

Town of Clarence  
One Town Place, Clarence, NY 14031  
**Planning Board Minutes**  
Wednesday March 17, 2021

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

**Work Session 6:00 pm**

Status of TEQR Coordinated Reviews  
Review of Agenda Items  
Miscellaneous

**Agenda Items 7:00 pm**

**Item 1**

DMK Development – Tractor Supply Company  
Commercial and Residential Single Family

Requests the commencement of a coordinated review under the State Environmental Quality Review Act to consider a proposed retail store and associated facilities located at 8945 & 8965 Main Street.

**Item 2**

Dominic Piestrak – Spaulding Green  
Residential Single Family

Requests Development Plan Approval for Phase 7 of a previously approved Open Space Design Subdivision located at SBL 58.00-4-35.1, north of Greiner Road, east of Glenview Drive.

**Item 3**

William Marfurt III  
Residential Single Family

Requests recommendation of a Special Exception Use Permit for a Secondary Living Unit located at 4635 Greenbriar Road.

**Item 4**

Eric & Naomi Sakovics  
Agricultural Rural Residential

Requests recommendation of a Special Exception Use Permit for a Secondary Living Unit located at 4575 Ransom Road.

**Item 5**

Rosario Carrubba  
Residential Single Family

Requests recommendation of a Special Exception Use Permit for a Secondary Living Unit located at 5755 Newhouse Road.

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

Planning Board Members present:

Chairman Robert Sackett  
2<sup>nd</sup> Vice-Chair Wendy Salvati  
Gregory Todaro

Vice-Chair Richard Bigler  
Jason Geasling  
Jeffrey Buckley

Town Officials Present:

Director of Community Development Jonathan Bleuer  
Junior Planner Andrew Schaefer  
Councilman Paul Shear  
Councilman Peter DiCostanzo  
Supervisor Patrick Casilio  
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

|                  |                         |                  |                    |
|------------------|-------------------------|------------------|--------------------|
| Nicolas Masiello | Khelds’ iPad            | Mac              | Steve Dale         |
| Jason Crater     | Amelia Griswold         | Spaulding Green  | Salvatore Carruba  |
| Karen Colosimo   | Mrs. Reed               | Britany Richards | Charles Nagel      |
| Eric Broughton   | Ethan                   | Fred S – BME     | Jamie Lynn Kucia   |
| Ken Zollitsch    | Maria Pendolino         | Matthew Heneweld | Michael McLaughlin |
| Naomi Sakovics   | rajiv Mammen            | Robin            | billy              |
| Gail Sakovics    | ***-8286                | Anita            | WMarfurt           |
| ***-0844         | KA                      | K8               | Al                 |
| Donald Powell    | Ashley Brazill’s iphone |                  |                    |

**Item 1**

DMK Development – Tractor Supply Company  
Commercial and Residential Single Family

Requests the commencement of a coordinated review under the State Environmental Quality Review Act to consider a proposed retail store and associated facilities located at 8945 & 8965 Main Street.

**DISCUSSION:**

Jon Bleuer introduced the project located at 8945& 8965 Main Street, stating that together these parcels contain approximately 5.25 acres in the Commercial and Residential Single Family zones. 8945 Main is vacant and 8965 Main contains an existing home and associated outbuildings proposed for demolition as part of this proposal.

The applicant is seeking the commencement of a coordinated review under the State Environmental Quality Review Act for an approximately 19,000 sq. ft. retail building and associated greenhouse, outdoor display area and propane tank refilling.

Consideration must be given to the current zoning, as rezoning a portion of these properties from Residential Single Family to Commercial may be in order for advancement of this proposal.

Also, as outside storage of merchandise is only achievable in this area through a Temporary Conditional Permit or Special Exception Use Permit, consideration must be given to its location, screening and operation.

Finally, per comments received thus far, the applicant has submitted an updated concept plan showing an increased buffer, including a berm, facing Shimerville Road, and a stacked stone wall along the Main Street frontage.

Fred Shelley from BME Construction was present virtually and spoke on behalf of the applicant, as well as Matt Heneweld from DMK Development, the project developer.

Mr. Shelley briefly reviewed what Mr. Bleuer introduced with the project, adding that the project also contains approximately 20,000 sq. ft. of fenced outdoor display area behind the store, as well as a proposed greenhouse to be located within the fenced outdoor display area. The size of the greenhouse is roughly 44 sq. ft. by 114 sq. ft. it will be enclosed, and resemble a greenhouse.

It includes proposed parking for 71 vehicles, and as previously noted, they are proposing a 1,000 gallon bulk propane refill tank.

Ultimately the project will require a Special Exception Use Permit which they will be seeking from the Town Board as outdoor display areas are included on the east side of the store, which would generally be considered the front of the store. There are sidewalk display areas as well as the fenced outdoor display area.

To the rear of the site, in consideration of the town code and comments that they have received, they have included a permanent trailer and display area that is located generally just outside of the fenced in area.

Additionally, site plan approval will be required from the Town Board and Planning Board, and will include Landscape Committee and town staff review comments.

They are requesting a zoning district boundary revision to create one district for the parcel, as the parcel is currently split with commercial zone as the approximate first 300 ft. of the site, and the balance being single family residential.

Additionally, they will be requesting relief from the town code in regards to parking, where the calculated requirement includes 128 parking spaces however, based on the operational needs of Tractor Supply they have proposed 71 spaces, which is generally consistent with other stores within the area.

As previously discussed, this site includes two parcels, 8945 and 8965 Main Street, and is located on the south side of Main Street, and is bounded by the Noco Speedway property on the west side of the site, and J.H. Fubar and InterTech Cable on the east side of the property which is a mix of commercial and restricted business zoning, and lastly on the south, they are bordered by a residential parcel.

The concept plans include the proposed layout, which generally a Tractor Supply Store would have the front of the store facing the road, however, in consideration of the town code which requires the majority of the parking to be located to the side or the rear of the building, they have located the parking on the east side of the property away from the residential single family zoned parcels, with a small amount of parking along the front of the store. Generally the front of the store will have a few parking spaces, a sidewalk along the side of the store, and then an area reserved for a septic system located out front, and a proposed monument sign. The plans do include sidewalk connection to the public sidewalks as well.

A 45 ft. greenbelt was added to the rear of the site, since their original submission. An updated sketch plan has also been submitted, which was revised based on their meeting with the town planning board review committee, where there was concern regarding providing adequate buffer. They had previously provided a 33 ft. setback from the building and pavement to the property line, however, considering they have room, they have increased that to provide a 45 ft. setback of the building and parking areas along the west side of the property.

Also, they have been able to coordinate the installation of a berm between the pavement and the residential area, which they should be able to finish it off at approximately 5 ft. high. This should make the berm grade just above the grade in order to cut down on headlights and engine noises.

The applicant has provided updated architectural plans from the original submission, which in general were revised in an attempt to hold more of an agrarian feel. This is an agrarian node of the community, therefore the building design should be able to incorporate that. The applicant has included such drawings which include a gabled front store entrance and an additional one on the Main Street side of the building.

The proposed lighting on the site will be dark sky compliant as well as town code compliant, which is a 50 ft. maximum height. This was basically designed so that there was no more than a .1 foot candle spillage at the property line, so generally no light spillage will be coming off of the site.

They will be providing a formal landscape plan, which will include details on the parking lot island plantings, and any input that they receive from the board or the Landscape Committee in regard to desired plantings on the site will be taken in to consideration. This will also potentially include berm enhancements along the west side of the site as well.

The sign package was also submitted to the town for the board's review, which includes two building mounted signs, one located on the Main Street side, and the other at the main entrance. A monument sign will be located near the site access driveway.

The project will require review and approval from the New York State Department of Transportation, the Erie County Water Authority, Erie County Health Department, and also the New York State Department of Environmental Conservation. They will need Department of Environmental Conservation general permit coverage for the stormwater permitting at the site for the construction activities.

Basically their design intends to conform to the requirements, he doesn't believe they'll need any variances from the town zoning board. As it applies to the State Environmental Quality Review Act, one thing that did come up during their review is that the parcel is identified as an archaeological sensitive area. The applicant had engaged in services with an archaeological consultant who prepared

the field work and submitted it to the State Historic Preservation Office, who identified that there is no anticipated impacts of historical or archaeological resources on the site.

They understand that the request for rezoning on the parcel will run parallel with the site plan application as well as the Special Exemption Use Permit application. They did meet with the Planning committee and took note of their concerns regarding the potential impact to the residential properties located to the west of the site. Their site is separated by those properties by 80 ft., there is an existing strip of land that runs through the Speedway property, which is generally a brush and wooded area. They have added some separation from their pavement and building area, and have also proposed the berm along the west side of the development, in order to increase the buffering between the parcels.

Mr. Todaro thanked Mr. Shelley for his thorough review and compilation of documentation of the project, as well as working with the Planning Board Executive Committee in regards to their concerns. He has reviewed all of the documentation and would like to go over a few items.

In regards to the Environmental Assessment Form part one, Mr. Todaro asked in regards to the zoning portion of this property, would they please briefly explain what would need to happen from a zoning perspective.

Mr. Shelley responded that basically the site is split between two zoning districts, the front being commercial while the back is single family residential. Given the fact that the site proposal is for commercial, discussions with town staff have led them to pursue the option and request to the town board to consolidate the lot under one zoning district. Should that zoning district revision be made and the entire lot become commercial, then the entire lot would comply with the zoning.

Mr. Todaro asked about the 1,000 gallon propane tank on site, which is an above ground tank, and also within 1500 ft. of a children's daycare that is in the area. Mr. Todaro asked how the tank would be secured and safe in that area.

Mr. Heneveld responded that Tractor Supply will need to apply for the state fuel board dispensing license and abide by the requirements that they have. The site plan shows bollards surrounding the tank for protection purposes, and as far as any other safety measures being taken, he does not know of any others besides the bollards and compliance with the dispensing license.

Mr. Todaro then asked about outdoor lighting, in particular the lighting standards which will be in the parking lot. It states within Section N, "post pole cut off LED mounted and parking lot lighting with +/- 15 ft. of height directed downward". Mr. Todaro asked how that lighting will be set up within the lot, is 15 ft. necessary, and within Clarence on all projects they look for not only downward lighting, but shielded as well.

Mr. Heneveld stated that as far as shielding, the parking lot lights do not all have certain shields over them, they have the photo metric plan which shows the light spill and the candle lighting. The majority of the property line more specifically all of the residential areas there can be shields put on some of them. The wall mounted lights are face down, and the goose neck lights are also face down. If there is anything specifically that they are looking for that is different from what is proposed, they are happy to look in to it more.

Mr. Todaro noted that as they progress in to detailed plans that will need to be looked at closer, because he believes with the residents in that area the lighting will need to be shielded.

Mr. Todaro then asked about pack lighting along the wall for this facility, as well as light standards in the parking lot. Mr. Todaro asked why they need so much pack lighting on the building, and also, what are the hours of operation for the lighting both on the facility as well as in the parking lot.

Mr. Heneveld responded in regards to the wall pack lights and the number of them, they are for area coverage, candle lighting don't have a large radius. As far as hours of the lighting, they are on photo cells, so it will depend on the time of the year and the daylight hours. It is based on employee safety, so they will be on for an hour after the store closes and an hour before the store opens, to insure employee safety.

Referring to Section H pages 10-13, Mr. Todaro noted that this site has had a New York State Department of Environmental Conservation spill incident that occurred and closed on June 5, 1992. Mr. Todaro asked whether that spill has been remediated.

Mr. Heneveld referenced their environmental report which reported no further investigation, and also stated that he would look in to the remediation of that 1992 spill and report back on what the findings were.

Mr. Shelley commented in regards to the aforementioned spill, according to the database used to keep record of spills, this particular spill occurred off-site. Typically this will get triggered if there is a spill incident close to the site. When they are close, the New York State Department of Environmental Conservation's Spill Database noted that incidents get closed because they are cleaned up, or consolidated with other ones. Typically when a closed case is found within the Department of Environmental Conservation's database it's because the spills were mitigated.

The spill was located off-site at 8925 Main Street, which is the Speedway property. The only reason it was triggered is because it falls within 2,000 ft. of their parcel.

Mr. Todaro then asked about stormwater runoff for adjacent properties. Referring to Item E-3 on page six, Mr. Todaro noted that the questions asks "whether stormwater will runoff to adjacent properties", the applicant answered "yes". Additionally, the next question asked whether the proposed plan minimized impervious surfaces, uses impervious materials, or reuse stormwater, that question was also answered "yes". Mr. Todaro asked for clarification on those two questions, specifically will there be run off and will it be controlled. Mr. Shelley replied that yes there will be run off, and yes it will be controlled. The site will discharge under its current conditions, it will comply with the New York State Department of Environmental Conservation regulations which includes needing to reduce run off or meeting the existing run off conditions. So under current conditions, the site does discharge to downstream areas. The site is allowed by the Department of Environmental Conservation to continue to discharge, however they do need to propose green infrastructure practices where they've included a potential bio-retention practice to be located at the south end of the development. This will actually capture and attempt to infiltrate some of the storm water runoff in to the ground which will also overflow in to the storm water management facility, which will slow down the peak run-off rates to be less than or equal to current run-off conditions.

Mr. Sacket clarified that as part of the coordinated review, the town engineer does review the stormwater plan.

Mr. Todaro then referred to the elevation rendering, asking Mr. Shelley in regards to the west elevation where there are shutters and awnings on two of the sides. Mr. Todaro asked why they are not depicted in the elevation on the west side as well, since that will be a public facing side as well.

Mr. Heneveld responded that when they added the Main Street side faux store front louvered shutters and awnings after the most recent committee meeting with the Planning Board Executive Committee they do not have anything on the rear, they do have downspout structures which bring the building up to being within 80 ft. of the right of way per code. They are sitting sideways which brings other challenges to the table, but if there is something architecturally on the side of the building facing Main Street that they would like to also see on the back of the building, they can look in to that. Mr. Todaro stated that he would like to see the same architectural aesthetics on that side as well, since people will be traveling that direction. There really is no barrier based on the site lines that he has seen when he has been in that area, and it would look like a blank wall, so he feels that needs to be changed.

Mr. Todaro thanked the residents for sending in correspondence regarding this project, and would like to summarize the theme of the correspondence that was received as well, and are on file. Each of these emails strongly opposed the proposed project, and in summary the theme of the emails included not being informed in a timely manner, backyards that abut to the proposed project location, privacy concerns, safety, and pollution concerns. Noise, traffic, and other unused commercial property in existence on Main Street in the area, and lastly, concerns over property values. Emails were received from the following residents:

- Cheryl Nagel
- Maria Pendelino and Eric Broughton
- Maureen Reed
- Timothy Henderson

Mr. Todaro stated that any other residents with interest in this project are urged to send their concerns via correspondence to the Planning Department. This is basically an informational meeting at this point.

Mr. Sackett gave the applicant the opportunity to comment on any of the concerns of the residents that Mr. Todaro touched on. Mr. Shelly and Mr. Heneveld held their comments until the rest of the board had a chance to speak.

Mrs. Salvati noted that acronyms are often used, and for the sake of the public, she stated that PBX refers to the Planning Board Executive Committee.

Mrs. Salvati asked in regards to the septic system which on the site plan identifies as being locate closer to Main Street, is there a reason that it needs to be located in the front rather than trying to locate it further towards the rear of the property.

Mr. Shelley stated that the front of the site has been reserved for the septic system, while the back has been reserved for the downgrading of the site. In order to maintain separation requirements, it is necessary to have it located at the front.

Mr. Sackett asked what elevation of the septic will be in relation to the stone wall. Mr. Shelley replied that the top of the septic system may be right around the top of the stone wall however, based on the

existing bedrock elevations at the site, generally the site will need to come down a bit so that they can get appropriate foundation depths of the store. From the front of the store grading out toward the road there will be a generally consistent grade for the road which eventually lead to it becoming grading and sloped so that it can tuck behind the wall then flow to the west property line, then to the south.

Mrs. Salvati asked if there would be a big mound that sticks up over the wall, Mr. Shelley stated that it should not stick up over the wall, which is going to be approximately 3 ft. tall. It may be at the same level, but it will be behind the wall and the system will slope down towards the rear of the wall so that they can get the grade to have a gentle slope around.

Mr. Sackett asked that they work with the town engineer and make an attempt to put it at ground level, as has been done with similar projects that have been able to achieve ground level. He asks that they have their engineer consult with the town's engineer, as he does not want it to be at the level of the wall, and if possible would like to have it lowered. The town's engineer has worked with other projects in the past and has been able to bring the level down to the ground.

Mr. Shear noted that it is also a Town Board issue.

Mrs. Salvati asked about the drive aisle between the greenhouse and the outside fenced in display area, who will be driving back there and for what reasons. Mr. Shelley replied that there are larger pieces of equipment within the fenced in display area, so the drive aisle is for customers to come through to pick up the larger items that they purchase. They pull up from the west then loop around and exit the side, it will be a one way lane only.

Mr. Heneveld stated that there will be a rolling gate there as well, which will be secure until a customer needs to come through at which time it will open for the customer, then close behind them.

Mrs. Salvati talked about the flow of the larger trucks like delivery, garbage, and whether they will come in and go to the back of the building. Mrs. Salvati asked about the area marked "edge of pavement" and if that will be used for large trucks to back in to. Mr. Shelley replied that yes that will be for trucks to use for unloading.

Mrs. Salvati asked what occurs in the loading area, and is it all designed at grade, to which Mr. Shelley replied yes it is. Mrs. Salvati asked about coming out of the building, if the loading gate that opens in to the building, and whether that is also at grade, to which Mr. Shelley responded yes.

Mrs. Salvati asked about the site lighting, and whether when making revisions to their Concept Plan, if they would consider the following:

Do their lighting standards need to be 15 ft. high or can they bring them down to 12 ft. high. Mrs. Salvati feels that they have a lot of lighting, with the wall packs that go around the entire building, and she wants them to explain why they need all of that lighting. She noted that particularly on the west side of the building where according to their west elevation rendering, they do not have anything over on that side. There is no parking lot over there, yet they have four wall packs on that side and she does not understand why they need to have those there at all.

Mrs. Salvati stated that in regards to the previous discussion about dark sky lighting, they have to make the lighting fixtures that will be in the parking lot dark sky compliant. Whether they use a shoe box fixture with a flat lens, or whether they go to look at the lighting fixtures that Walgreens uses, in



accordance to what the Planning Board requested that they use. All of the light fixtures on their site must be dark sky compliant, and they will be looking at that when they return for concept review.

Mrs. Salvati noted in respect to their elevations and the mechanical equipment that they have on their rooftop, nobody should be able to see any of that. What they did on the east wall which makes it so that the mechanical equipment is not visible, she would like to see that same concept go all around the building so that the mechanical equipment on top cannot be seen from any direction. Ms. Salvati asked that the parapet wall be put all around the three sides, with the exception of the back where there are no residences and it is all open.

Mrs. Salvati noted in regards to the lighting on the west side, that the west side is an open view and the Town of Clarence has spent a lot of time and energy on the Vision Main Street Plan, which not only identified the nodes and what we want to see in particular areas, but it also talks generally about how things look on Main Street. Every project the Planning Board does, they review it from every angle which will be exposed to Main Street. On the west side which has the Speedway gas station next to them, there are no trees or other greenery, which means there will be a full view of the west wall, so they will need to bring architectural features around to the west side of the building. Whether it's more faux awnings and shutters, or some gooseneck lighting, even if it's not functional.

Ms. Salvati suggested the applicant takes a look at the ICE Building, which is a newer development that the board approved last year, and the applicant can see some of the things that they were asked to do with respect to the western elevation as well. How can they bring the architectural features around to the side of the building, in order to give the applicant an example of what the board will be looking for.

Mrs. Salvati stated that she will be looking for the landscaping that they put on their landscape plan, especially on the east side. One of the things she would like to see on the Concept Site Plan is a little dashed line, indicating where the existing structure is which they will be demolishing. Mrs. Salvati stated that she would like to have more information about the demolition of that building because there is the little piece of commercial used property immediately to the east and there are some existing trees along that property, which she believes are on the 8965 Main Street's property line. When they take the house down, she wants the trees protected so that they can be included as part of the applicant's landscape plan. The same with all of the vegetation along the east side as well, behind the homes on Shimerville.

When it is time for them to begin site clearing, they will be asked to use orange construction fencing in order to prevent any clearing from happening where it is not supposed to. The vegetation to the west has to stay intact and remain untouched so that it can continue to grow and thicken to provide a screen for the residents on Shimerville Rd.

Mr. Buckley noted that the applicant had indicated earlier that the site would require 128 parking spots, but they are proposing 71, which is a significant reduction in the number of spots. A number of the proposed spots are on the north side of the building, facing Main Street. Ultimately as they move through the process and part of the approval of their concept plan, would the applicant be willing to agree to a condition that there would be no outdoor displays of any kind either product or temporary structures that would be placed along the parking spots along Main Street.

Mr. Heneveld responded that they have no problem with that request, and keeping the displays specific to the areas that they have noted on the plans, and nothing to be displayed in any of the 71 parking spaces.

Mrs. Salvati asked the applicant to speak about any potential noise that may come from the loading area, as far as what kind of activity will occur back there, and what time of day, so that the board can attempt to gauge and condition the noise from that area.

Mr. Heneveld responded that there are 1-2 deliveries per week from their distribution center to the store, depending on the supply chain of distribution, he does not know the specific day of the week that they will be receiving their deliveries. Typically the deliveries occur an hour before store opening, and takes approximately an hour to do.

Mr. Sackett stated that because of the noise and possibly debris, along the western border they have a berm but they may want to consider some fencing. Mr. Sackett noted that they will get to that with landscape, but he feels that a stockade wooden fence along the western border may be a better buffer for the noise as well as visually.

Mr. Sackett asked in regards to the 45 ft., noting that it used to be 30 ft., how they gained 15 ft. Mr. Shelley responded that they had the site centered on the property, which resulted in the 33 ft. setback on the west property line. In the revised plan, they have shifted everything to the east, which provided an additional buffer. This adjustment was done in direct response to a suggestion from one of the Planning Board Executive meetings, resulting in the 45 ft. greenbelt along that line.

Mr. Sackett referred to the 80 ft. not currently being a residential use, but if it were to become a residential use, it is appreciated that they were able to provide the 45 ft. greenbelt area.

Mr. Shear stated that Mr. Sackett indicated there would be a 5 ft. tall berm on the west side, and based on a 3 to 1 slope, that would make the berm at least 30 ft. wide. He feels that is pushing it, and agrees with Mr. Sackett that a fence may be more appropriate.

Mr. Geasling noted that he agrees, and would also recommend a fence.

Additionally, in regards to the drive aisle and the rolling gate, Mr. Geasling asked if there will be an outdoor cashier there, and potentially be open more than just for pickups. Mr. Heneveld responded that the customer will make the purchase in-store, then pull around back to pick up the item, otherwise it will remain closed.

Mr. Geasling also asked whether it is possible to bury the propane tank, rather than have it sit above ground. Mr. Heneveld replied that none of their stores have the propane tank below ground, it's above ground in each of them, which for dispensing and refilling purposes, would not be able to be done if the tank is underground. Mr. Geasling asked if there are other instances where the tank is in such close proximity to residences.

Mrs. Salvati asked in regards to the loading dock, how will the lighting in the loading dock work, and will it stay on all night. The lighting will be the wall pack on the south side of the, which will be like all of the other lighting, and will be on a timer. Mr. Heneveld stated that he will verify whether they stay on an hour after the store closes, as with the other lighting.

Mrs. Salvati also stated that as they move forward, she would like them to consider something in addition, in regards to the green infrastructure with the bio filtration facing. Down the line the board will have additional questions regarding these, and how they propose to maintain them long term.

At this point, the meeting was opened for public comment.

Charles Nagel of 4375 Shimerville Rd.;

- His first concern is the noise level with the loading dock, and all of the noises that are associated with that. There are young children that live in the area, it will disrupt their sleep schedules.
- The length of the berm is too short as far as he is concerned, in comparison to the height of the trucks. He suggests adding a fence in addition to the berm, rather than removing the berm all together.
- Traffic is also a concern, as they currently have a single lane scenario on Main St. now because of the bike paths that have been established. Shimerville has backups now, even with Covid let alone the increase of traffic.
- Music is also another concern, will they be playing music.
- What are the store hours, he understands 8:00pm is closing time, when do they open and will there be weekend hours as well.

Mr. Sackett reviewed the process, identifying that tonight's meeting is only opening it up for Coordinated Review, which lasts approximately 30 days. If anyone feels that they don't have enough time to fully express their thoughts at tonight's meeting, or weren't able to attend, you are urged to send additional correspondence.

Maria Pendelino of 4345 Shimerville Rd.

- Stated that while Mr. Todaro covered their concerns very well, she would like to emphasize some points that Mr. Nagel mentioned, starting with the traffic. Shimerville Rd. is a two lane road that has little to no shoulder, and they already experience a significant amount of traffic using Shimerville as a pass through. They experience cars traveling down the street going anywhere from 40-50 mph. in the 30 mph. speed zone. For any deliveries it is difficult to maneuver down the street, and she and her three neighbors are very concerned about the increase of traffic and the people traversing from Wehrle Dr. to Main St. in order to access this proposed property. It is neither a small concern nor a short or long term solution, but she would be interested in a traffic study to evaluate how to deal with the increase in traffic.
- She also echoes Mr. Nagel's comments regarding the loading dock, she feels that having the loading dock on the side that abuts their properties is the most egregious part of the project that she is most concerned about. As someone who works from home and enjoys the fact that Clarence provides a quiet environment during the day, having large semi-trucks pulling in and out, beeping from backing up, as well as any sort of idling from machinery is very troublesome for her.

- Regarding the comment that Mr. Todaro made concerning the wildlife, of which they have plenty of, she would like to know if the developer has any plans to preserve any of the greenery that exists, in order to help reduce the disruption of wildlife in their area.

Maureen Reed of 4355 Shimerville Rd.

- The back of her property backs up to the proposed infrastructure, and her largest concern echoes what Ms. Pendelino commented on regarding safety. Their street is extremely busy, and all of their mailboxes are on the opposite side of the road and it has already become so busy that it is dangerous to go retrieve their mail each day. If this building goes up and there is an increase in traffic, they won't be able to get their mail.
- Ms. Reed stated that she has two young children, and they enjoy taking family walks as well as bike riding. She experiences many cars that turn around in her driveway even when her children are outside playing in the driveway, so this is a huge safety concern.
- Additionally, they are also concerned about the wildlife in their backyard and their property value. One of the main reasons they chose this location when searching for a house, was that they enjoy the way their backyard looks. They aren't looking at the back of a house or a store, they want to continue to see the natural habitat in their backyard.
- She is also extremely concerned about the noise from delivery trucks, as her children go to bed at approximately 8:30, so if the store closes at 8:00 with delivery trucks coming until 9:00 and beeping, it will disrupt her children from their sleep.
- Another concern that has come up, is the area of water which is located in the back of the design, and the stormwater runoff that was mentioned. She does not want any of that going in to her backyard, or any part of her property, she is wondering where all that stormwater will go, as it was very vague in the description.
- Will the area of water in the back cause more mosquitos – they enjoy their backyard as well as the natural habitat, and they do not want added mosquitos in their area.
- Those are her main concerns, and the rest are all noted in the email that she submitted.

Mr. Sackett noted that the email that Ms. Reed submitted is part of this Coordinated Review, and part of the record.

Karen Colosimo of 4335 Shimerville Rd.

- Ms. Colosimo reiterated the concerns of the previous residents in regards to lighting and noise.
- She resides at the first piece of property that extends back behind the proposed development, and she also has concerns about the water runoff and that it will end up in her backyard. She would like to know who she can contact with her concerns about the runoff of water, and will the water runoff attract rodents as well as other unwanted wildlife.

Rajiv Mammen of 4344 Shimerville Rd.

- Would also like to echo the concerns of his neighbors who spoke before him, especially regarding the traffic. They have two elementary aged children, and traffic is already a concern, thus adding a proposed development would greatly increase traffic on their road.
- The noise would decrease the quality of life that they currently enjoy as well.

There were no additional emails or phone calls received by the Planning and Zoning office during the meeting.

Mr. Sackett asked Mr. Shelley to address the resident's concerns regarding noise, lighting, stormwater, and sightlines.

Mr. Shelley responded to the concern of lighting first, noting that the lighting that has been proposed will provide the minimum safe level of lighting within the parking areas. It has also been discussed and will continue to be discussed, and will also be shown on all future plan submissions, as fully dark sky compliant lighting.

In regards to the comments and suggestions from the town and board members asking about shielding on the lights, they will be happy to look in to those as well, and propose them for where the property lines adjoin.

In general with the site lighting at a property similar to this one with a lot of parking areas, the parking areas are located away from the residential areas and they have tried to minimize the lighting to the greatest extent possible along the west line of the property.

Regarding the noise concerns, Mr. Shelley noted that the truck deliveries are approximately 1-2 a week. Typically a berm is a sufficient sound buffer, and will intercept headlights from vehicles, and absorb some of the noise that is right at the 5 ft. level off of the pavement, to create a barrier to the residential area.

Mr. Shelley stated that he will talk with the applicant regarding the installation of a stockade fence as well as the berm, to help better dilute the noise to the residential area. Mr. Sackett noted that a fence would help with sight as well as noise and lights. Mr. Shelley responded that perhaps a 6 ft. tall board on board, stockade fence is something that they can look in to.

Mr. Shelley spoke on the concern of stormwater, stating that they are currently looking at preliminary design at the site of this point. They talk about the bio-retention area, the Department of Environmental Conservation requirements, which they require them to attempt to infiltrate a certain amount of their stormwater runoff from the site, infiltrated in to the ground.

At the rear of the site they are fortunate enough to have soil that is suitable for infiltration of stormwater. The potential bio-retention area that is shown next to the turnaround that may not be a bio-retention area but re-labeled as an infiltration basin which is a Department of Environmental Conservation accepted practice. Those basins are shaped to best utilize the existing soils on site for recharge of stormwater events.

This takes a volume of runoff from the pavement and absorbs it in to the ground, which addresses the water quality aspect of the stormwater runoff.

If you look at the contours of the site, they are generally higher on the east side, then the site slopes to the south and to the west. Ultimately the stormwater runs to approximately the southwest corner of the property, which is the corner of the Colosimo and Speedway properties. There is another area which includes a lower spot which is near the 125 ft. dimension line.

What they would be proposing to do through storm sewers is capture the runoff from all of the impervious areas, send the majority to the infiltration basin, capture some of that, then once it hits that or you get a larger storm, it will overflow to the potential stormwater location.

They are looking at the design of that, there was mention of the concern for open water mosquitos to the area because of the stormwater. Given the fact that they are using a stormwater infiltration basin they get to take credit for a lot of their impervious areas, so the stormwater management facility location would actually become a dry pond. Water would fill in there, and then a structure would be made that would attenuate the discharge so that they are not exceeding the current site's discharge rate. Overall their site will be designed to be in compliance with Department of Environmental Conservation stormwater rights.

Mr. Sackett stated in the regards to the Department of Environmental Conservation, one of the concerns mentioned was of the wildlife. He would be interested if they are going to put a fence up, to have that on the site so that the Department of Environmental Conservation could comment plus or minus, with respect to wildlife. Mr. Sackett noted that the applicant should make a decision regarding a fence, so that the Department of Environmental Conservation can review their intentions.

Mr. Sackett expressed his understanding of the traffic issues on Shimerville Rd., which is a county road. Mr. Bleuer noted that as part of the Coordinated Review, this project will be sent to Erie County Department of Public Works because it is a county road, as well as the NYS Department of Transportation, which is the entity that controls Main Street. Traffic will be reviewed and addressed by all involved and interested agencies.

Mrs. Salvati asked whether there would be a traffic study, which Mr. Sackett responded that the county or state could ask for one. What the residents have said is now on the record, and available to the county and state to see.

Mrs. Salvati stated that based on the multiple mentions of wildlife, she is guessing that there are deer in the area. She asked the applicant if their greenhouse will be totally fenced all around. Mr. Shelley replied that the greenhouse is located within the fenced display.

Mrs. Salvati also noted that when the applicant is working with the Landscape Committee, they should work on planting deer resistant materials.

Mr. Bigler pointed out that there will be no more water ejected on to any properties any more than is existing now. No increase of water on any neighboring properties.

Additionally, Mr. Bigler stated that if the berm was extended northward to and past the loading dock, it would reduce the noise. If a 5 ft. fence was put up on the berm that would prevent trash from blowing west, as well as further reduce the noise, and it would help the view.

**ACTION:**

Motion by Gregory Todaro, second by Richard Bigler, that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Environmental Assessment Form as submitted and to seek Lead Agency status and **commence a coordinated review** among involved and interested agencies on the proposed Tractor Supply Company retail store. This Unlisted Action involves the proposed construction of a 20,000 +/- sq. ft. retail store and associated facilities in the Commercial zone.

**ON THE QUESTION:**

|                |     |                 |     |                |     |
|----------------|-----|-----------------|-----|----------------|-----|
| Jason Geasling | Aye | Jeffrey Buckley | Aye | Gregory Todaro | Aye |
| Wendy Salvati  | Aye | Richard Bigler  | Aye | Robert Sackett | Aye |

MOTION CARRIED.

**Item 2**

Dominic Piestrak – Spaulding Green Residential Single Family

Requests Development Plan Approval for Phase 7 of a previously approved Open Space Design Subdivision located at SBL 58.00-4-35.1, north of Greiner Road, east of Glenview Drive.

**DISCUSSION:**

Jon Bleuer introduced this project, noting that it is located north of Greiner Road, west of Glenview Drive.

Spaulding Green is an approved Open Space Design Development subdivision located in the Residential Single Family zone. It has been conceptually approved, including Open Space Overlay Approval and issuance of a negative declaration under the State Environmental Quality Review Act.

The applicant is present virtually, seeking Development Plan approval for Phase 7, which contains 41 lots on approximately 21.5 acres, including the construction of approximately 2,400 linear feet of Longleaf Trail and 230 linear feet of Spaulding Green Parkway.

The applicant has developed a detailed plan set which has met the technical requirements of the Development Plan stage, per the Town’s Engineering Department.

Mr. Buckley recused himself from Item No. 2.

Mr. Piestrak stated that this is a continuation of what they’ve done in the neighborhood under the Open Space Design Development. Currently they have 54% of the open space, 216 acres. The proposed development will be comprised of single family homes, 100 ft. – 250 ft. deep in the middle lots. This is also a continuation of the project that they have been moving forward with.

Mr. Sackett noted that during the development stage, it was identified that half of the project is 7A and the other half is 7B. Mr. Sackett asked Mr. Piestrak if he could explain how that is divided out, both in the number of lots as well as the line that divides them.

Mr. Piestrak responded that the dark line on the plan shows where the phases are divided between 7A and 7B.

Mr. Sackett asked if Mr. Piestrak's intentions are to develop 7A, and then develop 7B, which Mr. Piestrak responded yes. Essentially they are discussing Phase 7A, which has 22 lots.

Mr. Geasling stated that the board has received 4 emails so far from concerned residents, which he will go over.

Referring to the two different phases, Mr. Geasling noted that due to alterations in other areas, that Mr. Piestrak has met his limit on units therefore he wants to be clear that in any potential motions, there will be a condition that if Mr. Piestrak does not get a density increase, the board will still require the connection from the front of the neighborhood up to Phase 3A.

Mr. Piestrak stated that they are going to move it up to the parkway, and that currently because of the density situation, they have sewer taps as well as excess open space therefore they are ready to start Phase 8.

Mr. Geasling asked if that stays within the 380 units, to which Mr. Piestrak responded no. Mr. Geasling noted that is why he stated that Mr. Piestrak will need to get a density adjustment.

Mr. Geasling summarized the four emails that have been received, full correspondence will be on file;

1. Katherine Teall
2. Jason Matuszak of 5366 Glenview Dr.
3. George Hauer of 9770 Greiner Rd.
4. Frank and Robin Teall of 9810 Greiner Rd.

- Concerns with the traffic light at Goodrich and Greiner, backups already exist and further expansion of the neighborhood will increase the number of vehicles.
- Concern with the debris from construction not being cleaned up throughout the neighborhood.
- Traffic safety on existing roads with contractor's trucks and construction vehicles parked on both sides of the road making it difficult to utilize the roads.
- Concern with what seems to be perpetual construction, houses that are under construction for a significant amount of time.
- Trees that have been removed without being replaced.
- Question regarding the greenspace between the property between Glenview and 9810 Greiner Rd. What is behind that and what would be Phase 6B.



- Question regarding a sewer agreement, sewer access, planting of trees supposedly directed by the Town of Clarence and also a storm water tie in.

Mr. Piestrak responded to the concerns raised, first referring to the proposed map of Phase 7 between lots 292 and 293 you can see a sewer running up to the common area. The agreement was to make the sewer access accessible to Mr. Howard, which they are in the process of doing.

Concerning the traffic on Greiner Rd. he is not aware of any issues in that area.

Ken Zollitsch with GPI spoke in reference to the traffic, explaining that an original traffic study was performed based on all of the 380 lots and full build out of the entire Spaulding Green development, and Phase 7 does fall within that 380. An update to the traffic study was performed as well, analyzing the intersections adjacent to Spaulding Green, and at that time there were no significant issues in the level of service that warranted exception mitigation measures at the intersection in question. The traffic studies have been done for this project, and have been updated, therefore they do feel that they have properly addressed the traffic

Mr. Zollitsch stated that Phase 7 falls within the general concept plan that has been in front of the board for years, remaining with the 380. He feels that their traffic study previously accounted for additional units as well, without significant negative impacts to the adjacent roadways.

Mr. Piestrak responded to the concerns regarding an excess of trash in the development, stating that each year in the spring, they do a clean up after the snow melts. It is difficult to do during the winter, but they keep an eye on it and also do a cleanup mid-summer as well.

It is a fairly large subdivision, comprised of almost 500 lots once completed, resulting in seemingly continuous construction until completed.

Mr. Sackett asked Mr. Piestrak for clarification on whether he is requesting approval to build 22 lots or 41 lots, to which Mr. Piestrak replied they are intending to put in 22 lots.

Mr. Bleuer noted that this development plan reviewed by the Engineering Department was for the entirety of Phase 7, meaning 7A as well as 7B. What is before the Planning Board tonight, is for the entire Phase 7. He believes there has been discussion concerning the exception area, which has been previously identified as Phase 8. If in the future, that is to be developed, there may be a condition that you choose to place on this requiring it to be completed prior to Public Improvement Project (PIP) permits being issued in 7B. But for the record, it is important to understand that this Development Plan has been reviewed by the Engineering Department for the entirety of Phase 7, which is within conformance to the original approved Concept Plan and 380 lots overall.

Mrs. Salvati asked for clarification, that currently the application has the density to do all 41 lots, which Mr. Bleuer confirmed is correct, within the 380 approved lots, of the overall subdivision.

Mrs. Salvati stated that they need the density increase to allow them to do what she believes was at one point, 17 lots in Phase 8. Mr. Bleuer confirmed that if Phase 7 was fully constructed, the applicant would not have the necessary lots in their approval for 380 lots, to construct the lots along Phase 8. Therefore, any conditions of approval may be tied to that road being required to be placed.

Mr. Sacket noted that the request is to approve 41 lots, and the applicant may phase it at 7A and 7B, but the request for Engineering was to approve 41 lots. 22 lots will be put in, but Mr. Piestrak is seeking approval for 41 as an entire phase. Mr. Piestrak noted that subject to not including Public Improvement Project permits for the last phase. Mr. Sacket responded that the Public Improvement Project permits are through the applicant and Engineering.

Mr. Geasling asked whether the board has typically been monumenting the conservation area, in order to have a reference for the residents as to where they should not be mowing or anything else along those lines. Mr. Piestrak stated that they have done it in the Wetlands, Mr. Bengart noted that the actual Conservation Easement is still under review, and he believes past approvals have discussed monumenting.

Mrs. Salvati asked Mr. Bengart if the Easement Agreement that he is developing, will that address monumenting. Mr. Bengart replied that he does not believe that it does currently, but they can add that. Mr. Piestrak stated that they used something different in Spaulding Lake, which he would be happy to share with the board. Mr. Geasling stated that he would also like to see something that would prevent yard creep.

Mrs. Salvati asked Mr. Piestrak if he is having any issues in any of the areas that are currently built out, where people are intruding in to places where they're not supposed to. Mr. Piestrak responded that no, he has not had much trouble with that, people have been very respectable.

Mr. Todaro stated that he concurs with the monumenting, he feels that even though it may not be an issue now, years down the line it could become an issue, and he doesn't want people claiming that property later on.

Mrs. Salvati stated that she agrees with Mr. Todaro, especially the way the greenspace has been piecemealed together, it is too easy for people to take it over. Mr. Bengart reiterated that it's not completed yet, and confirmed with Mr. Piestrak that he would have no problem if Mr. Bengart adds that with his attorneys, Mr. Piestrak agreed.

Mrs. Salvati noted that Mr. Piestrak is doing the 22 lots now, and asked him when the additional 19 lots will be constructed. Mr. Piestrak replied when they get approval for their density even though his commitment with the town is not to put in Phase 7B until Phase 8 can be put in at the same time, or before.

Mr. Bengart explained that density is a separate question and answer to what would be the concern of this board, which is the secondary emergency access road. As to whether density is going to happen now, never, or at a later date, depending on how the board votes tonight, the applicant will not be able to build the second half of Phase 7B without the Public Improvement Project permits not to be issued without inserting the roadway.

Much discussion continued regarding density.

Mr. Shear stated that a cul-de-sac is allowed with 12 units, beyond 12 you require an emergency or second entrance exit.

Mr. Sackett asked Mr. Piestrak to comment on Phase 7A having over 12 lots and the safety aspect of that.

Mr. Zollitsch replied that it is intended for Phase 7A in its entirety, it is not intended to be the essential part of this project, and they are committed to making that connection with Spaulding Green Parkway. As indicated on the Concept Plan, he does not believe that this comes down to an issue of the town code restricting 12 lots to a cul-de-sac, because this is part of a multi-phased project. If they had indicated on the concept that Phase 7 would end on itself, then they would not fall within the town code and they would exceed the lot limit there for a dead end. Because this is part of a large project with multiple phases, it can be expected that as they work through the phases there may be areas where they exceed the 12, but the intention is always to complete the project, connect the roads, and build the lots associated with it.

Mr. Zollitsch noted that while he understands the board's concern regarding what might prevent Mr. Piestrak from building Phase 7A, but wanted to confirm that Mr. Piestrak owns the land and is committed to it. There are still 19 lots beyond the 22 for Phase 7A. Taking the worst case scenario, if something changed and they have to do something different, they would still have 19 lots that they can place along Spaulding Green Parkway. That they can make that road connection from future Phase 8 on the parkway, then connect to the stub. Spaulding Green has been a work in progress, and continued each year with a new phase at least every other year for the past 10-15 years. They are getting close to the end, and obviously want to see it through to the end, and the approval of Phase 7 tonight is one step closer to that.

Mr. Zollitsch stated that they do understand going back to the Town Board and discussing density increase with the additional properties that have been acquired over time, there is a valid reason to allow additional density, because of the additional properties that have been purchased.

Mr. Shear asked Mr. Zollitsch if he is saying they will be building 19 houses on a cul-de-sac and at some future point they will add a road.

Mr. Zollitsch responded that with this phase they are extending it, it is not a cul-de-sac it is part of a multi-phase development. It is not a cul-de-sac, which is a permanent dead end. They already have Phase 8 designed and in front of the town for review, and while he understands the density component of it is missing, given the conditions over the past year and the restricted number of board meetings that Clarence has held, they have not been able to progress within the time that they would have liked to.

Mr. Sackett asked Mr. Zollitsch in regards to his condition of building out Phase 7B they would complete the road before they received Public Improvement Project permits for Phase 7B. Mr. Sackett understands Mr. Piestrak as saying he would not get Public Improvement Project permits for Phase 7B before completing the road. Mr. Sackett noted that he wants to have in his own words, what Mr. Piestrak is stating as a condition.

Mr. Piestrak responded that they have one master road, and looking at Phase 2, that has a lot of courts off of the main road. It was necessary to put in Phases 5 and 6 in order to complete two entrances, and because the spine road is in the middle of Phase 2, it also services Phase 5 as well as 6. They went through multiple phases in order to get to Greiner Rd. Mr. Piestrak stated that he believes whichever way they did it, they would have to put all of the phases in at the same time in order to satisfy what is being asked of them.

Mr. Sacket asked if other than Public Improvement Project permits for Phase 7B, would they make any greater commitment in terms of time that they would put in Phase 8 before developing 7B. Mr. Sackett is asking for a commitment of time.

Mr. Piestrak stated that they have the engineering drawings done for Phase 8, but they cannot be submitted until there is a board meeting providing the density report. They have sewer taps and open space, they are only waiting on density.

Much discussion continued regarding density.

Mr. Sackett clarified that the applicant can't make a time commitment for completing the road in Phase 8, before doing Phase 7B. Mr. Zollitsch confirmed that, stating that it would not be possible to do without receiving the necessary approvals from the Town of Clarence for Public Improvement Project permits for Phase 8, from Erie County.

Mrs. Salvati asked the applicant if they have 425 taps, Mr. Zollitsch replied that the town engineer has recognized, and based on their proposed density and future build out of Spaulding Green, they have enough taps to service all of their proposed taps within their infrastructure.

Mr. Bleuer stated on behalf of the Town of Clarence, that it is important to note that this Phase 7 Development Plan Review is similar and in keeping with the original approvals that have been in place for phases such as Phase 4, Phase 3, and Phase 6B, this is an extension of an overall plan. The confusion tonight lies in the discussion of a density increase that had no bearing on this meeting, it is not part of the agenda, nor is it being heard tonight. The assurance that the town is pursuing by withholding Phase 7B is to allow for, no matter what happens in the future, the extension of Phase 8 in some form, with some number of lots.

Mr. Sackett noted that it is the value of Phase 8 that assures them of that extension, to which Mr. Bleuer confirmed.

Mr. Bengart stated that there is value to Phase 7B as well, which is just as important without the Public Improvement Project permits. It doesn't get built out, therefore they can't sell lots, and there is a lot of value which is being held on to.

The meeting was opened for public comment at this point.

- Kathryn Teale – stated that with 41 new lots and an average of 2 cars in each driveway, which will be 82 additional cars coming out on to Greiner Rd. To think that it won't substantially impact the traffic at the corner of Greiner and Goodrich is obtuse.

Additionally she'd like to state that the entire project started as a 9 house court, and she would like to know if the Town of Clarence ever intends to say no to Dominic Piestrak.

- Jason Matuszak of 5622 Glenview Dr. would like to speak against the Planning Board approving the expansion of this project. A number of their neighbors share similar concerns, the board did a great job summarizing for them. It comes down to the fact that the residents have received assurances from Mr. Piestrak over the course of several years, regarding the quality of the

neighborhood that they were moving in to, but it has not met the expectations that had been promised.

Mr. Piestrak is not good with follow – through. They had submitted some photos, and as Mr. Piestrak talks about spring cleanup and keeping the neighborhood looking nice, this should be a “crowning jewel” of the Town of Clarence. The truth of the matter is that they have organized neighborhood cleanups as residents of the neighborhood, his two daughters picked up two contractor bags full of garbage.

The walkways are littered with trash, and all winter and summer long, it never gets cleaned up, unless the residents are doing the work and making it look nice.

Mr. Piestrak should be encouraged to put the road in sooner, as there are many times Glenview Drive has construction vehicles on both sides of the road, making it difficult to pass through safely. There are a lot of children in the area, and the road is a hazard, so an additional access road would be better for them. They have called the town board about this exact issue in the past, and they have also called Mr. Piestrak about this issue, but were told there was not much that could be done about it.

They are concerned about adding more builders and developers in to the area that is currently not handling the load that exists.

Regarding the light at Greiner and Goodrich, though it was not originally part of his initial comments, but he will agree that during the morning and afternoon rush hours, you do have to wait through more than a single light change. This is a new development within the past six months, therefore it would not have been part of the traffic study from two years ago. It happened about the same time the most recent portion of the development went in.

There are projects that have been going on for over two years, and never seem to be completed. They’re half finished, and builders don’t seem to care about finishing projects, which adds tremendous blight to the neighborhood.

Mr. Piestrak has had trees removed from the greenspace that were promised to be replaced and never were, it just all adds up to making the entire development looking like a disaster.

- Robin Teale of 9810 Greiner Rd. was totally confused because the letter that she received from the Town of Clarence stated that Phase 7 is north of Greiner, and east of Glenview, which is wrong, as it is west of Glenview, that frightens her.

She wants to implore the board to have Mr. Piestrak put that road in, because if you think that the traffic pattern on Greiner road is not a problem, you are mistaken. She has times that she cannot pull in or out of her driveway because of all of the traffic. Do you really need to connect that parkway to Goodrich Road, to make the traffic on Goodrich even worse. The traffic around here is really bad no matter how you look at it, and adding more houses is not the answer, but if you’re going to do it, the road needs to be added.

- George Howard from 9770 Greiner Rd. stated that he appreciates Mr. Piestrak stating that he will be receiving the sewer tap that he was promised in the contract, once Phase 7A is done. He asked

who is doing the sewer work, because the sewer work that was done behind him in his adjoining lot was done by Milhurst Construction, and when he asked them how they would be providing him his sewer taps, they had no idea what Mr. Howard was referring to.

Mr. Howard stated that there was confusion as to who was purchasing the land for Phase 7A. Mr. Howard asked if the construction company knows who is doing the sewer work, and do they know that the caps need to come over to his property. The people who purchase the property behind him wouldn't want to find out after they purchase their land, that there will be sewer taps running under their property, to Mr. Howard's property.

If it will be done from next door on the other side of the hedgerow, Mr. Howard would like to know that Natale, and all of the other builders, whomever is doing the sewer work, is aware that there will possibly be an easement there, or a right of way needed.

Mr. Howard also referred to the point made by Mrs. Salvati regarding fences and claiming property. He has a neighbor behind him that decided to put fencing all around their house, and fenced in the storm drain. The things that Mr. Howard has in his contract that were post-closing obligations by Mr. Piestrak, which he hopes Mr. Piestrak lives up to, were the tie-in to the drainage, a neighbor that decided to fence in what is supposed to be a common area. Additionally, there are the plantings and trees, as directed by the Town of Clarence. Originally Mr. Piestrak stated that Mr. Howard would have patio homes behind him, but that is not true – he has a mountain behind him, a three story giant house behind him, with no natural barriers whatsoever.

Mr. Howard would like to see the obligations that Mr. Piestrak actually promised, to be done.

Mr. Sackett notified Mr. Howard that he discussed his matters with the town engineer Timothy Lavocat, and Mr. Lavocat asked Mr. Sackett to have Mr. Howard contact him regarding sewer issues.

Mr. Bengart noted that Mr. Howard's issues may well be between him and Mr. Piestrak, but the town engineer can certainly answer some questions, but they may be legal matters between Mr. Howard and Mr. Piestrak.

Mr. Piestrak responded to the issues, starting off by stating that Mr. Howard has not contacted him in 3-4 years, and he always accepts calls.

Mr. Piestrak stated that he has designed access, as he said earlier, and they said that he would have access to sewer, which they've intended to do. Mr. Piestrak said he chose this spot for a couple of reasons, which do not need to be discussed at the present time.

Mr. Piestrak said they intend to live up to the agreement as far as Mr. Howard is concerned.

Regarding the trees that were cut down that Mr. Matuszak mentioned, they were dead Ash trees, and although Mr. Piestrak did not want to cut them down, it was necessary. One of the dead trees fell on to a house, and Mr. Piestrak felt that it was in everyone's best interest to cut down dead trees.

Mr. Piestrak stated that although they may not have been planted where Mr. Matuszak would like them to be planted, in the past year they have planted close to 200 trees. Mr. Piestrak stated that Mr. Matuszak is also welcome to call him.

As far as construction trucks, he has no authority over them, and when they are parked on both sides of the street it aggravates him as well. It is a public street and Mr. Piestrak has no authority to tell them where they can and cannot park.

Responding to Mrs. Teale and her concerns, Mr. Piestrak is rather surprised, as there is a bit of history there. Mrs. Teale had agreed to sell Mr. Piestrak their house, then called the next morning rescinding her statement.

Mr. Zollitsch responded in regards to the traffic study concerns stated that when traffic studies are performed, counts of the intersections as well as analysis of the subdivisions, some of the information is taken at that time, but part of the studies include projecting out in to the future. It is not an assessment to present day, but more a look at the future. A full buildout of the development is applied through traffic modeling, and then background traffic, which is the traffic not generated from their site is also accounted for. Based on typical DOT standards, they increase the amount of background traffic each year as well. This plays in to when they are looking at traffic studies, and discussing what the development will do at full build out which is full occupancy of the entire development, as well as an increase in the background traffic over the course of 5 years it can end up being an increase of 5%. Traffic studies are used to look in to the future, and not just assess current day issues.

Additionally, Mr. Zolitsch touched on the point that all of these concerns are important, and the residents have every right to voice them. It sounds as though there are some present issues, but keeping in mind that what is in front of the board tonight has been reviewed under the State Environmental Quality Review Act, and looked at traffic impacts as well as some other issues. What is in front of the board tonight is Spaulding Green Phase 7 for a Development Plan, which again questions whether the design matches the concept, which it does, and they have achieved and received approvals from the Town Engineer, Erie County Department of Sewers Management, Erie County Health Department, Erie County Water Authority, and they also still have valid permits for everything else. They have satisfied concerns as it relates to drainage, sanitary sewer, water pressures, and everything else.

Mr. Sackett commented on two of the issues that the residents brought up, one being the concern of garbage. Mr. Sackett spoke with the town engineer, who stated that if the residents have concerns about garbage, to call him and he will send an inspector out, there are regulations which deal with stormwater, but he can send an inspector out.

In respect to cars on both sides of the road, if it becomes a fire hazard, an inspector can also come out to address that as well.

For the residents, because they are building issues, if they call the Town Engineer, he will address it through inspection.

#### **ACTION:**

**Motion** made by Jason Geasling, second by Gregory Todaro to **approve the Development Plan** for the conceptually approved phase 7 of Spaulding Green Open Space Design Subdivision as per the plan set, engineer's report and stormwater management plan submitted by GPI, dated October 14, 2020, for the construction of 41 residential lots on 21.5 +/- acres, and approximately 2,400 linear feet of Longleaf Trail, and 230 linear feet of Spaulding Green Parkway, all subject to the following conditions:

1. Subject to permits and conditions of the Town Engineering Department, per the Development Plan Review #3 letter, dated March 8, 2021.
2. Review and approval of any required drainage and conservation easements by the Town Attorney's Office, as required by the Town Engineer. Any required drainage and conservation easements are to be filed in the Erie County Clerk's Office with a stamp "Filed" copy being provided to the Town Attorney's Office within a reasonable time after filing.
3. All land designated as permanent open space shall be protected by conservation easement and reasonably monumented as such.
4. Maximum approved residential density shall not exceed 380 units for the overall subdivision, unless a Density Increase approval is approved, subject to a full environmental review under the State Environmental Quality Review Act.
5. As a means of providing secondary emergency access and overall subdivision connectivity, per the approved overall concept plan and in the event that no future Density Increase approval is granted to the applicant, the applicant shall be required to install the public road within phase 8 prior to issuance of PIP permits associated with Phase 7B.
6. Subject to Open Space and Recreation Fees and / or completion of that portion of the recreation trail from Meadow Glen Drive to Clarence Center Rd., in lieu of Recreation Fees, with specifications acceptable to the Town of Clarence.

#### **ON THE QUESTION:**

Mr. Sackett asked Mr. Piestrak if he heard the motion, Mr. Piestrak responded yes. Mr. Sackett asked Mr. Piestrak if he understands the motion, Mr. Piestrak noted that in regards to the Recreation Fees, his responsibility is to complete the bike path from Goodrich Rd. to Clarence Center Rd. Mr. Sackett asked Mr. Bleuer to confirm that, which Mr. Bleuer confirmed that when this project was confirmed conceptually, the bike path construction was the recreational component.

Mr. Sackett asked Mr. Bleuer if the understanding with the town is that the bike path construction is in lieu of Recreational Fees, which Mr. Bleuer confirmed.

The motion was amended to comply with the understanding of bike path completion. Mr. Sackett asked Mr. Piestrak if he now agrees with the motions as stated, Mr. Piestrak responded yes.

Mr. Sackett noted that they have the recommendation of the Planning Office, the Engineering Office, as well as the recommendation of the town Attorney's office.

Mrs. Salvati asked if Motion #3 could be amended to read "and monumented as such". Both Mr. Geasling as well as Mr. Todaro agreed. Mr. Bengart stated "reasonably monumented" should be stated, to keep the monuments from getting out of control. Mr. Sackett asked Mr. Piestrak if he would agree to that, which Mr. Piestrak responded yes.

Mrs. Salvati asked if in the event the town board does not agree to a density increase as requested by the applicant, when would we expect the extension of Spaulding Green Parkway would occur. Mr. Piestrak stated if that was the case, he would still put in as much as he could of Phase 8.

Much discussion continued regarding the density increase.



|                |     |                |     |               |     |
|----------------|-----|----------------|-----|---------------|-----|
| Jason Geasling | Aye | Gregory Todaro | Aye | Wendy Salvati | Aye |
| Richard Bigler | Aye | Robert Sackett | Aye |               |     |

MOTION CARRIED

**Item 3**

William Marfurt III  
Residential Single Family

Requests recommendation of a Special Exception Use Permit for a Secondary Living Unit located at 4635 Greenbriar Road.

**DISCUSSION:**

Jon Bleuer introduced this project, noting that this parcel is located in the Residential Single Family zone and currently contains a single family residence.

The Applicant is seeking a recommendation to the Town Board for a Special Exception Use Permit to construct a secondary living unit addition onto their existing home.

Mr. Marfurt was present virtually and stated he has nothing more to add.

Mr. Buckley noted that he does not have any questions, unless there are questions or comments from the public.

Mr. Bleuer stated that the town has received two email correspondence regarding this proposal and are on file;

- Nicholas Violante of 4640 Greenbriar Rd. stated he has no objections to the plans.
- Susan Dollorr of 4615 Greenbriar unable to connect to the Zoom meeting, has concerns regarding the secondary residence diminishing the value of homes on Greenbriar. As well as whether this will set a precedent for other secondary homes on Greenbiar Rd. which may or may not be rented.

Looking at an aerial view, Ms. Dolloff lives adjacent to Mr. Marfurt. Mr. Sackett stated that she is concerned about the secondary unit becoming a rental unit, and asked Mr. Marfurt if he would speak to the fact that the unit would not become a rental. His intentions are not to rent, his intentions are for his elderly parents to reside there, and he needs to make sure his parents are taken care of and not have to enter a nursing home.

Mrs. Salvati noted that when they received the three Special Exception Use Permits that are on tonight's agenda, this one was the most concerning, because it is a considerable addition. The board has questioned the applicant extensively regarding his long term plans, and he understands that there has to be deed restrictions in accordance with the law, it can never be a market rental property. The applicant understands that it always has to be a family transition, or the whole house has to be sold in its entirety, because the deed restriction lasts forever.

Mr. Buckley stated that he feels a majority of the resident's concerns will be covered with the motion. Mr. Buckley clarified with Mr. Marfurt for the record, that this is not a separate, stand-alone structure, it will be connected to the existing structure, which Mr. Marfurt confirmed.

**ACTION:**

Motion by Jeffrey Buckley, second by Wendy Salvati to **recommend issuance of a Special Exception Use Permit to the Town Board** for a secondary living unit located at 4635 Greenbriar Road per the submitted plan stamped received in the Planning Office on December 10, 2020, subject to the following conditions:

1. Subject to permits and conditions of the Town Building Department.
2. Review and approval by the Erie County Health Department for any required modifications to the existing on-site septic system.
3. Unit shall be secondary to the principle dwelling and not converted to a rental unit.
4. Occupancy shall be limited to family members, paid employees, temporary guests or principle homeowner.
5. The property owner, or any future property owner, shall provide certification to the Town Planning & Zoning office and the Building Department on an annual basis that the unit is being used in conformance with the conditions of approval. Failure to submit the annual certification may result in the termination of the Special Exception Use Permit, resulting in a Zoning Violation subject to enforcement and penalties as outlined within Town Code Zoning Law Chapter 229-160 and 161 or any changes made to the Code of the Town of Clarence in the future.
6. Deed Restrictions shall be placed into the deed for the property, restricting its use so as not to allow the unit to be utilized or converted into a rental unit and requiring the Certification provided hereinabove and such. Such Deed Restriction language is to be submitted and approved by the Town Attorney's Office prior to filing of the deed.
7. An Agreement shall be entered into between the property owner and the Town of Clarence. This Agreement shall require that the property owner prepare and record a Deed Restriction incorporating the conditions of approval which shall be placed into the property deed. The Agreement and Deed Restriction shall continue in perpetuity. A copy of the Agreement is required to be filed as an attachment to the deed, and shall be submitted to the Town Attorney's Office prior to filing of the deed.
8. Proof of filing of the deed and Agreement is required and must be submitted to the Town Attorney's Office prior to the issuance of a Certificate of Occupancy as issued by the Building Department.

**ON THE QUESTION:**

Mr. Sackett asked Mr. Marfurt if he heard, understands, and agrees to the motion, which Mr. Marfurt stated yes.

Mrs. Salvati stated that when previously discussing the three requests for Special Exception Use Permits for secondary living units, they talked about requiring a recertification of this type of permit on an annual basis. Mr. Buckley stated that it is motion number 5, and has been covered.

Mr. Marfurt asked if there is a payment for the recertification that he will be required to provide. Mr. Bengart responded that there is no payment, only the requirement that on an annual basis, he recertifies the fact that it is not being used for anything other than what is allowed.

|                |     |                 |     |                |     |
|----------------|-----|-----------------|-----|----------------|-----|
| Jason Geasling | Aye | Jeffrey Buckley | Aye | Gregory Todaro | Aye |
| Wendy Salvati  | Aye | Richard Bigler  | Aye | Robert Sackett | Aye |

MOTION CARRIED.

**Item 4**

Eric & Naomi Sakovics  
Agricultural Rural Residential

Requests recommendation of a Special  
Exception Use Permit for a Secondary Living  
Unit located at 4575 Ransom Road.

**DISCUSSION:**

Mr. Bleuer introduced this parcel, which is located in the Agricultural Rural Residential zone and is currently vacant.

The Applicant is seeking a recommendation to the Town Board for a Special Exception Use Permit to construct a new single family home with a secondary living unit attached.

Mr. Sakovics was present virtually and added that he has no intention at any point to ever rent out the secondary unit, it is also for his elderly parents. As life happens and if it should come to that point, he would like to move to that unit himself and allow family to reside in the primary residence. He also understands deed restrictions.

Mr. Buckley pointed out that this is a vacant lot with a new structure that is being built, with this parcel built in addition for the origination.

Mr. Buckley asked whether any phone calls or correspondence has been received regarding this item, to which Mr. Bleuer stated that inquiries have been received, but nothing further.

**ACTION:**

Motion by Jeffrey Buckley, second by Richard Bigler to **recommend issuance of a Special Exception Use Permit to the Town Board** for a secondary living unit located at 4575 Ransom Road per the submitted plan stamped received in the Planning Office on December 1, 2020, subject to the following conditions:

1. Subject to permits and conditions of the Town Building Department.
2. Review and approval by the Erie County Health Department for any required modifications to the existing on-site septic system.
3. Unit shall be secondary to the principle dwelling and not converted to a rental unit.

4. Occupancy shall be limited to family members, paid employees, temporary guests or principle homeowner.
5. The property owner, or any future property owner, shall provide certification to the Town Planning & Zoning office and the Building Department on an annual basis that the unit is being used in conformance with the conditions of approval. Failure to submit the annual certification may result in the termination of the Special Exception Use Permit, resulting in a Zoning Violation subject to enforcement and penalties as outlined within Town Code Zoning Law Chapter 229-160 and 161 or any changes made to the Code of the Town of Clarence in the future.
6. Deed Restrictions shall be placed into the deed for the property, restricting its use so as not to allow the unit to be utilized or converted into a rental unit and requiring the Certification provided hereinabove. Such Deed Restriction language is to be submitted and approved by the Town Attorney’s Office prior to filing of the deed.
7. An Agreement shall be entered into between the property owner and the Town of Clarence. This Agreement shall require that the property owner prepare and record a Deed Restriction incorporating the conditions of approval which shall be placed into the property deed. The Agreement and Deed Restriction shall continue in perpetuity. A copy of the Agreement is required to be filed as an attachment to the deed, and shall be submitted to the Town Attorney’s Office prior to filing of the deed.
8. Proof of filing of the deed and Agreement is required and must be submitted to the Town Attorney’s Office prior to the issuance of a Certificate of Occupancy as issued by the Building Department.

**ON THE QUESTION:**

Mr. Sackett asked Mr. Sakovics if he heard, understands, and agrees to the motion, which Mr. Sakovics responded yes.

|                |     |                 |     |                |     |
|----------------|-----|-----------------|-----|----------------|-----|
| Jason Geasling | Aye | Jeffrey Buckley | Aye | Gregory Todaro | Aye |
| Wendy Salvati  | Aye | Richard Bigler  | Aye | Robert Sackett | Aye |

MOTION CARRIED.

**Item 5**

Rosario Carrubba  
Residential Single Family

Requests recommendation of a Special  
Exception Use Permit for a Secondary Living  
Unit located at 5755 Newhouse Road.

**DISCUSSION:**

Jon Bleuer introduced this project, which is located in the Residential Single Family zone and contains a single family residence.

The Applicant is seeking a recommendation to the Town Board for a Special Exception Use Permit to convert an existing indoor pool room into a secondary living unit.

Mr. Carrubba was present virtually, and when asked, had nothing additional to add.

Mr. Buckley reminded the board that this is the proposed project that is basically being converted from an indoor pool in to a secondary living unit, therefore the existing structure size is not being changed at all.

**ACTION:**

Motion by Jeffrey Buckley second by Gregory Todaro to **recommend issuance of a Special Exception Use Permit to the Town Board** for a secondary living unit located at 5755 Newhouse Road per the submitted plan stamped received in the Planning Office on June 8, 2020, subject to the following conditions:

1. Subject to permits and conditions of the Town Building Department.
2. Review and approval by the Erie County Health Department for any required modifications to the existing on-site septic system.
3. Unit shall be secondary to the principle dwelling and not converted to a rental unit.
4. Occupancy shall be limited to family members, paid employees, temporary guests or principle homeowner.
5. The property owner, or any future property owner, shall provide certification to the Town Planning & Zoning office and the Building Department on an annual basis that the unit is being used in conformance with the conditions of approval. Failure to submit the annual certification may result in the termination of the Special Exception Use Permit, resulting in a Zoning Violation subject to enforcement and penalties as outlined within Town Code Zoning Law Chapter 229-160 and 161 or any changes made to the Code of the Town of Clarence in the future.
6. Deed Restrictions shall be placed into the deed for the property, restricting its use so as not to allow the unit to be utilized or converted into a rental unit and requiring the Certification provided hereinabove and such. Such Deed Restriction language is to be submitted and approved by the Town Attorney’s Office prior to filing of the deed.
7. An Agreement shall be entered into between the property owner and the Town of Clarence. This Agreement shall require that the property owner prepare and record a Deed Restriction incorporating the conditions of approval which shall be placed into the property deed. The Agreement and Deed Restriction shall continue in perpetuity. A copy of the Agreement is required to be filed as an attachment to the deed, and shall be submitted to the Town Attorney’s Office prior to filing of the deed.
8. Proof of filing of the deed and Agreement is required and must be submitted to the Town Attorney’s Office prior to the issuance of a Certificate of Occupancy as issued by the Building Department.

Mr. Sackett asked Mr. Carrubba if he heard, understands, and agrees to the motion, which Mr. Carrubba responded yes.

**ON THE QUESTION:**

|                |     |                 |     |                |     |
|----------------|-----|-----------------|-----|----------------|-----|
| Jason Geasling | Aye | Jeffrey Buckley | Aye | Gregory Todaro | Aye |
| Wendy Salvati  | Aye | Richard Bigler  | Aye | Robert Sackett | Aye |

MOTION CARRIED.

Meeting adjourned at 10:19 p.m.

*Amy Major*  
*Senior Clerk Typist*