

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday March 29, 2017

Work Session 6:00 pm
Status of TEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:00 pm
Approval of Minutes

Item 1

Dr. Greg Daniel/Legacy Woods
Residential Single Family

Requests Preliminary Concept Review of a proposed Open Space Design Subdivision on the west side of Newhouse Road, north of Roll Road.

Item 2

Bevilacqua Development
Commercial

Requests Preliminary Concept Review of a proposed retail/restaurant plaza at 6031 Transit Road.

Item 3

RollMar Development
Industrial Business Park

Requests a Use Permit for a proposed Indoor Recreation Use north of 8630 Roll Road.

Item 4

Ben Schultz
Agricultural Rural Residential

Requests Subdivision Approval to create one (1) additional frontage lot on the south side of Stage Road, east of Ransom Road.

Chairman Robert Sackett called the meeting to order at 7:00 p.m. Councilman Christopher Greene led the pledge to the flag.

Planning Board Members present:

Chairman Robert Sackett
1st Vice-Chairman Richard Bigler
2nd Vice-Chairperson Wendy Salvati

Timothy Pazda
Gregory Todaro
Steven Dale

Jeffrey Buckley
Jason Geasling

Planning Board Members absent: none

Town Officials Present:

Director of Community Development James Callahan
Assistant Director of Community Development Jonathan Bleuer
Councilman Paul Shear Councilman Christopher Greene
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Kevin & Gail Sexton	Jenna Rutowski	Lily Heart	Kyle Roy
Matt Newcomb	Amanda Jordan Pugh	Chris Pugh	Lonny Lewis
Lynn Hemmings	Susan Campas	Beverly & Charles Vallone	
Dennis A Castiglia	Bailee Kliniecki	Joann & Mike Marinell	
Robert Michael	Ronald Benson	Robert Potzger	Sharie & Fred Ehlert
Ed & Jody Liszewski	Scott Wehrlin	Mike & Pat Malyn	Lorraine Oak
Michael Wesolowski	Ginine Capozzi		

Chairman Sackett noted that Agenda Item #3 RollMar Development has been removed from the agenda at the applicant’s request. Documentation is on file.

Motion by Timothy Pazda, seconded by Steven Dale, to **approve** the minutes of the meeting held on March 1, 2017, as written.

Jeffrey Buckley	Aye	Steven Dale	Aye
Gregory Todaro	Abstain	Timothy Pazda	Aye
Wendy Salvati	Abstain	Richard Bigler	Aye
Robert Sackett	Abstain		

MOTION CARRIED.

Chairman Sackett explained the protocol for the meeting noting that Mr. Callahan will introduce each project. The applicant will have the opportunity to add comments if he/she wishes. The Board members will ask questions of the applicant. Members of the audience are invited to widen the conversation, comments/questions will be limited to three (3) minutes per person, their questions will be taken as a collective whole. The applicant will address the questions that pertain to him/her, the Board will address the questions pertaining to the Board, and Mr. Callahan or the Town Attorney will answer any questions pertaining to the Town.

Item 1

Dr. Greg Daniel/Legacy Woods
Residential Single Family

Requests Preliminary Concept Review of a proposed Open Space Design Subdivision on the west side of Newhouse Road, north of Roll Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the west side of Newhouse Road, north of Roll Road and south of Clarence Center Road. The property consists of approximately 56+/- acres and is within Erie County Sewer District #5.

Chairman Sackett recused himself and left the dais. His paperwork for recusal is on file in the Town Clerks’ office. Vice-Chairman Bigler will chair this part of the meeting.

Vice-Chairman Bigler reminded the audience that their participation will be limited to three (3) minutes per speaker.

Sean Hopkins, of the Law Firm of Hopkins, Sorgi, and Romanowski, is present. Dr. Greg Daniel is also present along with the project engineer Matt Newcomb. Mr. Hopkins explained that this project was at

the Town Board on March 8, 2017 in which it was referred to the Planning Board to start the formal review process. They are not seeking approval this evening, they will provide an overview of the project and are hopeful the Planning Board will recommend the Town Board commence the coordinated environmental review pursuant to the State Environmental Quality Review Act. This project was previously proposed at 58 residential lots under the Newhouse Acres proposal and rely on the Incentive Lot Design Standards as opposed to the Open Space Design Standards, which the current proposal will rely on. One difference in the standards is in the Incentive Lot Design Standards the required permanent open space is 25%, under the Open Space Design Standards the permanent open space requirement is 50%. Mr. Hopkins also noted that previously there were lots proposed along the frontage of Newhouse Road. Neither the Town Board nor the Planning Board liked those frontage lots so they were removed from the plan. He also reported that the applicant has acquired the lot with the house on it on Newhouse Road, that acreage has been added into the project. Dr. Daniel has purchased the home and horse stable next to the project property, he also owns the project site. He has a vested interest in ensuring that this is a high quality community. Mr. Hopkins went on to explain that what they are proposing is permitted in the Residential Single Family zone, which is what the property is zoned. The proposed use is also consistent with the recommendations of the Town's recently adopted Master Plan.

Mr. Hopkins said the proposal is for 49 lots on 58.96 acres, this is a low-density subdivision, it equates to .83 lots per acre. Anything less than one (1) lot per acre is low-density. The applicant met with the Executive Committee on March 20, 2017, at that point the proposal was for 51 lots, however since then there have been two (2) lots, which would have been serviced by a private drive, removed. Those two (2) lots did not have the required frontage nor did they have the minimum required acreage. The minimum lot size being proposed is 15,000 square feet. The area in close proximity to Gott Creek will be preserved as open space. There is 32.31 acres of open space which is 54.8% of the project site. They made an effort to incorporate the Gott Creek corridor. The permanent open space will be subject to a deed restriction to be recorded at the Erie County Clerk's office, which assures everyone that that area will never be developed.

Mr. Hopkins went on to say that they are proposing an equestrian trail around the edges of the site. Mr. Daniel is interested in utilizing green design standards, which include, but is not limited to, using geothermal systems, solar panels, and high energy efficiency construction materials. Mr. Daniel's house next door features these designs. There will be a 30' easement along the Newhouse frontage that would accommodate a future recreational trail in the future, this was a request made by the Town.

The proposal is subject to the requirements of the State Environmental Quality Review Act (SEQRA). Which means all relevant and environmental impacts need to be identified before the Town Board can issue a decision on this project, the Planning Board and the Planning Department will assist in this task. The Town Board must take a hard look at each and every one of those impacts. The Town Board is also required to issue a SEQRA determination, the applicant feels it will be appropriate to issue a Negative Declaration when the time comes. One of the environmental impacts to be considered in association with this project is traffic. Passero Associates is in the process of a traffic study which will be submitted to the Town and Erie County once it is completed. Drainage also needs to be considered. An onsite storm water management system must be implemented on any project that will result in more than one (1) acre of impervious surface. That system will need to comply with the DEC's stringent quality and quantity standards including the need to retain a 100 year storm event. They will also need to look at wetlands, an update wetland delineation report was prepared by Wilson Environmental Technologies. That report indicated there are approximately 9.67 acres of Federal Wetlands on the site, 2.25 acres of those wetlands would not be jurisdictional. The boundaries of the Federal Wetlands are depicted on the site plan. The applicant has made an effort to minimize the impacts to those wetlands. A permit from

the Army Corp of Engineers will be required. The applicant has asked for a jurisdictional determination be issued by the Army Corp of Engineers and will provide that to the Town once it has been issued. There are no DEC Fresh Water Wetlands on the site. The Planning Department will provide the DEC, along with an assortment of Erie County Agencies, with the opportunity to comment. Those comments will come back to the Planning Board and the Town Board, anyone from the public may review them as well. The applicant will incorporate input from nearby property owners. If the neighbors would like to have a meeting, the applicant welcomes the opportunity.

Mrs. Salvati said the site plan doesn't show the access to the equestrian trail. Dr. Daniel explained that from the horse barn someone can easily cross the driveway and get over to the land, there is not much need to create a passage way at this time. Mrs. Salvati asked if an easement will be established. Dr. Daniel said there is no need for an easement because the horse barn is under an LLC for the properties and those who use the horse barn sign pertinent information indicating what their connection is to the property whether it be riding lessons or boarding a horse. Once the agreement is made they use the barn and can take the horses out. Of course, they only allow experienced riders to use the trail, they will not have horses running down the trail at 50 miles an hour.

Vice-Chairman Bigler noted that there is open land that is to be undisturbed, so perhaps there should be a trail or signs guiding people to the trail and around the pond. People should not be riding their horses over the neighbor's property. Dr. Daniel said the horses will leave the outdoor arena and cross the grassland area and enter on to the trail. It will not impact the neighboring properties.

In response to Mrs. Salvati's question about boarding horses, Dr. Daniel said yes he does, the barn will hold forty (40) horses. Presently, he has eight (8) horses that he uses for a lesson program and eight (8) boarders, for a total of sixteen (16) horses.

Mr. Todaro asked if the applicant is willing to sell a couple parcels if someone was interested in purchasing them and combining them, Dr. Daniel said yes. Mr. Todaro went on to ask if there will be sidewalks in the subdivision. Dr. Daniel has not considered sidewalks. Mr. Todaro asked what material will be used for the horse path. Dr. Daniel said they are considering rubberized material. He went on to say it will be a nice walking trail as well.

Mr. Dale referred to page 6 of the Environmental Assessment Form and said it is indicated that storm water will flow onto adjacent properties. He asked if the applicant has plans to prevent this from happening. Mr. Hopkins said that is not going to occur, that indication is an error on the EAF and it will be corrected. There are no plans to have storm water from the impervious surfaces run on to adjacent parcels, this will absolutely not happen. Mr. Dale referred to page 8 of the EAF in which lighting is discussed in terms of residential fixtures that are dark sky compliant. He went on to ask if the applicant plans on having street lights. Dr. Daniel said the plan is to have street lights, they will look into the height and dark sky compliant fixtures. Mr. Hopkins pointed out that this is a Town road so they have to have the lighting. Mr. Dale referred to page 10 of the EAF where it is indicated that there are no facilities that would serve children or the elderly, such as schools, hospitals, licensed daycare centers or group homes) within 1500 feet of this project. Mr. Dale thinks Vincroft is closer than that. Mr. Hopkins said he will check that. He will make all necessary corrections to the EAF and submit it to the Town before it is sent out for comments.

Mrs. Salvati questioned the lands that are preserved for open space, she asked if they will be left natural. Dr. Daniel said he has 28 acres on his property and that is grassland, so it has to be mowed to look

presentable. He will maintain the natural habitat as much as possible. Mr. Hopkins said the Army Corp of Engineers will want the vegetation along Gott Creek preserved.

Mr. Dale referred to page 3 of the EAF and said he is not sure that the Amherst Police Department service protects this area. Mr. Hopkins said he doesn't think they would be too interested in doing that.

Mr. Pazda questioned the rubber material proposed for the trail, since this will be a green community he thought mulch would be considered. Dr. Daniel explained that mulch decays at a faster rate and it would be torn apart before the summer is over. Rubber is much softer for the horses and pedestrians and will stay in place. Mr. Pazda asked if the applicant inquired about the school districts and getting the boundary line pushed so that the property is in one district. Mr. Hopkins said that is difficult to do, he attempted it with the previous project at this site and neither school district was inclined to consider it at all. Mr. Buckley asked that school buses in the morning hours and after school hours are taken into consideration when the traffic study is done. Mrs. Salvati asked if the applicant will get input from the school districts on the project. Mr. Hopkins said they will be sent the information as an interested agency.

Mr. Geasling asked why the side setback is six and a half feet (6-1/2'). The applicant wants an upscale neighborhood, does he really want two (2) houses thirteen feet (13') apart from each other. Mr. Hopkins will look at that as they move forward. He went on to explain that with an Open Space Design the typical setbacks don't apply, the Town Board will establish the precise setbacks that will apply to these houses.

Lorraine Oak, of 5899 Forest Creek Drive, asked how this fits in with the floodplain designation. She also asked if anyone has looked at the possible underlying Gypsum Mines in the area.

Dennis Castiglia, of 5853 Forest Creek Drive, voiced his concern regarding the inflow of water from Gott Creek. He went on to explain that 20 years ago when Ryan Homes built 125 homes to the south of him, they put large culverts in going to Gott Creek and they raised Highland Farms 6' higher than the north side of Forest Creek. The overflow has caused flooding, which he is very concerned with.

Ronald Benson, of 8335 Clarnew Drive, said Dr. Daniel has been a great neighbor, however, there is a water problem. Mr. Benson has paperwork from Bissell Merrill Associates of Williamsville dated March 28, 1977 which indicates test wells were drilled. At one point in time the ground water table was within two feet (2') of the surface of the ground. There were eleven (11) test wells that were drilled, some are still active, but many of them were back-filled. If still active they can be used to check ground water. There was some remediation work done on the circle at Clarnew, there was some drainage put in and a proposal for more work to be done but was not. They were pumping a million gallons of water a day out of the basement of one of the properties. Mr. Benson's concern is that all parties involved do their homework so no one gets burned with this project. Mr. Pazda asked if the test wells were drilled in Mr. Benson's neighborhood. Mr. Benson said there is one that was drilled north of Clarence Center Road, there are five (5) on Dr. Daniel's property.

Lonnie Lewis, of 8177 Roseville Lane, said he likes this plan a lot better than the previous plan. He voiced his concern with drainage in the area. When Highland Farms went in, his and his neighbor's backyards flooded. The project site is higher than Roseville Lane and Forest Creek. He said the National Gypsum Mines should be looked at, they run throughout the area. Once the mines fill up with water and they stop pumping them out, it changes the ground water. The ground water is very high, he has artesian springs in his yard. Vice-Chairman Bigler said NYS is stringent in their rules regarding drainage, the Town Engineer will look into this issue as the project progresses.

John Fisher, of 5835 Newhouse Road, voiced his concern regarding the problem with traffic, not just with this development but all the adjacent developments. He understands that sewers are going to be coming from the Creekwood Development into this area, and with this being the last major developable property on Newhouse Road, sewers will come in from the back which means the rest of the property owners on Newhouse Road are never going to have the opportunity to have sewers.

Scott Wehrin, of 5815 Forest Creek Drive, is the East Amherst Fire Department Chief. He has one of the culverts that runs from Highland Farms into the creek, he said literally the creek cannot handle the water that flows into that creek. From a fire department perspective he has a lot of concerns for all the water that is flowing into the creek, he has an issue on who to deal with that if they have to. He questioned the riding trail that will go around the property. He has had riders riding through the creek and has had to tell them they are on his property and please do not ride in the creek. What will prevent the horse riders from going off the trail into the open territory and coming back to the houses that are along Forest Creek? He is concerned with the water flow that is going to go from the retention pond into the creek. The culvert pipe that comes from Highland Farms is at max capacity and can't handle any more water. The water/drainage is his biggest concern.

Charles Vallone, of 5855 Forest Creek Drive, is concerned with the creek handling the water flow. There is a hairpin turn in the creek where it does a 180 degree reversal, so when it floods it goes over that. He questions the retention pond and where it is going to enter the creek.

Christopher Pugh, of 8181 Roseville Lane, shares the same concerns that everyone else has stated about the creeks ability to handle more water. There is a 90 degree bend near his property, then another 90 degree bend, water backs up on his property all the time. Even when the stream is not backed up, the water table is so high in his yard that it is just wet. It has been sinking, squishing wet for three (3) weeks. He needs to pay for flood insurance and that is not a cost he can control, when he moved there in 2012 it was \$1600, now it is \$3000. Flood insurance is based on the redrawing of the floodplain, Mr. Pugh is in the 500 year floodplain but because of the creek he pays the high risk insurance rate.

Amanda Jordan Pugh, of 8181 Roseville Lane, said the future high-end homeowners might be surprised to find out that they are in the 100 year floodplain, so their flood insurance will be quite expensive. She is surprised that the rubber mulch will be so close to the wetland and the stream. She also wonders how the horse and pedestrian trail will be policed and who will be enforcing that.

Mr. Hopkins said none of the homes they are showing will be located in the floodplain. He referred to the previous plan of 2008/2009 and said they will have to implement the required on-site storm water management system. Mr. Newcomb and his team will visit the site and see what the current rate of run-off is. The system that they design with the private roadway, the driveways, the rooftops, etc. have to be designed in such a way that they cannot increase from what is there today. The applicant is aware of this issue and will have to address it technically, the Engineering Department will have to review and approve the plan, which will also be provided to the DEC to ensure compliance with their standards.

Mr. Hopkins referred to the Gypsum Mines and said it was evaluated by the former TEQR Committee in 2008 and it was confirmed that the mines are not an issue. The applicant will follow-up on this.

Mr. Hopkins said in terms of sanitary sewer, the applicant will work with the Creekwood developer, as well as Angelo Natale. The applicant has had many discussions with Erie County Division of Sewerage Management and the applicant is required to pay for off-site improvements to provide required sanitary sewer capacity. The DEC's I and I policy states that for every gallon, on any project that is put in with

over 2,000 gallons of sanitary sewer per day, four (4) gallons must be taken out. So they will actually be taking sewerage out of the downstream sanitary sewer system.

Mr. Hopkins noted that they are having a traffic study done and once that is received it will be forwarded to the Town and to Erie County. When the applicant comes back for Development Plan Approval Mr. Newcomb’s team will prepare fully engineered plans and will be able to answer questions based on quantifying answers.

Vice-Chairman Bigler asked if the applicant is familiar with the ground water test holes that Mr. Benson was speaking of. Mr. Hopkins said yes and went on to say that there are portions of the site where seasonal water tables are high and as shallow as 1-3 feet, which is not that uncommon in Western NY. The high water table is primarily associated with Gott Creek. Mr. Hopkins said for each house built a foundation design must be submitted as part of the building permit review process which requires details of geo-technical information. The Building Department is aware that the applicant has to demonstrate based on the existing soils, and the existing water table that they meet the requirements as contained in the most recent version of the International Building Code which was update October 1, 2016.

Vice-Chairman Bigler asked if there will be sewer hook-ups for people in the neighborhood other than those who will be building in the proposed development. Mr. Hopkins said they will take a look at that. Dr. Daniel said on the west side of the road is Erie County Sewer District #5, after this development, there aren’t many homes, outside of his house, on that side of the road. The opposite side of the road is served by the Clarence Sewer District. Mrs. Salvati said the applicant would have to negotiate out-of-district.

Vice-Chairman Bigler asked about the horses veering off onto private property. Dr. Daniel confirmed that has not happened since he has owned the property, that was prior to his purchase of the property. Dr. Daniel has horses riding on the property now and that has not occurred. Everyone who uses a horse on Dr. Daniel’s property has to sign a written agreement, they will make sure trespassing does not occur.

ACTION:

Motion by Steven Dale, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to accept the Part 1 EAF as prepared but subject to the clients review and possible revision and to recommend to the Clarence Town Board to seek Lead Agency status and commence a coordinated review among involved agencies on the proposed Legacy Woods Open Space Design Development. This Type I Action involves the development of a 49+/- lot major subdivision on 55+/- acres along Newhouse Road in the Town of Clarence.

ON THE QUESTION:

The possible revisions to the EAF are those discussed this evening. Mr. Hopkins will submit the revised EAF to the Planning Office.

Jeffrey Buckley	Aye	Steven Dale	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Recuse		

MOTION CARRIED.

Chairman Sackett returns to the dais.

Item 2

Bevilacqua Development
Commercial

Requests Preliminary Concept Review of a proposed retail/restaurant plaza at 6031 Transit Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the east side of Transit Road, north of Clarence Center Road. It is existing vacant land, the former Buggy Wash site. The applicant is proposing to develop a retail/restaurant plaza and is present to introduce the concept to full the Planning Board.

Jonathan Bevilacqua, of Bevilacqua Development, is present and noted that the project has been to various Planning Board work sessions in which truck circulation, traffic, and pedestrian access have been discussed. The submitted plan addresses the comments of the Planning Board and is a much improved plan. A sidewalk has been added to be continuous around the building to allow pedestrians to access the store fronts from the rear parking spaces. They relocated the drive-thru lane to behind the rear parking lot. Originally, it was abutting the building which meant that pedestrians had to cross the drive-thru lane to access the plaza. They have increased the width of the pass lane and made the traffic two-ways which will improve the overall circulation of the plaza. They increased the side yard setback from 16' to 31-1/2'. They believe they have more than enough stacking spaces, there are 16 spaces provided. The increased side yard setback provides more width for trucks to access the property and to circulate throughout the site. This site plan improves connectivity between the proposed project and the overall Transit Meadows development by lining the drive isles between the two properties. The elevation of the proposed building shows Dryvit and incorporates a variety of building materials with stone, brick and metal overhangs as well as fabric awnings.

Chairman Sackett asked if the applicant has had discussions with NOCO about getting access to the south and out to the traffic signal. Mr. Bevilacqua said he has had discussions with NOCO and he points out that it is indicated on the site plan "potential future access" to the NOCO parcel, which is at the south side of the project site. Mr. Bevilacqua said the NOCO representative indicated that they are considering cross access in conjunction with their overall development plan for that parcel, however there is no time table for the development of that parcel. NOCO wants to see how it relates to the overall parking.

Chairman Sackett said a major concern is the egress and ingress to Transit Road and the location of the NOCO egress and ingress and the applicant's being so close. The Planning Board will await the DOT's comment on this issue. The comment may affect the final design. Chairman Sackett said, in his personal opinion, access to NOCO and out to the traffic signal will improve the project. Chairman Sackett referenced the required buffering of the parking area along Transit Road and suggested the applicant think about how that buffering will be done. Chairman Sackett referenced the elevation drawing and said it was dated before the changes in the Concept Plan. A list of materials needs to be supplied on the elevation. Any adjustments to dimensions should be updated as well.

Mr. Pazda applauded the applicant for having cross access to the parcel to the north but he thinks the proposal is over-parked. He suggested the applicant consider eliminating the back row of parking and use shared access and have people park in some of the other lots which would allow the applicant to get more green space on this property. It also might allow the drive-thru lane and the dumpsters to be located on the applicant's own parcel. Mr. Todaro added to Mr. Pazda's suggestion noting that if the applicant decided to sell the parcel, it would be self-contained.

Mrs. Salvati referenced the site plan, in which there is a white space at the back of the building between the sidewalk and the building, she asked what that white space is. Mr. Bevilacqua said it is greenspace. Mrs. Salvati said the applicant needs to label it as such. She asked if there will be doors at the back of the building for back/service entrances. Mr. Bevilacqua said the location of the rear doors are not indicated because they do not know the exact number of tenants they will have, there will be sidewalk connections and rear access to each of the service entrances. Mrs. Salvati is supportive of dropping some parking to avoid the encroachment that they will need an easement for. She asked why the paved area in the front of the building is wide. She asked if the applicant knows what the restaurant will be. Mr. Pazda asked what the drive-thru is for.

Mr. Buckley said his concern is if the drive-thru lane is still encroaching on the adjoining property at the Development Plan stage. He asked if the applicant is willing to submit documents showing details and that the cross usage is squared away for the Planning Board to consider as part of the approval for the overall development. Mr. Bevilacqua said yes. Chairman Sackett clarified that those agreements should be in place at the Concept Plan stage. He went on to say that a 4-sided elevation will be required at the Development Plan stage.

Mrs. Salvati said if there is an easement documentation it has to include the encroachment of the dumpsters as well as the drive-thru lane. The elevations are to show what the building materials are.

Mr. Bevilacqua said the cross access and easement agreements are on record, they run with the land. They were filed about a year ago and are for vehicle access and parking. They include this parcel, the Buffalo Pharmacy parcel and the Transit Meadows Development parcel. The agreements are broadly worded. He will forward the documents to the Deputy Town Attorney Steve Bengart.

Mr. Bevilacqua said earlier versions of the plan showed the drive-thru closer to the building but what drove the current location of the drive-thru lane and the dumpsters is lining up the drive isles with this parcel and Buffalo Pharmacy. Their engineer advised them that having the drive isles line up will facilitate the flow of traffic between the two parcels. Mr. Bevilacqua is willing to discuss removing a row of parking and re-working the drive-thru but he feels that would impede the flow of traffic. The amount of parking currently proposed is 51 spaces, the code requires 57 spaces for this parcel, so they are already under parked. For him to eliminate another 15 spaces, he would be providing 36 spaces when the code requires 57, 21 spaces short of what is required by code. Mr. Todaro questioned the cross access because if there are cars entering at another location on the site, what good is the cross access. Mr. Bevilacqua said the majority of the stacking will be in front of the building, there will be 10 spaces. There is an escape route proposed within the drive-thru lane, which is because the drive-thru lane is so long. Mr. Dale asked if the applicant considered traffic control given that there is a main pass-thru and a drive-thru, one should yield to the other without blocking any lanes. Mr. Bevilacqua said there is a Stop sign proposed and they are willing to add additional signage. Mr. Pazda said if they are not anticipating queuing to go around the back of the building, the driveway in the back would give plenty of opportunity to pass without having the drive-thru on the other parcel. Mr. Bevilacqua asked if the Board would be amenable to leaving the parking in place and the drive-thru lane in its existing form with nine (9) stacking spaces, this will allow the drive isles to still be aligned. Mrs. Salvati asked if the applicant would have to go to the Zoning Board of Appeals to get relief from the stacking requirement or if the Planning Board can negotiate that. Mr. Callahan said the Planning Board can look into that. This would enable the dumpsters to be moved and more greenspace to be added.

Mrs. Salvati said this is a tight design and if an easement could be avoided, that would work for her.

Chairman Sackett noted that the drive-thru permission is given by the Town Board, historically, they do not give permission for a drive-thru unless they know the tenant. If the Planning Board knew the tenant it might add some credence to the twelve (12) stacking spaces vs. nine (9). Mr. Bevilacqua said the proposed tenant is a restaurant user for quick service.

Mrs. Salvati said the number in the data table needs to be fixed for lot coverage, right now it says 70% is needed but the plan is only at 17.7% and that is because they didn't take into account impervious surfaces. She clarified that lot coverage is not just the building, it is anything that is being covered whether with a building or paving.

Mr. Pazda suggested the applicant move the greenspace that is proposed behind the building because he thinks it won't be kept green. Mr. Bevilacqua said there would be plantings of shrubs and bushes back there. Mechanical systems will be on the roof.

JoAnn Marinell, of 6055 Whitegate Crossing, is a member of the Board for Transit Woodbridge Association, which is the community she lives in. She strongly opposes any adding or the concept of the retail restaurant building at the medical facilities that are currently under construction. She said there are 42 restaurants between North French and the Lowes/Wegmans plaza on Transit Road, she went on to name them and continued by saying the idea that we need to have more fast food doesn't fly by us. They are a small community next door and with all this nothing has ever been said about their little development. As taxpayers of Clarence they are good neighbors of this construction site. They feel that they have not nor never have been taken into consideration any of the impact or damage that has been done to their homes from this project. They are a community of mostly retired individuals 70, 80 and 90 years old. They are the original owners and take pride in their homes and their intention was to stay there for the rest of their lives. They still have many issues with this development including the proximity to their property lines and the lack of privacy this has created to those residents who live on Whitegate Crossing and Wellesley Common; but as good neighbors they are trying to work things out with this developer, although it has been quite a challenge to get a hold of him. They demand that the Board as their public servants respect their needs and take into consideration their concerns without rubber stamping this project and put their community at risk and deplete their home values and the ability to live quietly and without harm within the limits of the spreading community that surround them. Chairman Sackett suggested the resident submit the letter she read so it can become part of the file.

Ginine Capozzi, of 6040 Whitegate Crossing, voiced her concern for any sort of drive-thru traffic congestion, she is concerned about the ongoing easements and any additional traffic. She has lived in the neighborhood for 14 years and the ability to get in and out of the neighborhood has become quite the challenge. There is only one exit/entrance into Woodbridge Village. The continuation of additional buildings and the number of spaces adjacent to the medical facility, is all part of a grander plan. They came to speak to the Board before about the aesthetics and they are very upset about the outcome of how that building looks and how close it is to their homes. She voiced his concerns about the conversations they have been trying to have around a landscape design but have been able to achieve. What will the HVAC units look like on the roof from the complete 360 view, it's not just the three angles? She strongly opposes the idea of a restaurant and more strongly not knowing who the tenant is with a drive-thru. It is heartbreaking to her that this is what is coming to her neighborhood.

The resident of 6036 Wellesely Common is present and said they are building medical offices next to her back yard. She was told last year it would only be medical offices and will be quiet after 6pm. But now they changed the design to a proposed retail restaurant so there will be people around into late night hours. She is concerned about the safety of her house. Last year the robbery happened at Zoe Restaurant

so there will be potentially dangerous people driving around our area late into the night. There is no barrier between the property and her backyard.

Art Edelman, of 6176 Highgrove, is strongly opposed to this proposal. He said this is a residential development that is essentially being Niagara Falls Boulevard, they will essentially be an island in a sea of fast food restaurants, drive-thrus, traffic and excessive noise. He has lived here for 20 years and to get out on to Transit Road to go to work is the worst he has ever seen. He asked how many tenants will be in the building and he asked what a retail restaurant building means. This will degrade the surrounding property values. He asked the Board to consider the impact on this quiet neighborhood which has become an island in a sea of commercialism.

Bridgette Preston Gianturco owns 5995 and 6080 Whitegate Crossing and is the treasurer of the Woodbridge Homeowners Association. When she bought in Woodbridge many years ago she was told what a unique development it was, it is difficult to compare the homes in Woodbridge to others in the area because of type of structure of the homes, downstairs masters, basically the forefront of the patio home. It is all cul-de-sacs and one egress and exit point. So when 5 or 6 homes are negatively impacted in this development you actually negatively impact 58 homes. She referred to the medical building and said the height of the building is unacceptable, she does not know why the building height has to be so high for a single story building. She assumes the rear of the premises is going to match the medical campus. Those buildings are 20' high, adjacent property owners look straight into those windows and they look straight into the adjacent property owners windows. Ms. Preston Gianturco said the back of the buildings are extremely ugly. The neighbors were promised greenspace, there were supposed to be berms, the berms were taken away and there are drainage ditches there. The drainage ditch runs not even a foot space from their fence. There is no space for trees to be planted between the drainage ditch and the extremely ugly buildings. She said the greenspace is irrelevant. They tried to meet with the developer to discuss their concerns. They ask for the same protection as those neighbors on Newhouse Road. She thinks it is dangerous to have vehicles move through NOCO, she uses that gas station and there isn't space to have people move through it, to the traffic light.

Scott Wehrlin, of 5815 Forest Creek Drive, voiced his concern saying that if the restaurant at Transit and Clarence Center was open at the same time as the proposed restaurant, there would not be enough parking. When The Oak Stave is in operation they overflow into the Urgent Care parking lot next door and that parking lot is ticketing people for parking there. Deputy Town Attorney said that is not true anymore, that situation has been taken care of. Mr. Wehrlin said the parking is so tight that it is hard for him to get his apparatus though in case of an emergency.

Mr. Bevilacqua said he agrees with the fire chief and should retain as much parking onsite as possible. He referred to the use and character comments and noted that they are zoned appropriately and the use is consistent with the surrounding neighborhood, they are meeting the requirements of the Zoning Ordinance. The building will be a multi-tenant building and will have 3-4 tenants. The building does not match the design of the medical buildings, it is different. This site was the former Buggy Wash which was an eye sore. There were various issues with the building and the parking lot was not maintained. The new building will be a much improved design consistent with the neighborhood. The height of the building is consistent with the surrounding buildings, it is under 35' which is within code. All the existing buildings in the complex are one-story and are not 35' high.

Mrs. Salvati asked if there was any change in use in the back of the complex. Mr. Bevilacqua said there has been no change in use from medical to retail.

Mr. Bevilacqua referenced the comment made about the landscaping design and noted that he did submit a landscape plan with the Development Site Plan and they are obligated to install the landscaping pursuant to that plan, so at this stage in that development they are building what has been approved by the Board. He does not have the authority to go back and make changes to that project. Chairman Sackett clarified that the meeting this evening is for the proposed project listed on the agenda. When the proposal goes for coordinated review it will go to the NYS DOT because Transit Road is a state road and they (DOT) will review the impact on surrounding streets with respect to curb cuts, traffic, etc.

Mr. Pazda asked if the walk in front of the building was made larger in anticipation of future outside dining. Mr. Bevilacqua said it is mainly for aesthetics and would be able to accommodate outside seating or patio chairs out front.

ACTION:

Motion by Timothy Pazda, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to accept the Part 1 EAF as prepared and to seek Lead Agency status and **commence** a coordinated review among involved agencies on the proposed Bevilacqua Development Restaurant/Retail Plaza located at 6031 Transit Road. This Unlisted Action involves the development of a commercial plaza with a drive-thru facility in the commercial zone along Transit Road in the Town of Clarence.

Jeffrey Buckley	Aye	Steven Dale	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Item 3

RollMar Development Industrial Business Park	Requests a Use Permit for a proposed Indoor Recreation Use north of 8630 Roll Road.
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This item has been removed from the agenda at the applicant’s request.

Item 4

Ben Schultz Agricultural Rural Residential	Requests Subdivision Approval to create one (1) additional frontage lot on the south side of Stage Road, east of Ransom Road.
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DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the south side of Stage Road, east of Ransom Road. It is existing vacant land located in the Agricultural Rural Residential Zone. The applicant is proposing a Minor Subdivision to create one (1) new residential building lot.

Ben Schultz is present and explained he wants to take a five (5) acre lot and split it into two lots to make it more desirable.

ACTION:

Motion by Wendy Salvati, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to accept the SEAF as prepared and to **issue** a Negative Declaration on the proposed Schultz Minor Subdivision located on the south side of Stage Road east of Ransom Road. This Unlisted Action involves a minor subdivision to create one (1) new residential building lot in the Agriculture Rural Residential Zone. After thorough review of the submitted survey and SEAF, it is determined that the proposed action will not have a significant negative impact upon the environment.

Jeffrey Buckley	Aye	Steven Dale	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

ACTION:

Motion by Wendy Salvati, seconded by Gregory Todaro, to **approve** the minor subdivision as submitted by Schultz Realty on the south side of Stage Road east of Ransom Road as per the submitted surveys dated December 16, 2015, with the following conditions:

1. Review and approval by the Erie County Health Department for future on-site sanitary facilities.
2. Review and approval by the Erie County Department of Public Works on all future access points to Stage Road.
3. Review and approval by the Town Building and Engineering Department on future building permits.
4. Open Space and Recreation Fees on future building permits.

Jeffrey Buckley	Aye	Steven Dale	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Meeting adjourned at 8:47p.m.

Carolyn Delgato
Senior Clerk Typist