

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday February 4, 2015

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

Trailway Master Plan

Project Presentation.

Item 2

Seventeen Hundred Properties
Residential Single Family

Requests Concept Approval and a Recommendation for a Change In Use from vacant former Nail Salon Concept to Professional Office Building at Main Street and Susan Drive.

Item 3

Emerling Insurance Agency
Commercial

Requests Preliminary Concept Review of a proposed Office Building at 9092 Main Street.

Item 4

Towne Maserati
Commercial

Requests a Recommendation for a Special Exception Use Permit for a Change In Use from a Professional Office Building to an Automotive Dealership at 8215 Main Street.

Item 5

McGuire Development
Commercial

Requests Preliminary Concept Review of a proposed Retail Plaza with Tim Horton's Drive Thru at 5989 Transit Road.

Item 6

Regent Development/Wehrle Dome Apartments
Commercial

Requests a Recommendation for a Special Use Permit for a Multiple Family Residential Project at 8230 Wehrle Drive.

Vice-Chairman Paul Shear called the meeting to order at 7:30 p.m.

Town Attorney Lawrence Meckler led the pledge to the flag.

Planning Board Members present:

Vice-Chairman Paul Shear
Timothy Pazda
Gregory Todaro
Jeffrey Buckley

2nd Vice-Chairperson Wendy Salvati
Richard Bigler
Steven Dale

Planning Board Members absent: Chairman Robert Sackett

Town Officials Present: Director of Community Development James Callahan
Junior Planner Jonathan Bleuer
Town Attorney Lawrence Meckler
Councilman Bernard Kolber

Other Interested Parties Present:

T & J Hollander
Bill Wincott
Richard Lippes
Michael Metzger
Brett Fitzpatrick

Lowell Dewey
Bruce Wisbaum
Roslyn Marcus
David Huck

Jim Bammel
Joe Floss
Sean Hopkins
Phil Silvestri

In the absence of Chairman Robert Sackett, Vice-Chairman Paul Shear will preside over the meeting. Alternate Planning Board member Jeffrey Buckley will participate in all discussions and vote on all agenda items this evening.

Jim Callahan will provide the background of each agenda item. The applicant will be asked if there is additional information he would like to add. The discussion will be opened to the Planning Board so they may ask any questions of the applicant. Anyone in the audience will then have the opportunity to address the project with the maximum of three (3) minutes per individual, the questions from the audience are to be directed to the Planning Board. The applicant will be asked to address the issues when all members of the audience have had their chance to speak.

Motion by Timothy Pazda, seconded by Gregory Todaro, to **approve** the minutes of the meeting held on December 10, 2014, as written.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Paul Shear	Aye		

MOTION CARRIED.

Item 1

Trailway Master Plan

Project Presentation.

DISCUSSION:

Jonathan Bleuer referred to the recreation trail system within the Town. There is a Master Plan map which shows possible future routes for extending trail systems, this was occasionally updated. There was no vision or guiding map. The Town feels it is important to have a vision for funding opportunities. To apply for a grant a major vision must be in place. In June 2014 the Town collaborated with the University of Buffalo and through a series of meetings and site visits with Dr. Grover, Planning Professor in the School of Architecture and Planning, he agreed to designate his graduate level Master Studio towards Clarence in the creation of a Trailway Master Plan. 13 Graduate students are involved. The Studio is a six (6) credit hour long opportunity for students to interact with a real world client and create a real world project. The Town will use this information for years to come to enhance the trailway system within the Town. Maps have been created for all to view, they are on display in the auditorium this evening and will be available in the Planning and Zoning office after the meeting. There are two (2) groups that will present this evening.

A UB student explained that before they broke up into two (2) groups there were five (5) surveys done in the Town of Clarence. The first survey was a visual of biking and walking the Peanut Line and the West Shore Line to get a better understanding of what is available. A use and a stakeholder survey was done. The students sat at a point on each line for fifteen (15) minute intervals and noted how many people, their gender and the activity they did, this was done throughout the day. The students handed out surveys to get a better understanding of how people chose to use the lines. They then did a user intensity survey which was done by biking along the lines, every fifteen (15) minutes the students would stop and identify how many people passed them within fifteen (15) minutes, then continued down the trails. A connectivity survey was done with a bicycle audit to understand the current conditions of the trails. After this initial research the students broke into two (2) groups.

A representative of the first group said they came up with a vision statement which included priorities such as open spaces and creeks, safe, connected and accessible trails, and encourage health and wellness. Goals consisted of creating natural trails, providing better connections, enhance use experience and community outreach to obtain public support. The students noted the different settings in Clarence and the diverse land use, thus they are presenting a diverse system of trailways. They propose to use creek-side boardwalks, on-street trails, and off-street trails and greenways. The presentation consisted of 3-D visuals for the audience to view. This system will utilize the natural creeks and the historical neighborhoods in a respectful manner. The proposal will also expand upon the existing trails. This will bring attention to the trails and protect and preserve what is there.

Another representative of the first group said it is not only important to develop new trails but improve upon the existing ones. Based on the surveys they have come up with some suggestions. One is the increased width of the West Shore and Peanut Lines for safety. Bikers will have an easier time to pass large groups or women with children or strollers. A dashed centerline along the trail was suggested. The trails need to be ADA compliant and help with handicapped needs. Another suggestion was to install signage such as "share the road" and "way finding" signage, along with a community board at certain park locations. Amenities to be added or improved upon are lighting and mileage markers. Public outreach and engagement is important. The students want to create partnerships and get people interested in the trails. They suggest creating a Friends of Clarence Trails and Greenways group and then partner with Go Bike Buffalo, or UB for creating more connections. Another suggestion is to not only use the

trails in the summer but create activities to use them in the winter as well such as cross country skiing or snow shoeing.

Another representative said creating an itinerary would add to the experience, it would show various lengths of the bike path that people could choose to take. The student referred to some policy proposals in which the Town Code would have to be amended to implement the proposed plan. The first phase of implementing the proposal is creating a north/south connection in order to connect the Peanut Line and the West Shore Line up to Beeman Park. Phase 2 would connect the neighborhoods. Phase 3 would enhance the trails and greenways along the creek and partner with Go Bike Buffalo to do an analysis to make sure the younger bikers can access the trails easily and safely to get to school. The fourth Phase proposes a trail to be run along Tonawanda Creek to connect to the Erie Canal. The students understand that this would be an expensive endeavor so they provided a list of potential funding sources that the Town of Clarence can apply to for grants. A map is put on display that shows nearly 93% of Clarence would be within a mile of a trail if this proposal was implemented, 40% would be within a quarter of a mile making it easy for walkers.

A representative from the second group of students said their plan is integrated with the Town, they wanted to give access to all residents of Clarence to live an active life style. Their goals are to increase connectivity promoting uses and enhance marketing outreach. The objectives to achieve each goal are listed in the presentation. Their actual proposal deals with connecting the historic neighborhoods of Clarence, Wolcottsburg, Swormsville, Clarence Center, Harris Hill and the Clarence Hollow. They want to make the Peanut and West Shore Lines easier to get to from various points in Town. They suggest the Town talk to the developers to create off-road trails within their future developments to add to the natural aspect and keep it safe for bikers and pedestrians. The shared routes are connectors from existing roadways and neighborhoods that would give residents access to the trails and greenway system. Bike lanes and signed pavement markings are also suggested so bikers can gain access to the Peanut and West Shore Lines easily and safely. The shared bike lanes will go to the historic areas of Clarence. Another part of the proposal is to connect to schools. They would like to see the trails connect to the open spaces and parks in Clarence.

The student goes on to suggest various amenities such as ADA compliant benches, porta-potties and bike racks to be placed at various locations along the trails. Water fountains are proposed along with recycling bins to keep the trails clean. The students also thought a dog park would be beneficial.

Partnerships are major aspects of improving the trail and greenway system. If the Town is able to gain local business interests those businesses can advertise along the bike path and promote the business within Clarence. Another way to do marketing is to do a mobile app, it would be placed on the signage that introduces you to the trails and greenway system.

Another student summarized the implementation of the proposed plan. After implementing the first Phase Clarence would gain 5 miles of connections, 2 amenities and 1 partner. The cost of the first Phase is approximately \$430,000. In the next Phase Clarence would gain 8 miles in connections, 2 amenities and 2 partnerships. Phase 2 would cost approximately 2.5 million dollars. In the last Phase the Town would gain 12 miles of connections, 13 amenities and 4 new partners. The Town would have to invest about 4 million dollars for this Phase. The total cost of the proposal is approximately 7 million dollars. They identified several sources of funding that Clarence can take advantage of in order to implement the proposal. Approximately 90% of the Town would be within 1 mile of the trail system. The students' research, results and information are accessible on line.

Vice-Chairman Shear thanked the students for their presentation.

Item 2

Seventeen Hundred Properties
Residential Single Family

Requests Concept Approval and a
Recommendation for a Change In Use from
vacant former Nail Salon Concept to Professional
Office Building at Main Street and Susan Drive.

DISCUSSION:

Jim Callahan provided the history on the project noting that it is located at the southeast corner of Main Street and Susan Drive. It is an existing vacant parcel. The property received a use variance in 2007 to allow for a personal service shop: a nail salon. Conditions of that variance identify that the Town Board may approve any future change in that use. In October 2014 the Town Board referred the proposal for the Change In Use to a Professional Office Building to the Planning Board. The Planning Board will be a recommending body to the Town Board on this action.

Lowell Dewey, a licensed professional engineer for C&S Engineers, is present and explained that the proposal is for a 3400 square foot single story building to be used for general office use. The proposed parking spaces are a little less than what the code calls for but that is all his client needs. He requires an on-site septic system, it will be a sand filter. The storm water detention will be in the front of the property. They were asked to extend the stacked stone wall across the entire frontage of the property, they did that. The applicant was also asked to keep the fence along the south side some distance from the property line because there are large mature trees already there, there is also a grade change at that point. This will give a good buffer to the neighbors to the south. The access drive has been re-located to Susan Drive rather than the State Highway. The plans have been sent to the Health Department and they have accepted the idea of the septic system on site. The plans have also been sent to the Department of Transportation for storm water control.

Mr. Dale said he appreciates what the applicant has done with the stacked stone wall, however he would like it extended to the right-of-way line of Susan Drive. He also said that if it becomes necessary to put a 45 degree angle for line of sight from the roads; that is acceptable. Mr. Dewey said they can do that. Mr. Dale asked if there will be blasting at the site. Mr. Dewey said they scheduled the test borings, he knows that rock is near the surface, however he believes that the rock is pullable with a large shovel so there will be no blasting.

Mrs. Salvati said the lighting standards have been removed from the new site plan, they showed lights in the parking area. She asked for clarification that there will be no lighting in the parking area, only on the outside of the building and that will be facing downward. The lights on the building will not be on all night, once everyone leaves the office the lights will be turned off inside and outside. There is no dumpster on site, totes will be used. This allows the southeast corner of the property to be used for snow.

Mr. Pazda said there is not much traffic associated with this proposal. Mr. Dewey said that is correct, there will be no clients coming in and out of the office building. It will be an office that functions as part of their business, they have properties and will manage them from this building. The only traffic will be from the employees. It is clarified that the grade of the property drops down from the south property line to the north.

ACTION:

Motion by Gregory Todaro, seconded by Steve Dale, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** to the Town Board to issue a Negative Declaration on the proposed Seventeen Hundred Properties located at the Southeast corner of Main Street and Susan Drive. This Unlisted Action involves a change in use to allow for the construction of a 3000+/- square foot professional office building. After thorough review of the submitted site plan and Environmental Assessment Form it is determined that the proposed action will not have a significant negative impact on the environment.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Paul Shear	Aye		

MOTION CARRIED.

Motion by Gregory Todaro, seconded by Steve Dale, to **recommend** to the Clarence Town Board to approve a Change In Use to allow for construction of a 3000 +/- square foot professional office building at the southeast corner of Main Street and Susan Drive, subject to the following conditions:

1. Review and approval by the Town Engineer for PIP permits.
2. Review and approval by the Town Building Department for required building permits.
3. Review and approval by the Erie County Health Department for on-site sanitary facilities.
4. Review and approval by the Town Landscape Committee.
5. Open Space and Recreation fees.

ON THE QUESTION:

Mrs. Salvati suggested adding another condition: 6. All site lighting is to be dark sky compliant. Gregory Todaro agreed to add the sixth condition to the motion, Steve Dale agreed as well.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Paul Shear	Aye		

MOTION CARRIED.

Item 3

Emerling Insurance Agency
Commercial

Requests Preliminary Concept Review of a
proposed Office Building at 9092 Main Street.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the north side of Main Street, west of Thompson Road. It is an existing residential property located in the Commercial zoning classification. The applicant is proposing to develop a professional office building. The Planning Board will act as Lead Agency on this project.

Lowell Dewey, a licensed professional engineer for C&S Engineers, is present and explained that the proposal is for a 6200 square foot office building with a second phase that is proposed adjacent to it. The parcel is 2.6 acres in size. The disturbed area, with the proposed building, the future expansion and the parking area, is just under an acre. A septic system is proposed because they are too far away from a sanitary sewer system. They used a 45' setback because that is equivalent to the other buildings on Main Street. Mr. Dewey said he knows they have to deal with the Department of Transportation. He had a conversation with the Town Engineer in which they discussed how flat the site is. The existing house is over 50 years old so it has to be reviewed by the Historic Preservation Commission. Mr. Dewey said he understands there is nothing of great significance to the house and the intention is to demolish the house. The driveway would be moved to the west from where it exists now. There is a landscape architect involved in this plan, the applicant is aware that they will have to go before the Landscape Committee for review and approval. The structure is single-story.

Vice-Chairman Shear said the project will be reviewed including the 5,000 additional square feet because of concerns for segmentation. He noted that there is a wetland in the back of the property, well back from the portion of the property the applicant is looking to disturb. The building will show access from the west side as opposed to facing the street.

Mrs. Salvati asked if the septic system was sized to accommodate the future 5,000 square foot addition. Mr. Dewey explained that office water consumption is low so the system is designed as if it were for a three (3) or four (4) bedroom house. Typically, office workers use 15-20 gallons of water per day.

Mr. Todaro asked what the plan is for signage. Mr. Dewey said they show a small rectangular sign outside the right-of-way, they will comply with the Sign code.

Mrs. Salvati said there should be landscaping out front as well as in the parking lot. Mr. Dewey agreed. He also noted that they will submit a photometric plan, which will show downward facing LED parking lot lights with recessed lenses.

Vice-Chairman Shear asked if there will be blasting. Mr. Dewey said the existing house has a basement so they suspect they can pull whatever material they need to pull. They would probably consider a ground water recharge well, and drill through the rock. They will do a test boring and a test well to see if it would work.

ACTION:

Motion by Wendy Salvati, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to seek Lead Agency status and initiate coordinated review under SEQRA on the

proposed Emerling Insurance Office Building located at 9092 Main Street. This Unlisted Action involves the construction of a professional office building in the Commercial Zone.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Paul Shear	Aye		

MOTION CARRIED.

Item 4

Towne Maserati
Commercial

Requests a Recommendation for a Special Exception Use Permit for a Change In Use from a Professional Office Building to an Automotive Dealership at 8215 Main Street.

DISCUSSION:

Jim Callahan provided the history of the project noting that it is located on the south side of Main Street, east of Transit Road. It is an existing Commercial property formerly approved for use as a professional office campus. Per the Zoning Law the Town Board may approve the use with a Special Exception Use Permit. The Town Board referred the project to the Planning Board for review and recommendation.

Bill Wincott is present and explained that he is with DR Chamberlain Corporation, they are designers for the Town Auto Group for the Maserati Dealership. They are proposing a 4700 square foot building for sales and service of Maserati automobiles. The dealership is probably the smallest in Western New York. Maserati’s planning potential is around 5 units a month that they plan on selling. The showroom has two (2) cars on display. Traffic is extremely low. There are service bays in the back, but the cars get very low mileage on them so most of the service is changing tires and oil changes. Most of the bays will be used for “make ready” but there will be some service work. The building itself is sitting on the pad that was approved for a 7200 square foot office building so all the infrastructure is in place including drainage and landscaping. Mr. Wincott said they will add some grass areas because the pad for the building won’t be used so it will be covered up.

Mr. Pazda said Mr. Wincott’s comment on the size of the building does not match what is shown on the plan. Mr. Bleuer said the plan shows 3900 square feet. There is also a vacant office building on the property, Vice-Chairman Shear asked if there are plans for that building. Mr. Wincott said that is still under discussion, there is no floor in that structure. If they decided to do anything with that they know they would have to come back in front of the Board. Currently, there are no plans at all for that building. Vice-Chairman Shear said the current aerial shows a number of cars staged in the area and asked if they are associated with the Towne Group. Mr. Wincott said Towne Auto Group rents that space from Mr. Jordan for storage of the automobiles for the BMW store. This will continue once the change in ownership is completed.

Bruce Wisbaum represents the owners and the residents of Stonegate apartments. He had no idea the parking area was being acquired by the applicant, he thought they were only building a 3900 square foot building, which was 100’s of feet away from his apartments. He is very concerned now that they are parking cars there. It will be very disruptive to his apartments, which are adjacent to the parking lot to the south. Mr. Wisbaum said there is a road there that he used to own but now has an easement on it if

he needs to use it for ingress and/or egress. There should be some prohibition against using any of that space for automotive. There is noise, fumes and lighting from autos.

Mr. Wincott said they have no plans for lighting, there is no display line, so they will not have Maserati’s lined up with lights shining on them. Cars will be parked on the lot but there will be no lighting. There are vehicles parked there now. Very rarely are cars moved in and out of there, it’s just inventory. They might be moved once a month, it is really just for storage. Mr. Wincott said the road that Mr. Wisbaum referred to is the fire lane and it does have to remain as is. The easement transfers with the property. There is no lighting in the back now. There will be lighting on the building just for security.

ACTION:

Motion by Timothy Pazda, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** to the Clarence Town Board a Negative Declaration on the proposed Towne Maserati Dealership located at 8215 Main Street. This Unlisted Action involves a Change In Use from a previously approved Professional Office Use to an Automotive Dealership Use in the Commercial Zone. After thorough review of the submitted site plan and Environmental Assessment Form it is determined that the proposed Change In Use will not have a significant negative impact on the environment.

ON THE QUESTION:

Vice-Chairman Shear said the discussion this evening is for the addition and/or new construction of the Maserati Dealership, it is not for any potential use or application of the existing unoccupied office building.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Paul Shear	Aye		

MOTION CARRIED.

Motion by Timothy Pazda, seconded by Steve Dale, to **recommend** to the Clarence Town Board to approve the Change In Use and proceed with consideration of a Special Exception Use Permit to allow for the proposed Towne Maserati Dealership as per the submitted design from D.R. Chamberlain dated December 12, 2014, subject to the following conditions:

1. Review and approval by the Town Engineer on Development Plans/PIP’s.
2. Review and approval by the Town Building Department for required building permits.
3. Review and approval by the Landscape Committee.
4. Open Space and Recreation Fees.

ON THE QUESTION:

Mr. Pazda asked if the existing pad is considerably larger than the proposed building footprint. Mr. Wincott said it is just a stone pad it is not concrete.

Mrs. Salvati suggested adding a condition stating that there will be no installation of parking lot lighting, only necessary security building lighting. Mr. Pazda agreed to add this condition to his motion, Mr. Dale also agreed to add this condition.

Mr. Pazda said there will be no lighting of a flag, Mr. Wincott agreed.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Paul Shear	Aye		

MOTION CARRIED.

Item 5

McGuire Development
Commercial

Requests Preliminary Concept Review of a proposed Retail Plaza with Tim Horton’s Drive Thru at 5989 Transit Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the southeast corner of Transit Road and Clarence Center Road. It is an existing vacant and residential properties located in the Commercial Zoning Classification. The project was referred by the Town Board at their January 21, 2015 meeting for review and comment. The Town Board will be Lead Agency on this project.

Michael Metzger, of Metzger Civil Engineering, is present. The project architect, Phil Silvestri, is also present. Mr. Metzger said the proposal is for a retail building at 10,600 square feet. Currently, they are looking at having a Tim Horton’s on one end of the plaza and an establishment called My Corner Pub on the other end. There will be up to three (3) retail spaces in between. The property is an acre and a quarter in size. Mr. Metzger noted the queuing lane for the Tim Horton’s and said, by Code, it needs to be along the back and side of the establishment. The plan shows that it is, 14 vehicles can be stacked if need be. This site is immediately adjacent to a building owned by Benderson, a MASH facility is in that building. The applicant has reached out to Benderson who agreed to an interconnection between the parking lots. This not only offers cross access but also allows patrons of the Benderson building to access the traffic signal at Clarence Center Road. Mr. Metzger said there have been changes made to the plan as a result of discussions with the Town Board and the Planning Board Executive Committee. The building size has been reduced from over 12,000 square feet to 10,600 square feet. The parking needs have changed due to the decrease in building size. A variance is going to be needed for parking however it is much less of a variance than originally planned. The parking requirement for the 12,000 square foot building was 80 spaces, at that time the plan showed 50 spaces. With the decrease in building size the demand has gone down to 70 spaces and the applicant can now provide 60 spaces, this is a 10 space variance that the applicant would request. The building has been moved further away from Clarence Center Road bringing it in compliance with the setback code. The building has also been moved further away from the east property line. The storm water detention area has been moved from along Transit Road to the back of the site. An 8’ solid privacy fence is proposed along the east property line. Currently, there is a sidewalk along Transit Road, the plan shows a sidewalk extended to the east property line along Clarence Center Road, affording more pedestrian access to the area. The landscaping has been densified along Transit Road and Clarence Center Road. Some architectural items have also been changed on the plan.

Mr. Metzger said a couple of variances will be needed. He explained that because of the residential use adjacent to the project sites east property line, there is a 45' greenbelt requirement. The prior plan showed a greenbelt of 8', the applicant has increased that to 25.5'. The fence will add to the buffer. The other variance will be for the parking spaces as explained earlier.

Mr. Metzger noted that this project will require a Special Exception Use Permit (SEUP) from the Town Board. The SEUP will be for the drive-thru and the plaza designation.

Mr. Metzger said he has contacted the Department of Transportation and it was indicated to the applicant that it is very unlikely that they would require any kind of traffic analysis on this project due to its small size. He knows there are traffic concerns so a traffic analysis is underway and the applicant will provide that information to the Town as soon as it is available.

Vice-Chairman Shear said the property sits 4' or 5' higher than the Transit Road paved surface, he asked if the applicant is going to reduce the height of the property to coincide with the topography of Transit Road or put a wall across the front? Mr. Metzger said they would lower the site. There are two entrances to the site, one on Clarence Center Road and one on Transit Road, they have both been moved as far as possible away from the intersection.

Mr. Todaro said there will be a lot of dirt being removed from the site, he asked if that dirt will be taken away from the site or is it just being moved to a different location on the site. Mr. Metzger said there will be some removal from the site. Mr. Todaro said that means a lot of trucks in and out of the construction site, how will the applicant handle this? Mr. Metzger said they will follow all the appropriate safety measures and will be obligated to provide a maintenance and protection traffic plan which will cover a full range of operations under construction including any earth work.

Mr. Pazda asked how the applicant determined the parking requirements, what is envisioned for the middle part of the building? Mr. Metzger said it will be a retail facility so they used the retail numbers from the code. Mr. Metzger does not anticipate a medical office use in the proposed building. Mr. Pazda asked if the applicant needs a variance for the greenbelt. Mr. Callahan clarified that the code identifies that from a residential use there must be a 45' undisturbed area. The applicant has provided a 43' setback but that area will be disturbed so it will require a variance from the Zoning Board of Appeals. The parking variance will be discussed between the Town Board and the Planning Board with the Town Board providing final approval.

Mr. Pazda asked where, on the site, will the trucks be staged to deliver. Mr. Metzger said the truck deliveries will occur within the parking lot.

Mr. Dale asked what the hours of operation for the Tim Horton's will be. Mr. Metzger said it will be similar to the hours of the Tim Horton's at the corner of Sheridan Drive, Thompson Road and Main Street. Mr. Dale pointed out that some Tim Horton's are 24-hour, while they may not let you in the building until 6:00am, there is traffic all the time. This may make it more difficult for the unloading of the trucks. Vice-Chairman Shear said the EAF Part I indicates the hours of operation are from 6:00am until 2:00am. Mr. Metzger said that is what they expected at the time they prepared the EAF. The number will be refined if need be.

Mr. Todaro asked about the speaker set-up, noting that there is a residential use adjacent to the property. He also noted that there is a privacy fence to be installed there. He asked if the speaker will be pointing

at the residences. Mr. Metzger said the speaker is oriented directly east, but there may be some way to rotate it. There will be a fence and an existing garage in between the speaker and the residence.

Mrs. Salvati asked what will be done with snow. Mr. Metzger pointed out two, possibly three, locations on the plan that is designated for snow storage. The pond shown on the plan is probably larger than it needs to be so there will be more room for snow storage. Mrs. Salvati asked what happens if the snow melts and goes into the pond. Mr. Metzger said he hopes it does, although that is not the reason the pond is located there. He goes on to explain that since the pond will probably be shorter than what is depicted there will be more room for snow storage without it actually being in the pond. It may reach the point where the snow will have to be hauled away.

Mr. Todaro asked if there will be music pumped through speakers on the outdoor patio of the proposed pub until 2:00am? Mr. Metzger does not know those details. Mr. Pazda said that would be a separate permit as issued by the Town Board. Mr. Metzger said he is working on the prototype of the concept of the pub as a chain for the area.

Vice-Chairman Shear said there is a home on the property that is to be demolished but it is older than 1950, the assumption is subject to preservation that is not going to be an issue. There is an issue with the east side setback. There is a question with regards to the parking that has not been resolved as it depends on the usage. The parking could be increased to 70 or the square footage of the building could be decreased to meet the parking requirements. Vice-Chairman Shear referred to the issue of truck deliveries, he noted the Tim Horton's area and said there is a 12' depth for parking and 28' overall, which leaves 12' to park a truck along the side of the building. There is a concern for the drop off on the property, the EAF indicated the drop off is 10 percent or less. This is not true, there is a significant drop off at the front of the property. The applicant has an agreement with the MASH property on the south for interconnection, this allows the applicant to conform in terms of greenspace at approximately 24%. Mr. Metzger said that is correct.

Mrs. Salvati told the applicant to be sure to factor in the cars from the MASH property when preparing the traffic study. Mr. Metzger agreed. He said there is not a signed agreement yet, but they will obtain one and provide a copy of it to the Town.

Mr. Pazda suggested an escape lane for the drive-through.

ACTION:

Motion by Richard Bigler, seconded by Steve Dale, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** to the Clarence Town Board to seek Lead Agency status and commence a coordinated review among involved agencies on the proposed McGuire Development Commercial Plaza with Tim Horton's Drive-thru. This Unlisted Action involves the construction of a commercial plaza with drive-thru.

ON THE QUESTION:

Vice-Chairman Shear said there were adjustments made to the EAF Part I. These adjustments have become part of the record.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Paul Shear	Aye		

MOTION CARRIED.

Item 6

Regent Development/Wehrle Dome Apartments Commercial Requests a Recommendation for a Special Exception Use Permit for a Multiple Family Residential Project at 8230 Wehrle Drive.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the north side of Wehrle Drive, east of Transit Road. It is an existing Commercial property currently used as a golf driving range with Commercial space. The applicant is proposing a mixed-use project including a multiple family residential component. The multiple family portion of the project has received a variance from the Zoning Board of Appeals to allow for a 112 housing units. The project design for 112 unit development is now part of the Planning Board Concept Review. The Town Board is Lead Agency on this project and will have to consider a Special Exception Use Permit for the use.

Sean Hopkins, of the Law Firm of Hopkins and Sorgi, is present on behalf of the applicant. Dave Huck, Brett Fitzpatrick, Phil Silvestri, project architect, and Michael Metzger, project engineer. Mr. Hopkins said the site is 15.5 acres in size and is in the Commercial Zone. In terms of the multi-family component, the plan is showing seven (7) two-story buildings, a total of 112 upscale multi-family units. There is a clubhouse, 233 parking spaces which exceeds the parking requirement of 2 parking spaces per unit, there are 69 garage spaces included for future tenants. There are 5.78 acres of permanent greenspace on the multi-family component. The Multi-Family Law requires 30% greenspace, so this proposal is 66% larger than required. There has been a deliberate effort to center the greenspace in the middle of the site, this will encourage active lifestyle tenants who can utilize the walking trail that will be installed around the water feature. There are sidewalks that will connect to the trail. There is also a dog walking area proposed, that has been moved from its original location at the request of Mr. Wisbaum. The northern portion of the site has an existing berm with landscaping, this will be left intact.

Mr. Hopkins said in terms of Mr. Wisbaum's expected opposition, which he has voiced in past meetings, Mr. Hopkins feels it is important to note for the record that Mr. Wisbaum is the owner of the competing project to the north and east of the proposed project. Mr. Hopkins noted that the purpose of Zoning is not to regulate competition.

Mr. Hopkins said the Planning Board recommended the issuance of a Negative Declaration on the project in August of 2014. On August 27, 2014 the Town Board issued a Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA), subsequently Mr. Wisbaum commenced an Article 78 proceeding challenging that determination, which was ultimately withdrawn because of the fact that it was premature. The issuance of a SEQRA decision by itself is not a project decision, as such their challenge was not yet right for review. When the project was before the Planning Board in August 2014 it consisted of 124 units, it is now at 112 units. This project was started about three (3) years ago, at that time this Board and the Town Board were considering a Multi-Family Law, which was adopted in June 2013. After the applicant was well underway with the review of the 124 unit project, the Town Board

chose to amend the Multi-Family Law in July of 2014 to clearly state, with respect to the density calculation, only the multi-family area can be looked at. Previously, the way it was written and interpreted the entire site would be considered in the calculation, which in this case would be 15.5 acres. The applicant went to the Zoning Board of Appeals asking for 124 units as opposed to the 93 units that otherwise would have been permitted pursuant to the amendment of the Multi-Family Law in July 2014. The applicant attended Zoning Board of Appeal meetings in September, October, and December of 2014. Based on input at these meetings, the applicant voluntarily reduced the density from 124 units to 112. A building has been removed from the original plan to enhance the greenspace and recreational amenities. The Zoning Board of Appeals issued a Negative Declaration pursuant to SEQRA.

Mr. Hopkins said the density is set at 112 units. §229-126(D)(1)(a) indicates that the site needs to be located in an Erie County Sewer District, the project is located in Erie County Sewer District #5. Mr. Metzger has talked to Erie County Sewer District representatives and is confident that there is adequate capacity to service this project. Fully engineered plans, an Engineer's Report, a SWPPP, etc., will be prepared by Mr. Metzger in the future and will require review and approval by the Town Engineer and other agencies including Erie County.

The minimum project size per the Multi-Family Law is 5 acres, obviously the applicant exceeds this requirement as they are at 15.5 acres. A minimum of the 25% of the entire site shall be designated for future commercial development, that 25% is shown on the plan along the Wehrle Drive frontage.

Mr. Hopkins said, because financing is needed for this project, an internal property line has been established, so the site will be considered two (2) separate projects, this was done in order to finance this project and for future conveyances. The applicant will record the necessary easements to ensure permanent access is provided to the multi-family component on the northern edge of the site.

Mr. Hopkins said providing internal access is encouraged by the Code. The applicant is showing an internal connection with Coventry Green. There are other shared vehicular access points on the site. The Planning Board Executive Committee provided input relative to how the driveways internally should be configured, how to modify some parking spaces and provide additional landscaped islands. The plan reflects those changes.

Mr. Hopkins said, per the Multi-Family Law, the buildings shall be limited to a height of two (2) stories. The applicant is proposing all two (2) story buildings. The height measured to the roofline is 18'7". A residential-style roof with architectural shingles will be used. The average roof height will be 26'.

Mr. Hopkins referred to the curb-cut requirement noting that they must be located 100' from adjacent curb-cuts. Originally the plan showed the road was close to the Stonegate driveway on the parcel to the east. That plan has been modified to show the road lining up with the driveway on the opposite side of Wehrle Drive, that distance is 100'. There was a concern raised about the driveway located on the western portion of the project site relative to its alignment with the driveway on the opposite side of Wehrle Drive. Mr. Huck worked closely with the owner of the adjacent property and the driveway will be modified so that there will be shared access between the parcels and will be entirely aligned with the driveway on the opposite side of the site.

There is a requirement for a 15% recreational component. Mr. Hopkins said the plan exceeds that requirement.

The Multi-Family Law specifies minimum apartment sizes as follows: 600 square feet minimum for one (1) bedroom, 720 square feet minimum for two (2) bedroom, and 1,000 square feet minimum for three (3) bedroom. Mr. Hopkins said the breakdown of the units on the plan is as follows: 25% will be one (1) bedroom units, 50% will be two (2) bedroom units, and 25% will be three (3) bedroom units. In each of these instances the applicant's plan exceeds the minimum square footage. These will be high-end units.

Mr. Pazda asked for further explanation regarding the shared driveway with the hair salon to the west. Mr. Hopkins said based on comments from the Planning Board Executive Committee, Mr. Huck reached out to the hair salon owner and they have come to an agreement. That shared driveway will be aligned 100% with the roadway on the opposite side of Wehrle Drive. The driveway will go onto the adjacent driveway a little bit, Mr. Huck will provide the easement whereby they will have permanent access to the parking behind their buildings. Mr. Pazda said currently the driveway is extremely narrow. Mr. Huck clarified that the driveway will be widened to a full two (2) lanes, at their expense, and there will be an easement so that the hair salon can use the driveway and park behind their building. Mr. Pazda said he is encouraged that the applicant is willing to work with neighbors on shared driveways but what about the other side. Mr. Pazda confirmed that he means working with Mr. Wisbaum. Mr. Hopkins said he can't speak for Mr. Wisbaum but at each and every public meeting Mr. Wisbaum has opposed the project, so Mr. Hopkins will let Mr. Wisbaum comment on that. Mr. Hopkins said they are aware of the concern about fire truck access to Stonegate. Mr. Huck reminded everyone that Mr. Wisbaum said he has an easement to go north, so that could actually be used. Mr. Hopkins said they need their own access and their own curb cuts onto Wehrle Drive.

Mrs. Salvati asked, if Mr. Wisbaum was amenable to allowing the applicant to share Stonegate's entrance roadway, would the applicant consider working on that. Mr. Huck said he would have to consider what his lender would say and what his insurance company would say. Mr. Hopkins said that would then trigger the need for shared maintenance responsibilities and given the history of the relationship to date, they would have some concerns.

Vice-Chairman Shear said a letter was received today from Mr. Wisbaum citing some of his concerns, that letter has been entered into the file and was forwarded to all the Board members. There was also a discussion regarding the potential possibility of shared access. The Planning Board encourages shared access. Mr. Hopkins said he and his client have not reviewed that letter and he does not think that any final determination relative to even the potential of shared access needs to be decided in connection with the pending request, which is for the Special Exception Use Permit. They will review the letter and respond accordingly when they come back for Development Plan Approval. Mr. Hopkins noted that they have been sued.

Mrs. Salvati asked how the applicant will handle garbage disposal. Mr. Huck said there will be garbage barrels within designated garages that are dispersed throughout the site. There will be no dumpsters.

The applicant is aware that they will have to submit a landscape plan for review and approval by the Landscape Committee.

Mr. Hopkins clarified that this development will not be limited to residents 55 years of age and older. Mrs. Salvati asked how the applicant will accommodate school age children. Mr. Huck said he does not know what the school district will do, but he know that in some cases the buses will come onto the site. There is plenty of room for buses to drive through the development. The property accommodates fire trucks when they need to turn around, so it will certainly accommodate buses as well. Mr. Huck said

whatever the school district wants to do, he will be happy to accommodate them. Mr. Hopkins said if the school district does not want to send buses into the development, the applicant can install a paved area or something similar to accommodate the safety of school age children waiting for the bus. In response to Mrs. Salvati's question regarding construction vehicles, Mr. Huck said they will meet all the town codes regarding construction traffic.

Mr. Hopkins said a photometric plan will be submitted for the specifics on the site lighting, he noted that it will be a dramatic reduction compared to the lighting that is there now.

Bruce Wisbaum is representing the owners and residents of Stonegate Apartments, which is immediately adjacent to this project on both the northern and eastern borders. Stonegate has 119 units and approximately 180 long term seniors. He is not concerned about competition, his is a senior community over 55. He is not sure the applicant's apartments will be more luxurious than his because all of his units have attached garages. He has not been against the project itself, he has been against the point that they are building more than 93 units, this is the contentious issue. Mrs. Salvati noted that the 112 units has been set by the Zoning Board of Appeals (ZBA), there is nothing the Planning Board can do to change that. Mr. Wisbaum understands that. He sent a letter to the Planning Office earlier today, it is on file. He summarized the letter as follows: (1) The project is denser than what it is originally zoned for. (2) At the ZBA meeting it was mentioned that the applicant should reach out to Stonegate Apartments to work out some compromises, that was not done. (3) The berm is shown on the plan as being 25' from the property line, according to Mr. Wisbaum's calculations it is closer to 45', as long as there is something in writing that says they can't touch the berm he doesn't care whether it is 25' or 45'. (4) There is no landscaping shown on the eastern border, there is 5' between the driveway and the property line, how much landscaping can be put in a 5' space? (5) With regards to the parking lot, there will now be a road there, that is a whole blacktopped area and is the entrance to his community and it will be very unattractive, he hopes that a 6' or 8' fence will be installed along that area so he doesn't have to look at all that blacktop and have all the garbage blowing onto his side of the property. (6) His biggest concern is the roadway along the eastern part of the parcel, the applicant switched it on the other side, and coincidentally the applicant's partner/business associate is on the other side of the property. If they can't switch the road and the building they said that they have 50% greenspace, Mr. Wisbaum thinks they would at least move that roadway 25' instead of 5' from the property line, he hopes the Board seriously considers this. (7) They should consider putting a sidewalk along Wehrle Drive. Mr. Wisbaum said he owns a lot of rental communities and the buses are not allowed to come onto the property. (8) He would be anxious to be involved in the lighting plan and the landscaping plan, he has not been invited to an executive meeting. He would like to attend a meeting with the applicant to have a give and take discussion about the landscaping and some of the other issues.

Mr. Pazda asked Mr. Wisbaum about shared access. Mr. Wisbaum said he would have to talk to his lender. He is more than willing to sit down and discuss it with the applicant, however he thinks there are a number of potential problems.

Roslyn Marcus, community manager of Stonegate Apartments, speaks on behalf of her residents who weren't able to attend the meeting. The residents are grateful that the berm is going to remain. One of the residents' concerns is the main entrance, many of them walk up and down the driveway, it is a beautiful tree-lined road. If there is a road put right next to it, it won't be peaceful. Another concern is the time, noise, dust and debris during construction, they ask that the applicant be as considerate as possible.

Richard Lippes, attorney for Stonegate and various residents of Stonegate, said citizens rely on the Planning Board to execute their discretion to assure that any project that comes before the Board complies and is consistent with what happens in the Town of Clarence and the goals of the Comprehensive Plan and is attractive to the citizens of the Town both internally and externally. The applicant has spent a lot of time on how the project is going to look internally with the pond and the greenspace but externally this is going to look pretty bad. If the driveway is going to be where they propose it to be located, it will look like a runway. It will be very confusing for drivers. The applicant put an internal connection to Coventry Green but not to Stonegate. Mr. Lippes referred to an aerial of the area and said all the surrounding properties have internal roadways. He thinks there are enough issues including landscaping, how the project is going to look and how the driveway is going to be done, that he is requesting the Board table the project.

Mr. Hopkins said Mr. Fitzpatrick said school buses currently come onto the Coventry Green site, hopefully that can happen with this project. He referred to the driveway location and went on to explain that the driveway was moved to the interior side of the buildings. Mr. Lippes and Mr. Wisbaum said the location is problematic. Mr. Hopkins said it is important to note that the driveway location that services Stonegate is fixed. To call the proposed roadway a racetrack and not the existing Stonegate roadway a racetrack; he fails to see the difference. The reason Mr. Huck is not interested in winding the driveway through the site is because then there would be driveways immediately on both sides of upscale multi-family buildings, it doesn't make sense to do this. The location of the Stonegate driveway is not the applicant's fault. Mr. Hopkins said a recreational component is one of the criteria that is strongly recommended in the Multi-Family Law, so to have a driveway cut into that recreational component and then come back out, would take away from the value of that amenity. If Mr. Wisbaum wants to discuss the shared access with his lender and then reach out to the applicant, that would be fine, it is Mr. Wisbaum's property, not the applicant's. Before the applicant would entertain any further serious discussions regarding this, Mr. Hopkins ask that Mr. Wisbaum refrain from any further litigation. You can't be getting sued and talk about working together, this just doesn't align. Mr. Hopkins referred to the berm and said it will be preserved in its entirety. In terms of confusion with access to the project site, there will be no confusion as each driveway will be separate and there will be appropriate signage. There is considerable landscaping, including 15'-20' evergreens, between the Stonegate driveway and the western edge of that site. Those trees are on Stonegate's property and will remain. Mrs. Salvati pointed out that there will be about 5' of greenspace before the pavement starts for the driveway. Mr. Hopkins said a fence installed in this 5' greenspace would be ugly.

The materials used on the proposed project consist of dark stone, architectural shingles, a cedar shake look and vinyl in two (2) different colors. There will be a courtyard and some porches are recessed to give interest to the building.

Mr. Pazda asked if the front elevation will be seen from the interior roadways, Mr. Huck said that is correct. Mr. Pazda asked which is the front and which is the back if one is travelling down the raceway. Mr. Hopkins clarified that the external appearance will be the front elevations. Mr. Dale said he is assuming that the front and the rear elevations are going to be the same. Mr. Huck said the stone will not be on the back of the buildings but the coloration will be the same.

ACTION:

Motion by Timothy Pazda, seconded by Richard Bigler, to **recommend** to the Clarence Town Board the Concept for a proposed 112 unit multiple family housing project per the design submitted by Silvestri

Architects dated 12/1/14, with the correction of the dumpster location. A Special Exception Use Permit will be required, as issued by the Clarence Town Board to approve the final design.

ON THE QUESTION:

Mr. Pazda noted that there will more opportunities for discussion on this project.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Paul Shear	Aye		

MOTION CARRIED.

Meeting adjourned at 9:45 p.m.

Carolyn Delgato
Senior Clerk Typist