

Town of Clarence  
Planning Board Minutes  
Wednesday April 3, 2013

**Work Session 6:30 pm**

Status of TEQR Coordinated Reviews  
Review of Agenda Items  
Miscellaneous

**Agenda Items 7:30 pm**

Approval of Minutes

**Item 1**

Spaulding Lake Homeowners Association  
Planned Unit Residential Development

Requests creation of a Town Sewer District to service the existing Residential Subdivision.

**Item 2**

Kulback's Inc.  
Residential Single Family

Requests a Master Plan 2015 Amendment to allow for a Zone Change from Residential to Restricted Business on Wehrle Drive east of Foxwood Lane.

**Item 3**

Spaulding Green/Dominic Piestrak  
Residential Single Family

Requests an Amendment to the original Concept Plan to allow for Phase Eleven (11).

**Item 4**

Dave Sutton  
Restricted Business

Request an Action under the State Environmental Quality Review Act (SEQRA) and Concept Plan Approval for a Mixed-Use project at 8825 Sheridan Drive.

**Item 5**

Dave Sutton  
Major Arterial

Requests Preliminary Concept Review of a proposed Mixed-Use project at 6449 Transit Road.

Chairman Robert Sackett called the meeting to order at 7:30 p.m. Jim Callahan led the pledge to the flag.

Planning Board Members present:

Chairman Robert Sackett  
2<sup>nd</sup> Vice-Chairman Paul Shear  
George Van Nest

Vice-Chairperson Wendy Salvati  
Timothy Pazda  
Richard Bigler

Planning Board Members absent: Gregory Todaro and Steve Dale

Town Officials Present:

Director of Community Development James Callahan  
 Junior Planner Michael Hutchinson  
 Councilman Peter DiCostanzo  
 Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Ralph Lorigo	Peter Worrall
Jeff Hawkes	Tom Bull
Eileen Bull	Howard Mandell
Robert Kajdas	Steven Jagord
Geoff Hallam	Renee Hallam
Philip Henderson	Marion Henderson
Karen A. Kish	Louis Kish Jr.
Jennifer Gallagher	Karen Hyler
Gary Jason	Paul Cambria
Elizabeth Maher	Jake Morse
Jessica Lewer	Christopher Barbolini
Ryan Rego	Morgan Friedman
Jerry Ritch	Ryan Mills
Gary Wright	

Chairman Sackett explained that Mr. Callahan will introduce each agenda item; the petitioner will then address the Board. The Board members will discuss the project with the petitioner. The public will then be invited to comment on the project. The petitioner will address the public comment if possible. All five agenda items are recommendations to the Town Board; the Planning Board does not have the authority to make the final decision on any agenda item this evening.

### **Item 1**

Spaulding Lake Homeowners Association  
 Planned Unit Residential Development

Requests creation of a Town Sewer District to  
 service the existing Residential Subdivision.

### **DISCUSSION:**

Jim Callahan provided the background on the project noting that it is located east of Goodrich Road, north of Main Street. It is an existing residential subdivision operating on a private sewer treatment plant. The applicant is seeking Town Board approval to create a sewer district; this would service the existing community. A review will include the involvement of multiple jurisdictions and the initial step involves the State Environmental Quality Review Act process and a determination of Lead Agency. The applicant is present to initiate the environmental review process.

Paul Cambria, president of the Spaulding Lake Homeowners Association, he is representing the petitioners asking the Town to create a sewer district to service the 265 existing homes in Spaulding Lake, soon to be 268 homes. Mr. Cambria said it appeared that the Town Board members were in favor of this project. They are in the process of rehabbing the treatment plant, there have been some

issues with it and they are working through those. They could replace it, but Mr. Cambria thinks the better process would be to have a state-of-the-art sewage treatment facility by virtue of a sewer. Instead of depositing treated material into the creek and the soil, they would cart it away and off to a treatment plant. The treatment plant is in Amherst.

Chairman Sackett asked what would happen to the present treatment plant. He also asked how the applicant will accommodate the capacity needed to get to the plant. Mr. Cambria said the existing plant will be dismantled and the equipment would be salvaged. The community would decide what to do with the parcel itself. Whatever happens on that parcel will conform to the Town rules and regulations. There have been a number of proposals as to how this project would work, what would be necessary to withstand the existing line in Amherst and how that would be financed. Mr. Cambria said they are in a position at Spaulding Lake to carry the laboring oar as far as the financing is concerned. But clearly from this standpoint going forward it is a matter of environmental reviews and the recommendation of this Board and ultimately the decision of the Town Board. Mr. Cambria said it would be a joint project and has been told by individuals who are principles in the current lines that they already have cost estimates for doing the various improvements. The Spaulding Lake end of it would be approximately \$600,000 and they have already made arrangements for that so they are ready. Mr. Cambria has had conversations with the DEC and said they seem to be in favor of this project as opposed to using a treatment plant which involves depositing treated materials in Gott Creek and into the soil. He has been told that Amherst is receptive to the connection.

Mrs. Salvati said by undertaking the improvements in Amherst for a parallel line to the Peanut Line, will that provide additional capacity beyond what the applicant would need for the 268 units in Spaulding? Mr. Cambria does not know. Mrs. Salvati said the Planning Board needs to look at what else could potentially utilize this line and are there environmental impacts associated with that. Mr. Cambria said if there was an additional request it would be a separate matter that would be dealt with separately. It is confirmed that the total number of lots is 274.

Mr. Shear said that in order for this project to go forward, at some point, it has to tie into the Heise Brookhaven Trunk Sewer Line. He asked if the applicant secured any type of agreement with regards to this matter. Mr. Cambria has not personally secured an agreement, the moving force as far as connections and the actual mechanics are the people who own the various lines; so those would be the people to talk to about the agreement. Mr. Cambria is not aware of an agreement. There was a preliminary meeting with the Supervisor and at that time there was going to be a "reach-out" to Amherst individuals to see if there was reception and Mr. Cambria was told that there is reception, so there isn't anyone obstructing the project. Mr. Cambria said that the various Town Board members and the Supervisor have expressed great support for this project and encouraged the applicant to move forward.

Fred Cimato, developer, said the officers of Heise-Brookhaven are Tony Cimato and Kevin Curry. No contact has been made with those officers regarding this matter. Before anything is done Mr. Cimato would like to have a sit-down and talk regarding this project going forward. It is a private sewer that the applicant will be connected into. He agreed that the parallel line is something separate than what is being proposed tonight. Mr. Cimato would like to know who is funding the piece from the Heise-Brookhaven to the treatment plant and how it is going to get there. What kind of capacity are they taking away from the Heise-Brookhaven Sewer Line. The Town had a limitation on where they could tie into, as did the members of the Heise-Brookhaven. Mr. Cimato wants to make sure everybody falls into the same category.

Mr. Cambria said he had two (2) discussions with Mr. Cimato in which he indicated to him that if everybody is convinced that this is a good project, they'll figure out how to make it happen and will address his concerns as well as the others. He encouraged a meeting but doesn't think that should block the project from moving forward.

**ACTION:**

Motion by Paul Shear, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 EAF as prepared and **recommend** that the Town Board seek Lead Agency status and commence a coordinated review among involved agencies on the proposed Spaulding Lake Subdivision Sewer District. This Type I Action involves the creation of a Town Sewer District to service the 274 existing and potential homes of Spaulding Lake and the development of additional downstream capacity within the transmission/distribution system to reach the Town of Amherst Wastewater Treatment Facility.

**ON THE QUESTION:**

Mrs. Salvati referred to the EAF and said it was written out for the 265 plus homes, but if they are opening up capacity that may serve other areas, should that be part of this EAF? Mr. Callahan said the Part I includes the discussion associated with the parallel line as well as other areas of the Town, that will be a part of the overall review process. Once comments are received from the involved agencies it can be detailed with the exact type of implications there are for future growth scenarios.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Paul Shear	Aye
Wendy Salvati	Aye	Robert Sackett	Aye

MOTION CARRIED.

**Item 2**

Kulback's Inc.  
Residential Single Family

Requests a Master Plan 2015 Amendment to allow for a Zone Change from Residential to Restricted Business on Wehrle Drive east of Foxwood Lane.

**DISCUSSION:**

Jim Callahan provides the background on the project noting that the property is located on the north side of Wehrle Drive, east of Foxwood Lane. It is currently zoned Residential Single Family and the applicant is seeking a Master Plan 2015 amendment to allow for a change in the zoning to a Commercial classification. Per Master Plan 2015 review process, detailed in Chapter 11, the Planning Board has an opportunity to review and comment on any proposed changes to that Master Plan. This particular request was forwarded by the Town Board from the annual review of Master Plan 2015 held on February 27, 2013.

Ralph Lorigo is the attorney for Kulback's Construction and will be representing the applicant. Brian Noble owns the property that is immediately to the west of this property at 8310 Wehrle Drive. Mr. Noble bought that building a couple years ago. He owns a company called Alternative Collection Services, this company does asset recovery for banks and major lending institutions around the

company. This is simply a staff position with employees, there is nothing that comes in or out of that building, it is not a retail location of any kind, it is a call center. The business has grown and the owner needs more space. Mr. Noble is looking to place a structure on this property that is similar in design to the building that is on the property next to it. The design consists of a brick building and shingled roof. There are beautiful homes behind this property, Mr. Noble's plan calls for a fence and landscaping along the back of the property to buffer those residents. Mr. Noble will accommodate whatever request is made for the buffering in the back of the property. Mr. Lorigo noted that there is a restaurant/bar across the street that is substantially right on the street itself. The proposed building would buffer the residents in terms of noise with regards to the properties in the back.

Chairman Sackett clarified for the audience that this request is for a Master Plan amendment not a particular use. Mr. Callahan noted that a rezoning of the property could only occur if the Master Plan was amended.

Chairman Sackett asked if the property is serviced by sewer, Mr. Lorigo does not know. Mr. Lorigo said there are no wetlands on the property; he is presuming there is access to public sewer on that property.

Chairman Sackett said the Board has to look at all possible uses of the property based on the request. Without a sewer it makes it difficult to look at alternate uses. The property is just under an acre in size. The alternate use that was proposed by Mr. Lorigo's client would not meet building codes as they now exist. Chairman Sackett cannot justify supporting a Master Plan amendment when he does not have an alternative use that meets code in front of him.

Mr. Lorigo said he doubts that anyone would purchase this property for residential construction, given what this property is and where it is located. The proposed building would be adjusted to what the codes allow.

Mrs. Salvati said the Board needs to look at this generically in the sense that it is currently zoned residential, what could happen there under residential use? In determining that the property is less than one acre in size, it is not certain that one house could be built on it because it is not sewer. If it is not in a sewer district it may not be able to be developed for residential use. If it were to be developed for commercial use it would have to be in accordance with the current law, which has changed since the first building went up. There would have to be a 45' greenbelt adjacent to residential use, which would decrease the size of a structure that could go on this site. Residential use is to the east and north of the site.

Mr. Shear suggested connectivity to the building to the west of the site and possibly a lack of a curb cut to the street. He agreed with Mrs. Salvati's statement regarding the size of the site may not even accommodate a residential single family home. If the Board entertains a change in the Master Plan amendment, there is no reason to change the Master Plan amendment if the piece of property will not, in the future, accept a commercial application.

Mr. Lorigo said a 4,000 square foot building could be built on the parcel, given the information that was just provided to him. Deputy Town Attorney Steve Bengart said this is a discussion to have with the Planning and Zoning Office before the applicant invests a lot of money into the project.

Marian Henderson, of 4040 Clardon Drive, said she understands that Wehrle Drive is going to be widened on both sides of the road. This will further reduce the property that is available on the parcel in question. It is clarified that Wehrle Drive is a County Road.

Renee Hallam lives on the property directly behind the parcel in question with her husband and three children. She is a local real estate agent and she has a good sense of what happens to property values when any type of commercial building gets put behind her property. She and her husband bought the property in 2005 knowing that the property behind them was residential. They invested money and made improvements to their home to keep their value and to raise their equity. She said there is something called external obsolescence, which states that if there is a commercial building near your property, automatically appraisers start deducting money, this is something you cannot control. If a building goes there, the values of the homes automatically decrease. Mrs. Hallam said she intentionally moved into Clarence knowing that home values are appreciating. She voiced her concerns over how the parcel was purchased and the intentions of the purchaser. Mrs. Hallam said the lot with current building that is at 8310 Wehrle Drive as well as the land where the houses are behind that building were once zoned Agricultural. Before those houses went in there, there was a petition that asked for that to be changed. Subsequently, when this lot became a commercial building, those houses that were built after had the information that there was a commercial building behind them and they therefore paid a substantially less amount of money for those houses with that commercial lot behind them. If this project is approved she has been robbed of that advantage. She also voiced concerns about the existing buffer. She asked that the Board not allow this building to go up.

Tom Bull, of 4035 Susan Drive, references the traffic pattern and said he was told by the County that another curb cut cannot be made in that area. The traffic on Wehrle Drive if you go in and out of his neighborhood is terrible; to put another opening across the street from the Rose Garden to try and make a left and right turn out of there is a disaster waiting to happen. He is sure the County will widen the road. He referred to the Master Plan concept and asked the Board to consider if we need another office building in the Town of Clarence. He counted 12 available office spaces for lease coming down from Susan Drive to Goodrich Road. Mr. Bull appeared before the same Planning Board with the same concerns when those other offices went in, Mr. Frey promised him there would be buffer areas and they bulldozed it right down. He does not want the same thing to happen here. He also noted that Mr. Noble did not build that building so he did not beautify it, another builder built that building and it sat for two and a half years before Mr. Noble took it over.

Chairman Sackett noted that the building to the west was built when the Town required a 25' buffer. Now that the requirement is a 45' buffer, the Board is questioning what possibilities are at that site.

Mr. Bull said the neighbors were organized and each bought part of the parcel behind their homes to protect themselves from something like this. When the Hallam's bought their property, that parcel behind their property was not sold to them.

Mr. Lorigo said the Board has to balance all the neighbor's issues with the owner's right to be able to utilize the property. The first issue is what can an effective use of the property be and is the owner of the property making a reasonable request within the scope of the utilization.

#### **ACTION:**

Motion by Wendy Salvati, seconded by Paul Shear, to **table** the referred proposed Master Plan 2015 Amendment related to a change of zone from Residential to Restricted Business to allow the applicant

and the Planning Board time to investigate the alternative land use options and potential designs that conform to required setbacks on future zoning classifications on Wehrle Drive east of Foxwood Drive.

**ON THE QUESTION:**

Paul Shear noted that this is an opportunity for the Planning Board and Planning Department to see if any reasonable commercial project can go on that piece of property. It is not his intention to arbitrarily change the Master Plan for no apparent reason.

Timothy Pazda noted that other Master Plan amendment changes that were brought up went through a process that included a considerable amount of study. He does not believe this will happen in a month's time.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Paul Shear	Aye
Wendy Salvati	Aye	Robert Sackett	Aye

MOTION CARRIED.

**Item 3**

Spaulding Green/Dominic Piestrak  
Residential Single Family

Requests an Amendment to the original Concept  
Plan to allow for Phase Eleven (11).

**DISCUSSION:**

Jim Callahan provided the background on the project noting that it is located east of Goodrich Road and north of Greiner Road. It is an existing Open Space Design Subdivision originally approved in 2008. The applicant is seeking a recommendation to proceed with an amendment to the original Concept Plan to hold on previously approved Phases 9 and 10, and to include a new Phase 11. Phase 11 would include approximately 33 patio home lots. All conditions of the original approval in terms of Open Space and number of lots would be maintained.

Dominic Piestrak is present.

At Mr. Pazda's request, Phases 9 and 10 are pointed out on the Power Point presentation.

Chairman Sackett asked for details on the bike path.

Mr. Callahan said what was approved in the Concept Plan was a bike path that would extend from Goodrich Road along the frontage and then extend back. It would also extend up along the existing gas easement. This would be the north/south connector that the Town needs. Chairman Sackett asked how the bike path gets to Phase 11. Mr. Piestrak said there is an existing easement that runs to the Middle School, this would give the possibility of using an easement without acquiring land or disrupting anything to get to the Middle School. The path will go beyond Kraus Road, east to the Middle School. Mr. Pazda asked if the bike path will be allowed to go there. Mr. Callahan clarified that the proposed bike path was part of the original Negative Declaration on the approval of that sewer line.

Mrs. Salvati is concerned with the density in Phase 11, she thinks it is out of character with what surrounds it. It would be more in character with something that is closer to Clarence Center. It is in an area that doesn't connect with anything except into the development. Mr. Piestrak said it fits in the Open Space. It is a different product that he anticipates the buyers will own summer homes in Buffalo and winter homes in Florida. He described the product as having a greenhouse within your house; instead of having backyards, it utilizes the greenspace between the houses and leaves the backyards untouched. The lots shown on the plan will not be completely covered by a structure. Mr. Piestrak has had conversations with the owners of the property bordering the proposed project site. He has agreements regarding buffer zones and screens with that neighbor. The proposed structures would be 1,500 to 2,000 square feet in size. There will be no windows on the back of the structures. Even though the average lot is 100' deep, only 70' of it will be used. Mr. Piestrak is the builder. The people he will sell to are in the area for 4-5 months a year.

Mrs. Salvati voices another concern saying that other phases of Spaulding Green that were to be townhouses or condominiums, the structures going on those lots don't look like what one would envision as a condominium. She is concerned that is something that might happen here with this type of density.

Phases 9 and 10 are temporarily off the plan; Mr. Piestrak said there is enough room for them to come back. They are being taken off the plan now because of sewer capacity. Phase 11 takes the plan to 380 units. It is clarified that Phases 9 and 10 will only come back if sewer capacity is gained by some other means.

Steve Shaw is Mr. Piestrak's attorney but he lives off Paddock View Drive. He owns property around the site and he has talked to the neighbors who have all been favorably impressed with what Mr. Piestrak has had to say.

**ACTION:**

Motion by Richard Bigler, seconded by George Van Nest, to **recommend** to the Town Board, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 2 and 3 EAF as prepared and issue a Negative Declaration on the proposed amendment to the Spaulding Greens Open Space Design Development overall Concept Plan. This proposed amendment identifies a prioritization for use of available sewer taps for a proposed Phase 11 and places a hold on previously approved Phases 9 and 10.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Paul Shear	Aye
Wendy Salvati	Aye	Robert Sackett	Aye

MOTION CARRIED.

**ACTION:**

Motion by Richard Bigler, seconded by George Van Nest, to **recommend** to the Town Board that amended concept plan be approved as described in the GPI Overall Concept Map dated January 2013, identifying that future Phases 9 and 10 are identified as exceptions and Phase 11 is prioritized for sewer capacity utilization.



**ON THE QUESTION:**

Mr. Pazda said that what the applicant has done is add to the overall count with this project from when it was first proposed. Mr. Piestrak said he added but they also deleted. Mrs. Salvati said the project is still at 380 which was the original number, the applicant cannot exceed that. By taking Phases 9 and 10 out and adding Phase 11, it balanced out. They cannot add Phase 9 and 10 back in unless they get sewer capacity by some other means aka the trunk line to Spaulding Lake, which would take another environmental review.

Mr. Pazda’s concern is that when the overall traffic study was done this proposal was not included and now the applicant will be increasing the traffic by adding this Phase. Mrs. Salvati said the unit count is still at 380 with this amendment. The environmental issues may have to be revisited if Phases 9 and 10 come back.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Paul Shear	Aye
Wendy Salvati	Aye	Robert Sackett	Aye

MOTION CARRIED.

**Item 4**

Dave Sutton  
Restricted Business

Requests an Action under the State Environmental Quality Review Act (SEQRA) and Concept Plan Approval for a Mixed-Use project at 8825 Sheridan Drive.

**DISCUSSION:**

Jim Callahan provided the background on the project noting that it is located at the southwest corner of Sheridan Drive and Overlook Drive. It is existing mixed-use located in the Restricted Business Zone. The applicant is proposing to renovate the existing structures and add two (2) residential units. The project was referred from the Town Board at the March 13, 2013 meeting.

Mike Berger, of Sutton Architects, is present. He explained that he is proposing a major renovation to the existing structure and to create 2 new retail locations with apartments on the second floor. The existing parking will remain; they are proposing an additional 10 spaces on the side to accommodate the new business that is on the first floor. The intent would be to re-stripe the existing parking, keep the existing curb to utilize access into the new parking. It is clarified that the property has one giant curb cut. They cannot make it a narrower curb cut because they need access into the adjacent ten (10) spaces.

Chairman Sackett asked what calculations the applicant used to determine the parking spaces. Mr. Berger said it was based on the proposed occupants of the first floor, one being a doctor’s office. The 10 additional spaces are what is required for the two businesses down below. The overall project is 3,000 square feet in size. It is clarified that this does not include the existing house. The footprint is 1500 square feet of commercial use on the first floor and the applicant will build on top of that making the second floor 1500 square feet for residential use. Mr. Berger’s clients have tentative agreements with tenants, one of which is a doctor’s office, another one being a business office; they used the parking criteria to meet the needs of these two businesses.

Mr. Pazda asked if the code allows the large curb cut. It is clarified that it is an existing curb cut that the applicant will utilize.

Mrs. Salvati said there are 20 parking spaces but the applicant needs 23, per her calculations. She asked how the structure will be divided for the businesses. Mr. Berger said they do not have those details yet. Mrs. Salvati said the applicant actually needs 16 spaces, but the plan only shows 14. She broke it down by saying 2 parking spaces are needed for each of the dwelling units and 12 spaces are needed for the businesses. She asked if it is necessary for the applicant to build the row of parking along Sheridan Drive that is shown on the plan. Mr. Berger said it was his belief that they needed that parking, if they need to recalculate, they will. Mrs. Salvati said the only trees that exist on the site happen to be where that extra parking is, she would hate to see those trees go. Mr. Berger said they are re-instituting some landscaping, some buffering around the parking area and the islands in the two parking areas will have landscaping. Although they are tight on space, they want to introduce planter boxes and other landscaping in the front of the property.

Jennifer Gallagher lives on West Overlook Drive and said this is a considerable improvement to what has been there for years, it has been a real eyesore in the neighborhood. She is concerned about the treed area and the size of the building because it is quite higher than the rest of the homes in the area. She is also concerned with the parking proposed along Sheridan Drive. There is no driveway to the house. She said the proposed parking seems excessive. She asked if the existing house will be improved.

Beth Maher lives on Overlook Drive and wants a definition of Restricted Business Zoning. She agrees that this place has been an eyesore for years. She would love to see something on the order of what they did with the chiropractor's office across the street. She said the proposed structure seems much too big a building for this residential area. There is a beautiful maple tree on the site.

Mr. Callahan explained that Restricted Business means no retail; office space is an allowed use. As far as Ms. Maher is concerned, she said a "doc-in-a-box" is retail.

Mr. Berger said he cannot speak to the actual nature of the businesses, but the intent is a doctor-type establishment and a business office. This is only at Concept level now. He is not aware of any improvements to the existing house at this time. The building is a two-story with a pitched roof; it is not too dissimilar to residential places. The height of the proposed structure is 25'.

Mr. Berger believes the existing house is going to be renovated and rented out but that is not in the scope he is working with right now. Mrs. Salvati said there should be a sidewalk connection that will go from the parking spaces (for the tenants of the house) to the house.

Mrs. Salvati said the applicant shows 10 spaces along the front of the proposed structure, 4 on the north side and 6 additional spaces that face out along Sheridan Drive, this totals 20 spaces, he needs 18: 2 for the existing structure, 2 each for the dwelling units on the second story of the new building, 8 for the medical use and 4 for the office space.

Mr. Pazda said this project, as proposed, meets all current codes. Chairman Sackett said the project would require a super majority vote of the Town Board for a Special Exception Use Permit (SEUP). Mr. Callahan explained the reason for the SEUP is because of the three units in total on the property, which transfers from a duplex to a multi-family.

**ACTION:**

Motion by George Van Nest, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** to the Town Board to **accept** the Short EAF as prepared and amended and issue a Negative Declaration on the proposed new construction and renovations at 8825 Sheridan Drive. This Unlisted Action involves the renovations and new construction to allow for two new residential units and rehabilitation of existing commercial and residential space per the plans submitted by Sutton Architects dated 1/25/13.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Paul Shear	Aye
Wendy Salvati	Aye	Robert Sackett	Aye

MOTION CARRIED.

**ACTION:**

Motion by George Van Nest, seconded by Wendy Salvati, to **recommend approval** of a Special Exception Use Permit and architectural approval on the proposed new construction and renovations at 8825 Sheridan Drive based upon the drawings submitted by Sutton Architects dated 1/25/13. This recommendation is conditioned on the following items:

1. Subject to approval and required permits from the Engineering and Building Departments.
2. Subject to Landscape Committee approval prior to issuance of a Certificate of Occupancy.
3. Subject to required health department approval on the on-site sanitary facilities.
4. Subject to the addition of a sidewalk to the new parking lot shown on the plans of Sutton Architects dated 1/25/13 to the existing residential structure.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Paul Shear	Aye
Wendy Salvati	Aye	Robert Sackett	Aye

MOTION CARRIED.

**Item 5**

Dave Sutton  
Major Arterial

Requests Preliminary Concept Review of a proposed Mixed-Use project at 6449 Transit Road.

**DISCUSSION:**

Jim Callahan provided the background on the project noting that it is located on the east side of Transit Road, north of Old Post Road. It is existing residential property located in the Major Arterial Zone.

The applicant is proposing to demolish the existing home and construct a new mixed-use structure. Per the Zoning Law, the Town Board has final approval authority for the multiple family residential use with a Special Exception Use Permit (SEUP).

Mike Berger of Sutton Architecture is present. He explained that the proposal is for the construction of four (4) boutiques/special use retail establishments on the first floor and four (4) luxury apartments on the second floor with attached garages in the rear. There will be patios above the garages. Parking will be on the front and rear sides to accommodate. The total square feet of the building is about 11,400: 2,000 square feet for each unit on the first floor and roughly 2,000 square feet for each apartment on the second floor.

Chairman Sackett said for the purpose of environmental review, the whole project will be looked at. He asked if the backspace is intended to remain ever-wild. Mr. Berger does not believe that will become a conservation area as of right now, but they are only proposing the entire project to be 500' from the front, so the rest will be left natural and not developed at this time. Mr. Callahan noted that without any frontage in that zoning classification there is nothing that could occur there anyway.

Chairman Sackett asked for clarification on the garages. Mr. Berger said they occur within the shaded area of the site plan. The plan depicts the living units go back to about 22' from the rear of the building, in that 22' swath is where the garages will be. The patios would be on the second floor above the garages.

Mrs. Salvati said the applicant needs 73 parking spaces for 11,000 square feet of retail space. It is clarified that the first floor footprint is 11,000 square feet. Minus the garages the applicant is proposing 2,000 square feet per 4 units of retail space, so there will be 8,000 square feet of usable space. Mrs. Salvati said the applicant will need 54 parking spaces and she asked what he is proposing. Mr. Berger said the plan shows about 34 spaces in the front portion of the property, plus the garages. Mrs. Salvati said 8 spaces are needed for the proposed residences, making the total required parking 61. The garages will have 2 spaces each, so the total required parking is now 53 spaces. There are not 53 spaces up front, so Mrs. Salvati said he will have to build spaces in Phase II of this project to accommodate parking needs for Phase I. Mrs. Salvati said for the eight (8) units behind, only 16 parking spaces are needed. She said the applicant may have to go to the Zoning Board of Appeals in order to get the 53 parking spaces that are required. Mr. Callahan clarified that the law has been adjusted to allow flexibility in the parking so that the Planning Board has the option based upon the applicant's need of parking to adjust or require greenspace, so there would be no need to go before the Zoning Board of Appeals.

Peter Worrall, of 8120 Old Post Road, asked for clarification on the project, he presumes that the project site is residential but the applicant is asking to rezone it to commercial. Mr. Callahan said the site is not zoned residential it is zoned Major Arterial, which is a high commercial zone on the frontage along Transit Road. There would be no need for a zoning change. Mr. Worrall said this project runs between two residential rows of houses, between Old Post Road and Clarherst Drive. He asked if there will be a 45' boundary/buffer on either side of the project to protect the houses on those two streets. Mr. Shear said the Major Arterial zone extends back 500' from Transit Road, beyond that is the area of open space, that represents three and a quarter acres of that property to the rear that cannot be developed in any commercial way. That area does not have access to any existing streets, so it will most likely remain green. Mr. Worrall asked if the entire parcel which includes the woodland is part of the same property. Mrs. Salvati said yes that is all one property.

Mr. Pazda said if nothing can ever be done with that back space why is there a driveway going back to it? Mr. Berger said the driveway is to access the potential future development of the five hundred foot area. Phase II is not what they are currently proposing so there are no details. Mrs. Salvati it has to be looked at for environmental review. For clarity, the plan will be amended to show the road cut off so it does not extend into the back.

**ACTION:**

Motion by Paul Shear, seconded by Timothy Pazda, to **accept** the Part 1 EAF as amended and to **recommend** that the Town Board seek Lead Agency and commence a review among involved agencies on the proposed Mixed Use Project located at 6449 Transit Road. This Type I Action involves the demolition of a structure built prior to 1950 and the construction of a new mixed use structure in the Major Arterial Zone.

**ON THE QUESTION:**

Mrs. Salvati said moving forward she would like to look at what is to the north with the possibility of doing some kind of an access connection.

Richard Bigler	Aye	George Van Nest	Aye
Timothy Pazda	Aye	Paul Shear	Aye
Wendy Salvati	Aye	Robert Sackett	Aye

MOTION CARRIED.

Meeting adjourned at 9:12 p.m.

Carolyn Delgato  
Senior Clerk Typist