

Town of Clarence  
One Town Place, Clarence, NY 14031  
**Planning Board Minutes**  
Wednesday July 18, 2018

**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**

ICE  
Commercial

Requests Preliminary Concept Plan Review and Coordinated Review under the State Environmental Quality Review Act (SEQRA) at 10075 Main Street.

**Item 2**

Eastern Hills Mall  
Major Arterial

Requests Rezoning form Major Arterial to Lifestyle Center District at 4475 thru 4555 Transit Road.

**Item 3**

Michael McHugh  
Agricultural Rural Residential

Requests Minor Subdivision approval to create two (2) additional lots at 10335 Clarence Center Road.

**Item 4**

Town of Clarence Code Updates

Discussion and Recommendations.

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

Planning Board Members present:

Chairman Robert Sackett  
2<sup>nd</sup> Vice-Chairperson Wendy Salvati  
Gregory Todaro  
Jason Geasling

1<sup>st</sup> Vice-Chairman Richard Bigler  
Timothy Pazda  
Jeffrey Buckley

Planning Board Members absent: Steven Dale

Town Officials Present:

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

Other Interested Parties Present:

Danielle Alabisi      Meg Stoll      Herbert Leising      Barbara Kreuzer  
Renee R. Reade      Michael Paskowitz      Elliot Lasky

Chairman Sackett noted that in the absence of Planning Board member Steven Dale, alternate Planning Board member Jason Geasling will have full voting privileges on all agenda items this evening. The protocol for the meeting will start with Mr. Callahan introducing each project. The applicant will be given an opportunity to add comments regarding the project. The Board will ask the applicant questions on the project. The audience will be invited to ask questions or provide comments on the project. The applicant will be asked to answer any questions the audience had. A Planning Department representative and/or Planning Board member may also answer questions if appropriate. The Board will then decide what action to take on the project.

Motion by Richard Bigler, seconded by Gregory Todaro, to **approve** the minutes of the meeting held on June 6, 2018, as written.

Jason Geasling      Aye      Jeffrey Buckley      Aye  
Gregory Todaro      Aye      Timothy Pazda      Aye  
Wendy Salvati      Abstain      Richard Bigler      Aye  
Robert Sackett      Abstain

MOTION CARRIED.

**Item 1**

ICE      Requests Preliminary Concept Plan Review and  
Commercial      Coordinated Review under the State  
Environmental Quality Review Act (SEQRA) at  
10075 Main Street.

**DISCUSSION:**

Jim Callahan provided the history on the project noting that the property is located on the south side of Main Street, west of Shisler Road. It is an existing vacant parcel consisting of about 4.2 acres and is located in the commercial zone. The applicant is proposing to construct a new 35,000+/- square foot light manufacturing/warehouse space as an expansion to the existing ICE facility located to the east.

Noel Dill, of Rock Oak West who is the owner and developer of the property, is present. Craig Earhart is present and will be the tenant of the building. Drew Kraus, an owner of ICE, is also present. Mr. Dill explained that there are 270 employees at the current ICE property and together with DIMAR there are 400 existing jobs. The purpose of the project is primarily warehousing and final light assembly. He feels this proposal will improve the existing situation with regards to noise or emissions problems.

Chairman Sackett asked for details on the light assembly and any noise it may create. Mr. Kraus explained that the addition will be a warehouse, they will warehouse raw materials. The light manufacturing will consist of small spare kit parts. The only tools used in this building will be hand drills and a tumbler, no other machinery. Mr. Kraus said in the other building, which is the factory, they make 10,000 arcade games a year, the biggest in the world. Chairman Sackett asked how the proposed building will blend into the agrarian zone. Mr. Kraus said they planned on the new building matching the ICE building. When the new building is built, they will reface the existing building to match. Chairman Sackett said since the existing building was built the Town has adopted a Comprehensive Plan entitled Vision Main Street, which lays out the type of architecture desired in this zone. He referred the applicant to this document with regards to the architectural style of the proposed building. Mr. Kraus said they are aware of that and have started the process.

Chairman Sackett noted the western view of the building in which there is a much of the building exposed, he asked if the applicant will consider softening that view as a future consideration. Mr. Dill said they are working within a budget but will see what they can do. He also noted that traffic travelling eastbound along Main Street will be shielded from the west elevation of the building site by Steven's Collision and a stand of mature trees near the plaza. They identified that corner as being worthy of some additional treatment and originally planned to treat it the same, architecturally, as the front, and then 25' around the sides toward the back.

Mr. Pazda thanked the applicant for choosing Clarence for their addition.

Mr. Bigler referred to the west side architecture and said the applicant has the potential for expansion on that side. He suggested a few plantings to soften the view that could be moved at a later date if they expand the building on that side.

Mrs. Salvati asked if this use requires a Special Exception Use Permit (SEUP). Mr. Callahan said yes, in the commercial zone if a stand-alone project exceeds 30,000 square feet it is subject to an SEUP. This does not change the process under which the Planning Board would act. It adds a layer of review by the Town Board to hold a separate public hearing and final approval.

Chairman Sackett referenced the issues of architecture and landscaping, which are site plan issues but he wants the applicant to be aware of them. He then referenced activity and noise level which will be addressed at the coordinated review level. He referenced the concern of outside storage at the existing building and asked if the applicant intends on outside storage with the proposed new building, and how will it be buffered from the adjacent residential property.

Mr. Callahan advised the applicant that a complaint has been received on the existing operation related to noise early in the morning and a continual noise with the dust handling machines. He asked if the applicant can address these issues.

Mr. Kraus said the material on the outside is part of the reason the warehouse is being built, this will get rid of the containers and minimize the outside storage. With reference to the noise complaints, Mr. Kraus explained that the noise is coming from DIMAR, which is not their company, but he talked with a representative at DIMAR today who committed to putting some baffles in to reduce the noise. They will put some muzzles and baffles on their powder shaking system to mitigate the noise. Mr. Kraus referenced the noise complaint from the side of the building and said they will build a barrier that looks like the building and has insulation on it to absorb the noise. He said they obtained decibel readings at the street, their entrance, Pineledge and down to Emily's restaurant. Those readings were all the same

throughout the day. The hours of operation for ICE are 5:30am-1:30am. They run 2 shifts throughout the week with a partial shift on Saturdays and never on Sundays, DIMAR does not work on Sundays either.

Mr. Todaro asked how many additional jobs the new building will create. Mr. Kraus said at least 5-10 more. Mr. Todaro asked if this addition will change any parking traffic pattern. Mr. Kraus said they are putting in some parking with the new addition but they do not expect any further change in parking or traffic pattern. Mrs. Salvati asked about truck traffic. Mr. Kraus does not know how many trucks will be coming and going at the site. He was advised he should know this for the SEQRA Review. Mrs. Salvati asked if there will be a shifting of truck traffic or additional truck traffic. Mr. Kraus said there will still be trucks going in on the other side, however they do not plan on bringing in more trucks or having more traffic.

Deputy Town Attorney Steven Bengart asked if there will be light manufacturing at this site and not just a warehouse. Mr. Kraus said yes, as he explained before they will be only using hand tools for some light assembly, boxing the games up and building parts packages.

**ACTION:**

Motion by Timothy Pazda, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to seek Lead Agency status and **commence** a review among involves agencies on the proposed ICE Expansion located at 10075 Main Street in the Town of Clarence. This Unlisted Action involves the construction of a 35,000 +/- square foot light manufacturing/distribution facility in the Commercial Zone.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

**Item 2**

Eastern Hills Mall  
Major Arterial

Requests Rezoning from Major Arterial to Lifestyle Center District at 4475 thru 4555 Transit Road.

**DISCUSSION:**

Jim Callahan provided the background on the project noting that it is located on the east side of Transit, north of Main Street. The properties involved include approximately 107 acres with most of the property in the Major Arterial zone and some easterly sections in the Commercial and Restricted Business zones, but all of a small c-commercial classification. The proposal is to rezone the property to Lifestyle Center District, this is a newly created zoning district and is in conformance with Clarence 2030, the Town’s Comprehensive Plan that was recently adopted. The Town Board has referred the proposal to the Planning Board for review, comment and recommendation. The applicant is the Town.

Mr. Callahan explained this is the first step in creating the Lifestyle Center District, this is a rezoning that would allow future or current owners to proceed with the creation of a Lifestyle Center District. The process to do that is that once this is rezone the applicant would come in to the Town Board, and

ultimately to the Planning Board, with a comprehensive master plan for the overall development of that site. The Planning Board would review and approve that overall concept and individual portions of the overall master plan could move forward for development plan, this will all take some time. This first step allows the ownership to move forward with coming up with conceptual designs for how the overall lifestyle center could be developed.

Mr. Pazda noted that if and when this moves forward it does not change anything in the existing operation. Mr. Callahan concurred and said the existing operations may continue as-of-right.

Chairman Sackett explained that the buffer to the residential zone will be 80'. Traditionally between Commercial and Residential there is a 45' buffer.

Debbie Clark, of 8245 Ericson Drive, is concerned with the location of the access road coming in from Transit Road and asked for clarification on where that will be. Chairman Sackett said there is no site plan yet, so there is no specific entrance from Transit Road proposed at this point. Mr. Callahan said what is referred to as the Eastern Hills mall includes from the Sears parking lot on the south to beyond the parking lot at Penny's on the north and including the access from Sheridan Drive.

Renee Reade, of 8051 Sheridan Drive, is concerned with the building height and the traffic. She asked if there would be a traffic study done. She asked if a stop light would be required at the Sheridan Drive if a multi-purpose project with more people was put in. She also hopes some good landscaping will be put in because she is concerned with the massive amount of parking spaces and the lack of maintenance for the blacktop.

Chairman Sackett reminded everyone that there is no site plan right now. Mrs. Salvati said the action before the Board this evening is if the land should be rezoned to Lifestyle Center. There is no project. Once the property is rezoned an applicant can come before the Board with a plan, it is then that items like traffic and building height will be discussed.

Roger Leising is representing 8205 Sheridan Drive. He noted that the plan does not show anything going east, it goes off the picture, he does not know where the border is. Mr. Bleuer explained that the detention pond in the back is the border.

Mr. Callahan explained that the setbacks will be according to the height, the tallest structures will be in the middle of the property, as you go to the outskirts of the property the height of the structures will get lower.

#### **ACTION:**

Motion by Richard Bigler, seconded by Timothy Pazda, to **recommend** to the Clarence Town Board the rezoning of Eastern Hills Mall, including all lands associated with 4475, 4545 and 4555 Transit Road (SBL # 70.03-1-20; 70.03-1-27.11; 70.03-1-12 and 70.03-1-26) from Major Arterial, Commercial and Restricted Business to Lifestyle Center District.

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

Mrs. Salvati said the numbers referenced in the motion are tax parcel identification numbers.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

**Item 3**

Michael McHugh  
Agricultural Rural Residential

Requests Minor Subdivision approval to create two (2) additional lots at 10335 Clarence Center Road.

**DISCUSSION:**

Mr. Callahan provided information on this agenda item noting that it is located on the south side of Clarence Center Road, east of Strickler Road. This is an existing vacant and residential property. Per the Subdivision Law the Planning Board has final approval authority for Minor Splits.

Michael Paskowitz, attorney for Mr. McHugh, is present and explained the proposed split complies with the zoning requirements. They will remain residential lots and probably be sold in the future.

Chairman Sackett said should further development occur on this property in the future, it would then be considered a major development which then requires an internal road structure. If this split is approved, one more split makes this a major subdivision. Mr. Paskowitz said he understands that whatever goes forward after this split would have different requirements.

Mr. Todaro asked if there are any thoughts as to where the setbacks are for proposed development. Mr. Paskowitz said he is not aware of that.

Paul Meyer and his wife Joyce are present, they live at 10310 Clarence Center Road. He is concerned with water issues in the area. He lives on the north side of Clarence Center Road which is much lower than the south side. Mr. McHugh built the house at 10305 Clarence Center Road a few years ago any heavy rain makes the water come down the driveway and floods Clarence Center Road at the property next to him, at the edge of his property. He asked if there is anything that can be done to prevent that from happening on a new build. In a heavy rain his front yard is wet but not flooded. Signs had to be put in the road for flooding several times this year already. His concern is the water crossing Clarence Center Road on the north side. Mr. Bigler asked if the flooding occurred before the property was developed. Mr. Meyer said no, it started after the house was built.

Chairman Sackett noted that this is for a lot split, it does not represent any building. When a building is proposed it will be subject to building permits from the Town Building Department. Mr. Callahan noted that every building permit is required to permit a grading and drainage plan. The Building and Engineering Departments will be made aware of the existing issue. Deputy Town Attorney Steve Bengart said they can't fix an existing problem but can't make it any worse.

**ACTION:**

Motion by Wendy Salvati, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to accept the Part 1 Environmental Assessment Form (EAF) as prepared and to

**approve** the Part 2 and 3 EAF and to issue a Negative Declaration on the proposed McHugh Minor Subdivision located at 10335 Clarence Center Road. This Unlisted Action involves a minor subdivision to create two (2) additional building lots in the Agriculture Rural Residential Zone. After thorough review of the submitted site plan and Environmental Assessment Form it is determined that the proposed action will not have a significant negative impact upon the environment.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Motion by Wendy Salvati, seconded by Gregory Todaro, to **approve** the McHugh minor subdivision located at 10335 Clarence Center Road to create two (2) additional building lots in the Agriculture Rural Residential Zone as per the submitted site plan from K2 Architecture dated June 18, 2018, with the following conditions:

1. Subject to review and approval by the Town of Clarence Building and Engineering Department on any future building permits associated with the new lots.
2. Subject to review and approval by the Erie County Department of Public Works on any future curb cuts to access the new lots.
3. Subject to review and approval by the Erie County Health Department on any future on-site sanitary facilities associated with the new lots
4. Subject to Open Space and Recreation Fees on any future Building Permits.
5. Due to the wide variation in front yard setbacks along Clarence Center Road in this vicinity, front yard setbacks for future homes on the newly created lots shall be established per code and by the Zoning Officer in consultation with the Planning and Zoning Department.

**ON THE QUESTION:**

Mr. Paskowitz, on behalf of the applicant, understands and accepts the conditions.

Mrs. Salvati said any further splits will constitute a major subdivision which would create a need for further consideration with regard to interior roadways and curb cuts.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

**Item 4**

Town of Clarence Code Updates

Discussion and Recommendations.

**DISCUSSION:**

Mr. Callahan explained that at the direction of the Town Board, the Planning Department and the Planning Board Executive Committee have been working on code updates which are now ready for full Planning Board review and recommendation.

Chairman Sackett said there was extensive conversation in this evening’s work session and with the Town Board at the joint meeting. It is consistent with land use planning language and will need further review from the Town’s legal department. It will also need a public hearing at the Town Board level before any code is changed.

**ACTION:**

Motion by Richard Bigler, seconded by Wendy Salvati, to **recommend** to the Clarence Town Board a Negative Declaration and formal adoption of the proposed July 18, 2018 Code Updates as prepared by the Town of Clarence Planning Department.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Meeting adjourned at 7:46 p.m.

Carolyn Delgato  
Senior Clerk Typist