

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday, April 21, 2021

This meeting was not an in-person meeting, it was strictly virtual.
The Zoom meeting link may always be found on the published agenda, which is accessible
on the Town of Clarence's website

Work Session 6:00 pm

Status of TEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:00 pm

Approval of Minutes

Item 1

Arman Afshani
Traditional Neighborhood District
& Residential Single Family

Requests Minor Subdivision of land approval to
create one (1) new vacant lot located at 10985
Main Street.

Item 2

H. David & Marlene Horbinski
Residential Single Family

Requests Minor Subdivision of land approval to
create one (1) new vacant lot located at 5480
Thompson Road.

Item 3

Jacob Chameli
Agricultural Floodzone

Requests Minor Subdivision of land approval to
create one (1) new vacant lot located at 7765
Goodrich Road.

Item 4

Sean Hopkins / Rane Property Management
Restricted Business

Requests Concept Plan approval for a mixed-use
project at 7621-7631 Transit Road.

Item 5

Matt Green / The Green Organization, Inc.
Commercial

Requests Concept Plan approval for a mixed-use
project at 9150 Sheridan Drive.

Chairman Robert Sackett called the meeting to order at 7:00 p.m.

Motion by Wendy Salvati, second by Gregory Todaro to **approve** the February 17, 2021 meeting minutes.

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Robert Sackett	Aye		

MOTION CARRIED

Planning Board Members present:

Chairman Robert Sackett	2 nd Vice-Chair Wendy Salvati
Gregory Todaro	Jeffrey Buckley
Jason Geasling	

Planning Board Members absent: Vice-Chair Richard Bigler

Town Officials Present:

Director of Community Development Jonathan Bleuer
Junior Planner Andrew Schaefer
Councilman Paul Shear
Councilman Robert Geiger
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Steve Dale	Scott Everett	Ari Goldberg	Patrick Sheedy Jr.
Arman Afshani	Ed Hazard	Joshua’s iPhone	***-0573
Ann Shinder Walek	Valerie	Wendy Merkle	Carly
Chris Wood	Dave Sutton	Jeff Palumbo	Bryan’s phone
Matt Green	Pat’s iPhone		

Item 1

Arman Afshani
Traditional Neighborhood District
& Residential Single Family

Requests Minor Subdivision of land approval to
create one (1) new vacant lot located at 10985
Main Street.

DISCUSSION:

Mr. Bleuer introduced this project, identifying that this vacant parcel contains approximately 23 acres in the Traditional Neighborhood District and Residential Single Family zone.

The applicant is seeking a Minor Subdivision of land to create one new buildable lot in the Traditional Neighborhood District. If approved this will result in two vacant frontage lots on Main Street.

It should be noted that the existing rear land of the parent parcel will be subsequently merged with land having frontage on Stage Road to avoid any areas becoming landlocked parcels without road frontage.

Mr. Afshani was present to further explain and discuss his request. He stated that his intention is to build two luxury townhouses on each parcel, consisting of 3 bedrooms and 2.5 baths, with 2 car garages, both facing Main Street.

Mr. Sackett noted that at this point of the process, Mr. Afshani is merely seeking approval for the subdivision of land, and the actual building approvals will be done through the Building Department.

Mr. Buckley wanted to confirm with Mr. Afshani that he is aware that if he wishes to access public sewers on either of these parcels in the future, an out of district sewer agreement will need to be obtained and approved by the town board. Mr. Afshani responded that he is aware of that fact.

Mr. Buckley asked Mr. Afshani if he is aware that the town is requiring a 50 ft. drainage easement be conveyed to the town as part of the lot split, which Mr. Afshani replied that he was not aware until this moment, and he would need to understand it better, but he has no objections to anything at this point.

Mr. Buckley noted that there had been a memo and drawing supplied by the town's engineering department dated April 15, 2021 which explained this required easement, which Mr. Afshani had not yet received. Mr. Sackett urged him to seek the memo from the Planning office.

Mr. Buckley noted that an issue that had come up is that part of the proposal if approved, would be the merger of several lots toward the rear, with access being provided to those two lots to Stage Road. As part of the board's approval, they will require the new deeds to be prepared to combine those lots, and those deeds to then be recorded with the clerk's office so that effectively, those lots do have access out on to Stage Road. Mr. Afshani replied that yes, the owner of the whole parcel is aware of that requirement.

Mr. Afshani will be purchasing only the front part of the parcel, and per Mr. Bleuer, owner authorization allowing Mr. Afshani to speak and make decisions on the owner's behalf, is on file with the planning office. Mr. Afshani confirmed that both he and the owner are aware of the deed conditions that the board will set.

Mr. Sackett noted in regards to Mr. Buckley's statement of seeking sewer, that the subdivision of land being requested is dependent on town approval for an extension. Due to the size of the lots, they must have sewers, as they do not meet the requirements to not have sewers. To be sure Mr. Afshani understands that they cannot approve the subdivision of land outright, it will be contingent on town board approval of the extension of the sewer district. Mr. Afshani confirmed that he understands that point, and is fully aware of it.

Mr. Todaro noted that the two parcels are heavily wooded, and wanted to be sure that Mr. Afshani wasn't planning on clearing the properties until any construction was to occur. Mr. Afshani responded that he doesn't plan on clearing any trees until the project was approved and he actually owned the land.

In regard to Public Participation, no one spoke.

ACTION:

Motion by Jeffrey Buckley, second by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Short Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Short Environmental Assessment Form as prepared and to **issue a Negative Declaration** on the proposed Afshani Subdivision at 10985 Main Street. This Unlisted Action involves a lot split to create one additional lot in the Traditional Neighborhood District. After thorough review of the submitted sketch plans and Environmental Assessment Forms it is determined that the proposed action will not have a significant negative impact on the environment.

ON THE QUESTION:

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Robert Sackett	Aye		

MOTION CARRIED

Motion by Jeffrey Buckley, second by Gregory Todaro to **approve the Afshani Minor Subdivision** at 10985 Main Street as per the submitted sketch plan received in the Planning Office on March 12th, 2021 with the following conditions:

1. Review and approval by the New York State Department of Transportation for any future access to Main Street.
2. Subject to the Town Board’s issuance of an Out-Of-District Sewer Agreement for access to public sewer through Clarence District 9.
3. Creation of a 50’ wide drainage easement to the Town of Clarence per the memo and drawing from the Town Engineering Department, dated April 15th, 2021. The easement shall be submitted to the Town Legal Department for review and approval prior to filing. The easements shall be filed in the Erie County Clerk’s Office with a stamp “Filed” copy being provided to the Town Attorney’s Office within a reasonable time after filing.
4. All necessary transfers to establish the appropriate lot lines shall be created in the form of deeds prepared by the applicant’s attorney and provided to the Town’s Legal Department for review and approval prior to filing. Deeds shall be filed in the Erie County Clerk’s Office with a stamped “filed” copy being provided to the Town Attorney’s office within a reasonable time after filing.
5. Subject to Open Space and Recreation Fees.

Mr. Afshani understands and agrees.

ON THE QUESTION:

Mr. Bengart stated that he wants to be sure Mr. Afshani understands that regardless of where the easement may be, either on the original parcel that the owner is retaining, or on the new parcels that Mr. Afshani is purchasing, that the requirements are identical to the out of district sewer agreement, this is also a requirement of this going forward.

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Robert Sackett	Aye		

MOTION CARRIED

Item 2

H. David & Marlene Horbinski
Residential Single Family

Requests Minor Subdivision of land approval to
create one (1) new vacant lot located at 5480
Thompson Road

DISCUSSION:

Mr. Bleuer introduced this item, explaining that the parcel contains an existing residence, accessory structure and pond on approximately 14 acres in the Residential Single Family zone.

The applicant is seeking a Minor Subdivision of land to create one new vacant buildable lot.

It should be noted that the applicant has received a variance from the Zoning Board of Appeals in October of 2020 for the proposed distance from the property line to edge of pond.

Mr. Horbinski was present virtually, and had nothing additional to add.

Mr. Buckley noted that he recognizes that Mr. Horbinski has already been granted a variance by the zoning board, the planning board was able to review the minutes, including all of the questions that the zoning board had for Mr. Horbinski which he answered and provided all of the required information.

The variance was in regards to the setback for the pond that lies on Mr. Horbinski's property. Mr. Buckley is satisfied with the decision that the zoning board came to.

Mr. Buckley stated to Mr. Horbinski one of the conditions that he wants to make sure Mr. Horbinski is aware and comfortable with, on the far south side of the parcel there is a very narrow passage of about 20 ft. in width. Mr. Buckley pointed out that a passage of that width would not allow for a building permit on the rear portion of the lot for open development. Current Town Code requires a passage width of 36 ft. in order to develop the rear portion of the lot with an open development.

Mr. Horbinski stated that he understands and agrees to the conditions that have been set forth.

In regard to Public Participation, no one spoke.

ACTION:

Motion by Jeffrey Buckley, second by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Short Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Short Environmental Assessment Form as prepared and to **issue a Negative Declaration** on the proposed Horbinski Subdivision at 5480 Thompson Road. This Unlisted Action involves a lot split to create one additional lot in the Residential Single Family zone. After thorough review of the submitted sketch plans and Environmental Assessment Forms it is determined that the proposed action will not have a significant negative impact on the environment.

ON THE QUESTION:

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Robert Sackett	Aye		

MOTION CARRIED

Motion by Jeffrey Buckley, second by Gregory Todaro to **approve the Horbinski Minor Subdivision** at 5480 Thompson Road as per the submitted sketch plan received in the Planning Office on March 22nd, 2021 with the following conditions:

1. Review and approval by the Erie County Department of Public Works for any future curb cuts on Thompson Road.
2. Review and approval by the Erie County Health Department for any future on-site sewer facilities for the newly created lot.
3. Should any drainage easements be required to address on-site drainage issues on the properties, appropriate easements shall be approved by the Town Engineering, Highway and Legal Departments.
4. Review and approval by the Town Building and Engineering Department for any future construction on the newly created lot.
5. Subject to Open Space and Recreation Fees.

Mr. Horbinski understands and agrees to the conditions.

ON THE QUESTION:

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Robert Sackett	Aye		

MOTION CARRIED

Item 3

Jacob Chameli
Agricultural Floodzone

Requests Minor Subdivision of land approval to create one (1) new vacant lot located at 7765 Goodrich Road.

DISCUSSION:

Mr. Bleuer introduced the project, noting that this parcel contains an existing residence and accessory structure on approximately 69.5 acres in the Agricultural Floodzone.

The applicant is seeking a Minor Subdivision of land to create one new vacant buildable lot.

It should be noted that this parcel falls with the Town’s Density Floodway area and the proposed lot dimensions meet the Town Engineer’s standards.

Scott Everett was present virtually for the applicant, and had nothing additional to add.

Mr. Buckley one item that the board discussed regarding the location of this property within an Agricultural Flood zone in the Town of Clarence, if the lot split is approved and they decide to build on this site in the future, approval from the town engineer will be required for open area development.

Mr. Everett stated that he is aware and understands that point, also they have dealt with similar situations in the past.

Mr. Bengart asked to clarify Mr. Everett’s relationship with the applicant, Jacob Chameli, which Mr. Everett responded that they are co-owners on the parcel. Mr. Everett has permission to speak on Mr. Chameli’s behalf, as well as a letter on file in the Planning Office stating the same.

In regard to Public Participation, no one spoke.

ACTION:

Motion by Jeffrey Buckley, second by Wendy Salvati pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Short Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Short Environmental Assessment Form as prepared and to **issue a Negative Declaration** on the proposed Chameli Subdivision at 7765 Goodrich Road. This Unlisted Action involves a lot split to create one additional lot in the Agricultural Floodzone. After thorough review of the submitted sketch plans and Environmental Assessment Forms it is determined that the proposed action will not have a significant negative impact on the environment.

ON THE QUESTION:

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Robert Sackett	Aye		

MOTION CARRIED

Motion by Jeffrey Buckley, second by Wendy Salvati to **approve** the Chameli Minor Subdivision at 7765 Goodrich Road as per the submitted sketch plan received in the Planning Office on December 29th, 2020 with the following conditions:

1. Review and approval by the Erie County Department of Public Works for any future curb cuts on Goodrich Road.
2. Review and approval by the Erie County Health Department for any future on-site sewer facilities for the newly created lot.
3. Creation of a drainage easement to the Town of Clarence per the memo and drawing from the Town Engineering Department, dated April 15th, 2021. The easement shall be submitted to the Town Legal Department for review and approval prior to filing. The easements shall be filed in the Erie County Clerk’s Office with a stamp “Filed” copy being provided to the Town Attorney’s Office within a reasonable time after filing.
4. Review and approval by the Town Building and Engineering Department for any future construction on the newly created lot.
5. Subject to Open Space and Recreation Fees.

ON THE QUESTION:

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Robert Sackett	Aye		

MOTION CARRIED

Item 4

Sean Hopkins / Rane Property Management
 Restricted Business

Requests Concept Plan approval for a mixed-use project at 7621-7631 Transit Road.

DISCUSSION:

Mr. Bleuer introduced this project. The parcels which contain the former Bitterman’s automotive complex of buildings and two residential structures located in the Restricted Business zone.

The applicant is seeking concept level approvals and recommendations for a project containing a mixed use building with 6,700 sq. ft. of commercial space and 8 residential units, 7 accessory structures and 3 townhome buildings with 4 residential units each.

This project was referred from the Town Board for preliminary conceptual review in December of 2019. A coordinated review under the State Environmental Quality Review Act was commenced by the Planning Board in March of 2020. Since that time, comments have been received by involved and interested parties, and the proposal has been modified to address those comments.

Chris Wood from Carmina Wood Morris was present virtually to speak on behalf of the applicant. Mr. Wood pointed out that they have met with the Planning Board Executive Committee a couple of times, and have made some changes based on requests made by that committee.

One of the requests was to label the specific storage units which will be used by the residents that will live on the property.

Additionally, they added and then removed the gated entrance to Wolcott Rd., and that is now a full access entrance. It is Mr. Wood’s understanding from a work session, that the board may want a gate added back in again, in case the area becomes flooded.

Mr. Sackett stated that he doesn’t think it will be an actual gate, but simply a chain, so that should the area become flooded, the fire department can easily gain access.

Mr. Todaro addressed a few of the changes that have recently been made, starting with the Wolcott Rd. access road, which is now full access, which Mr. Wood confirmed. Initially there were two entrance ways to the property from the west side, which is now one entrance, aligned to Dann Road, and there will be an alignment of those entry ways.

Regarding the storage facilities, the owners of the property have stated that the residents of the property, as well as residents of other properties owned by these owners will be the only ones allowed to access and use these storage facilities. Mr. Todaro asked about signage and / or marketing for these

facilities, and how that will be accomplished so that the general public will know that they are unavailable to them.

Mr. Wood stated that there will be no signage or publicizing of the rental units, and would only go to the renters of RANE Management. There will not be any offices on location where people will be able to access to attempt to rent storage units. The property will be gated, only renters and RANE tenants will have access.

Mrs. Salvati asked if the eight garages and the two storage units on the south property will only be utilized by tenants of the property. Mr. Wood clarified that there are 11 storage units and 8 garages, which will only be available to on site as well as offsite residents.

Mr. Todaro asked about the bike racks and trails that are denoted on the diagram, but would like Mr. Wood to clarify where they will be located.

Mr. Wood stated that there are two bike racks located at the mixed-use building, for people using the commercial stores, who may want to store their bike while visiting.

There are 8 detached garages that go along with the mixed – use building, that have small storage rooms in the back of those which can also be used as bike storage. The bike racks will be geared more towards the patrons of the commercial space.

Mr. Todaro asked Mr. Wood to also explain the benches that are located along the south side of the property. Mr. Wood responded that there are a couple of benches also located by the mixed-use building, in the same vicinity as the bike racks. Additionally, they have a couple located on the south side for the tenants located over there. Mr. Todaro asked why they don't have any located in the same area, on the southwest side, which Mr. Wood responded that they would be willing to place some there as well, they just thought that they would be better placed back off of the street a bit.

In regards to the two benches along the recreational trail, have their positions been determined, or were they randomly placed on the diagram. Mr. Wood responded that there are 8 benches along the walking trail, and are currently placeholders and once they get further in to the project they will finalize their locations.

Mr. Todaro referred to the wet retention area along the northwest side of the property. The rendering shows a deck, without any type of safety railings or ways to keep people from falling in to the retention area. Mr. Wood said there will be railing, it was not placed in to the rendering, but they plan on having a safety railing in place around the deck.

Mr. Salvati clarified with Mr. Wood that the area is not intended to be any type of recreational area, which Mr. Wood confirmed. Additionally, there will be a fence around the storage units, as per the request from the committee.

Mrs. Salvati asked in regards to the access road which will be closed off in the event of flooding, who will be responsible to close that road off. Mr. Wood responded that there will be a property manager assigned to the property, and they are on call 24 hours.

Mrs. Salvati then asked about the views of the structures from Wolcott Rd. on the north, and the committee requested that they break up the monotony of the long wall, as well as additional consideration given to the north end of the commercial structure.

The committee will be taking a closer look, and ask for additional elevations with the locations that they would like to see additional attention given to.

Mr. Wood noted that the rendering shown tonight was done in the absence of an actual landscape plan. They plan to have landscaping along the long north wall along Wolcott Road, which will help to break up the monotony of it.

Mr. Salvati asked whether there will be any foundational plantings around the main commercial building, Mr. Wood replied that there will be planters up closer to the building, most likely between the doors.

Mr. Sackett asked if there will be any architectural features on the north elevation of the accessory building along Wolcott, which Mr. Wood reiterated that they plan to put some plantings along there which will help to break it up. Mr. Sackett noted that they are giving conceptual architectural approval this evening. Mr. Sackett would like to see that broken up more in ways other than vegetation. They will address it further at a future meeting.

Mrs. Salvati asked whether the retention area will look the way it does in the rendering, or they will make it look less recreationally inviting. Mr. Wood replied that it will have to have an aquatic bench around the perimeter, in accordance with Department of Environmental Conservation requirements.

Mr. Geasling asked in regards to the rendering and the plan, the south side of the mixed use building, is that a canopy that is shown or air conditioning units. Mr. Wood responded that they are ground mounted air conditioning units, the intention is for that to be greenspace, or if they ever decided to put another building there.

Mrs. Salvati then asked where the mechanicals will go, which Mr. Wood noted that they built a similar building to this one on Transit Road, the mechanical equipment became an issue. The greenspace at the end of the building is where the units would go.

Mrs. Salvati asked about the vent piping, as it is something she's started noticing on other buildings. She realizes the need for venting, but would like to know where they plan to place them. Mr. Wood noted that there is a need for venting, and he expects that they will be placed in the best aesthetically places possible.

Mr. Sackett asked where the venting will go on the roofs, Mr. Wood stated that it will go through the roofs when required, other times it will come through the wall if it's a lower unit. Mr. Sackett asked if the equipment or the piping are exterior to the walls. Mr. Wood stated that if it is mechanical equipment that is necessary. After further clarification, Mr. Wood stated that it would not run along the outside of the wall.

Mr. Sackett stated that they will get in to more details in the development stage of the process.

In regard to Public Participation:

- Carly Rolland, who lives in Clarence stated that she is a commercial real estate agent and has concerns regarding the lack of Phase one environmental impact study done. She knows Bitterman Automotive used to be on that property, and automotive shops have a history of being dirty and having contaminated soil. Because of this, she is certain that is why a parking lot has been put over a majority of the land with the proposed project.

She is concerned because of the lack of environmental studies, as well as putting residential use on top of the ground which she is certain is contaminated.

To have something with such an industrial use as an automotive shop, then to put residential units on top of that, on a site that is wet, is concerning to her. There will be a lot more water usage being pumped in to the land as a result of what will be placed there, which looks to be 6200 gallons a day being filtered back in to the stormwater.

She reviewed the comprehensive plan, and she stated that they admit in the EAF that it goes against the plan. More curb cuts are not meant to be installed where they plan on placing them, due to the traffic on Wolcott. Adding the traffic at the two additional intersections is a disaster waiting to happen.

Additionally she is concerned because it appears they are receiving funding from the Town of Clarence, the state, as well as the county.

The project does not seem to be keeping with the goals, nor does it appear that the environmental impact is being discussed the way that it should be.

- Ed Hazard of 8055 Wolcott Rd., which is right behind the property, asked where the septic system will be going. Also, he agrees with previously stated traffic concerns.

In regards to the comments about the survey of the property, in that a Department of Environmental Conservation survey was conducted on Bitterman's property prior to the sale of the property, and came back clean. Mr. Hazard stated that he knows first-hand that it was accomplished by the Department of Environmental Conservation.

Mr. Hazard noted that he did speak with a representative from the company a few weeks ago, who discussed the demolition and the buffer between Mr. Hazard's property and the proposed project, there is acknowledgement of what will happen, and Mr. Hazard appreciates the acknowledgement and the effort that the company has put forth.

- Wendy Merkle owns Room to Spare storage, which is four doors away from the proposed project, and she stated she has many concerns.

Mrs. Merkle's first concern is the drainage, because this property is very wet and not well drained, and towards the end of the previous automotive owner's time on the property, Mrs. Merkle knows he dumped oil on the property because the owner told Mrs. Merkle. So even though the Department of Environmental Conservation may have cleared the site, she believes you will find that there are other items which need to be addressed.

Additionally, Mrs. Merkle stated that she is concerned about the effect on the groundwater, if they are going to be pumping 6300 gallons of waste water, using the retention pond, and there is a flood, it will be a nightmare. Mr. Hazard will not be happy when items are floating on to his property.

Mrs. Merkle has several issues with the self-storage aspect of the proposed project, as clearly she has a vested interest in that. She was pleased to hear Mr. Wood refer to it as self-storage, because clearly that is what it is, and calling it by any other name is deceitful, as it is clearly self-storage. This is more than just 8 garages, there are over 100 garages, and there are 8 buildings, which are 10x20 units, which will fit a car. Mrs. Merkle stated that the board needs to understand that these people will not simply be pulling in to their garage at the end of the night and walking in to their unit. Rather they will be loading up the units with their contents, and the reason she states this is because 24 ft. will mean you have to do a 3 and a 4 point turn in order to get in to the units.

Lastly, Mrs. Merkle feels that the reason the applicant wants to build the proposed project on Transit Road, is because it is Transit Road, and they will be able to advertise there. She does not understand why they are unable to put the storage units that they want for the tenants on this property, then the storage units that they have for the other RANE property, on the other property.

Mr. Sackett noted that currently they are working on concept approval, and the Town Board would need to give approval to the project due to the multifamily aspect, then it will return to the Planning Board. Therefore, there is an interim of time, and the board encourages all interested parties to voice their concerns in writing and send it to the planning office. It will be dispersed to the board members, and placed in the project file.

- Steven Dale asked whether any thought has been given to protecting the stormwater basin with something other than pine trees. As we have heard tonight, the traffic in the area travel excessively fast, and he is unsure whether the small pine trees will help to keep cars out of the basin.

The applicant addressed some of the resident's concerns, beginning with the Phase 1 environmental study, Mr. Wood will ask the owner if he has it, and they will supply a copy to the town. Mr. Sackett stated that it is his understanding the environmental study would also need to be completed prior to building, which Mr. Wood replied it actually needs to be done prior to any financing or bank involvement, before construction. Additionally, if any environmental issues were encountered during construction, it would need to be handled through the Department of Environmental Conservation. Mr. Wood agreed that if it hasn't already been done, they will do a Phase 1 and provide it to the town.

In regards to the curb cuts, their original plan was to have two curb cuts on to Transit Road, and through working with the Department of Transportation and the Town of Clarence, they have scaled it down to one curb cut. The addition of the driveway on to Wolcott Rd. was more a result of needing to have emergency access in order to be able to access the site in the event the Transit Road driveway was blocked. Ultimately, that has evolved in to a full access driveway. He believes there is sufficient distance between the intersection and the driveway on Wolcott Rd., and the one driveway on Transit Road is aligned with Dann Road, right across the street. Department of Transportation will also need to review their site plan as part of State Environmental Quality Review Act as well as part of the

Department of Transportation work permit, which entails quite a bit of scrutiny by several different departments at the Department of Transportation.

Mr. Sackett stated that during the State Environmental Quality Review Act process, the county had the opportunity to comment on the curb cut, since Wolcott Road is a county road. Mr. Wood noted that they will need a work permit from the county to put that driveway in.

Mr. Sackett asked Mr. Wood about the septic system, which Mr. Wood responded it is shown on the diagram on the east side, set back 10 ft. from the property line, per Department of Transportation requirements. As with all commercial developments, a reserve area for an additional sand filter is required, in the event that the first system fails. Mr. Wood stated that if the neighbor prefers, he would agree to switch it so that the reserve unit is on the neighbor's side of the property, rather than the sand filter.

Mr. Wood pointed out that the septic system has to be located outside of the 100 year flood zone, which is both a Department of Environmental Conservation and Health Department requirements, so that area will be raised up, which will make it less susceptible to flooding. They are not discharging to the stormwater pond with the discharge from the septic. Mr. Sackett stated that they would be required to get Erie County Department of Health approval for the septic system, Mr. Wood added the Department of Health as well because it is over 1,000 gallons.

Mr. Sackett referred to Mr. Hazard's landscaping, and stated that one of the conditions that will be set if this project is approved tonight, would be that prior to development approval, the applicant receives Landscape Committee approval. Mr. Sackett asked Mr. Wood if they would agree to review their landscape plan with Mr. Hazard prior to submitting to the Landscape Committee, so that there is a mutual agreement as to what the applicant will provide, which Mr. Wood agreed to. Mr. Wood noted that they planned to meet with Mr. Hazard to determine what kind of screening he preferred, whether it is fencing, landscaping, or both.

Regarding Mrs. Merkle's comment about drainage, Mr. Wood responded that as with any project that disturbs over an acre, a SWPP permit from the DEC, DEC requires both water quality and quantity treatment. Additionally, the Town of Clarence Engineering Department has to review and sign off on their SWPP before they can submit it to the DEC. Several levels of review and approval are required before they can begin construction.

Pertaining to the stormwater retention pond, and Mr. Dale's concerns specifically to unwanted access to the pond, Mr. Wood responded that the top of the pond is approximately 40 ft. from both roads. He feels that if there was some kind of buffer like pine trees or other plantings, they would be better than a rigid structure that may be worse for a car to hit than a tree.

Mr. Sackett noted that Stormwater retention ponds have become a hot topic for the Planning Board, and he suggests to Mr. Wood that he meet with the town engineer to come up with a presentation to make to at least the executive planning board committee, prior to the final engineering approval, as far as the maintenance of the stormwater pond, aquatic bench, and any necessary barriers between that and the road. They will look for the town engineer's recommendations as well.

Mr. Sackett once again reminded the public that if they have further comments or concerns, to please put them in writing and address them to the Planning and Zoning office where the board will all receive them, and they will go in to the project's file.

Mr. Todaro noted that they did receive correspondence prior to the meeting in regards to this project, from Mr. Hazard, who spoke tonight, and his correspondence will be on the record as well.

ACTION:

Motion by Gregory Todaro, second by Wendy Salvati Pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Full Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Full Environmental Assessment Forms as prepared and to issue a Negative Declaration on the proposed Rane Property Management Mixed Use Project at 7621-7631 Transit Road. This Type 1 Action involves the creation of a mixed use project with associated facilities in the Restricted Business zone. After thorough review of the submitted plans, documents, Environmental Assessment Forms and comments, it is determined that the proposed action will not have a significant negative impact on the environment.

ON THE QUESTION:

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Robert Sackett	Aye		

MOTION CARRIED

Motion by Gregory Todaro, second by Wendy Salvati to **approve** the Rane Property Management Concept Plan per the submitted drawing by Carmina Wood Morris dated April 15th, 2021, and Conceptual Architectural Approval per the submitted renderings received in the Planning Office on March 22nd 2021, all with the following conditions:

1. As per the Town of Clarence Engineering Preliminary Grading and Drainage Memo of Approval, dated January 26th, 2021, and associated conditions.
2. Landscape Committee approval of a final Landscape Plan prior to Development Plan Approval, including fencing and dumpster enclosure details.
3. Subject to Erie County Health Department and New York State Department of Environmental Conservation approval on any future on-site sanitary facilities.
4. All lighting must be dark sky compliant and shielded to prevent spillage onto adjoining parcels. No lighting shall be elevated above the roof lines and all lighting shall be turned off no later than one hour after business hours except for necessary security and residential lighting.
5. Review and approval by the Erie County Department of Public Works for access to Wolcott Road. Should the access road to Wolcott Road become flooded, the applicant shall provide means to temporarily restrict access during that period. The access road shall be marked for no parking.
6. Review and approval by the New York State Department of Transportation for access to Transit Road.
7. Subject to Building and Engineering Department approval on any construction on the site.
8. Installation of a recreational trail and associated benches and bike racks per the approved concept plan, and subject to approval by the Landscape Review Committee.
9. All accessory structure storage units to be fully fenced and gated, and subject to approval by the Landscape Review Committee.
10. No outside display or storage of any kind on the property, including but not limited to goods, materials, vehicles or other items.

- 11. Any signage subject to review and approval by the Sign Review Committee.
- 12. Subject to Open Space and Recreation Fees.

Mr. Wood understands and agrees to all of the above mentioned conditions.

ON THE QUESTION:

Wendy Salvati asked to confirm that Mr. Wood will speak to the owner to gain access of a copy of the Phase I Environmental Review, which Mr. Wood agreed to. Mr. Sackett noted that if it is not available, then it will be done before any subsequent requests for financing or building, and submit it to the town.

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Robert Sackett	Aye		

MOTION CARRIED

Motion by Gregory Todaro, second by Wendy Salvati to **recommend** a Special Exception Use Permit to the Clarence Town Board to allow multiple family housing as per the Conceptually approved drawing by Carmina Wood Morris dated April 15th, 2021 for the Rane Property Management mixed use project.

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Robert Sackett	Aye		

MOTION CARRIED

Motion by Gregory Todaro, second by Wendy Salvati to to **recommend** a Temporary Conditional Permit to the Clarence Town Board to allow accessory structure storage units as per the Conceptually approved drawing by Carmina Wood Morris dated April 15th, 2021 for the Rane Property Management mixed use project subject to the following conditions:

- 1. Access limited to Ownership’s portfolio of tenants only.
- 2. Shall not be publicly advertised for rent nor have advertising signage on the property.
- 3. Full fencing and gated access, subject to approval by the Landscape Review Committee.

Mr. Wood understands and agrees to the above stated conditions.

ON THE QUESTION:

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Robert Sackett	Aye		

MOTION CARRIED

Item 5

Matt Green / The Green Organization, Inc.
Commercial

Requests Concept Plan approval for a mixed-use project at 9150 Sheridan Drive.

DISCUSSION:

Mr. Bleuer introduced this project, stating that this parcel contains a vacant residence and accessory structure on approximately 3.3 acres in the Commercial zone.

The applicant is seeking concept level approvals and recommendation for a project containing a mixed use building with 6,400 sq. ft. of commercial space and 18 residential units.

This project was referred from the Town Board for preliminary conceptual review in October of 2019. A coordinated review under the State Environmental Quality Review Act was commenced by the Planning Board in November of 2019, followed by a Negative Declaration being issued in November of 2020.

Finally, in February of 2021, the Zoning Board of Appeals issued variances to allow a third story and 18 units.

Ari Goldberg from the Barklay Damon law firm was present virtually, representing the applicant. Also present were Matt and Brian Green from the Green Organization, engineers Chris Wood and Patrick Sheedy Jr., project architect Jeff Sutton, and Mr. Goldberg's partner, Jeff Palumbo.

Mr. Goldberg stated that as Mr. Bleuer mentioned they are here tonight seeking Concept Plan approval for the 28,000 sq. ft. mixed use project located at 9150 Sheridan Drive.

Mr. Goldberg added that they are in a Commercial Zone with this property, as well as under the maximum feet allowed by code, but due to the mixed use and multi-family project aspect, they needed to obtain the two variances for the third story, as well as the two additional residential units.

Since that meeting with the Zoning Board, they have appeared twice in front of the Planning Board Executive Committee, where concept and some design issues were discussed. Since that time, the project has gained town engineer's approval.

To review some of the project features Mr. Goldberg would like to point out include the façade as shown on the renderings is a blend of lightweight contemporary aluminum material, which is made to resemble wood paneling, without the same maintenance as actual wood. The wood-look siding is offset with cultured stone, and white trim on the exterior design columns, as well as inlaid balconies for several of the residences.

Lighting was a topic of discussion with the executive committee, so they have removed all 2nd and 3rd store sconces from the exterior of the building, and the inlaid balconies only have recessed lighting.

Mr. Sackett noted that they have received engineer's approval which consists of preliminary stormwater and drainage, full engineering approval is still needed. From there they will need Town Board approval for Multi-Family, final engineering approval, as well as a few other steps.

Mr. Goldberg added that their proposed building is setback 45 ft. from the property line of the occupied residence to the west. They have proposed to put in 9 Fir trees along the property line border, which will be a minimum of 5 ft. in height, blending in with the existing brush and trees.

To the east of the property is vacant commercial zoned property, then to the north is wetlands property which will not be disturbed.

In working with the town engineering department to gain the aforementioned approval, they were also able to lower the overall grade of the site by 1.5 ft. from what they initially proposed. As a result they will be using less fill, and the building itself will be on the same elevation as the residential property to the west. The site is graded to capture stormwater runoff generated from all of the on-site impervious surfaces, which then drains in to a stormwater facility which is dry and will only have water during rainfall events.

Mr. Goldberg added that as a result of their meetings with the planning board executive committee, the project's recreation component has been expanded. They have added two benches on the property's front concrete patio area, and then there are two bike racks to the rear of the building. A sidewalk will also be installed along the right of way which abuts their property.

They chose these recreational components as opposed to a walking trail in the rear because the walking trail is more of a private recreation component, and they feel that undermines their goal to create a public attraction in the development. Additionally, putting a trail in the back may run in to issues with the wetlands.

Mr. Goldberg added lastly, that the project fits perfectly with the town's comprehensive plan for Clarence 2030, being that it is a walkable, mixed-use space with a density of residents, who are able to utilize all forthcoming and current pedestrian improvements for access to recreation and commercial activities as a town.

While looking ahead to Clarence's future, they do not dismiss its past, and Sheridan Drive is in a state of flux, with this project coming at the beginning of the Comprehensive Plan's recommended transition.

Mr. Goldberg noted that the project keeps 71% of the 3.3 acres of property preserved as greenspace, as well as adjustments with lighting and greenspace and vegetation buffers, as a result of meetings with the planning board executive committee as well as the planning department.

Mr. Geasling asked Mr. Goldberg if he would explain the siding, which Mr. Goldberg stated is made of thin aluminum, a sample is on file in the planning and zoning office. It is a contemporary material, used quite often because it resembles wood but you don't need to maintain it like wood. Mr. Geasling commented that it looks pretty rigid, and asked if it chinks, which Mr. Goldberg stated no it does not.

Additionally, Mr. Geasling asked where the mechanicals will be located, which Mr. Goldberg responded that they are flexible as to their location, they do not have anything determined yet. They have options including the roof, tucked behind the cornice on the top of the building, or they have the option of placing them outward on the western façade, shielded by landscaping. While they are flexible on their location, Mr. Goldberg noted that he has heard several times about concerns about the location of the mechanicals undermining the aesthetics. They specifically chose the flat roof because it is less imposing from the street than a pitched, slated roof, therefore they'd like to maintain the look of that as much as possible, so any mechanicals that they can place and then screen, is what they will do. Mrs. Salvati confirmed that they plan to put the mechanicals on the roof, which Mr. Goldberg responded that they are flexible in their location, and if they need to go on the roof, then they will be screened to the extent possible, whichever means they decide to use.

Mrs. Salvati stated that wherever they go on the roof, they cannot be seen, and need to be surrounded by something so that we are not looking at mechanical boxes. There is nothing she can think of that will detract from everything that they are attempting to do in terms of making this building look attractive, than putting big metal boxes on the roof.

Mrs. Salvati asked about vent piping, and whether there will be piping to vent the septic.

Mr. Sutton stated that it is very critical as far as the location of mechanicals, and they will attempt at all efforts during design to locate those mechanicals as far from the edge of the building as possible, and be adequately screened with an acceptable screening material and device that would cover the entire mechanical from the line of sight.

In regards to vent pipes, with a flat roof they can keep them lower to the roof, whereas with a pitched roof, they have to be higher from the roof. Mr. Sutton also noted that if they are vent pipes for plumbing, and mechanical purposes, they can paint them to camouflage them to the roof structure.

If the mechanical devices are for a heating component, they may be temperature sensitive and possibly not able to be painted. They will certainly take all suggestions when moving to the design portion of the project.

Mrs. Salvati asked if in the future when they bring the elevations to the board, if they can show what may or may not be seen from the roof line it would be helpful. Mr. Sutton responded that the commercial components may be in flux, but they can design the location for the condenser units for the residential aspect. The commercial will have a bit of a variable to them, but during the design they are able to put in mechanical chases that go from the commercial space, up through the two units, and directly to the roof. Those are being taken advantage of for the mechanical venting required, for various commercial components, in order to avoid the pipes along the side of the building.

Mr. Geasling asked what the schedule is for the lighting, from an architectural standpoint. Mr. Sutton responded that the architectural lighting is limited to the goosenecks and the high lighting of the signage, both which will be on a photosensitive light and timer which will have a shut off at a certain time. They can be regulated with a timer, so that they can always be adjusted to accommodate either the user, the landlord or owner, and / or the town's requirements if limitations are imposed.

Mr. Sutton believes that some of the low level lighting to highlight the building throughout the evening for signage he believes is an architectural enhancement. Any lighting considered a negative, would definitely be on a timer. They have eliminated all the lighting on the side facing the residential property per that resident's request. They would only provide for ample security lighting that needs to be 24/7 for security purposes, dark sky compliant, lower level, lower height so that it is more specific and less offensive in its lighting design.

Mr. Sackett asked about parking lot lighting, which Mr. Sheedy noted that they have one sight light pole proposed in the rear to illuminate the back parking spaces. They will also have a light pole in the greenspace area to help illuminate, and then one along the front parking island on Sheridan Drive. Mr. Sackett asked how tall the light poles are, Mr. Sheedy responded that they have not designed them yet, but typical standard is 15 ft. tall, which Mr. Sackett noted that 12 is a better number. It has less visibility and even deemed dark sky compliant, it does not mean it is not visible from points off site.

Mr. Geasling asked about the west elevation, it depicts two sliding patio doors to what he believes to be two residential units on the ground floor. Then on the plan it shows the 45 ft. greenbelt to the property line. Mr. Geasling asked what those are intended to go to. Mr. Goldberg noted that the grade begins to go down soon after that towards the stormwater retention facility. They are able to adjust the grade to add potential patio space without undermining the grade needed for the stormwater detention facility. As long as it doesn't cut in against the required greenspace buffer, they can adjust the grade and add any features.

Mr. Sutton added that they would like to provide a small concrete level pad which would be an amenity for the residential units that. If there is any infringement on the buffer, they could be turned in to windows, though not preferred, because they feel enjoying the greenspace buffer would be appreciated by those units. It is their intention to have more of the visibility of the sliding glass doors in a small concrete pad seating opportunity.

Mr. Sackett asked if there would be walkways to the front of the building, which Mr. Sheedy (?) responded that the patios themselves would either be isolated, or connect to the rear sidewalk. Mr. Sackett stated that they need to have a conversation with the town engineer relative to the retention pond, in regards to infringing on its function.

Mrs. Salvati asked in regards to the resident to the west and lighting on the west side of the building, will the private balconies not have any lighting, which Mr. Sutton reiterated that the private balconies will have recessed lighting in the ceiling. Mrs. Salvati asked about the two areas where they are considering putting the concrete pads for outside seating with the sliding glass doors, they won't have any lighting in order to satisfy the neighbor to the west.

Mr. Sutton responded that they will have a conversation with the resident to the west and if they feel that it is unacceptable, he doesn't feel that it would be a problem to eliminate them, although the opportunity for the tenant to enjoy that in the evening hours with a low level light, would be appreciated.

Mr. Goldberg stated that tenant safety is a concern, and there is one sconce shown now, they removed the second and third story sconces across the entire building through conversations with the planning board executive committee, based on neighbor comments. Any lighting from the first floor apartments would be equivalent to the neighbor's having a side or backyard light.

Mrs. Salvati stated to Mr. Goldberg that she wants to make it clear that they had told the neighbor that there would be no lighting on the west side of the building. If they are planning on putting any lighting for these little patios, then that needs to be discussed and agreed to, otherwise it could be seen as them renegeing on their promise. Mr. Goldberg stated that he isn't sure that is exactly what was said in to the record, in that exact phrasing, which Mr. Sutton clarified that the reference was the architectural accent lighting for the building has been removed. To further clarify that, as Mr. Goldberg stated, there will be some recessed lighting for the balconies which will face downward, they can choose a lighting fixture that will not create a glare or illuminate spill to the neighbor. They can do a downward light there as well, so that they can highlight the concrete pad while still respecting the neighbor's wishes. Mrs. Salvati noted that it would be nice if they were able to do that for all of the patios.

Mr. Goldberg commented in regards to patio lighting, they would not necessarily have the ability to control the tenants and when they choose to put their lights on. There could be house rules for residents, but it is still subject to the individual, and when they want to have their lights on. Part of the

acknowledgement of the inability to control them, is having the recessed lighting for the inlay, and removing all of the architectural sconces as well.

Architectural lighting will come up in final landscape approval, where they will also be looking for comments from the public as well.

Mrs. Salvati added that on the architectural renderings that were provided, she asked to see where the security lighting is going to go in relation to the gooseneck lighting, so that it is clear where everything which is proposed will be located.

Mr. Sutton responded that in the updated renderings, they will also attempt to indicate the anticipated location of mechanicals on the rooftop and how they will be screened.

In regard to Public Participation, no one spoke.

ACTION:

Motion by Jason Geasling, second by Gregory Todaro to **approve** the Green mixed use Concept Plan per the submitted drawing by Carmina Wood Morris dated March 12th 2021 with a revision date of April 6th, 2021, and Conceptual Architectural Approval per the submitted elevations by Sutton Architecture dated April 6th 2021, all with the following conditions:

1. As per the Town of Clarence Engineering Preliminary Grading and Drainage Memo of Approval, dated March 9th, 2021, and associated conditions.
2. As per the Zoning Board of Appeals approval and conditions of February 9th, 2021.
3. Landscape Committee approval of a final Landscape Plan prior to Development Plan Approval, including dumpster enclosure detail and planting within the 45' greenbelt on the west side of the property.
4. Subject to Erie County Health Department and New York State Department of Environmental Conservation approval on any future on-site sanitary facilities.
5. All lighting must be dark sky compliant and shielded to prevent spillage onto adjoining parcels. Lighting shall be turned off at least one hour after business hours except for necessary security lighting.
6. Review and approval by the New York State Department of Transportation for access to Sheridan Drive.
7. Subject to Building and Engineering Department approval on any construction on the site.
8. Installation of an ADA compliant sidewalk from the building and along the frontage of the project site and installation of bike racks and benches, all per the concept plan.
9. Installation or payment towards an ADA compliant sidewalk along Sheridan Drive to the existing sidewalk at the intersection of Sheridan Drive, Main Street and Thompson Road in lieu of the required on-site recreational component, subject to review and approval by the Clarence Town Board.
10. Any signage subject to review and approval by the Sign Review Committee.
11. Subject to Open Space and Recreation Fees.

Mr. Goldberg stated that he understands all of the conditions, with the exception of No. 5, which he asked if "business hours" is a defined term in the town code. Mr. Sackett responded they would be defined by business per se. Mr. Goldberg asked if it would be the businesses that they bring on to the property, which Mr. Sackett replied yes.

Mr. Goldberg stated that he understands the conditions.

Mr. Sackett asked Mr. Goldberg if they would be agreeable to reviewing their landscape plan with the neighbor to the west to seek approval prior to submitting to the Landscape Committee, which Mr. Goldberg responded that to the extent they are able to reach him, yes. Mr. Sackett noted to seek it, not obtain it. Then the Landscape Committee will review that process with them prior to approval.

Mr. Goldberg responded that they can seek it, yes.

Mr. Goldberg understands and agrees to the aforementioned conditions.

ON THE QUESTION:

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Robert Sackett	Aye		

MOTION CARRIED

Motion by Jason Geasling, second by Gregory Todaro to **recommend** a Special Exception Use Permit to the Clarence Town Board to allow multiple family housing as per the conceptually approved drawing by Carmina Wood Morris with a revision date of April 6th, 2021 for the Green mixed use project.

ON THE QUESTION:

Jason Geasling	Aye	Jeffrey Buckley	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Robert Sackett	Aye		

MOTION CARRIED.

Mr. Goldberg requested that condition #9 be read back on the first approval. He understands it has been voted on, he would like to hear it again.

Mr. Sackett is aware that they have made a proposal, but the Planning Board is not in a position to discuss monetary contributions. Budget items are at the privy of the Town Board, therefore it is referred to them.

Motion by Gregory Todaro to adjourn meeting at 9:03 p.m.

MOTION CARRIED

Amy Major
Senior Clerk Typist

