

PLANNING BOARD MINUTES

Wednesday November 12, 2003

WORK SESSION 6:30 P.M.

Roll call      Miscellaneous  
Minutes      Agenda items  
Sign review    Communications  
Update on pending items  
Committee reports

AGENDA 7:30 P.M.

ITEM I

William Kenyon  
Commercial

REQUESTS CONCEPT PLAN APPROVAL FOR  
CONSTRUCTION OF A NEW CONVENIENCE STORE/  
GAS FILLING STATION AT 5820 GOODRICH ROAD.

ITEM II

Frank Chinnicci  
PURD

REQUESTS AMENDED DEVELOPMENT PLAN  
APPROVAL FOR A 50 UNIT PATIO HOME PROJECT,  
TRANSIT VALLEY GARDENS AT 5831 TRANSIT RD.

ITEM III

Hank Stockwell & Frank Rivett  
Agricultural

REQUESTS CONCEPT PLAN APPROVAL FOR ROAD  
EXTENSION FOR SINGLE FAMILY HOME  
DEVELOPMENT AT 5700 STRICKLER ROAD.

ITEM IV

Ron Grimm  
Agricultural

REQUESTS CONCEPT PLAN APPROVAL AND  
RE-ZONING FROM AGRICULTURAL TO  
COMMERCIAL FOR BUSINESS PARK AT 8670 MAIN  
STREET.

ITEM V

Greg Ribbeck  
Agricultural

REQUESTS FOUR LOT OPEN DEVELOPMENT AREA  
WITH TWO FRONTAGE LOTS NORTH OF 5955  
SHIMERVILLE ROAD.

ITEM VI

Waterford Village LLC  
Agricultural

REQUESTS DEVELOPMENT PLAN & RE-ZONING  
FROM AGRICULTURAL TO PURD FOR EXTENSION  
OF WEXFORD MANOR FOR 18 PURD LOTS.

ITEM VII  
Tony Renaldo  
Agricultural

REQUESTS A PUBLIC ROAD EXTENSION OF  
COUNTRY CLUB LANE FOR CONSTRUCTION OF  
SINGLE FAMILY HOME DEVELOPMENT. (2 LOTS)

ATTENDING: Joseph Floss  
Patricia Powers  
Christine Schneegold  
Reas Graber  
Roy McCready  
Jeff Grenzebach

INTERESTED  
PERSONS: Scott Bylewski  
Stanton Broderick  
Linda Broderick\  
Kevin Kenyon  
Timothy Arlington  
Tim Kenyon  
Bill Kenyon  
Pat Hughes  
Jim Collins  
Paul Thoms  
Steve Tripi  
Colleen Tripi  
Greg Klein  
Catherine Klein  
Kenneth Terhune  
James Riley  
Kathleen Chubb  
Robert Schroder  
Tim Pazda  
Sean Hopkins  
Wiliam Schutt  
Ron Grimm  
Frank Chinnicci  
Hank Stockwell  
Frank Rivett  
Greg Ribbeck  
Kevin Curry  
James Callahan  
James Hartz  
Kathryn Tiffany

MINUTES

Motion by Jeff Grenzebach, seconded by Christine Schneegold to approve the minutes of the meeting held on October 15, 2003 as written.

ALL VOTING AYE. MOTION CARRIED.

ITEM I

William Kenyon  
Commercial

REQUESTS CONCEPT PLAN APPROVAL FOR THE  
CONSTRUCTION OF A NEW CONVENIENCE STORE  
GAS FILLING STATION AT 5820 GOODRICH ROAD.

DISCUSSION:

Jim Callahan gave a brief review of the project to date. Tim Arlington of Apex Consulting represented the Kenyon's, and presented the revised plan. The building has been relocated, the configuration of the pumps is different and now they have four pumps instead of three. There is a sidewalk on Goodrich Road for pedestrians, the number of parking spaces will remain the same. Architecturally they have changed the design from a somewhat southwestern style to a colonial design. The lights in the canopy will be recessed, so the lens is flush. Pat Powers said she thought the new plan is certainly an improvement, but the number of gas pumps is out of the question. It was suggested that the driveway line up with Boxwood Drive. Mr. Arlington said the power poles would be extremely expensive to relocate. There will be a 20 foot wide road behind the new building for longer vehicles to make it easier for them to use the site. They are proposing to screen their property with landscaping, but they have not made any commitments to landscape any private property. Christine Schneegold suggested making the road behind the building a one way road. They have removed the outdoor seating from the plan. Joe floss asked about the canopy. It will have brick, and it will not be illuminated, it will have Sunoco and Kenyon's name written on it, facing the road only. Joe asked if they were ever looking to increase the capacity of the tanks? They will have to be replaced in the future, the tanks are old. The capacity of the existing tanks is good enough for them to run that particular location. Mr. Arlington said they thought the best means of screening the property to the west is with an arborvitae hedge. Chairman Floss asked if anyone in the audience had any questions or comments regarding the proposed project. Kathleen Chubb owns the property on the corner of Bonnie

Faye and Goodrich Road, is concerned about the relocation of the canopy closer to her property. There hasn't been any mention of a border or aesthetic improvement to the sides of the property north and south. She has a three foot berm on the rear of her property. Several neighbors expressed concerns about landscaping and lights on neighboring properties. The hours of operation are from 6 a.m. until 12 midnight. Tim Arlington said they are proposing additional landscaping for the neighbors. Jeff Grenzebach asked if the existing tanks have a vapor recovery system now? Yes.

ACTION:

Motion by Patricia Powers, seconded by Roy McCready to recommend concept plan approval to the Town Board for the construction of a new convenience store/gas filling station at 5820 Goodrich Road contingent upon the following:

1. Signage will be a separate issue.
2. Subject to the open space fees.
3. An approved landscape plan and drainage plan development before development plan approval is recommended.
4. A demolition permit before old building is demolished.

Chairman Floss told the applicant that the Special Exception Use permit is handled at the Town Board level. You will come back with full plans showing that you are adhering to all the conditions and concerns, as well as a full landscape plan. You will have spoken to the residents regarding that plan.

On the Question?

Roy McCready said when they have more detailed work, to submit a landscape plan

On the Question?

Patricia Powers said she would like to see paperwork showing ownership of the property. Mr. Arlington said that has all been addressed legally. The current owner has a court order to sell.

ALL VOTING AYE. MOTION CARRIED.

ACTION:

Motion by Reas Graber, seconded by Jeff Grenzebach to recommend a Special Exception Use permit to the Town Board with the contingency:

1. That the capacity of gasoline not being modified at this time.

ALL VOTING AYE. MOTION CARRIED.

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ITEM II  
Frank Chinnicci  
PURD

REQUESTS AMENDED DEVELOPMENT PLAN  
APPROVAL FOR A 50 UNIT PATIO HOME PROJECT  
TRANSIT VALLEY GARDENS AT 5831 TRANSIT RD.

DISCUSSION:

Chairman Floss explained that even though it says development plan approval, it is really concept plan approval in PURD zoning. Jim Callahan read a brief history of the project. The property is located on the east side of Transit Road, south of Clarence Center Road, behind the Transit Valley plaza. This property was originally re-zoned to PURD on May 13, 1998 by the Town Board after a thorough review under SEQR and site plan review for a 60 unit townhouse project. The original applicant was proposing public road extensions to service the sixty units proposed. On April 9<sup>th</sup> 2003 the new applicant introduced a revised concept plan to the Town Board which was referred to the Planning Board. On May 21, 2003 the Planning Board reviewed the plan, heard concerns from the neighbors and referred the project with only 50 units to the Municipal Review Committee. The MRC has recommended a negative declaration under SEQR, and the Town Board subsequently issued that negative declaration. The project is here tonight to consider development plan under PURD for fifty unit design. Sean Hopkins spoke on behalf of the applicant. Basically, they are back to seek an amendment to the project that was approved in 1998. What was approved was 60 detached units, basically apartments and townhouses. Mr. Chinnicci now has an ownership interest in the property, and is looking forward to closing on it. We are asking to build detached units as opposed to attached units. That will be clearly much more compatible with the neighborhood. The second condition was that they would be single story units, they will be single story with the possibility of lofts inside. The third condition was a maximum square footage of 1600 square feet, we are asking for the flexibility of building larger units. They would be more compatible with the neighborhood. The last condition is we are asking for the ability to build at grade patios that will not infringe on the setback area directly behind the units. One of the other conditions that we are not seeking to modify is a forty foot rear yard setback. We

are comfortable with that setback, and we will abide by that. Mr. Chinnicci has met with the neighbors and incorporated some of their input into our proposal. We

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spoke to Fire Chief Morris and he has approved the layout. The third thing is to eliminate one of the cul-de-sacs increasing the connectivity. We decreased the number of units from 60 to 50 units. We have confirmed sewer availability from Paul Bower the Town of Amherst Engineer. Mr. Chinnicci is has worked with Erie County, the Town of Amherst, the D.E.C., to work out a solution that will insure there will be sewer availability for the project site. We have also agreed to provide some overflow parking. We have not made a final determination as to where that will be because we have not engineered the site at this point in time. Jeff Grenzebach was concerned if there was a fire in the far corner of the site. They have agreed that they will not allow fences along the rear lot lines or the side lot lines. They will only be allowed as a screen for the at grade patios. What that allows to happen in the unusual circumstance that the culdesac was blocked, the firemen could run a hose from the street below up to the units. We will agree that as a condition that we will not allow fences. Chairman Floss said that our zoning laws have not yet been updated to match the Master plan. There will be a two car garage for each unit, with the ability to park two cars in the driveway as well. They have not decided whether they will build a clubhouse. If they do, it is shown where it would go. Pat Powers said "These will all be privately owned?" Mr. Hopkins said "The infrastructure will be privately owned." Pat asked if there will be side walks or gutter curbs. Mr. Hopkins said "No." Will there be a Homeowners Association? Yes, there has to be to maintain the roads. They will be using the existing curb cut off Transit Road and sharing it with the plaza. If it needs to be re-configured then they will need a work permit from the D.O.T. Roy McCready asked what percentage of the lot will you be covering if you make these units 2200 square feet? Mr. Chinnicci said they don't have the final calculations, but they don't expect that the lot coverage will be any greater than what was originally proposed. Almost all that additional square footage will be in the lofts. Chairman Floss read the minutes from the last meeting held on July 30, 2003, the Municipal Review Committee minutes from September 15, 2003 and October 20, 2003,

the Town Board minutes from October 22, 2003 issuing a negative declaration for this project. The neighbors expressed their concerns about the loss of trees, the height of the homes, the lack of barriers, the character of the

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neighborhood, and a preference for single family homes as opposed to patio homes. Another resident suggested moving the patio homes on the perimeter of the property forward so the backyards would be deeper, and farther away from the existing homes. Chris Dibble of Greystone Ct commended those members of the Planning Board who are trying to preserve the Master Plan. If the Master plan was designed to preserve green space in the Town of Clarence, and control building, why did you approve a plan that is not complying with the Master plan. Why would you even look at a plan containing fifty units in such a small area when the master plan clearly allows forty two units? Please keep the Master plan in mind, and what your role is to make sure we comply with it. Jim Riley suggested shifting everything twenty feet toward Transit to give the homes on Forest Creek Drive with some additional space. His house is only 40 feet from the rear property line. The original plan approved for Mr. Olivieri had berms with trees to buffer the neighbors. Will that be the case here? Also, a 2200 square foot home with a loft, is essentially a two story home. Ken Musone of Greystone Ct. said he was concerned that the kids would be cutting through their backyards to get to the Williamsville Middle School on Transit Road. The size of those lots with a two story building is going to look overbearing. Jim Blum said he is dismayed that this was re-zoned to PURD. PURD is designed for over 100 acres at three units or less per acre. You don't have 100 acres here, and you are over three units per acre. You should at least be trying to get the density down, and try to put something here that responds to the basic thrust of the PURD zoning which is to preserve space and natural features. Mr. Chinnicci said the height of the building will not exceed a one story structure as defined by code of the Town of Clarence. The lofts will have a single window and some skylights for natural light. I am guessing somewhere between 28 and 30 feet. There will be a berm with landscaping. They will meet with the landscape committee. Chairman Floss asked for a motion.

ACTION:

Motion by Patricia Powers (in the interest of getting this on

the table and up for a vote), seconded by Roy McCready to recommend development plan approval to the Town Board.

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On the Question?

Chairman Floss said “If this is approved I am going to ask the applicant and the board to consider that no windows or lights as they call them, are to exceed a first floor level on any of the homes on the south or east side of the property line. This is not part of the motion that was made, it is on the wish list so there isn’t a second story view from the homes on the south and east sides of the development. I would also say if they come back, I would be looking to limit the house size to 2000 square feet.

On the Question?

Jeff Grenzebach said “If this does not go through, could they go back to sixty homes?

Chairman Floss said “That has never been clearly answered, in my opinion. It depends on what you chose to believe. If they do go back to the original plan, and they do prevail, then we will have no further review of that - it is done. If you believe we have the ability to deny or the ability to say you cannot build your existing approved plan, well I won’t say anymore about it.”

Sean Hopkins said “We have provided in writing time and time again, and no one has ever come back with a written opinion substantiating something otherwise. For eight months we have stated this is the reason why we are confident legally, we could build that 60 unit development. I don’t want to argue about it anymore, but no one has ever come back with something supported by the law, the Town Zoning code, or New York State town law saying you can’t do this. We provided a legal opinion, and we never heard otherwise.”

Jim Callahan said “I just want to identify that the Town Attorney did identify that there never was a development plan approved for the 60 units, which procedurally is required in the PURD, just to throw that on the record as well.”

Sean Hopkins said “You can’t approve PURD zoning without approving development plan, if you look at the zoning code - it is impossible. So if you have PURD zoning, we have development plan, it can’t be one or the



other.”

Pat Powers said “If this project does move forward, it would eventually be subject to open space and recreation fees. It will be determined if we will need a NYSDOT

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work permit. We stated there will be a maximum width of 15 feet for the at grade patios, a forty foot rear yard setback, a minimum of ten feet between buildings, and deed restrictions as to fences except for fences that might be used for privacy on the patios, and sewer approval.

On the Question?

Councilman Bylewski said “Because it was mentioned with respect to the PURD zoning, what would happen if this project was denied? And there is the issue whether the development plan was properly approved. Assuming that the development plan was properly approved, in looking at the site plan requirements, that next step under PURD section 30-28.11B, factors for consideration. The Planning board’s review of a site plan shall be directed to the extent to which the site plan embodies the objectives of this Article and the development plan previously approved by the Town Board. Take the first part the objectives of this article section 30-28.7 (7) A creative use of land and related physical development allowing an orderly transition from rural to suburban uses in harmony with the objectives of the Master plan.

Chairman Floss said “Thanks for the clarification.”

ACTION:

Jeff Grenzebach	NAY
Christine Schneegold	NAY
Reas Graber	AYE
Roy McCready	AYE
Patricia Powers	NAY
Joseph Floss	AYE

MOTION NOT CARRIED.

Chairman Floss said “You will go to the Town Board without a recommendation from the Planning Board if you so wish.”

ITEM III  
Hank Stockwell & Frank Rivett  
Agricultural

REQUESTS CONCEPT PLAN APPROVAL FOR ROAD  
EXTENSION FOR SINGLE FAMILY HOME  
DEVELOPMENT AT 5700 STRICKLER ROAD.

DISCUSSION:

Jim Callahan gave a brief history of the project which is located on the west side of Strickler Road between Greiner Road and Clarence Center Road. The property consists of 78 + or - acres in the Agricultural zone. The Master plan identifies this area in an agricultural rural residential classification. This project was reviewed in 2001 and 2002, and eventually went to the MRC where open action was tabled pending additional information. Because the project had been sitting for greater than one year, it is being re-introduced to the Planning Board after referral from the Town Board at the last Town Board meeting. William Schutt is the Engineer for the project. There will be five 5 + acre lots and 18 2.2 acre lots. Four lots will be built every three years. Phase I will consist of four lots with two on each side of the public road. They will all have septic systems. There will be a barrier of pine trees on Strickler Road. The road right of ways will be stripped for topsoil. Chairman Floss asked if anyone in the audience had any comments or questions? No one responded.

ACTION:

Motion by Jeff Grenzebach, seconded by Reas Graber to refer this project to the Municipal Review Committee, Fire Advisory, and Traffic Safety for review and comment.

ALL VOTING AYE. MOTION CARRIED.

ITEM IV  
Ron Grimm  
Agricultural

REQUESTS CONCEPT PLAN APPROVAL AND  
RE-ZONING FROM AGRICULTURAL TO  
COMMERCIAL FOR BUSINESS PARK AT 8670 MAIN  
STREET.

DISCUSSION:

This property is located on the north side of Main Street, east of the Harris Hill Fire Company. The property consists of approximately 2.6 acres. It is zoned commercial on the frontage and agricultural in the rear of the property. The Master plan identifies that a commercial classification could be extended to the rear. The project was introduced to the Town Board on July 23, 2003 and introduced to the Planning Board on August 20<sup>th</sup> and referred to MRC. Fire

Advisory, and Traffic Safety. The Town Board issued a negative declaration on October 22, 2003 and the applicant is here for concept plan approval and a recommendation for re-zoning the rear of the property. Mr. Grimm said he will occupy half of the first building, and the other half of the building will be occupied by Federal Meats. The building will be cold storage, there will be no heating and no plumbing. All the building materials will be earth tones - architectural shingles, cedar wains coating, tan colored steel siding, paneled man doors - they will be buildings I can be proud of. The buildings will have standard business hours. There will be no flammable material stored, and no outside whatsoever. This plan exceeds the greenspace requirements. There will not be any light standards, there will just be building perimeter lights directed down in front of the garage door areas. The units are 40 feet deep and they are anywhere from 90 feet to one hundred twenty five feet long. The buildings will have concrete floors and foundations. There is enough room for emergency and fire trucks to turn around.

ACTION: Motion by Jeff Grenzebach, seconded by Chris Schneegold to recommend re-zoning to the Town Board for this project located on the rear property at 8670 Main Street.

ALL VOTING AYE. MOTION CARRIED.

ACTION: Motion by Reas Graber, seconded by Christine Schneegold to recommend concept plan approval to the Town Board for a business park at 8670 Main Street.

ALL VOTING AYE. MOTION CARRIED.

ITEM V  
Greg Ribbeck  
Agricultural

REQUESTS FOUR LOT OPEN DEVELOPMENT AREA  
WITH TWO FRONTAGE LOTS NORTH OF 5955  
SHIMERVILLE ROAD.

DISCUSSION:

This property is located on the east side of Shimerville Road south of Candlewood Drive, and consists of 18.5 plus acres and is in the agricultural zone. The Master plan identifies this area as low density residential. The project was introduced to the Town Board on August 27, 2003 and was referred to the Planning Board. The Planning Board first looked at it on September 17<sup>th</sup> and referred it to the Municipal Review Committee, Fire Advisory, and Traffic Safety. The MRC has recommended a negative declaration, and the Town Board issued a negative declaration on October 22, 2003. The applicant is here tonight to consider the concept in accordance with the open development area regulations. Mr. Ribbeck said the lots are all over three acres. Lot #2 will have a 105 foot setback to accommodate a 201 foot frontage, lot # 3 will have a 95 foot setback to accommodate a 200 foot frontage. The other frontage lot doesn't jog behind the Pfentner property at all, lot # 4 is behind the Pfentner property. There are no wetlands on the property. The lot is not heavily wooded, and they will try to preserve any trees they can, all three sides have a heavy hedge row. All six lots will be on septic, and the road will be private. All six lots will tie into the road, there will be no driveways on Shimerville Road. Four lots can be developed every three years. Chairman Floss asked if there were any questions from anyone in the audience.

ACTION:

Motion by Reas Graber, seconded by Christine Schneegold to recommend concept plan approval to the Town Board for a four lot open development area with two frontage lots north of 5955 Shimerville Road with the condition that the applicant obtains a letter from sewer district # 6 stating that septic systems are acceptable.

ALL VOTING AYE. MOTION CARRIED.

ITEM VI  
Waterford Village LLC  
Agricultural

REQUESTS DEVELOPMENT PLAN & RE-ZONING  
FROM AGRICULTURAL TO PURD FOR EXTENSION  
OF WEXFORD MANOR FOR 18 PURD LOTS.

DISCUSSION:

The property is located south of Clarence Center Road, and is a proposed single road cul-de-sac extension of the Waterford Village PURD. The property is presently zoned agricultural and consists of approximately 12.9 acres. The Master plan identifies this area as low density residential. The project was initially introduced to the Planning Board on September 17, 2003 and referred to the Municipal Review Committee, Traffic Safety, and Fire Advisory. The MRC recommended and the Town Board issued a negative declaration on October 22, 2003. The project is here for consideration of development plan, and a recommendation for re-zoning from agricultural to PURD to incorporate into the Waterford Village site plan. Sean Hopkins said the size of the lots are Residential A lots. This will be a public road. Development of this site will allow us to extend the Towns recreational path further, accomplishing a Town wide goal. Pat Powers asked if a road to Clarence Center Road is possible. Mr. Schutt said the recreational trail will go to Clarence Center Road, but not a road. You can have one or the other, but you can't have both. Pat asked them to think about that, in an emergency it would allow the Clarence Center Fire Company to save several minutes. It is a safety issue. They will contribute the asphalt, the Town will have to install it. Pat said this will be subject to open space fees. Chairman Floss said there are two items that we will have to move on. The first would be to recommend to the Town Board a re-zoning from agricultural to the PURD zoning. The second item is development plan approval, which in a PURD is concept plan approval, just to make sure that we are aware of the terminology.

Sean Hopkins said "I disagree with that terminology. Just remember you can't approve PURD re-zoning unless you approve the development plan. So it really is more than conceptual. I understand that is the same stage in the process.

Chairman Floss said "Right. The same stage in the process. The next one will be site plan. I would just like to state it for the audience, it is confusing at best. This has

received a Negative declaration. This is subject to the recreational and open space fees, this new portion of the PURD. However, we have spoken to the applicant and we are receptive to taking that fee and reducing it by the monetary value of the recreational trail. We just have to quantify that. I think we are okay with allowing the Town Engineering Department to quantify that. I just want to get some of that out in the open, and on the record. At this point I will ask if there is anyone in the audience that has a question or concern regarding item number six on the agenda. If not, there are two actions, and I would ask what the pleasure of this board is.

ACTION: Motion by Roy McCready, seconded by Reas Graber to recommend to the Town Board re-zoning from Agricultural to PURD .

ALL VOTING AYE. MOTION CARRIED.

ACTION: Motion by Jeff Grenzebach, seconded by Reas Graber to recommend development plan approval to the Town Board for this PURD, recognizing the difference.

On the Question? Roy McCready asked if the motion included all the comments that Pat Powers made.  
Joe Floss said "I think the motion will not mandate those comments, but when they come back again they had better address them.

ALL VOTING AYE. MOTION CARRIED.

ITEM VII  
Tony Renaldo  
Agricultural REQUESTS A PUBLIC ROAD EXTENSION OF COUNTRY CLUB LANE FOR CONSTRUCTION OF SINGLE FAMILY HOME DEVELOPMENT. (2LOTS)

DISCUSSION: The property is located east of Shimerville Road and north of Greiner Road. The Master plan identifies this area as low density residential. The project was introduced to the Town Board on November 5, 2003, and referred to the Planning Board. Sean Hopkins said "All we are asking for is for permission to extend Country Club Lane in order to allow a member of Mr. Cimato's family to build a house on the proposed lot as shown. Previously an issue was raised about segmentation. Segmentation is an issue that is

sometimes raised during an environmental review pursuant to the State Environmental Quality Review Act. We fully understand that if at any point in the future that Country Club Drive is extended or if there is any additional development, we would have to go through the required environmental review, as well as any required land use approvals. I want to point out another issue that was raised relative to treating it in terms of SEQR, and SEQR has various types of actions. A Type I action, typically a larger project, often times results in an environmental impact statement. But on the other hand, there are Type II actions. For Type II actions SEQR actually expressly states there is no environmental review required. If you look at the list of Type II actions, I believe they are contained in 6NYCRR Part 617 State Environmental Quality Review. I think they are contained in 617.4 (\* actually it is 617.5 C (9) ) on construction of a one family, two family, or three family home or structure is not subject to any environmental review pursuant to SEQR. So I don't think there is any need to refer this to the MRC. We would hope you would make a favorable recommendation and that it would have to go back to the Town Board for final approval. The other thing that I would note is that we have obtained a letter from Joe Latona to indicate that he has no objections to the extension of Country Club Drive to create one building lot. It does say one building lot. That is all we are asking for, although I know it allows the opportunity for two, we are asking for one at this point in time." Chairman Joseph Floss said "He is correct in that the Type II action is listed as never having a significant impact on the environment, therefore needing no further review. Exempt actions include - it lists several of them and excluded actions include minor utility extensions, routine activities, I am looking for the single family that you had mentioned." Sean Hopkins said "I think Joe that the brochure you are looking at, there is no longer exempt, there is just Type I, Type II, and Unlisted. It is section 617.5 C (9). What it says is: construction or expansion of a single family, a two family, or a three family residence." Joe Floss said "I am going to ask a question, because I am not certain of the answer, otherwise, I wouldn't be asking. I was at the Town Board meeting, and it seems like a pretty minor request, but when you connect 150 acres to it, that is what Mr. Callahan referred to as segmentation, and I understood that. What you are presenting is not in your

view segmentation, and again because the applicant doesn't own the 150 acres, or does he?" Sean Hopkins said "Oh no Mr. Cimato does. Basically the reason why is we are here acknowledging the fact that if there is any additional development of that site, it is going to have to go through its own independent SEQR review. We are not going to keep coming in every two weeks with an additional lot, and an additional lot, and an additional lot, and an additional lot and say you know what Chairman Floss it is another Type II action. You know what we were here two weeks ago, and this is another Type II action. We are saying one lot, and we acknowledge if there is any additional development for a second home or whatever it will have to go through a SEQR."

Joe Floss said "My reaction last Wednesday night was when I hear this platform, why not take your chances and take it to the Zoning Board of Appeals, but that is not the point right now." Sean Hopkins said "I understand that. I think Mr. Renaldo and Mr. Callahan met and determined that this might be the appropriate procedure, but certainly that would be an option." Roy McCready said "I don't understand why we are concerned about this prohibiting any future development in the area as far as access. This is going to be a Town dedicated road extension which means that everything that comes off of that will be developable. We want that open for future access. Sean Hopkins said "If the Town wants to preserve that opportunity for future access if and when that parcel develops, that is fine." Pat Powers asked the length of the extension. Sean Hopkins said "It is 175 feet, but the turn around will be built at the end of that so it will be slightly longer." It will have a septic system. Reas Graber, Jeff Grenzebach, and Christine Schneegold did not have any questions. Chairman Floss said "I concur that if this is a Class II action, there is no further review necessary. If that is the case, and I am not saying it is, I am going to refer this to Mr. Callahan in a moment. If that is the case - whether we are doing a 175 foot road, or a 100 mile road, there are certain procedures that have to be taken into account. Do you concur with that, even though it is a minor road extension? But first, I will address the issue of a Type II action. Typically, I think you Mr. Callahan make a determination whether it is a Type I, Unlisted or Type II action. I want to ask you your opinion, is this a Type II action? Jim Callahan said "It is



certainly listed as a Type II action, the construction of a single family house and then extension of utility distribution facilities, including gas, electric, telephone, cable, water and sewer connections to render service in approved subdivisions or in connection with any action on this list.” Joe Floss said “Okay. So we would concur then that this would fit under a Type II action.” Sean Hopkins said “I am making sure that what I am saying is correct. Remember we do have a larger parcel here. So it is only with that caveat that we are acknowledging additional review will be required in the future. We can’t piecemeal, and keep coming back and saying one lot, one lot, you understand that, and I think the record should reflect that. We appreciate that classification.” Pat Powers said “If you extend the road 175 feet and the proposed house is going to be adjacent to the house that is facing north and south, do you also own the piece of property on the other side of the road?” Sean Hopkins said “We own the larger parcel.” Mr. Cimato said “We own 130 acres from Roll Road to Greiner Road, to Country Club Drive just past Ballow’s on Greiner Road.” Joe Floss said “If we grant the public road extension along with utility extension you are going to be subjected to coming up with plans and having the Town Highway Superintendent sign off, just as if you were building a full ten mile road. Mr. Hopkins said “Yes, we definitely understand that.” Roy McCready said “Is this correct where it says two lots?” Joe floss said “Only because when you extend a road, there is a lot on the other side. But the applicants request is for only one lot. Sean Hopkins said “I can see why the Town treated it as two lots, but we are literally asking to build one house. Chairman Floss asked if anyone in the audience had any questions or concerns. Tim Pazda of Country Club Drive said he wrote a letter on behalf of the residents on Country Club, Shimerville residents. He has concerns about drainage, the street floods as it is now. He spoke to the proposed owner, and he said he wanted to move the ditch, and he wants to make sure it is done properly. Tim asked what rights the surrounding owners have to know that this isn’t segmentation, that this isn’t going to be a back door way to put in a development without getting full regulatory approval beforehand? How do we protect those rights? Joe Floss said “The minutes and our eventual motion would stipulate. It is important that our motion if the Town Board facilitates it, is read verbatim to protect it on that level.

That is about the only protection that you have got.” Roy McCready said “To develop that whole parcel, it would have to be re-zoned. That would be what would control it.”

Tim Pazda said the neighbors would like to see what the whole picture would look like, rather than just one lot.”

Sean Hopkins said “In terms of the drainage we will have to submit a drainage plan, and we can’t increase the water load. Mr. Pazda is welcome to take a look at that. We will work with the Engineering Department and we are comfortable with that assurance. The other question with respect to segmentation is a good one. But, as I indicated already, we are voluntarily agreeing to conditions as we have already indicated that it is only for this lot, any additional construction, extension of that roadway would require an additional environmental review. So, I think that is adequate protection, I would ask that it be clearly stated in the resolution.” Chairman Floss said “If there is anybody wishing to make a motion to that extent that it be a condition as well that the ultimate road extension is done with the approval of the Town Highway Superintendent of course.”

Councilman Bylewski said “Mr. Chairman if I may - Mr. Hopkins did mention with respect to it being a possible Type II action. Mr. Callahan did read it into the record I believe it was subsection (11) that was referred to and then subsection (9). In particular in C (11) they talk about to render service in approved subdivisions or in connection with any action on this list. Can I just bring that to the Boards attention?” Sean Hopkins said “I guess I was looking at (9) that says on an approved lot.” Councilman Bylewski said “Nine contemplates eleven.”

Chairman Floss said “A determination of a Type II action would have to be stated for the record that it has been determined - no further review. I would ask that the conditions set forth by Mr. Hopkins would be part of the motion, along with the Highway Superintendents approval of the ultimate road extension. Certainly public utilities are going to be extended. I don’t think a bond, even though we have the ability to request one is necessary, unless someone on the Planning Board feels that it is important to invoke that right. I will ask someone that has an interest for an up or down vote to get this on the table.”

ACTION:

Motion by Roy McCready seconded by Jeff Grenzebach to recommend to the Town Board a public road extension of Country Club Drive with the restrictions:

1. This will be for one lot and any additional development of the project site including but not limited to further extension of that road will require additional environmental review pursuant to the State Environmental Quality Review Act as well as any additional requirements as well as the Highway Superintendents.

Roy McCready said "I want to make it clear it is a Type II action."

On the Question?

Patricia Powers said "For those who may check the minutes, the road must come first and then the building permit."

Sean Hopkins said "I guess we want to work with the Town Departments, and see what they think the appropriate procedure is for that." Joseph Floss said "That is a great idea."

Is that a condition? Joe Floss said "That he check with the Departments, and follow proper procedures? Absolutely!

Mr. Cimato said "We have a problem right now. We are talking November, next week black top is done. All we are going to be able to do is put a hard surface down.

ALL VOTING AYE. MOTION CARRIED.

Motion by Reas Graber, seconded by Christine Schnegold t adjourn the meeting.

ALL VOTING AYE. MOTION CARRIED.

Meeting adjourned at 10:30 p.m.  
Joseph Floss, Chairman