

Town of Clarence
Planning Board Minutes
Wednesday October 17, 2012

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

Art Cardella
Residential Single Family

Requests Minor Subdivision Approval to create one (1) additional residential building lot at 10820 Stage Road.

Item 2

Gabe's Collision
Major Arterial

Requests Preliminary Concept Review of a proposed Automotive Collision, Sales and Service facility at 5817 Transit Road.

Item 3

Town Mini
Commercial

Requests Development Plan Approval for construction of a new Automotive Sales/Service operation at 8230-8240 Main Street.

Item 4

Ted Hallac
Major Arterial

Requests a Change in Use from Vacant Commercial to Restaurant at 5575 Transit Road.

Item 5

Northwoods Open Space Design Development
Residential Single Family

Requests acceptance of the submitted Draft Supplemental Environmental Impact Statement (DSEIS) for an Open Space Design Subdivision on the north side of Greiner Road, east of Shimerville Road.

Item 6

Harris Hill Commons
Residential Single Family

Requests an Action under the State Environmental Quality Review Act (SEQRA) on the proposed Open Space Design Development located on the west side of Harris Hill Road between Sheridan Drive and Greiner Road.

Chairman Al Schultz called the meeting to order at 7:30 p.m.

Councilman Peter DiCostanzo led the pledge to the flag.

Planning Board Members present:

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

Planning Board Members absent: Vice-Chairman Robert Sackett, Timothy Pazda

Town Officials Present:

Director of Community Development James Callahan
Assistant Director of Community Development Brad Packard
Supervisor David Hartzell
Councilman Peter DiCostanzo
Councilman Bernard Kolber
Councilman Patrick Casilio
Councilman Robert Geiger
Deputy Town Attorney Steve Bengart

Other Interested Parties Present:

Debra Navarro	Joseph Navarro
Tony Barone	Sue Barone
Don Forman	Cathy Forman
Steve Dale	Margie Dale
Karen Willyoung	Frank Buffomante
Todd Staples	Salvatore Ballachino
Jennifer Ballachino	Jack Walko
Susan Walko	Roger Maddigan
Linda Maddigan	Nancy Robinson
Martin Robinson	D. Spoth
Richard Burk	Rita Burk
Helen Turyk	William Louisos

In the absence of Planning Board members Robert Sackett and Timothy Pazda, alternate Planning Board member Gregory Todaro will be participating in all discussions and voting on all agenda items.

Motion by Richard Bigler, seconded by Wendy Salvati, to **approve** the minutes of the meeting held on October 3, 2012, as written with the following corrections:

- the vote for approval of the minutes of the August 29, 2012 Work Session shall be amended to include "aye" as George Van Nest's vote.
- the votes for each agenda item will be amended to reflect each individual's vote.

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

MOTION CARRIED.

Chairman Schultz explained that Mr. Callahan will introduce each agenda item. The Planning Board members will discuss the project with the applicant. The Planning Board will describe what action is available to them to take on each project. Normally, before an action is taken, the public is given the opportunity to opine or to ask questions. Several agenda items this evening are not of that style; therefore public comment will not be invited on every agenda item.

Item 1

Art Cardella Residential Single Family	Requests Minor Subdivision Approval to create one (1) additional residential building at 10820 Stage Road.
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DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the north side of Stage Road, west of Schurr Road. It is existing vacant land located in the Residential Single Family Zoning classification. Per the Subdivision Law the Planning Board has review authority for a minor subdivision. A lot split such as this requires action under the State Environmental Quality Review Act.

Art Cardella is present; he is owner of the property. He has a survey showing the two (2) parcels; he purchased the property 24 years ago. He had a survey done yesterday, October 16, 2012, but he does not have the form from Bissell Stone yet. He lives in the house that is on the property. Once the property is split he will sell it for development of a residential home, he has a potential buyer already.

Kathryn Foreman, of 4625 Pine Manor, explained that it is a steep slope from Stage Road down to her property. She already has problems with drainage in the spring; the corner of her lot is totally under water. There is a sewer easement that runs diagonally across her property, but the water comes down behind where the receiver is. If the property is going to be developed, she is sure truck load after truck load of soil will be brought in to try and level the property because there isn't a level spot on the lot. How can she be assured they will take care of drainage so that the groundwater flows into the storm sewer and not onto her lot? Mr. Callahan said the Town Engineer did a preliminary review of the property. A lot of fill will have to be introduced to level the site. The Town Engineer will be involved from the beginning of the review process to ensure drainage is handled per town code.

Mrs. Salvati suggested keeping as many trees as possible on the slope. Mr. Cardella said he will not eliminate any of the trees; it would be the person who buys the property.

ACTION:

Motion by Paul Shear, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Short EAF as prepared and **issue** a Negative Declaration under SEQRA on the proposed Cardella Minor Subdivision located at 10820 Stage Road. This Unlisted Action involves the minor subdivision of land to create an additional residential building lot in the

Residential Single Family Zone. After thorough review of the submitted site plan and SEAF, it is determined that the proposed action will not have a significant negative impact upon the environment.

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

MOTION CARRIED.

ACTION:

Motion by Paul Shear, seconded by Wendy Salvati, to **approve** the proposed minor subdivision proposal of Art Cardella located at 10820 Stage Road to create one additional residential building lot in the Residential Single Family Zone with the following conditions:

1. Future development of the property subject to review and approval by the Town Building and Engineering Department.
2. Future development of the property subject to review and approval by the Erie County Health Department for on-site sanitary facilities.
3. New construction subject to open space and recreation fees.

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

MOTION CARRIED.

Chairman Schultz asked Mr. Cardella to engage the neighbor to the rear of his property to be sure that neighbor is satisfied that their backyard will not be turned into a swimming pool once the property is developed. This request is not a requirement of the approval. Mr. Cardella agreed to the request.

Item 2

Gabe's Collision
Major Arterial

Requests Preliminary Concept Review of a proposed Automotive Collision, Sales and Service facility at 5817 Transit Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the east side of Transit Road, north of Highland Farms Drive. It is existing vacant land. The application was previously reviewed by the Planning Board and a recommendation to not issue a Special Exception Use Permit on the project was forwarded to the Town Board. The project has been amended to address concerns and referred back by the Town Board for Planning Board review and comment. Per the Zoning Law, the use will require a Special Exception Use Permit as issued by the Town Board.

Jeff Palumbo and Corey Auerbach, of Damon Morey LLP, are present. Jeff and Dave Mucciarelli are present as well. Mr. Palumbo said he is proposing three (3) separate businesses which consists of a

commercial claims processing center. The processing center includes a high end auto sales facility. It also includes a rental car facility and a collision shop. Mr. Palumbo noted various discussions he had with Town Officials, Town Board members and Planning Board members in which he was told all three (3) uses are permitted by way of Special Exception Use Permit (SEUP) in this particular zoning classification. He reviewed §229-139 Motor vehicle, equipment and implement sales and services of the Town Code. He read the conditions and noted that NYS Case Law says that if the application for a SEUP shows compliance with the conditions that are imposed by the municipality's own ordinance, a permit must be issued. Mr. Palumbo referred to §229-115 which reads, "In order to ensure that the comfort, safety, welfare and property rights of the residents of the Town of Clarence are protected, the Town Board may authorize and direct the issuance of a special exception use permit for uses that require certain mitigating conditions specific to their design and/or operation. Such conditions ensure compatibility among building types so that different uses may be located in proximity to one another without adverse effects to neighboring residential uses and each other." Based on this, the applicant filed a Request for Action in February 2012, the Town Board subsequently referred the request to the Planning Board in April 2012 with two (2) specific concerns: (1) an adequate buffering be provided to protect the adjoining residential properties from adverse light, noise and odor and (2) the final design concern take into consideration the concerns of the adjacent property owners. There was no mention of an inappropriate use. The applicant resubmitted plans addressing specific concerns. The applicant received a letter from the NYS Office of Parks Recreation and Historic Preservation which indicated that this project was in proximity of some other archeological finds, therefore, the applicant was asked to do a Phase I and Phase II study. Subsequently, the NYS Office of Parks Recreation and Historic Preservation sent a letter noting that there are no artifacts of historical significance, so no further work had to be done. Mr. Palumbo reads from the Town Board minutes in which it states that the Planning Board failed to forward a recommendation for this use. The Planning Board determined that a collision shop is not an allowed use in the Major Arterial Zone and identified areas allowed in the Industrial Business Park Zone; the proposed use was not appropriate land use at this particular location. This is what the applicant has difficulty with. The new plan shows an increased buffer to the neighbors to the rear of the property, the direction of the building has been changed and they have added extensive landscaping on a parcel that is not part of the development, they are willing to deed restrict those buffer areas.

Mr. Palumbo addresses the issue of Volatile Organic Compound (VOC) and the emissions from the collision shop. The applicant has employed scientists at Dupont to prepare a report that indicates what will be taking place at this property and if the NYS regulations are met. A study has been submitted that approve the following: (1) the water born paint that will be used reduces the solvents by approximately 75%. California has the most stringent restrictions when it comes to emissions. This project meets and exceeds the California restrictions. New York authorizes VOC emissions as 3.53 lbs per average repair as a safe emission; Gabe's is down to .87 lbs per average repair. The applicant compared Gabe's VOC emissions to air pollution that is generated from the 35,000 cars per day that travel past this site. The number of cars came directly from the DOT. The CO2 emission from those cars amounts to 3,805 lbs of CO2 per day, the VOC emission per day is 4.95. No matter what the business is that is put at this site, emissions will be added. There will be 35-50 jobs brought to Clarence with this business. The tax base would be increased significantly as a result of this project.

It is noted that there is an additional 45' buffer added, so the total buffer between the lot and the neighbors is 145'. Mr. Bigler asked where the cars waiting to be repaired will be parked. Mr. Palumbo said the cars brought in for collision repair will not be parked in the back of the site, that parking is for employees. The cars brought in for repair will be parked in the central area for a short time and then moved directly inside the building.

Chairman Schultz noted that, per the Code, the Industrial Business Park Zone lists collision shops as an allowed use with a SEUP. Under the Commercial section and the Major Arterial section of the Code collision shops are not listed, however, there are automotive uses allowed.

Chairman Schultz referred to Mr. Palumbo's comment stating the legislative issue has been determined. Chairman Schultz does not know by whom it has been determined by, but it has not been determined by the Town of Clarence's legal people.

Chairman Schultz said another issue is the question of putting a facility of this size and of this nature in a lot of that size and that close to neighbors. He does not know if all the issues, including the environmental issues, can be addressed.

Mrs. Salvati thinks the three uses fall under §229-139, but she struggles with the collision shop. A collision shop is clearly allowed by SEUP in the Industrial Business Park Zone, but not in the same lengthy list of allowed uses in the Major Arterial or Commercial Zones. She also voices her concern with what she said is an even greater issue and that is the proximity of this rather large business to residential uses. She referred to previous projects in which the Planning Board did a lot of research and come up with a 300' buffer for businesses located on Transit Road but within close proximity to a residential area.

The total square feet of the proposed building is 30,000. The collision repair building is approximately 16,000 square feet.

Mr. Van Nest questions how this particular use may differ, if at all, from the number of vehicle trips or visits to the facility that may distinguish it from other uses that are permitted in Commercial zones such as convention facilities, retail sales activities, dry cleaners/commercial laundry, medical offices, motels/hotels. Would the proposed project's vehicle trips to said facility exceed those of the allowed uses as listed in the code? Mr. Mucciarelli said if business is going well there would probably be 1,000-1,500 cars a year at his facility. He cannot speak to traffic generated for the other businesses mentioned. Mr. Palumbo said there is no question that this use will generate less traffic than other uses that are allowed.

Mr. Mucciarelli said after the last Board meeting he and the neighbors had an informal conversation outside the auditorium. Mr. Palumbo said they also invited the neighbors to a meeting but not one of them showed up.

Chairman Schultz clarified that nowhere in the code does it say automotive use includes collision shops. The Planning Board was not directed to approve this project; they were directed to take a critical look at whether or not it works.

Chairman Schultz said there is another letter from Rich Lemaster on file that states his opposition to the project.

Roger Maddigan, president of the Board of Managers for Laurel Park, noted that he has a friend who is in the business and while Mr. Palumbo talked about air born paint, he failed to talk about clear coating which is used on many more cars and is much more toxic. Even though the applicant re-configured the building, the existing barn still sits on the property, right near the buffer, and the plan indicates it will be used for storage. Mr. Maddigan thinks this structure will be used to store the toxic chemicals and paints. Mr. Maddigan drove by the Genesee Street facility every week during the summer, he drove by

after it closed to see what it looked like at night and all 73 parking spots were filled. There are 73 spots proposed for this project as well. The spots were filled with rentals and wrecks and other assorted cars that were just sitting there, not a pretty sight when the building is not in use. This does not seem like the appropriate use.

Dr. Martin Robinson is a retired chemist and said everyone knows the applicant is dealing with extremely toxic chemicals. He said the chemicals could probably be safely stored but there are going to be emissions and if there is a fire, several of those chemicals will give you cyanide. There is a nursery school, a middle school, a housing development and condo development in the immediate area. Dr. Robinson noticed the change in the building configuration but the other issues were not addressed such as lighting and the value of property. He thinks this is the wrong type of business for this area and that has not changed.

Madan Chugh is a 3 year resident of Laurel Park. There are still 15 empty lots that are waiting to be sold in Laurel Park. What affects these residents is that the developer will not put in a final road until all the lots are sold. Mr. Chugh is living with a rough/utility road to get into and out of his development. Construction vehicles use this road as well. His fear is that this type of facility might retard the sale of those properties prolonging the installation of a final road. He is also concerned with the value of his property.

Nancy Robinson, of Selby Court, said in 2005 she reviewed the Town's study of development that was printed in June 2004 in which they specifically addressed the Transit Road corridor north of Klein, it emphasized, "nice commercial development because it backs onto residential areas and would be nice to mimic the Amherst side, which included a school, office building, church and daycare." Ms. Robinson said they gave great emphasis to pedestrian walking between the developments in which she quotes again, "they would like to embrace the aesthetic appeal of the corridor." The collision shop does not embrace the aesthetic appeal of the corridor.

Joseph Navaro, 8086 Laurel Park Lane is against the development. He has looked at 1,000's of site plans and he reviewed the modifications the petitioners made. In his expert opinion he feels there is no way the applicant can mitigate noise and the air pollution that is going to come from that facility. He looked at §229 of the Code and he agreed with the Planning Board; he could not find collision shop listed in that section. Mr. Navaro visited three (3) times the unsightly and unkempt Gabe's Collision facility on Sheridan Drive, it should be clear evidence and an insight into how inappropriate a collision shop use would be when coupled with a residential area.

Todd Staples, of Greystone Court, said there are at least a dozen children under the age of 10 represented in the homes that show on the display. There is a school within 300' of the proposed facility. He does not think this is an appropriate use in this area.

Deborah Navaro, of Laurel Park, was a business owner for 18 years in Amherst, she is pro development and pro business, so it has nothing to do with the development of that property. She knows something will go there and she thinks they would all be very willing to agree on something that is attractive and business related. She asked about tow trucks going in and out of the site bringing cars in that have been in accidents. She asked about flat beds that bring in cars that have been purchased at auctions. Will gas be outsourced or will a gas supply be at this location. She asked what will happen to the undeveloped land that is surrounding the property.

Chairman Schultz asked what the total amount of toxic materials to be stored at the site will be. Mr. Mucciarelli said there will be 55 gallons stored in a totally explosion proof, fire suppressed room. A tow truck will come in to the site, drop off the car, the car will then proceed into the building. This normally happens between business hours, but on occasion if there is a storm one will be dropped off at night and the next morning would be brought into the building. There is no gasoline onsite. The cars that are bought from auction are up and ready to go, they do not need repair. The rear building will be used to house the dumpsters, Mr. Mucciarelli did not want to expose the dumpsters and that building is large enough to house them. The business uses two roll-off dumpsters, one for steel and one for garbage.

Chairman Schultz would like to work with the applicant to try and make it work; this would require a lot of work and many changes to the submitted plan.

Mr. Van Nest has listened to the discussion, reviewed the submission and evaluated the Commercial Code and what's permitted as-of-right, what's permitted with a SEUP and he is struggling to find a distinction between a collision shop and some of the permitted uses which are currently allowed in the Commercial Zone as well as the uses that are permitted by SEUP. He has some experience in this area. He is looking at some of the commercial uses and he can identify at least four (4) to five (5) that would allow uses that require state or federal permits, that would allow other uses that would require additional permits relative to storage of hazardous materials. Things such as trade and industrial schools, dry cleaning/commercial laundry, banks, public utility facilities, plumbing and heating shops; these uses are the same type use as what is being discussed this evening. Also, with a Special Exception Use Permit, similar kind and type uses are permitted under the Commercial Zone, specifically automotive sales, automotive equipment, trailer sales, etc., gasoline service stations. The applicant indicated there will be no gas stored on site, but the important point is that is a permitted use by this Town that would require state permits. Petroleum bulk storage permits allow storage of petroleum, which is a volatile material that is subject to state and federal regulations; this is permitted. In addition, commercial garages are required to have a petroleum bulk storage permit and/or chemical bulk storage permits. Light manufacturing operations can very easily be required to have DEC or EPA permits of the same type. Indoor storage of hazardous materials is allowed with a Special Exception Use Permit. Compared to the Industrial Business Zone, Mr. Van Nest does not see how a collision shop differs so much in kind to what is permitted in the Commercial Code as a matter of right or with a Special Exception Use Permit.

ACTION:

Motion by George Van Nest, seconded by Richard Bigler, to **recommend** the Town Board issue a Special Exception Use Permit for a collision shop, a car rental, and a showroom facility at 5817 Transit Road.

ON THE QUESTION:

Chairman Schultz thinks that a SEQRA review and determination must be done prior to making a recommendation to the Town Board; this would be done at the same time as a Concept. If this project was to move forward the next step would be to ask the critical questions to determine how the site can be changed to provide maximum effective protection for the neighbors. Chairman Schultz would vote no on the action, not because he is opposed to it but because he thinks it is too soon.

Mr. Shear agreed that SEQRA needs to be explored in some detail prior to making a recommendation, therefore he would also vote no on this action.

ACTION:

Motion by George Van Nest, seconded by Richard Bigler, to **table** consideration of a Special Exception Use Permit until the State Environmental Quality Review Act (SEQRA) review for a collision shop, car rental, and a showroom facility at 5817 Transit Road has been concluded.

ON THE QUESTION:

Chairman Schultz clarified that the SEQRA review means a hard look at the site and the site plan will be taken to see if there is a way the neighbors can be protected from fumes and noise, etc.

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

MOTION CARRIED.

Chairman Schultz said he wants to know what happens with things like fumes and noise at the site. He understands that there is a new kind of compressor room with double insulated walls that make it so the compressor cannot be heard in the shop. Mr. Mucciarelli said they are called digital compressors and he is having them installed at their existing locations. He confirmed that these compressors cannot be heard on site. Chairman Schultz will also want to know where the dust goes. Another concern is where the vehicles are kept. The visual impact of this site must be acceptable. Chairman Schultz suggested the applicant meet with the Planning Board Executive before coming back before the entire Planning Board.

Mr. Bigler said the applicant needs to explain the fire suppression system and the government regulations regarding that so the residents will feel safe.

Item 3

Town Mini Commercial	Requests Development Plan Approval for construction of a new Automotive Sales/Service operation at 8230-8240 Main Street.
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DISCUSSION:

Jim Callahan provided the background on the project noting that the property is located at the northwest corner of Main Street and Westwood Drive. It is existing vacant land located in the Commercial Zone. A Negative Declaration under the State Environmental Quality Review Act (SEQRA) was issued by the Town Board on May 23, 2012. Concept approval was granted by the Planning Board on May 16, 2012. A Special Exception Use Permit was issued by the Town Board on July 11, 2012 with conditions.

Bill Wincott, representing Town Automotive Group, is present.

Chairman Schultz said the Development Plan is consistent with the Concept and consistent with what the applicant agreed to do.

ACTION:

Motion by Gregory Todaro, seconded by George Van Nest, after thorough review of the submitted plans and Engineer’s Report as submitted by William Schutt and Associates, dated September 4, 2012 and received in the Planning Office on September 14, 2012, the Planning Board **approves** the Development Plans and Architectural Style on the proposed Towne Mini Automotive Center with the following conditions:

1. Subject to all conditions of the Special Exception Use Permit as issued by the Town Board on 7/11/12 including the following specific items:
 - a. Delivery trucks must utilize Bryant & Stratton Way and the Main-Transit Plaza for deliveries.
 - b. No use of Westwood Road for delivery vehicles.
 - c. The northern buffer area is to be a combination of landscaping, fencing and berms to protect the adjoining residential neighbors.
 - d. Lighting to be dark sky fixtures to ensure zero spill to adjoining residential properties.
 - e. No display of vehicles on the roof.
2. Subject to all conditions and requirements of the Town Engineer in a letter dated 9/26/12.
3. Subject to all permitting from regional regulatory agencies for site utilities.
4. Subject to Town Building Department review and approval for any and all required building permits.
5. Subject to PIP’s as issued by the Town engineer prior to any work on-site.
6. Final Landscape Plans subject to review and approval by the Landscape Committee.
7. Subject to Open Space and Recreation Fees.

ON THE QUESTION:

Chairman Schultz noted that the motion reiterates the conditions that have already been imposed in Concept Plan.

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

MOTION CARRIED.

Item 4

Ted Hallac
Major Arterial

Requests a Change in Use from Vacant
Commercial to Restaurant at 5575 Transit Road.

DISCUSSION:

Jim Callahan noted that this applicant has asked to be removed from the agenda. A letter with his request is on file.

Item 5

Northwoods Open Space Design Development
Residential Single Family

Requests acceptance of the submitted Draft
Supplemental Environmental Impact Statement
(DSEIS) for an Open Space Design Subdivision
on the north side of Greiner Road, east of
Shimerville Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is an existing vacant agricultural land located in the residential single family zone. A Positive Declaration under the State Environmental Quality Review Act (SEQRA) was issued by the Town Board on November 16, 2011. A Draft Supplemental Environmental Impact Statement (DSEIS) was submitted on September 10, 2012, under SEQRA the Town will need to accept the DSEIS as complete and adequate for public review.

Chairman Schultz said the next significant step is to send the DSEIS out to the public. The DSEIS must be complete and answer every issue raised in the scope and it has to be in plain language so everyone can understand it. Every member of the Planning Board went through the DSEIS and commented on it. All comments were compiled and issues were listed as to what the applicant specifically needs to do to make the document complete. There were twelve (12) items that needed to be addressed. They are as follows:

1. Impact A: Water Resources: 1. Ground Water

The applicant will provide a detailed discussion of groundwater conditions on the proposed project site including depth to groundwater, flow directions and seasonally high levels; discussion must include the impact of the propose site development. Information will be provided supporting the applicant's conclusion that impacts on water resources will be "slight" and/or "minor".

2. Impact A: Water Resources – 2. Surface Water

Applicant will provide a summary of surface water conditions and impacts of this project, supported by technical data.

3. Impact A: Water Resources: 3. Wetlands

The applicant will provide documentation verifying that the appropriate Federal and State agencies agree with the wetland delineation described by Wilson Environmental Technologies. The applicant will provide a readable map that delineates agreed to wetlands with a “proposed project overlay” showing how wetland impacts are avoided. Where wetland mitigation is proposed, the applicant will describe, in specific detail, how that mitigation will be accomplished. The applicant must show how the construction, roads and impervious surfaces will impact the contiguous wetlands. The applicant must define impact on adjacent wetlands after the delineation has been agreed to.

4. Impact B: Agricultural Resources

The applicant will provide details with regard to agricultural use on the proposed site, including:

- A history of farming on the site.
- Site acreage currently farmed and acreage with the potential for being farmed.
- How many acres will be taken out of production with the proposal.
- Status of the site with regard to State-designated agricultural districts.
- Soil description, including the presence of prime farm soils or soils of statewide importance.
- The percentage of available Clarence farmland that this farmland contained within this site.

5. Impact C: Historic and Archaeological Resources

The applicant will provide documentation verifying that the New York State Department of Parks, Recreation and Historic Preservation accepts the delineation of historically sensitive areas as presented by Commonwealth Cultural Resource Group (CCRG), and further accepts the CCRG conclusion that no further work is necessary on this project site.

The applicant will provide a readable site map that delineates historically sensitive areas with a “proposed project overlay” showing how build-out will impact these areas.

6. Impact D: Aesthetic Resources

The applicant will provide:

- A map of the project illustrating where open space will be retained along with a discussion of how the lands that are to be preserved will be kept (i.e., natural, landscaped, etc.).
- Maps and adequate discussion of existing land use and views within the proposed project area and surrounding areas; applicant will discuss how the area will change visually upon completion of the proposal.
- The requested photo-simulation of the project area from Country Club Lane.

7. Impact E: Transportation

The applicant will:

- Revise present and future level of service analysis to include Country Club Drive.
- Document specific improvements planned and/or proposed for the Greiner Road/Thompson Road intersection with respect to responsibility and anticipated timetable.
- Provide traffic accident histories within the study area for a three-year period.

8. Impact F: Growth and Character of Community or Neighborhood

A. Discuss impact and relation to site having been identified as a priority area for the Purchase Development Rights within the Open Space Inventory and Town Master Plan.

9. Impact F: Growth and Character of Community or Neighborhood

Existing sewer system and need for creation or expansion of a sewer district.

The applicant will provide verification that the required number of “sewer taps” are available within the Heise-Brookhaven Sewage Works Corporation (HBSWC) / Town of Clarence agreements, considering taps utilized to date, taps committed in approved plans, and taps “spoken for” among the principals involved. Documentation of this availability will be provided, including letters from the Clarence Town Engineer and the HBSWC. The applicant will provide verification, acceptable to the Clarence Town Attorney’s office, that the signatories of the HBSWC letter are legally and technically in a position to make the commitments described therein.

The applicant will provide a detailed assessment, by a qualified engineer, of the capacity of the infrastructure within Clarence Sewer District #6, and verify that the required capacity is available for his project proposal. This assessment must be validated by the Clarence Town Engineer.

The applicant will provide documentation from the Erie County Water Authority verifying that the area is within a County Water District and that capacity is available for this proposal. Applicant, with Erie County, will discuss the impact of an additional 148 +/- water taps on residents within the district.

10. Impact F: Growth and Character of Community or Neighborhood

The applicant will provide a build-out schedule with an estimate of the number of school students, at various grade levels, to be added with each phase. The applicant will compare the projected numbers of students (by year) with the proposed projected to numbers without the project.

11. Impact G: Cumulative Impacts

Applicant will provide a discussion of impacts of natural and manmade resources (utilities, schools, law enforcement and emergency services, open space and recreation areas, etc.) as a

result of the cumulative impact of approved and planned projects in the general area of this site. Projects to be considered include full build-out of Northwoods, Waterford Village, Spaulding Greens and other proposals in this general area.

12. Impact H: Other Sections

A discussion of existing wildlife (birds too) that use the site (including what’s in the Gott Creek tributary) and how they will be impacted by site development. We said fauna and flora inventories could be appended, but they did not create any.

13. General EIS Requirements

In order to meet the basic requirements of 6NYCRR Part 617, DSEIS Volume 1 must be rewritten, including all the items brought forward in the Town’s review. This Volume must be clearly and concisely written in plain language that can be read and understood by the public. All information requested in this review must be summarized, with any relevant details referenced and included in the Appendices. Volume 1 must include a description of the public need for, and benefits of, this project including social and economic considerations.

Ms. Salvati said one issue she had with the document was that it forced her to search the appendices for information. She also thinks the maps that are in the appendices should be brought forward in the document.

ACTION:

Motion by Richard Bigler, seconded by Paul Shear, to **recommend** that the Town Board establish that the DSEIS is inadequate as presented, and require the applicant to make the additions and corrections as discussed and modified at the October 17, 2012 Planning Board meeting.

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

MOTION CARRIED.

Item 6

Harris Hill Commons
Residential Single Family

Requests an Action Under the State Environmental Quality Review Act (SEQRA) on the proposed Open Space Design Development located on the west side of Harris Hill Road between Sheridan Drive and Greiner Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the west side of Harris Hill Road between Sheridan Drive and Greiner Road. It is existing vacant land. Coordinated review was initiated by the Town as Lead Agency on August 8, 2012.

Chairman Schultz said a few items came in under SEQRA from the involved agencies that triggered a need to understand a few other things.

Sean Hopkins, of Hopkins & Sorgi, is present and is speaking on behalf of the applicant. Alan Randaccio and Elliott Lasky are present. Leanne Voit, of GPI, is project engineer and is also present. Mr. Hopkins said the current proposal is for 66 lots. In June 2012 Wilson Environmental Technologies conducted fieldwork on the site in order to prepare an updated wetland delineation; it revealed the presence of 1.79 acres of Federal Wetlands, which are shown on the map on display. Windsor Ridge decided it would be practical to eliminate four (4) lots because of the Federal Wetlands. The project submitted this evening would impact 9/100's of an acre of Federal Wetlands. The Wetland delineation report was submitted to the Army Corp of Engineers by Wilson Environmental Technologies on September 14, 2012, the Planning Department has been provided with a copy. As soon as the applicant receives a response from the Army Corp it will be forwarded to the Planning Board and the Planning Department. Letters have been received from the NYS DEC and the Erie County DEP indicating that it is appropriate for the Town Board to seek Lead Agency. The issue of sanitary sewer was addressed in the letters received from those involved agencies. Mr. Hopkins noted that his client participated in the funding of the installation of a weir which created capacity that will allow this site to be serviced in terms of sanitary sewer capacity; there is documentation dated May 15, 2012 from Rick Rink of the DEC on file confirming this. The response letter from the DEC dated September 5, 2012 also confirms this. The applicant will need to comply with the standard I and I requirements; they have every intention of doing so. There is also the need to look at traffic and drainage. Mr. Hopkins asked the Planning Board to provide his applicant the opportunity to meet with the NY DEP and the Erie County Division of Sewerage Management and the Erie County DPW to follow up on the comments. He does not believe there is a need to conduct a cumulative impact study for this project. Mr. Hopkins said the Planning Board strongly encouraged the applicant to pursue Open Space Design back in 2005; as a result the applicant has a 62 acre site of which 32 acres will be permanent Open Space, never to be developed. The applicant is showing a 200' buffer area to serve that entire Harris Hill corridor. Mr. Hopkins asked for the Board to consider tabling the project to allow the opportunity for the applicant to follow up on issues discussed.

Mrs. Salvati said there is a need to have access to Sheridan Drive. Mr. Hopkins will look into this.

ACTION:

Motion by Wendy Salvati, seconded by Richard Bigler, to **table** this project for additional environmental information.

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

MOTION CARRIED.

Chairman Schultz noted for the record that there wasn't anyone who put any pressure on the Planning Board members whatsoever to move the Gabe's Collision project in any direction at all.

Meeting adjourned at 9:30 p.m.

Carolyn Delgato
Senior Clerk Typist