

Town of Clarence  
One Town Place, Clarence, NY 14031  
**Planning Board Minutes**  
Wednesday, September 7, 2022

**Work Session 6:30 pm**

Status of SEQR Coordinated Reviews  
Review of Agenda Items  
Miscellaneous

**Agenda Items 7:00 pm**

Approval of Minutes

**Item 1**

Harris Hill Commons Open Space Design  
Subdivision  
Residential Single-Family

Requests preliminary conceptual review of a proposed unit density increase of 19 residential single family lots from the originally approved 66 lots, upon control of additional land north of Old Trafford Court.

**Item 2**

West Herr Automotive Group  
Commercial

Requests Development Plan Approval for a proposed automotive storage lot expansion to the rear of the property at 8129 Main Street, with access to Auto Place.

Chairman Robert Sackett called the meeting to order at 7:01 p.m.

Councilman Shear led the Pledge of Allegiance.

Planning Board Members present:

Chairman Robert Sackett  
Gregory Todaro  
Patrick Johnson

Vice-Chair Richard Bigler  
Jason Geasling  
Jason Lahti

Planning Board Members absent: 2<sup>nd</sup> Vice-Chair Wendy Salvati

Town Officials Present:

Director of Community Development Jonathan Bleuer  
Junior Planner Andrew Schaefer  
Councilman Paul Shear  
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Rob Pidanic	Dennis Murphy	Candace Ryan	Jacob Herold
John Rogowski	Raphael Leo	James Wicks	Karen Kozlowski
Scott Kozlowski	Craig Zimpfer	Tom Lavocat	Ken Zollitsch

Motion by Richard Bigler, seconded by Jason Geasling, to **approve** the minutes of the meeting held on July 20, 2022 as written.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Abstain	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED

Motion by Gregory Todaro, seconded by Richard Bigler, to **approve** the minutes of the meeting held on August 3, 2022 as written.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED

Motion by Gregory Todaro, seconded by Richard Bigler to **approve** the minutes of the meeting held on August 17, 2022 as written.

Jason Lahti	Aye	Patrick Johnson	Abstain	Jason Geasling	Aye
Gregory Todaro	Aye	Richard Bigler	Aye		
Robert Sackett	Abstain				

MOTION CARRIED

**Item 1**

Harris Hill Commons Open Space Design  
Subdivision  
Residential Single-Family

Requests preliminary conceptual review of a proposed unit density increase of 19 residential single family lots from the originally approved 66 lots, upon control of additional land north of Old Trafford Court.

Mr. Johnson recused himself from this item.

**DISCUSSION:**

Mr. Bleuer introduced this project, which is located on the south side of Greiner Road, west side of Harris Hill Road.

Previously approved 66-lot Open Space Design subdivision in the Residential Single-Family zone on approximately 62 acres.

The applicant is requesting preliminary conceptual review of a density increase to allow an additional 19 residential lots, as a phase 4 expansion of the previously completed subdivision. The applicant has gained control of an additional approximately 8.10 acres from the adjacent church parcel.

The Planning Office administratively initiated a coordinated review under the State Environmental Quality Review Act (SEQRA) on August 16th, 2022.

A continuation of a coordinated review under the State Environmental Quality Review Act (SEQRA) would allow for a thorough review of this proposal, including review by involved and interested parties.

Ken Zollitsch with the engineering firm Greenman-Pedersen, Inc. was present to further discuss the request and answer any questions.

This Open Development is a continuation of the Harris Hill Commons Development, by the same developer Windsor Ridge Partners, and the homes constructed will be by the same group of builders that worked on the previous lots.

The developers are under contract with the church for the additional piece of property that the church decided they were not going to use for any additional parking or buildings in the future.

This is the beginning of the process with the conceptual level, with multiple steps and approvals needed.

This project utilizes the Open Space Development Plan, which preserves at least 50% of the property as open space. Typically, and as with the previous phase, this area will be controlled by the Homeowner's Association, and deed restricted so that no further development can occur.

Chairman Sackett asked Mr. Zollitsch to clarify the amount of open space remaining with this this project. Mr. Zollitsch responded that it is 50.3% total.

Mr. Lahti asked about the parcel that is located on the Greiner Road portion of the project, and who owns it. Mr. Zollitsch responded that the developer currently owns that property. The initial thought of holding that portion of the property back was for the possibility of commercial uses. That never came to fruition, so they are now looking to develop it with two lots. They are respecting the 200 ft. setback that the Town of Clarence requires off of public right of ways.

Mr. Lahti asked whether the land that the church owns that is under contract with this applicant has been purchased yet. Mr. Zollitsch responded no, it has not been purchased yet.

Mr. Lahti stated that one of the biggest concerns is about the buffering, specifically on the west and south sides of the project. The applicant will need to work with the Landscape Committee to develop a plan to establish an adequate and agreeable buffer for the homes that border the property.

Mr. Lahti asked if the applicant has any thoughts or ideas regarding buffering at this point. Mr. Zollitsch responded that they have left the existing areas of vegetation around the development at this time.

Mr. Zollitsch responded that there is a substantial amount of existing vegetation on the edges of the site, and reviewed the preliminary additional plantings that they are considering to help supplement the sparse areas. The applicant will work with the Landscape Committee to establish the best way to shield the site from the neighboring properties.

Mr. Lahti asked if there is any update or progress on the wetland walk-through that the Environmental Assessment Form indicated that was occurring.

Mr. Zollitsch stated that he will check in with the consultant conducting the walk-thru from Earth Dimensions to see if they have any definitive jurisdictional recommendations at this point.

Mr. Lahti asked if there are any known wetlands located on this property at this point. Mr. Zollitsch responded that he cannot say definitively, he believes a wetland walkover was performed, which is the initial step. It has yet to be determined whether it is jurisdictional, or an isolated wetland.

Mr. Lahti pointed out that the greenspace portion of the open space calculation is very close to the required 50%, and that will be looked at closely as development begins.

Chairman Sackett asked if Lots 10 and 11 are the ones that are closest to the existing development. Mr. Zollitsch responded yes.

Chairman Sackett asked if when the applicant is developing a landscape plan, are they willing to work with the neighbors in terms of developing a buffer between the homes. Mr. Zollitsch responded yes, of course.

Mr. Todaro asked how they anticipate to monument the buffers to prevent any encroachment. Mr. Zollitsch responded that they have not done monumentation in previous phases. Lawn maintenance in the case of this development is under contract and will not be done by individual owners which generally speaking, the property lines will be followed much more closely.

Mr. Zollitsch stated that during construction they can put up an orange fence to mark off the property lines and help prevent encroachment. As they progress through the process, they can discuss if monumentation is important or necessary.

Mr. Todaro asked Mr. Zollitsch to discuss the sidewalks that they have for these developments.

Mr. Zollitsch responded that there are currently no sidewalks in the existing development and would plan to continue that to avoid having sidewalks in one phase and not the other. Mr. Zollitsch added that they understand the Town of Clarence has requested a sidewalk along Harris Hill Road from Eastmoor headed south, along the edge of what is the commercial property. It is under consideration with the developer, knowing the intent of the Town strongly encouraging the sidewalk.

Stating that he is a proponent for connectivity, Mr. Todaro asked Mr. Zollitsch what his thoughts are in terms of a sidewalk on the street that connects to the new court. Mr. Zollitsch noted that they can review it and take a look at the possibility of putting a sidewalk in that area.

Chairman Sackett asked if the other lots are completed. Mr. Zollitsch responded that all lots within the previous Harris Hill Commons have all been sold, built on, and the project is basically complete and closed out.

Chairman Sackett echoed Mr. Todaro's encouragement to consider adding sidewalks along the new entrance, how much they are willing to do, and why or why not.

Mr. Bengart asked Mr. Zollitsch if they have an idea of how the new Homeowner's Association will be set up.

Mr. Zollitsch stated that he hesitates to comment on that at this time, although he assumes it will be similar to the existing one. Mr. Bengart asked if it needs to be a separate association. Mr. Zollitsch responded that it is his understanding that they need to be separate, or have an agreement with the existing association as well as the State of New York.

Chairman Sackett noted that the Homeowner's Associations (HOA) have a large part in maintaining the understanding and agreements set forth by the Planning Board.

Mr. Todaro asked if the two lots fall under two separate sewer taps.

Mr. Zollitsch responded that they are in separate sewer areas, one being a town district and the other being a county district. Mr. Todaro stated that they would need to prove that they have the taps. Mr. Zollitsch responded that ultimately even though they are in different districts, they share the same downstream routing.

Further discussion continued regarding the sewer districts and flows.

Mr. Lahti asked in regards to the separate HOA, and as Mr. Bleuer identified this as a density increase of an existing subdivision, why would separate HOAs in the same subdivision be necessary if it is only a continuation of the current phase.

Mr. Zollitsch responded that it is not unusual to have different HOAs within a development, for example Spaulding Green has multiple HOAs for the various phases. Mr. Zollitsch stated that this project is clearly linked to the original development, even if they have to have separate HOAs. It is clearly on the same road, and adjacent to the original project with the same developer.

Chairman Sackett noted that tonight's meeting is to set the continuation of a Coordinated Review which is the information gathering and question asking stage. No decisions will be made tonight.

In regards to Public Participation, the following residents spoke:

1. Jim Wicks of 4992 Anfield Road:
  - Concerns with the drainage area located behind Lot 19 and the potential for attracting mosquitos within a close proximity to existing homes.
  - Asked if the new proposed road is a town road or a private road.
2. Sandra Bookmiller of 5095 Glenwood Drive:
  - Concerns based on the phases that have already been completed.
  - Water pooling that has been increasing as each phase is implemented. She has a pond on her property that has extended from her backyard to her front yard when it rains.

- A lot more water causing soft ground in the forested area behind her backyard, causing trees to become uprooted and fall.
  - Worries about the trees being uprooted and the surrounding children and houses.
  - Concerned with the vegetation that has been ripped out as well as for the wildlife that has been uprooted.
  - Respectfully point out that there have been things done with the development that were done without permission.
3. Michael Piette of 8474 Eastmoor Lane:
- Board Chair for HOA of the existing development.
  - Interested to hear that a separate HOA is planned for the new development. Supposes that legally it is possible for them to ask permission of the existing HOA to amend their declaration to add that, but there has been no effort put forth yet.
  - The name Harris Hill Commons is already established for the existing development. The developer needs to be careful coming up with a new name so as not to cause any confusion.
  - His recollection is that the Town took an easement to put a sidewalk on what would be the west side of Harris Hill Road up to Sheridan Drive. This did not include a sidewalk on Eastmoor Lane, so if it does not fall within the Right-of-Way, they will need to deal with the owners to get permission.

Public Participation was closed for this item in the meeting.

Chairman Sackett asked Mr. Zollitsch if he expects a new name for this development other than Harris Hill Commons. Mr. Zollitsch responded that he does not expect a new name, ultimately it is the Developer's choice, but there are no current plans for a new name.

Mr. Zollitsch stated that the initial clearing performed on the property for investigation purposes and assistance in getting through the wetlands as well as geotechnical purposes. As previously mentioned, the majority of the clearing occurred within the middle of the site, with edges along adjacent property owners left as is.

At this time, they have ceased and desisted any clearing action and understand that no further work can begin until they have approval from the Town of Clarence.

In regards to stormwater, Mr. Zollitsch explained that it is early at this time to determine what type of storm facilities will be on site. Prior to receiving Concept Plan Approval from the Planning Board, they need to prepare a preliminary grading and drainage plan. This will offer more detail in terms of where they expect the drainage to be, the size, and the type of facility.

Mr. Zollitsch stated that for their own development, and previous phases by law they are required to capture all of the stormwater runoff from their project site. They need to keep it on the site and run it through the storm system through the pond then outlet in to an established conveyance system.

Mr. Zollitsch stated that based on one of the resident's comments, there might be some additional ponding and pooling in certain areas. Mr. Zollitsch added that with this phase and moving forward, they will pay closer attention to this, and review the topography closer if an issue develops. Ultimately a lot of the cases when they develop next to adjoining, existing developments that are prior to the

current stormwater regulations that New York have established, there are no rear yard drainage systems therefore there is no clear drainage.

Mr. Zollitsch stated that they will be more cognizant of the drainage with this new development, and look to see if there are ways that they can improve the existing adjoining properties and open space. They try not to disturb open space and keep rear yard drainage on the properties, but they will keep it in consideration.

Mr. Zollitsch stated that the road will be a Town standard road, up to Town standards specifications and requirements, and inspected by the Town during construction.

Mr. Zollitsch added that there was a 30 ft. easement provided by the Town of Clarence on the west side of the road as part of the Harris Hill Commons Development. Mr. Zollitsch believes that it is intended to be a Town trail connection at some point, not necessarily a sidewalk.

Mr. Bigler commented that although in the early stages, it appears the new development will drain east. Mr. Zollitsch responded yes.

Mr. Bigler asked if they are able to also head east on the other project with the retention, rather than west, which would not cause a problem for the neighbor’s properties. Mr. Zollitsch responded that the larger wet pond is located on the east side, and they had some smaller bio-retention areas between William Smith Way and Old Trafford Court, which are smaller and don’t hold the water.

He expects the drainage to be dug east and north.

Mr. Geasling asked what the right-of-way on Eastmoor is, Mr. Zollitsch responded at least 60 ft. with at one time 70 ft. was the standard for the Town of Clarence.

**ACTION:**

Motion by Jason Lahti, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Environmental Assessment Form as submitted and to seek Lead Agency status and **continue a coordinated review** among involved and interested agencies on the Harris Hill Commons Open Space Design Subdivision south of Greiner Road, west of Harris Hill Road, in the Residential Single-Family zone. This Unlisted Action involves the creation of 19 residential subdivision lots.

Jason Lahti	Aye	Patrick Johnson	Recused	Jason Geasling	Aye
Gregory Todaro	Aye	Richard Bigler	Aye	Robert Sackett	Aye

**MOTION CARRIED**

Chairman Sackett reiterated that this is the first of at least 3 major meetings that will be held for this project.

**Item 2**

West Herr Automotive Group  
Commercial

Requests Development Plan Approval for a  
proposed automotive storage lot expansion to the

rear of the property at 8129 Main Street, with access to Auto Place.

Mr. Johnson returned to the dais.

**DISCUSSION:**

Mr. Bleuer introduced this project, located at 8129 Main Street. South of Main Street, west side of Auto Place.

Existing automotive dealership and vehicle inventory parking lots in the Commercial zone, with frontage on Main Street and Auto Place.

The applicant is requesting Development Plan Approval for an automotive storage gravel lot expansion to the rear of the property, with access to Auto Place. The existing storage lot is proposed to primarily expand to the west on property recently acquired from the Transitown Plaza, with minor additions to the north.

This proposal was referred from the Town Board in May of 2022. The Planning Board issued a Negative Declaration under the State Environmental Quality Review Act and Concept Plan approval in July of 2022. Also in July of 2022, the Landscape Review Committee approved a final Landscape Plan. Finally, in August of 2022, the Engineering Department has determined that the final Development Plan meets their technical requirements.

The Planning Board has the authority to act on this Development Plan request. This constitutes the final Board review prior to construction.

Due to the transfer of land from Transitown to West Herr, a condition was imposed by the Town that requires landscaping improvements at Transitown Plaza to recoup lost greenspace as a result of this proposal. The Landscape Committee has approved a final Landscape Plan associated with both the West Herr property and the Transitown Property.

Rob Pidanick with Nussbaumer & Clarke, Inc. as well as Scott Beiler, President and CEO of West Herr, and Mike Borowiak, President of Nussbamer & Clarke were present to further explain, and answer any questions as needed.

Mr. Pidanick reiterated that they are seeking Development Plan approval tonight for their project.

Mr. Pidanick added that the entire parcel is now 5.1 acres, with 533 parking spaces proposed.

Mr. Pidanick stated that there have been several different landscape plans submitted before approval was received.

Also, similar to other areas in this section of the town with bedrock lying just below the surface of the ground, they have proposed a sub-surface stormwater retention system to satisfy the Department of Environmental Conservation's (DEC) guidelines with respect to both water quantity and quality



Mr. Pidanick further reviewed the stormwater management plan as well as other aspects of the approval process.

Mr. Geasling asked where the existing property line was before the acquisition, and which spaces are on the acquired property.

Mr. Pidanick responded that the 1.6-acre parcel that they acquired from Transitown Plaza is immediately to the west of the piece West Herr owns, which is adjacent to the cul-de-sac toward the east.

Mr. Geasling asked where that property line falls in relation to the proposed lot, if it is through the western most bioswales. Mr. Pidanick responded yes; the outline is the new project.

Mr. Geasling noted that as Mr. Bleuer noted, it will be a condition of approval regarding use and landscape.

Mr. Geasling asked in regards to the lighting plan, if the new property line is shown on the lighting plan. Mr. Pidanick stated that it shows the total property, not the proposed area. Mr. Geasling wants to verify that the proposed lighting isn't spilling over on to surrounding properties.

Mr. Pidanick responded that the lighting is more confined to the center, and that they go to 0 footcandles for the perimeter, with the exception of right around Auto Place including the western most property lines.

Chairman Sackett asked Mr. Pidanick if they would agree to install some form of barrier in order to protect the integrity of the landscaping already in existence. Mr. Pidanick stated that they currently have a stone membrane around each of them in order to protect them from excessive water, due to the pitch of the parking lot. This was approved by the Landscape Committee.

Mr. Todaro asked how the landscaping will be maintained. Mr. Pidanick responded that need to be watered will be done via service water, there is also a main area that fills the bio filter areas. They anticipate West Herr will perform routine maintenance of the property.

Mr. Geasling pointed out that the landscaping on the existing berm might need to be watered more than the other areas. The lot that was installed behind Nissan has some dead vegetation, which has been addressed in the Work Session. Mr. Pidanick confirmed that they have discussed the issue and noted the problems. A commitment was made that the landscape areas will be watered and cared for more.

Mr. Todaro stated that if the vegetation is dead, they would like it replaced.

#### **ACTION:**

Motion by Jason Geasling, seconded by Richard Bigler to **approve the Development Plan** for West Herr Automotive Group at 8129 Main Street per the submitted drawing set by Nussbaumer & Clarke dated August 18<sup>th</sup>, 2022, with the following conditions:

1. Applicant meeting the requirements of the Town of Clarence Engineering Letter of Approval, dated August 29<sup>th</sup>, 2022, and associated conditions.

2. Applicant meeting the requirements of the Landscape Committee Approval on July 12<sup>th</sup>, 2022, and associated conditions, including but not limited to, the maintenance of all landscaping in perpetuity and replacement, in-kind, should there be any deterioration, or death or disease to plantings. Areas identified to remain natural shall be protected from disturbance by construction fencing.
3. Applicant meeting the requirements of the Landscape Committee Approval on July 12<sup>th</sup>, 2022, associated with the Transitown Plaza at 4301 Transit Road, and conditions, including but not limited to, the maintenance of all landscaping in perpetuity and replacement, in-kind, should there be any deterioration, or death or disease to plantings. Installation of such landscaping shall be completed prior to use of newly constructed automotive storage lot portion located on land acquired from Transitown Plaza. Until such time as the landscaping is completed, the aforementioned portion of the storage lot shall be physically blocked so as to prevent use.
4. All site lighting shall be dark sky compliant and shielded to prevent spillage onto adjoining properties.
5. Lot to be striped and maintained in perpetuity. No parking of vehicles outside the designated parking areas.
6. The thickness of any millings shall be approved by the Town Engineering Department.
7. No automotive sales, advertisement or display of vehicles for sale. Lot to be used for vehicle inventory storage only.
8. Subject to any Open Space fees as required by code.

**ON THE QUESTION:**

Mr. Pidanick stated that he heard, understands, and agrees to the conditions.

Chairman Sackett reiterated with Mr. Pidanick that they have to physically block off the spots on the property associated with the acquisition from Transitown until the time that landscaping is completed.

Mr. Pidanick confirmed that he understands and agrees to that condition.

Chairman Sackett asked how they intend to block the area off to assure that it is not used.

Mr. Pidanick responded that they could put up an orange fence until they are able to utilize the property.

Chairman Sackett stated that it would be to the applicant's discretion, as well as the Planning Office's site inspection.

Referring to the lighting on the applicant's other storage lots, Mr. Bigler asked if it is their intention to reduce the lighting at night at this property also. Although it wasn't addressed in this review, it seems to be common practice for the applicant.

Mr. Pidanick responded that it is also proposed for this location, adding that all of the lighting plans that West Herr does are put together with the Niagara Frontier Auto Dealers Association and the firm LSI that does all of their lighting and photometric plans. A lot of thought is put in to these plans, and as the Planning Board stated on a previous item, it is not a sales lot, it is a storage lot.

There will be minimum lighting used for security purposes on this lot.

Chairman Sackett reiterated that all external lighting will be turned off at night except for security lighting. Mr. Pidanick responded yes.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Meeting **adjourned** at 8:02 p.m. with a motion by Gregory Todaro.

Amy Major  
Senior Clerk Typist