

PLANNING BOARD MINUTES

March 5, 2003

AGENDA 8:00 P.M.

ITEM I  
Mike Petroci  
Commercial/Residential B

ITEM II  
Tom Johnson  
Major Arterial/Agricultural

WORK SESSION 7:00 P.M.

Roll call      Miscellaneous  
Minutes      Agenda items]  
Sign review    Communications  
Updates on pending items  
Committee reports  
Old Business Minor Subdivision Law

REQUESTS AMENDMENT TO PREVIOUS  
RECOMMENDATION FOR A SPECIAL EXCEPTION  
USE PERMIT FOR AUTOMOTIVE SERVICE  
FACILITY AT 9605 CLARENCE CENTER ROAD TO  
CLARIFY HOURS OF OPERATION AND DEFINITION  
OF VEHICLE.

REQUESTS RE-ZONING AND CONCEPT PLAN  
APPROVAL FOR NEW PARKING AREA AT LIA  
HONDA LOCATED AT 4891 TRANSIT ROAD.

ATTENDING:      Joseph Floss

Patricia Powers  
Christine Schneegold  
Reas Graber  
Henry Bourg  
Frank Raquet

INTERESTED  
PERSONS:

Howard Jones Jr  
Thomas Johnson  
Councilman Scott Bylewski  
James Callahan  
Ken Kohler  
James Hartz  
Kathryn Tiffany

MINUTES

Motion by Patricia Powers, seconded by Christine Schneegold to approve the minutes of the meeting held on February 19, 2003 as written.

ALL VOTING AYE. MOTION CARRIED.

ITEM I  
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Commercial/Residential B

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DISCUSSION:

Chairman Floss apologized to Mr. Petroci for the inconvenience of having to come back to the Planning Board again. We put you on the agenda with notice to the newspaper that we were going to have you on. I really feel like I should have just sent the memo on to the Town Board in light of the fact that you have a public hearing on March 26<sup>th</sup>. Once we published it and sent it out to the paper, we had to have you in. Anything that happens tonight doesn't affect your approval with the six conditions that were stated. Chairman Floss read the conditions:

1. No stock storage outside such as tires.
2. Any signage of the facility is a separate review. It is reasonable to have a sign saying "You are entering a school zone."
3. Hours of operation cannot be answered specifically - but 7 :30 a.m. until 8:00 p.m. Monday through Friday. Saturday 8:00 a.m. until 5:00 p.m. No Sundays.
4. No collision shop.
5. Identify an area where the vehicles would be stored. Mr. Petroci suggested the front.
6. An acceptable landscape and parking plan must be approved by the Landscaping Committee.

Chairman Floss said we received additional comments from the neighbors dated February 21, 2003 and I want to give them due consideration, because we have seen some operations become something that we never envisioned.

We do our best to conceive of everything that could happen but we don't always get them all. I would like a motion to

amend condition number three regarding the hours of operation from 7:30 a.m. until 6 p.m. Monday through Friday as maximums. Saturday 8 a.m. until 2 p.m. again as a maximum. We don't want to make it difficult for you to find a tenant, but yet we want to make sure that the residents close to the building will be protected from undue noise. Mr. Petroci said "One of the concerns is that we will be using a lot of the area too. We operate a full day Saturday." Joe Floss said "This is specifically for the garage operation, not the landscaping business. I would also like to put a weight maximum on the power units that will be serviced. I use the term power units, because I don't want to limit it to private passenger automobiles, because you may have some farm equipment in there. So I am going to ask for a weight limitation of ten thousand pounds GDW on the registration of a vehicle." Mr. Petroci said "That would be a problem. Dump trucks weigh over 10,000 pounds. You have to remember when Yoder was in business, they were doing work on tractor trailers, they had a heavy vehicle inspection station. I myself, have four trucks that are over 10,000 pounds. Even a tractor would be close to the line. Chairman Floss said "I will leave it up to the board to decide, but I didn't envision heavy dump truck vehicles." Mr. Petroci said "Even if it continued as it was, the repair on tractors and trailers, even your trailers would be coming in at 20,000 pounds. The street is not a problem either, there is not a weight limit." Joe Floss said "It is simply the location, we had concerns with the school there." Mr. Petroci said "We bring some of our things in on tractor trailer for the nursery. It is not going to be a tractor trailer place. If it was to continue like something similar to what Yoders had there, the 10,000 pound weight would never cut it." Joe said "I am willing to state the second item, again, I am not making a motion, I am putting it out to the Planning Board that at least we go up to 20,000. I know the big dump trucks are registered at 40,000 to 50,000. I don't think we want the big dump trucks. That is the concern." Mr. Petroci said "The idea was to get this business back, and fill that building with another similar business to what Yoder ran. To make that possible, we are in the workings, we really want to bring back another Ford dealership, it has to be from an existing

Page 2003-48

dealership though. If that happens to bring tractors in there, that weight will not work.. All the years that Yoder was there, they didn't bring high traffic volume in there. Joe

Floss said A The point is, how do we prevent that from occurring if that becomes lucrative for your tenant? You will never have another Yoder-s there.@ Mr. Petroci said ANo, but we are looking for a very similar line. So the weight limit would to have to be...@ Joe said AI don't know if this board is even comfortable with it. You are going to have an opportunity to go to the Town Board for a public hearing. We are a recommending body, and I think we were a little remiss in not identifying the vehicle net. In our minds it meant one thing, and in your mind you have another.@ Mr. Petroci said AI would just like to keep it close to what has operated there.@ Frank Raquet said A Mr. Chairman, could we ask the applicant what kind of a weight limit he would be comfortable with?@ Mr. Petroci said 40,000 pounds. Joe Floss said AThe third item I wanted to add into our recommendation is that no vehicle will be held for sale. That is clearly a separate item, but we feel it should be in there.@ Mr Petroci said AWhat if an equipment sales wanted to go in there?@ Joe Floss said AThen there would be equipment I suppose behind the fence, just like Yoder had done. That is not a problem, we just don't want automobiles with flashy signs out in front. Mr. Petroci said AInside the fence there may be stuff for sale again. What we are trying to do is just to be able to do what was done there. If it gets too restrictive, it is not going to work out for me either. We don't want a vacant building next to us either, and that is why we would like to go through with this.@ Joe Floss said AWe have a lot of common ground. We just have to be sure that we are recommending enough conditions so that there is something enforceable and it doesn't get out of hand.@ That is the end of my commentary, what is the pleasure of the board?@ Reas Graber said AThere has to be a difference between farm implements and heavy duty trucks. There is a huge difference between a tractor and a heavy dump truck with eighteen wheels. A Mr. Petroci said AI agree, there is a difference, but that is what they did there. That is where the guys in this community had their vehicles inspected and serviced. As far as the things for sale, they were all farm implements and tractor implements. There haven't been a lot of problems and complaints in Clarence Center for the

Page 2003-49

last fifty years. We are adding so much green space, we are shrinking down the area, we are covering the building, I think it can only be better.@ Joe Floss said AEverything you have told us as the new owner sounds great. We are just

concerned with what your tenant may decide to do, if we don't put the right conditions down. Mr. Petroci said We are giving them a limited space, we are hoping for someone to do a similar business. In return what you get is a smaller Yoder's - more appealing with more green space. Chairman Floss said Is there anything more for the applicant, or a motion? Or in light of no motion, I ask that the minutes be sent to the Town Board for their consideration. Is there anything else from the Board? Patricia Powers said Well Mr. Chairman I must say that I am comfortable with the restrictions that the Planning Board placed on this applicant the last time he appeared before us. I would like to send our minutes and our recommendations to the Town Board as they were presented and voted on at our last meeting, and that is in the form of a motion. Henry Bourg said I will second that.

**ACTION:** Motion by Patricia Powers, seconded by Henry Bourg to send the minutes and recommendations made by the Planning Board on February 19, 2003 to the Town Board.

**On the Question?** Mrs. Salemi said she lives next door to Yoder Brothers and this is the first time she has been informed about this. She had some comments about the hours of operation. If they worked until six o'clock in the evening, and until two o'clock on Saturdays, that would be agreeable.

Joe Floss said there have been no approvals, other than a recommendation to the Town Board to allow part of this to operate an automotive business with the six conditions listed. There will be a public hearing on March 26, at the Town Board meeting where you can hear it all again. It will be a full presentation from the applicant, and then the Town Board will make a decision.

Howard Jones, a neighbor on Elm Street asked if the Planning Board will still recommend a screen along the westerly line. Joe Floss said absolutely. The landscape committee has not met for the last month, but they will

Page 2003-50

meet on Tuesday morning. Mr. Jones is welcome to attend the meeting on Tuesday March 11, 2003 at nine o'clock.

**On the Question?** Frank Raquet asked Pat to clarify that her motion is not

taking into consideration what we talked about tonight, it is just about what we have approved at the last meeting. Pat said AExactly.@

Joe Floss said AEverything we did about two weeks ago, is not pre-empted by tonight. This is a separate motion. Pat explained that we are standing by the conditions that we made at the last meeting and sending in on to the Town Board.

Frank said AAnd not considering new?@ Joe Floss said the six that the conditions that were read will still apply. Many more may be applied by the Town Board. Mr. Jones asked that the conditions be read again, so Chairman Floss read them. Mr. Jones said he has a friend who worked for Yoder Brothers right until the end. He will ask him to explain what kind of vehicles he worked on at Yoders, and he will invite him to the public hearing.

Patricia Powers re-stated the motion to stand by the recommendations made by the Planning Board at the meeting held on February 19, 2003 to the Town Board Chairman Floss called for a roll call vote.

Chris Schneegold	AYE
Henry Bourg	AYE
Reas Graber	AYE
Frank Raquet	NAY
Patricia Powers	AYE
Joseph Floss	NAY.

MOTION CARRIED.

## DISCUSSION:

Jim Callahan gave a description of the property. It is on the east side of Transit Road, just to the north of the Sheridan Drive overpass. The existing Lia Honda dealership is in the major arterial zone, the land adjacent that they would like re-zoned for the parking area is zoned agricultural. The action will require a change in zone. The master plan recommends a commercial classification. Mr. Johnson of D.R.Chamberlain, said they have a retention area for water drainage, and they are looking for an easement with the property owner to the north to drain that water out to the street. They would like to install a few light standards out back for security lighting. This is an overflow area for stacking the cars, it is not an area for selling cars. Pat Powers asked if the detention pond was the type that could be mowed. Mr. Johnson said it could be. The light standards - will they be downcast? Yes, they will be downcast. Reas Graber asked about the parking lot to the north. The owner of Lia is talking to Benderson Development about getting access to the parking lot. That way he could bring cars in off that area, rather than off Transit Road. There are some cars over there now on a stoned area. They are using about 20% of the area at the present time. Frank Raquet asked about the property, and who owns it. It is presently owned by LIA Honda. Frank asked how many lights there will be. There will be two. The area will be paved, it will be strictly for stacking, not for sales. More than likely, it will not be fenced in. Henry Bourg asked if there would be landscaping around the detention pond, and the property to the west? Mr. Johnson said whatever is required. There is quite a grade drop off to the north. Chairman Floss said There certainly is. That is the first driveway in to the Eastgate plaza, and you run along that. I am not sure that is going to work, to have a driveway. Mr. Page 2003-52

Johnson said We aren't sure either, if it did it would be as far east as possible. Joe Floss said I would like to see it cut on the other side, but along your east property line, and then cut into the center of your parking. Do you see what I am saying? If you are successful in dealing with Benderson, we would like an opportunity to talk to him. It would be an opportunity to take that parcel to the east of you, and have a bit of an entrance or an exit available on to that parking lot for them as well. It might help your client, and whoever owns the land to the east in the future. The



land to the east is owned by Uniland who is proposing that office building, and they wanted an exit out on to Benderson's parking lot. They weren't successful in negotiating that - so if there is a way for three parties to get together and make it happen, we would be happy to see that. We think it makes more sense having some kind of egress, even if it is just a fire access, on to that other large parcel east of you. If that plan ever comes to fruition from Sheridan, it would allow a flow of traffic to Benderson or at the minimum fire access. I am asking for a motion to send this off to Landscape Committee, Municipal Review Committee, and Fire Advisory.

**ACTION:**

Motion by Reas Graber, seconded by Chris Schneegold to refer this to the Landscape Committee, Municipal Review Committee, and Fire Advisory for review and comment. The applicant must submit a long form for the SEQR review.

ALL VOTING AYE. MOTION CARRIED.

Page 2003-53

**UPDATE ON FLOOD PLAIN**

Tim Lavocat gave a presentation to the Planning Board - a brief overview on Flood plain management, and how flood zones affect the development of the Town, and review of these developments. There are three regulated flood areas in the Town of Clarence.

The first one, is what we refer to as a regulatory flood way which exists along Ransom, Gott, and Tonawanda Creeks. It is an area where no development can take place whatsoever, it is mainly confined to the channel itself, and other places a little wider than the channel. No development can take place at all, without an extensive hydraulic analysis in these areas. That is in our ordinance. So it is very cost prohibitive to propose a development in the flood way, which would ultimately result in re-locating a channel. Those studies cost tens of thousands of dollars to perform, and that is why they aren't done very often. Those areas are areas of high velocity flood flows, so they are hazardous areas.

The second, is the one hundred year flood plain. They are areas of the flood way fringe, areas where you have low velocity flood flows, less hazardous, less than two feet depth. Development is permitted within these areas, and major developments if they were proposed in a flood plain area, may require a hydraulic analysis. That all depends on how much of the actual

flood plain is on the applicants property, and how much spreads to the adjacent properties. It is mainly low velocity and also back water storage during flood events.

The third, and most critical area is the Black Creek Density Flood Way, which is in the north end of the Town of Clarence. This one is a little more complicated. Just to give you a history of how this one was developed... When Black Creek was studied by our consultant to develop a flood plain management program, the flood way width of Black Creek in some areas was over a mile wide by the models and the analyses. That would have eliminated any development, any development, you couldn't even construct a shed within these areas. So you can see the impact on most of the northern end of the Town of Clarence. And it doesn't come as a large surprise mostly north of Lapp Road is a density flood way. So, instead of enforcing or enacting an actual flood way of that width, we were the first community in New York State to develop a density flood way, based on density of fill within the flood plain to balance it out. So we spread the flood way across the entire Town, where we could still do some building in that area. If you look at it closely, there is a conveyance area from east to west, which is where the flood waters would flow in the event of a one hundred year flood. The waters would convey from east to west across the Town, and in areas where the flood plain or the density flood way is above the road, for example Goodrich Road, would be completely under water if this flood were to occur. So that area is in the conveyance area, so that is why we have restricted minimum lot sizes for lot splits in that area. In the study that was developed for the density flood way, it details by street, the minimum frontages on the east side and the west side of these streets within the density flood way. Now, there was some confusion at times, on which lots the frontage requirements applied to. I did further investigation with the consultant, right after I came on board here, and it was determined that only the lots that are listed in the density flood way study, are subject to the frontage requirements. They are the only lots where under this event, would convey water in the east west direction. For example, if you look at Westphalinger Road, on the west end of Town. If you are on the northern lots there, you are not going to convey water across Westphalinger Road, because the road is essentially above the flood elevation, so it is going to act as a dam. So, it is less critical to regulate that, than it is down on Wolcott Road, where you

Page 2003-54

know you are going to be conveying water across the road. That is why we have the minimum lot widths. There was some confusion that anything within the density flood way, north of Lapp Road was subject to those frontage requirements. That is not the case. Our Department will be reviewing any development within any flood way, flood plain, or Black Creek density flood way for strict conformance with our Local Law # 3 of the year 2000. I will be doing those personally. What we want to accomplish is to get all the details ironed out during the review stage, mainly for subdivisions, any minor subdivisions once that ordinance takes effect, if it should. We don't want to get a development, where it is put on the people who buy the lots, and then they are stuck with building restrictions that are imposed in those flood plain areas. We want everything taken care of by the developer. It may prolong the review process, but that is going to be one of the recommendations of our department, so we can get everything on the table, up front, so when people buy these lots they know what restrictions are there, what are in affect, and essentially what they are buying.

Chairman Floss said ANine years or so ago, a citizen-s group got together, raised ten thousand dollars, and hired a lawyer to go to Washington because their land would have been essentially

condemned. That is how this new plan, this self regulated density flood way arose. I don't know if you are aware of the history, but much to the chagrin of many of us who live out that way, because we were all negatively impacted. However, I could understand why, and I applaud the residents for taking the initiative. But it did have a much greater impact on so much more land. It was done on grid work I understand so it is not an exact science. So, there is an opportunity for people to come out and to get a letter of map amendment for land that is naturally higher than the flood elevation.®

Tim Lavocat said AWhen we get an applicant that comes in, or a resident that wants to build a single family house in one of the yellow areas, I get the question all the time, or the statement that the line is only 200 feet off the road. If I build past that line, am I going to be out of the flood zone? I tell them I can't make that determination because I don't have the most detailed information, the maps are strictly representative. So we require them to get an actual topographic survey, tie it into the FEMA data, which would actually delineate the flood line based on a base flood elevation, from the flood insurance profiles.

Chairman Floss said AIt used to be if you were two inches above the base flood elevation, you could dig your basement eight feet down. If you were one inch below the base flood elevation, you had to keep the bottom of your basement floor on top of the land. What is the new rule?®

Tim Lavocat said AThere are no new rules, that is an option. There are three options for building in the flood plain:

Option one is to build with your basement floor one foot above the base flood elevation. As the Chairman said if you are in by an inch, you are in by a mile.

Option two is the Town of Clarence has a basement exemption policy, and the Town of Amherst does too. We are the only two communities that have that, which states that you can construct your basement floor up to five feet below the base flood elevation. It requires additional flood proofing in the basement, reinforced walls specifically designed for hydrostatic

Page 2003-55

forces by a professional engineer, monitored and certified throughout construction. In the end you still pay flood insurance.

Chairman Floss said AYes, however, it is such a good thing, because all we were encouraging was for mountains to be built up, and to reduce the conveyance of water, when we didn't have that. If you notice some of the homes on the north end rose out of the ground, because they couldn't pour their floors on the surface of the ground. They brought in fill around them and built a mountain, which further restricts the conveyance of water. So that was a great move that the Town Board made at the time.

Tim Lavocat said AThere are a total of two basement exemptions that have been utilized since 2000.®

Option number three, which is the most popular option is to go file an application through FEMA to get a portion of your property removed from the flood plain, prior to any building. You elevate, there is a whole list of items you have to do. It involves filling, compaction, certification of the compacted fill, legal surveys, and then I sign off for our

department, or our department signs off as the community officials. We have to make sure that everything is in order, because we are basically stating that, that fill pad is reasonably safe from flooding. So that application is sent to the federal government FEMA. They review the package and they give us their determination, normally they approve them. That legally removes the parcel of land from the flood plain, and then you stay within that fill pad and construct your home.

Joe Floss said "That option is more palatable for most people because of the fact that they don't have to buy flood insurance."

Tim Lavocat said "Depending on how much fill you need, the entire process can range from 7,000 to 11,000 dollars. But if you consider a thousand dollars a year on average, for insurance, and a thirty year mortgage it is a good investment. Joe asked Tim "Have you found people filing for LOMARS?" Tim Lavocat said "I have fifteen to twenty going on right now. We were actually advised by the original FEMA office on how to do that."

Jim Hartz said Council Bylewski asked the Planning Department to update him on how land development in 2002 has conformed to the Master plan alternatives. Jim gave the board the following report:

The Town issued sixty-five (65) building permits for commercial development in 2002, twenty four (24) of which added square foot area to the Town's tax base. The total amount of space added to the Town was one hundred thirty four thousand two hundred twenty three square feet (134,223) area. The three largest projects were the Dynabrade expansion at 34,306 square feet, the Seal & Design expansion at 15,960 square feet, and the Room to Spare Self Storage expansion at 28,750 square feet. The estimated value for all of the additional square foot area is \$4,080,000. The rate of development is somewhat accelerated from the baseline 100,000 square feet identified by Nutter

Page 2003-56

Associates and the Center for Governmental Research although the overall value of the space is somewhat depressed at \$30.9/square feet compared to the baseline of \$30/ square foot for Industrial/Major Arterial development and \$50-\$75/ square foot for Commercial/Restricted Business development.

The overall tax revenue impact from the development will be approximately \$110,160.

An interested side note is that the Holiday Retirement facility that could not be considered "Commercial" because it is a residence, will be valued at over \$5,000,000 and have zero affect on the School District. That development alone will pay more in taxes than all of our Commercial development in 2002.

The Town issued two hundred twenty three (223) single family building permits in 2002. This rate was well under the two hundred eighty two (282) units per year rate that Nutter Associates and the Center for Governmental Research cited as the baseline rate of development.

The overall assessed value increase is estimated at approximately \$49,400,000 with an overall

tax revenue generation of \$1.33 M. However, based on the CGR model, the net impact on levy after services are provided to these newcomers would be (- \$37,654 to the Town & Highway budget, and (-\$82,906) on the Clarence Central School District.

The number of new builds within sewerred subdivisions has been on a downward slide.

Chairman Floss said he would like to review all the fees that we charge as a community and see how we stand in comparison to other communities, and perhaps make a recommendation to the Town Board to make one change to all the fees that we currently have. Clarence is in demand and I think it is time to look at that, not as a means to discourage people from coming here, but we are a limited commodity as well. If you are in demand, and you have antiquated fees, I think it is time that we do a little review on that.

Ken Kohler is spearheading the development of the green print. The Town has hired two interns Debbie Chesna, who is working primarily on view shed analysis, and she is also looking at trying to identify the things that the people of Clarence consider natural features that are unique to the character of the Town of Clarence. They could be anything from the escarpment, hedgerows, stone fences, winding roads etc. Debbie will be showing up at some public meetings to try and get an idea of how the residents identify the Town as being unique. Chris Woodside is another intern, is currently collecting data - mostly spacial data. What we call cleaning the data, getting the same projections. He is cleaning that data, we are going to put it together on a layer, and from that we will start developing and prioritizing the criteria. We developed a whole set of criteria such as working landscapes, natural biological diversity, visual aspects of the Town. The other issue we are looking at is infrastructure - water sheds, streams, aquifers that type of thing. We have a number of people actually working on the project other than the two interns. The people from the Western New York Land Conservancy, USD & RCS, the Natural Heritage Program in Albany, which is part of the DEC is helping us, and some data from the Erie

Page 2003-57

County Health Department. We have drawn on a lot of resources that we can put up on the computer. Joe Floss asked AWill this ultimately be a taking or a negotiated purchase?@ Ken Kohler said AAbsolutely, not a taking. I would not get involved with a project if it was a taking. Jim Callahan said one of the organizations we are currently working with, is the Natural Resources Council, and also the Western New York Land Conservancy. One of the things we are working on is to have the Conservancy actually work as our go between - to initiate contact to negotiate some of the acquisitions, types of acquisitions, and the ultimate price of acquisitions. Let them do the leg work, prior to bringing it to the Town - using the green print as a basis for identifying where those contacts are made. That takes some of the local political influences right out of the picture.

Ken Kohler said AThis is exactly what we are suggesting to do. You have the option of either purchasing the land or taking a conservation easement. My recommendation if it is working agricultural land, it may be better off for you to just do a conservation easement. What I am suggesting is to take the Western New York Land Conservancy and co-own the easement between the Town and the Conservancy. Then they could enforce the contract with the conservation easement, taking the Town and all the politics out of the equation. And then there is no question of somebody favoring somebody else.

Joe Floss asked "Are you planning any sort of public update or communication to the public this summer, in regards to this?" Jim Callahan said "Yes, as Ken had referenced Debbie Chesna will do a few public meetings specifically related to view shed. Once we assimilate all this data, and get it all in a format that we can share publically, that is our full intention to do just that." Ken Kohler said "I think it is an excellent idea to have fairly frequent updates on what is actually happening." Jim said Ken Kohler has a display set up on the computer in the conference room, if anyone would like to get an idea of the technology.

Motion by Patricia Powers, seconded by Henry Bourg to adjourn at 9:05 p.m.

Councilman Bylewski said "If I may make a suggestion based upon the work that the Planning Department did regarding the CGR update. As most of you are aware, we were trying to shoot for alternative # 4 in the CGR study. So, I would ask that the Planning Board take a look at the study as a board, and as individuals, take a look at the updates. Then as we are in the process of reviewing the updated zoning laws, how those are going to correlate with each other. Bearing in mind also, the statements that although that model presented \$225,000 as the break even number, we have also heard at various points that it is \$300,000 and \$325,000 for a home. The model is the best that we have to work with, however, bear that in mind as the zoning laws are being updated."

ALL VOTING AYE. MOTION CARRIED.

Meeting adjourned at 9:05 p.m.  
Joseph Floss, Chairman