

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday February 15, 2023

Work Session 6:00 pm

Status of SEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:00 pm

Approval of Minutes

Item 1

Bevilacqua Development
Commercial &
Residential Single-Family

Requests Concept Plan Approval of a proposed mixed-use project, containing commercial space, multiple-family housing and single-family residential lots located at 6625 Transit Road, SBL 43.05-2-1.11 & SBL 43.05-2-1.12.

Item 2

Love Your Dog, Inc.
Major Arterial

Requests Site Plan Approval and Recommendation to the Town Board of a Temporary Conditional Permit for a pet care facility, including grooming, daycare, overnight boarding, and nature/play area located at 8625 Transit Road.

Chairman Robert Sackett called the meeting to order at 7:03 p.m.

Councilman Shear led the Pledge of Allegiance.

Planning Board Members present:

Chairman Robert Sackett
2nd Vice-Chair Wendy Salvati
Jason Lahti

Vice-Chair Richard Bigler
Jason Geasling

Planning Board Members absent: Gregory Todaro
Patrick Johnson

Town Officials Present:

Director of Community Development Jonathan Bleuer
Junior Planner Andrew Schaefer
Councilman Paul Shear

Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Sandy Gaulocher	John Gaulocher	Patti Sullivan-Harding	Ed Nesselbeck
John Russo	Sue Russo	Sue Anger	Lori Kern
Steve Favale	Tim Jakubus	Mike Gjorgievski	Robert Callan

Motion by Richard Bigler, seconded by Gregory Todaro, to **approve** the minutes of the meeting held on January 11, 2023 as written.

Jason Lahti	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED

Item 1

Bevilacqua Development
Commercial &
Residential Single-Family

Requests Concept Plan Approval of a proposed mixed-use project, containing commercial space, multiple-family housing and single-family residential lots located at 6625 Transit Road, SBL 43.05-2-1.11 & SBL 43.05-2-1.12.

DISCUSSION:

Mr. Bleuer introduced the project, located at 6625 Transit Road (SBL 43.05-2-1.11 and SBL 43.05-2-1.12) on the east side of Transit Road, north side of Miles Road.

It is an existing vacant 36-acre property located in the Commercial and Residential Single-Family zones and Erie County Sewer District # 5, with frontage on Transit Road and Miles Road.

The applicant is requesting Conceptual consideration of a mixed-use project featuring commercial space, multiple-family housing and residential single-family lots. The layout of the proposal consists of the following:

- Four commercial outparcels fronting Transit Road
- Two 3-story mixed use buildings featuring a total of 46,200 sq. ft. of commercial space located on floor one, and 62 apartments on floors two and three
- One 3-story 28-unit apartment building
- Nine 2-story 4-unit apartment buildings
- Open Space Subdivision containing 12 single-family residential lots, and one quad-unit building

This proposal was referred from the Town Board in July of 2021. In September of 2021, the Planning Board initiated a coordinated review under the State Environmental Quality Review Act (SEQRA). In October of 2022, the Planning Board issued a Negative Declaration under SEQRA. Finally, in December of 2022, the Zoning Board of Appeals issued variances for the proposal, now allowing for this conceptual consideration.

Attorney Sean Hopkins with the law firm Hopkins Sorgi and McCarthy and Project Engineer Pat Sheedy from Carmina Woods Design were present, representing the applicant.

Mr. Hopkins reviewed the plan from the beginning to its current state. Aside from a few changes that the Planning Board Executive Committee asked for, as well as changes to the Open Space Design, the plans are the same as what was presented at the Planning Board meeting on October 19, 2022.

Mr. Hopkins noted that the Open Space Design subdivision previously consisted of 16 homes on individual lots, but has been modified to 12 lots along with one additional 2-story 4-unit townhome building.

Mr. Hopkins explained that with this layout, they are proposing a public road, specifically a T-turnaround, as requested by the Town of Clarence Highway Superintendent.

Under this design, due to the to Open Space Design, Mr. Hopkins stated that they would be willing to install sidewalks on one side of the road, connecting them back to the multi-family buildings. Mr. Hopkins does not feel that sidewalks to Miles Road would be appropriate, but they would install sidewalks on one side of the street throughout the subdivision. This would give all of the homes direct access to the mixed-use component.

Mr. Hopkins stated that this is the applicant's preferred Open Space Design plan, adding that one of the benefits of public roads versus private roads is that specifications and standards for public roads in Clarence are more stringent.

Scenario two for the Open Space Design subdivision, which Mr. Hopkins identified as the plan that is less preferred by the applicant, was rejected by the Highway Superintendent but doesn't believe it would be if it was a private road.

Mr. Hopkins continued to point out the changes that have been made since the last Planning Board meeting, starting off with having 8 lots and four 2-unit townhome buildings. With recognition of the input from the Highway Superintendent, the road would be private rather than public.

Mr. Hopkins explained that they have received approval for the following variances from the Zoning Board of Appeals:

- 1) to allow third stories on three multiple-family housing buildings; and
- 2) of 6' to allow two 51' tall buildings (45' roof height, 6' parapets); and
- 3) to allow a building containing more than 4 multiple family units without an in-building commercial component;

Mr. Hopkins continued reviewing the other modifications that have been made to the plan since October, 2022

- substantial changes to the internal circulation of parking
- parallel parking and two separate internal access aisles located between the two mixed-use buildings has been replaced with more traditional, neighborhood style parallel parking, widened sidewalks, added sidewalks along the southern side of the building. Reconfigured the commercial outparcels so that the southernly driveway lines up with the private driveway directly across the street that runs in to the Fox Creek project.

- Reduced the number of internal driveway connections between the mixed-use components and the 4 future retail parcels from 4 to 2
- Consolidated parking and provided stacking lanes
- Added an assortment of streetscape features
- Added a recreational trail with a total length of 1,190 sq. ft.
- Added pedestrian connections between the retail outparcels and the mixed-use buildings

In order to assure that the commercial tenants meet the aesthetic characteristics of the development, Mr. Hopkins explained that they have developed a set of design standards, which will use the same high-quality materials that will be used with the mixed-use buildings. Furthermore, they would agree to conditions imposed preventing the buildings from being prototypical national chain commercial architecture.

Mr. Hopkins continued reviewing the project via the slide presentation, specifically noting that there will not be any vinyl siding used on this project.

Mr. Hopkins added that there will be 20ft. of greenspace along the entire frontage of Transit Road, including greenspace in the right-of-way.

Mr. Hopkins stated that they recently had the opportunity to meet with 3 of the adjoining neighbors on Miles Road:

- Scott Snyder of 8100 Miles Road
- Don Brownschidle of 8110 Miles Road
- John and Megan McHugh of 8080 Miles Road

As result of this meeting, they have agreed in concept on a number of items:

1. Mr. Snyder has interest in acquiring the small triangular parcel of land, due to the location of his garage sitting on the property line. He has an accessory structure in the back of his property and would like to put a driveway in. They have come to an agreement which will allow the applicant to convey this piece of property to Mr. Snyder.
2. Mr. Brownschidle has owned and resided on his property his entire life. There is a tree located on the applicant's property that Mr. Brownschidle wishes to keep. An agreement was reached between the applicant and Mr. Brownschidle that will allow him to acquire and own the small piece of property with the tree.
3. Mr. and Mrs. McHugh have expressed interest in a piece of property located directly behind them. Mr. Hopkins has assured the board and neighbors that it is Deed Restricted Permanent Open Space, and absolutely nothing will go in there. Mr. Hopkins noted that they have agreed to additional conversations with Mr. and Mrs. McHugh regarding that piece of property. Mr. Hopkins continued to explain the possibility that this piece of property may be wetlands, which would entail monitoring for a minimum of 5 years.

Mr. Hopkins stated that every aspect of this project will comply with the Department of Environmental Conservation (DEC) and the Town of Clarence's stringent Stormwater Quality and Quantity Standards.

Mr. Hopkins reviewed the technical aspects of the proposed plan.

Mr. Hopkins noted that they are not requesting a permit for impacts on Gott Creek, they have deliberately planned this project around it.

Regarding wetlands and wetlands mitigation, Mr. Hopkins explained that they are proposing approximately 9-10 acres of wetlands with 3.46 acres impacted. Additionally, they are proposing to create wetlands at a ratio of 2:1, 7.38 acres of on-site wetlands. A wetland permit application has been filed with the Army Corp of Engineers; a comprehensive submission was made.

In connection with on-site mitigation, Mr. Hopkins stated that extensive plantings will be provided, which includes 1,358 shrubs and 30 trees in the 7+ acres of wetlands.

Mr. Lahti noted the number of positive changes that have been made to the project since the original submission, noting that the Coordinated Review resulted in multiple comments from many of the involved agencies.

Upon request from Mr. Lahti, Mr. Hopkins explained how the traffic signal came to fruition. Mr. Hopkins explained that at the conception of this proposed project, there was discussion regarding where the traffic signal should be located. There was still not a clear consensus after meeting with the neighbors in October 2021. Mr. Hopkins explained that ultimately, they decided to keep the traffic signal on their site versus off-site at the intersection of Transit Road and Miles Road to prevent what would appear as encouragement to exit the proposed project from that location.

Mr. Hopkins stated that they have decided and it has been conceptually agreed on by the New York State Department of Transportation (NYS DOT) to locate the traffic signal at the intersection of Transit Road and Deer Creek Road.

A secondary access road on to Transit Road will not be a signalized intersection, Mr. Hopkins explained. This access is important in terms of accommodating tractor trailers and larger vehicles on the site, and also for an emergency access perspective.

Mr. Hopkins noted that there is a roadway connection to Miles Road that is being proposed as a public road.

Mr. Hopkins stressed that Miles Road will not be used as a construction access road for any phase of the project.

Regarding clearing, Mr. Hopkins stated that the applicant's preference would be to install all of the roadways or at least one running through from Transit Road to Miles Road as part of Phase 1. This will also help with drainage. The only additional clearing that would be done in terms of moving the project forward would be to impact the wetlands. When doing mitigation, impact must be made first to retain compliance of the permit, there will not be any clear cutting.

Mr. Lahti asked for an update regarding sewer capacity.

Mr. Hopkins responded that per a letter issued by the Town of Amherst Engineer, there are 111,000 gallons currently available in the system. This allows them to proceed with the phasing plan for commercial parcels.

Mr. Hopkins explained that if additional sewer space is freed up before the start of construction, this timeline could change.

Mr. Lahti asked if there is any indication on a time frame for the sewer capacity based on the phasing that Mr. Hopkins referred to.

Mr. Hopkins noted that there are several points that need to come in to play, including all of the necessary approvals. They are hopeful that construction for this will begin in 2024.

Referring to the Planning Board meeting minutes from September 15, 2021 Mr. Lahti noted that it states the connection to Miles Road will not be put in until near the end of project completion. Mr. Lahti asked if that has changed.

Mr. Hopkins responded that it is basically a matter of getting the infrastructure and clearing completed. If it becomes a stumbling block, the Development Plan would be the place to reevaluate any issues that may arise.

Mr. Lahti asked about the preferred plan of the developer which is the private road with 8 lots, but the plan presented tonight is the public road with 12 lots.

Mr. Hopkins clarified, stating that this plan presented tonight is the preferred plan. The sidewalk will run around the cul-de-sac, then along the east side of the development.

For the record, Mr. Lahti explained that resident comments are received as part of the Coordinated Review. There has been a substantial amount of correspondence received in connection with this approval as well as the Zoning Board of Appeals meeting. All correspondence received is placed in the project file:

- Ed Nesselbeck
- Scott Darling
- Greg Stamm
- Mark Cornwell
- Marcus Miranda
- Denise Torrey-Gonzales
- Margaret McCarthy
- Pam Kaminska
- Martin Lougen
- Paul Schreiber
- Marie DelMonte
- Penny Favale
- Lori Kern
- Andrew & Lori Harbison
- Zhengrong Xu
- Brenda LiPuma
- Diane Shetye
- Sylvia Moran
- Sharon Schultz
- Barbara Arnold
- Chris Clark
- Patricia Harding
- Judy Nesselbeck

- Steven Favale
- Sally Clark
- Donald Brownschidle
- Anne Koerner
- Mark Metcalf
- Susan Williams
- Christine Miranda
- Phillip Andreozzi
- Sue Freeman-Russo
- John and Cissie Oldach
- John Russo
- David Willis
- Patricia Bager
- Robert Callum

There were many similar concerns including the access road on to Miles Road, as well as increased traffic in the area.

Mr. Hopkins referred to the thorough review of the Traffic Impact Study that he previously presented, reiterating the key role the Department of Transportation played.

Mr. Lahti noted that he personally parked in a nearby parking lot to observe the current traffic at that intersection, and how it could be impacted.

Mr. Lahti reiterated that the correspondence has been received, reviewed, and they understand the safety concerns on Miles Road, the traffic, and the other concerns that they have brought up. Tonight's approval is a concept approval, which is an early step in the process. There are a number of hurdles to clear before potentially being granted Development Plan approval. There will be additional opportunities for public comment as the project moves forward.

Mrs. Salvati noted that no mention had been made regarding the cross-access to the potential neighboring project.

Mr. Hopkins responded that it is shown on the plan.

Mrs. Salvati asked that if approved, whomever begins construction first, when will the access road be installed.

Mr. Hopkins noted that the road is not a requirement, only a possibility depending on the proposed projects.

Referring to the map showing where the wetlands will be created, Mrs. Salvati asked about the triangular property and whether it will still be wetlands.

Mr. Hopkins responded that it will be something they will have to review further.

Mrs. Salvati asked about the sidewalk within the development that the applicant has agreed to install and her feelings on having the sidewalk continue on to Miles Road. It can be discussed later in the process.

Mr. Lahti asked about the recreational trail, specifically the area titled “play area” behind Unit 28.

Pat Sheedy from Carmina Wood Design responded, noting that there will be some form of parkscape feature with picnic tables and similar, to allow the residents to have a gathering community space. Additionally, there will be a grassy / lawn area for an additional community hang out area.

Chairman Sackett asked to see the conceptual drawing of the sidewalk throughout the development to get a better understanding.

Chairman Sackett also asked if his understanding of the rationale for the public road is that it forces the applicant to build a better road.

Mr. Hopkins responded that it was always the vision to have a public road. Chairman Sackett noted that while it may be the applicant’s vision it hasn’t been discussed yet. There is a higher specification for the road, and traditionally in Clarence, single family homes are located on public roads.

Mr. Hopkins added that because it would be a private road, an additional benefit of the open space design would be sidewalks.

Chairman Sackett asked Mr. Hopkins if it is a deal breaker if it is a private road.

Mr. Hopkins responded no, but they do prefer it is a public road.

Discussion continued regarding a public versus private road.

Mr. Bengart asked what the plan is at the moment for the fourplexes and if they will be privately owned or rentals.

Mr. Hopkins responded that they will be for lease.

Chairman Sackett asked if any thought has been given to the materials that will be used for the fourplexes.

Mr. Hopkins noted that yes, they have shown them. It would be Hardee Board, Smart Siding, architectural shingles, and other high-quality materials.

In regards to Public Participation, the following residents spoke:

1. Ed Nesselbeck of 8070 Miles Road:

- concern with traffic on Miles Road
- applicant uses Traffic Impact Study to show that the resident’s traffic concerns are not warranted
- they do not live at the study area intersection; they live on Miles Road which is already heavily trafficked with hundreds upon hundreds of vehicles

- strongly opposed to the connecting drive to Miles Road
 - sewer capacity for Phase 1 only, recommends that the Planning Board has a personal discussion with the sewer authority for the proposed project site
 - has recently had a conversation with the sewer authority himself
 - if town approves this project with all of the uncertainties, believes it is reasonable to provide approvals on a phase-by-phase basis and with conditions
2. Steve Favale of 8115 Miles Road
- biggest complaint is the many years of construction and construction vehicles in the area and up and down Miles Road, he is happy to hear that the applicant has agreed to keep all construction vehicles to the Transit Road access roads
 - making the Miles Road access the last part of the process would remove all temptation of using that road for construction
 - doesn't agree that there will be minimum impact on traffic, but he can't prove otherwise
3. Robert Callum of 8075 Miles Road
- traffic is a major concern
 - currently cannot make a left on to Transit Road without risking your life
 - light at Transit Road and Deer Creek Lane will cause more of a back up
 - all the additional traffic idling will cause more pollution that the westerly winds will blow right over his house
 - talking about sidewalks, there is a proposal for another car wash but there is already a car wash not far down the road
 - last piece of greenspace in the area, all of the other greenspace is gone
 - wants board to consider the benefit of the existing taxpayers as opposed to the potential for income
4. Ann Marie Gajewski of 6630 Yorktown Circle
- concerned for people on Miles Road
 - not against development
 - turning on to Transit is taking your life in to your hands
 - where are all of these new residents and vehicles going to be able to turn out on to Transit Road
 - doesn't understand how a project this huge is allowed to be considered

Public Participation was closed for this portion of the meeting.

Chairman Sackett stated that the Town of Clarence does not solicit projects. Projects come from landowners, and it is the job of the Town of Clarence and the Planning Board to make the projects fit in to the system according to the Town Code. All the Planning Board has to use is the code, and to use it to maintain a relationship between the proposal and the existing land use.

Mr. Hopkins returned to address the comments and questions from the residents, starting off by stating that they are not being dismissive regarding any traffic issues. The residents live there and know the daily traffic conditions far better. What they are saying is that the traffic analysis conducted by a professional traffic engineering firm and validated as a result of a two-year review process by the New York State Department of Transportation concluded that the impacts will not be significant.

The location of the proposed signal installation is preferable from the perspective of the neighbors versus locating it at Transit Road and Miles Road, which would have forced the traffic further out that direction.

Regarding concerns over greenspace, Mr. Hopkins noted that while there are not a lot of properties in that immediate area consisting of 36 acres of greenspace, there are several things to consider. It is privately owned land; it's not park land or a protected resource.

Mr. Hopkins added that more importantly, the Town of Clarence has stringent requirements compared to nearby municipalities. Even with the development, half of the land will remain greenspace in perpetuity. Of the 36 acres, 18 of those acres are null of development rights.

Mr. Hopkins reviewed the previous moratorium and changes to the Town Code, specifically for greenspace, and the Planning Board's role.

Chairman Sackett asked Mr. Hopkins to clarify the triangular piece of land that has come in to question.

Mr. Bleuer addressed the question regarding the activity on the triangular piece of land, noting that it is a privately owned lot, not associated with this project. He has confirmed with the Building Department that there are no permits for that property, which is a pre-existing residential lot. Anything occurring there is not associated with this project.

Chairman Sackett once again reiterated that competition is not in the Town Code, there is no judgement made off of potential competition, and decisions cannot be made based off of competition.

Mr. Bigler asked Mr. Hopkins to explain the questions regarding the traffic controls and the Planning Board's inability to have control over decisions.

Mr. Hopkins explained that Transit Road is a New York State highway meaning it is subject to the jurisdiction of the New York State Department of Transportation (NYS DOT). The NYS DOT controls access, and all other aspects. Additionally, this includes small portions back from intersections of each involved road.

Mr. Hopkins continued to review how a traffic study works.

Mr. Bengart noted that the reality of the situation is that neither the Town Board or the Planning Board have any authority to make the decisions, the NYS DOT has made them, with the law very clear that the Town of Clarence cannot override the decisions.

Mrs. Salvati stated that the applicant is aware of the risks he is taking with this proposed development, and is willing to take them.

Mrs. Salvati added that the Planning and Town Boards do the best that they can to make each project the best that it can be from a design standpoint, that is their job whether they like a project or not.

Mr. Lahti stated that based on recent proposed changes to the Open Space Design Development area, the Planning Board would like additional time to consider this before making a recommendation to the Town Board for approval.

ACTION:

Motion by Jason Lahti, seconded by Richard Bigler to **approve** the Bevilacqua Mixed-Use **Concept Plan**, located at 6625 Transit Road, per the submitted drawing by Carmina Wood Design, dated September 29th, 2021, with a final revision date of February 2, 2023, and to **approve** the **Conceptual Architectural** drawings and design guidelines dated February 1, 2023, all with the following conditions:

1. Applicant meeting the requirements of the Town of Clarence Engineering preliminary grading and drainage review, and associated conditions.
2. Applicant meeting the requirements of the Town of Clarence Building Department preliminary fire code compliance review, and associated conditions.
3. Subject to the issuance of a Special Exception Use Permit by the Clarence Town Board for the development of multiple family housing.
4. Subject to the approval by the Clarence Town Board of Open Space Design Development Overlay for the development of the single-family residential portion of the project. Such Overlay and design thereunder shall be excluded from this approval, and require a future recommendation from the Planning Board prior to Town Board consideration. Prior to such recommendation, consideration shall be given by the applicant and the Town regarding lot sizing and configuration, public vs private road, and pedestrian accommodations.
5. Subject to Development Plan review by the Town, including a technical review of the final Development Plan by the Town Engineering Department.
6. Subject to Town Building and Engineering Department approval prior to any permits being obtained for the construction on the property.
7. Subject to New York State Department of Transportation approval for the two proposed driveway connections to Transit Road including the proposed installation of a traffic signal at the northerly driveway connection, and Town of Clarence Highway Department approval for access to Miles Road.
8. Subject to Erie County Division of Sewerage Management review and approval, and additional regulatory agencies, as required, for connection to the sanitary sewer system within Erie County Sewer District #5.
9. Landscape Committee approval of a final landscape plan prior to Development Plan approval, including dumpster locations and screening, and planting details where applicable. In addition, a maintenance plan shall be submitted as part of the landscape plan to ensure landscaping remain in perpetuity, and is replaced in kind should there be any deterioration or death or disease to plantings.
10. Dumpster enclosures shall remain closed at all times when not in use. Dumpster service shall occur in conformance with Town Code. No garbage or debris shall accumulate outside of the dumpsters or totes.
11. Review of a lighting plan prior to Development Plan approval. All site lighting shall be dark sky compliant and shielded to prevent spillage onto adjoining properties. No lighting shall be elevated above the roof lines and all non-residential lighting shall be turned off no later than one hour after business hours except for necessary security lighting.
12. Project site to be developed in substantial conformance with the submitted phasing plan.
13. Review of a phased clearing plan prior to Development Plan approval. Such plan shall include limits of disturbance, and material stockpile locations.

- 14. No construction vehicles shall access property from Miles Road in connection with construction activities for all phases of development.
- 15. Final building elevations to be submitted as part of the Development Plan review, including the labelling of material types and colors. All final building elevations shall be consistent with the design guidelines.
- 16. Any exterior building mechanicals shall be identified, detailed, and shielded on any future Development Plan submittals.
- 17. Building and site shall be maintained as approved, in perpetuity, and any building and site deficiencies shall be repaired or replaced as approved.
- 18. Paved areas to be striped and maintained in perpetuity. No parking of vehicles outside the designated parking areas.
- 19. For commercial uses, no outside display or storage of any kind on the property, including but not limited to goods, materials, or other items.
- 20. Any future proposed commercial outside operations shall be subject to a Temporary Conditional Permit as reviewed and approved by the Town of Clarence.
- 21. Any permanent signage subject to review and approval by the Sign Review Committee, and any temporary signage subject to review and approval by the Office of Planning and Zoning.
- 22. Subject to Open Space, Recreation, and any other applicable fees as required by Town Code.

ON THE QUESTION:

Mr. Hopkins has heard, understands, and agrees to the conditions.

This proposal has previously received a Negative Declaration under the State Environmental Quality Review Act by the Planning Board on October 19th, 2022. Additionally, this proposal has received area variances from the Zoning Board of Appeals on December 13th, 2022.

Jason Lahti	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED

Motion by Jason Lahti, seconded by Richard Bigler **recommend** to the Town Board approval of a Special Exception Use Permit for the Bevilacqua Mixed-Use multiple family housing as per the approved concept plan and associated conditions.

Jason Lahti	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED

Item 2

Love Your Dog, Inc.
Major Arterial

Requests Site Plan Approval and Recommendation to the Town Board of a Temporary Conditional Permit for a pet care facility, including grooming, daycare, overnight boarding, and nature/play area located at 8625 Transit Road.

DISCUSSION:

Mr. Bleuer introduced this project, located at 8625 Transit Road, the southeast corner of Transit Road and Tonawanda Creek Road.

It is an existing 1.3-acre parcel located in the Major Arterial zone, containing an existing commercial structure and associated parking. The site formerly contained an office user.

The applicant is requesting consideration of a Pet Care Facility, including dog grooming, dog daycare, dog overnight boarding, dog nature park, and a play area. The existing structure is proposed to be rehabilitated, and the site is proposed to be modified to include indoor and outdoor areas.

This proposal was referred from the Town Board in September of 2022. In January, the applicant received approval of a Landscape Plan from the Landscape Review Committee.

The Planning Board has authority to consider the Site Plan, and provide a recommendation to the Town Board on a Temporary Conditional Permit for overnight dog boarding and outside operations.

Ari Goldberg with the law firm Barclay Damon was present to represent the applicant.

Mr. Goldberg added that there have been two main components to discussions on this proposed project since it was first submitted. These include overall site improvements such as an area of concrete along Tonawanda Creek Road that will be consolidated in to one curb cut. In between the curb cut will be additional landscape features on the east and west sides, which have already been approved by the Landscape Committee.

Mr. Goldberg added that extensive fencing will be added to the property including a wood or vinyl fence along the west side, which then jags to the south and east. Additionally, each play area will be separated by fencing to separate the types and or sizes of the dogs as well as the boarding area.

Regarding concerns about sound and sound mitigation, Mr. Goldberg noted that internally within the building there is 12 in. thick concrete block that will assist with mitigating any sound. Once outside, the fencing and existing landscaping will also help to mitigate any sounds seeping from the area.

Mr. Goldberg noted that this is a Major Arterial Zoned property with Niagara Produce as their only neighbor. Niagara Produce has provided a letter of support for this proposed project.

Mr. Goldberg added that the landscaping has been approved by the Landscape Committee. Along Tonawanda Creek there are additional landscaping beds, and the Transit Road side will be landscaped which will be refreshing. The existing tree area to the east will not be touched at all with Phase 1, which includes everything but the dark grey area as shown on the plans.

Mr. Goldberg noted that an important element of Phase 2 which will need to go back to the Landscape Review Committee, is a possible tree survey of the area and a sensory garden as proposed on the site plan. Some trees may need to be removed to accommodate the sensory garden.

Mr. Geasling asked about the tree survey in Phase 2 and if the design of the path is adjustable around the mature, larger trees.

Mr. Goldberg responded that based on the tree survey, walking the site, and discussions with the Landscape Review Committee, the path is to be determined. Mr. Goldberg noted that it is his understanding that as part of the Site Plan approval, a sensory garden located in the rectangular area is part of the approval.

Mr. Geasling asked for a timeline for the two phases.

Mr. Goldberg stated that there is no concrete timeline. The boarding component will be a Temporary Conditional Permit (TCP) which is a key component of the business operation, because that is how the applicant currently operates where she is located. She would like to bring that to this proposed facility at this location. Mr. Goldberg continued, stating that initially they considered Phase 2 to be upon the first or second renewal of the TCP but that did not make sense. Therefore, Phase 2 will be strictly a business decision initiated by the applicant when the owner is prepared to do that.

Mr. Geasling asked Mr. Goldberg to explain the exterior and interior fencing.

Mr. Goldberg responded, noting that the exterior is wood or vinyl, as proposed on the site plan, then chain link in between the play areas. There will also be c-slats in the chain link fencing so that the large dogs won't necessarily see the smaller dogs.

Mr. Geasling asked about the path between the building and the fenced in area.

Mr. Goldberg responded that it is chain link on the south side of the walkway, and chain link is also labeled for the north side. Mr. Goldberg believes this is in anticipation of boarded dogs in that path, being walked in to the fenced area.

Mr. Geasling asked what kind of path it is.

Mr. Goldberg noted that it is probably a standard concrete sidewalk.

Mr. Geasling asked if there is any need for it to connect to the parking lot.

Mr. Goldberg responded that to avoid a gate being left open and dogs escaping, it is intended to be ingress – egress only.

Chairman Sackett asked if Mr. Goldberg can confirm that the walkway is concrete and a minimum of 3 ft.

Mr. Goldberg responded that they will agree it is a minimum of 3 ft. and within the scope of Phase 1 it is a concrete sidewalk.

Mr. Geasling asked what the limits of the sidewalk are.

Mr. Geasling noted that the sidewalk is basically equal to the limits of the parking lot.

Mr. Geasling noted everything in darker grey is Phase 2, everything else is Phase 1 including the sidewalk.

Mrs. Salvati stated that she can see on the plan there are entry gates in to each section, but can't see how the sidewalk is accessed.

Mr. Goldberg stated that there are two doorways being installed that will access the sidewalk.

Discussion continued regarding access to the sidewalk.

Mr. Lahti asked how many dogs will be at the facility.

Mr. Goldberg responded that he does not know the answer to that but will find out and put it on the record for the TCP at Town Board.

Chairman Sackett confirmed that Mr. Goldberg will put in to writing for the Town Board meeting the capacity for number of dogs at the facility.

Mr. Goldberg responded yes.

Mrs. Salvati noted that Mr. Goldberg should clarify where the doors are.

Mrs. Goldberg responded yes.

ACTION:

Motion by Jason Geasling, seconded by Wendy Salvati to **approve** the Love Your Dog, Inc. **Site Plan**, located at 8625 Transit Road, per the submitted drawing by Dean Architects, dated December 29th, 2022, with a final revision date of January 17th, 2023, with the following conditions:

1. Subject to all required permits by the Building and Engineering Departments.
2. Subject to Erie County Department of Public Works approval for access modification to Tonawanda Creek Road.
3. Applicant meeting the requirements of the Landscape Committee Approval on January 27th, 2023, and associated conditions, including but not limited to, the maintenance of all landscaping and fencing in perpetuity and replacement, in-kind, should there be any deterioration, or death or disease to plantings.
4. Any future proposed dumpster or garbage tote system shall require Town review and Approval, including but not limited to screening, service and closure in conformance with Town Code.
5. All approved site and landscaping improvements of Phase 1 shall be completed within the first year and prior to consideration of Temporary Conditional Permit renewal.
6. Building shall be maintained in perpetuity, and any building deficiencies shall be repaired or replaced.
7. Paved areas to be striped and maintained in perpetuity. No parking of vehicles outside the designated parking areas.
8. Any exterior building lighting must be dark sky compliant and shielded to prevent spillage onto adjoining parcels. Lighting shall be turned off at most one hour after operating hours except for necessary security lighting.
9. Any permanent signage subject to review and approval by the Sign Review Committee, and any temporary signage subject to review and approval by the Office of Planning and Zoning.
10. No dogs shall be left outside unattended, nor allowed outside fenced areas.
11. Site shall be operated in such a way that regularly recurring noises are not disturbing or unreasonably loud and do not cause injury, detriment, or nuisance to any person of ordinary sensitivities.

12. Subject to Open Space and any other applicable fees as required by Town Code.

ON THE QUESTION:

Mr. Goldberg asked to have condition No. 6 read again, then confirmed he has heard the conditions.

Mr. Goldberg asked who inspects the dumpster as part of condition No. 4.

Mr. Bleuer responded that the plan is submitted to the Planning Office.

Mr. Goldberg confirmed he understands the conditions.

Mr. Goldberg agrees to the conditions.

Referring to condition no. 5, Mr. Geasling clarified that Landscape Review Committee will be required to approve landscaping plans prior to phase 2.

Mr. Geasling continued, stating that this proposal has been deemed a Type 2 action by the Town of Clarence, and therefore requires no further environmental review nor action under the State Environmental Quality Review Act.

Jason Lahti	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED

Motion by Jason Geasling, seconded by Wendy Salvati to **recommend** to the Town Board approval of a Temporary Conditional Permit for the Love Your Dog, Inc. overnight dog boarding and outside operations as per the approved site plan and associated conditions.

Jason Lahti	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED

Meeting **adjourned** at 8:43 p.m. with a motion by Wendy Salvati.

MOTION CARRIED

Amy Major
Senior Clerk Typist