developer will be responsible under SEQRA to show that he will not make any current issue worse.

Chairman Schultz clarified that the County said they are concerned that additional development in that area, where there is shallow ground water and drainage issues, will exacerbate a poor situation and they will not issue any permits until they can be assured that it is not going to be an issue. Mr. Packard confirmed that the County officially stated this as an involved agency in a SEQRA coordinated review.

Mr. Van Nest is concerned with the precedential factor of the Planning Board saying that if the County requires this, than it will become a condition of a site plan review.

Ms. Salvati suggested further information be obtained from the Town Engineer showing that this plan will work and not exacerbate the drainage conditions in that ditch. Deputy Town Attorney David Donohue said this is site plan review.

Chairman Schultz said if this stands he thinks a conditional Negative Declaration could be issued, however he does not know enough about a conditional Negative Declaration and would like to gather more information.

Mr. Stone said there is 100' from the centerline of the existing driveway to the centerline of the proposed driveway. Chairman Schultz asked what the measurement would be if the proposed driveway was 60' wide, Mr. Stone said there would be no reason to do that. Chairman Schultz interprets the code as meaning edge to edge. Ms. Salvati agreed.

Chairman Schultz asked how close the new driveway to the south is to the project site. Mr. Stone said it is probably 100' from his south driveway.

Chairman Schultz said the applicant agreed to change the plans to show a 100' driveway separation from edge to edge at the May 18, 2011 meeting.

Ms. Salvati said the issue is that the applicant is now trapped between two (2) driveways and can't get 100' between both. The applicant may have to ask the Town Board for relief to make this project work.

Mr. Shear said it is appropriate to find out more information on the new driveway to the south, exactly where it is, where it came from and whether or not it is permitted and approved. He does not think it is the applicant's responsibility to accommodate a driveway that just recently appeared. Mr. Van Nest agreed.

Ms. Salvati suggested the applicant show this new driveway on the plan. Mr. Stone agreed.

Jim Gustafson, 6590 Conner Road, is concerned with drainage. He feels the County has been negligent with regards to culverts in the area.

Felice Petruzzo, of 6621 Conner Road, is also concerned with the ditch and the drainage. The ditch drains onto his property and his land is becoming wetland. He thinks it is impossible to correct the ditch and adding more water to it will only make it worse. He is about to bring a law suit to Erie County because they are doing nothing about it and he asked for the Planning Board to give him some time before approving the subdivision.

Richard Dahn, of 6421 Conner Road, is also concerned with drainage. If the drainage is corrected for the last gentleman's problem, the drainage will come out on Mr. Dahn's property; that's just the way it goes to the creek. He asked of the proposal is for septic or sewer. It is confirmed that it will be septic.

Chairman Schultz referred to §193-32 of the Town Code, which explains how Open Development Areas are to be built. He explained that if a proposal does not meet the code, it out of the Planning Board's hands and into the Town Board's hands. The Town Board, by super majority, would have to approve a change from this code. Chairman Schultz said the driveway locations need to be very clear.

Mr. Van Nest said he is not going to pass the obligation of a public drainage responsibility on to a private applicant. He would like a better understanding of what exactly the County's expectations are. He does not think it is incumbent upon a private applicant with a small project to fix a major, regional almost, drainage problem.

Mr. Stone's interpretation of the County's letter was he thought the County wanted to know what he had, that's why he prepared a topographic survey and sent it to the County. He has not yet heard back from the County.

ACTION:

Motion by Paul Shear, seconded by Wendy Salvati, to **table** this project.

ON THE QUESTION:

The project is tabled pending the following information:

- A better understanding of the County's expectation on drainage.
- What the County considers the applicant's obligations to be.
- A better understanding of the driveways, in particular the new driveway to the south.

Mr. Shear referred to the EAF Part II, page 11 in which it asks if the proposal will result in a physical change to the project site, construction of land where the depth of the water table is less than 3 feet. The applicant has indicated that the depth of water table is between .5 and 1.5b. This is an item that requires mitigation.

Ms. Salvati referred to #2, the site description in the EAF Part I and stated the acreage does not add up.

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Mr. Stone asked for a suggestion if there isn't 220' between the two (2) driveways. Chairman Schultz said if he cannot physically do it, he should come up with a specific proposal to bring before the Board. Chairman Schultz' preference would be to take the footage out of the driveway to the south. If the project goes to concept, the Planning Board may approve the concept conditional on the Town Board taking an action to allow for a variation in the driveway distance.

Meeting adjourned at 8:40 p.m.

Carolyn Delgato
Senior Clerk Typist