

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday, July 31, 2024

Work Session 6:00 pm
Status of SEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:00 pm
Approval of Minutes

Item 1

Caliber Brokerage
Major Arterial

Requests Development Plan approval for the rehabilitation of the former Hector's Hardware building and site, to accommodate restaurant and retail spaces at 5355 Transit Road.

Item 2

Resurgence Brewing Company
Commercial

Requests Concept Plan approval for the rehabilitation and expansion of a former automotive facility to be converted into a brewery and tasting lounge at 6585 Transit Road.

Item 3

Mattina Development, LLC.
Industrial Business Park

Requests Subdivision & Concept Plan approvals for a proposed retail plaza at the southeast corner of County Road & James Ryan Parkway, SBL 44.00-1-55.

Item 4

Natale Development
Commercial

Requests preliminary Conceptual review of a mixed-use project containing multiple-family housing and commercial space at 8080 & 8112 Wehrle Drive.

Item 5

Jacqueline Winterhalter
Planned Unit Residential Development

Requests a Recommendation of a Special Exception Use Permit for the construction of an attached secondary living unit at 5312 Coyote Court.

Item 6

Charles Kelkenberg
Agricultural-Rural Residential

Requests a Minor Subdivision of land to create one (1) new lot located at the southeast corner of Martin Road and Goodrich Road, to be split from 9490 County Road.

Chairman Robert Sackett called the meeting to order at 7:00 p.m.

Councilman Shear led the Pledge of Allegiance.

Planning Board Members present:

Chairman Robert Sackett
2nd Vice-Chair Wendy Salvati
Daniel Tytka

Vice-Chair Richard Bigler
Jason Geasling

Planning Board Members absent: Gregory Todaro
Jason Lahti

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:

Deborah Brent
Charles Kelkenberg
Jeffrey Palumbo
Jeff Ware

Michael Brent
Angelo Natale
Ari Goldberg
Bobby Carero

Kathy Karaszewski
Jacqueline Winterhalter
Chris Wood

Michael Tucker
Sean Hopkins
Joseph Mattina

Motion by Richard Bigler, seconded by Daniel Tytka, to **approve** the minutes of the meeting held on June 19, 2024, as written.

Daniel Tytka	Aye	Jason Geasling	Aye	Wendy Salvati	Abstain
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED

Item 1

Caliber Brokerage
Major Arterial

Requests Development Plan approval for the rehabilitation of the former Hector’s Hardware building and site, to accommodate restaurant and retail spaces at 5355 Transit Road.

DISCUSSION:

Mr. Bleuer introduced this project at 5355 Transit Road, located on the east side of Transit Road, north of Greiner Road. It is an existing 0.8-acre parcel located in the Major Arterial zone, formerly home to Hector’s Hardware.

The applicant is requesting Development Plan and Final Architectural approvals for the rehabilitation of the former Hector's Hardware building to be converted into a commercial plaza featuring a Dave's Hot Chicken restaurant and a to-be-determined retail tenant. The northern portion of the building is proposed to be demolished to accommodate additional parking. The remaining building interior will be split into two units with the restaurant measuring 2,587 sqft and the retail store measuring 4,093 sq. ft. Upgrades to the existing parking lot, associated facilities, and building façade are also proposed.

The Town Board referred this proposal to the Planning Board in June of 2023. The Planning Board initiated a coordinated review under the State Environmental Quality Review Act (SEQRA) in July of 2023. In January of this year, the Planning Board issued a Negative Declaration under SEQRA and Conceptual approvals for the overall project. In April the Landscape Review Committee approved a final landscape plan. Also in April, the Engineering Department determined that the development plan meets all technical requirements. Most recently, the applicant has updated the architectural elevations per comments received.

The Planning Board has the authority to consider this Development Plan. An approval would constitute the final Board action prior to construction.

Any future outside dining proposed will be subject to a Temporary Conditional Permit, as issued by the Town Board.

Jeffrey Palumbo, Attorney with Block Longo and Chris Wood, Project Engineer with Carmina Wood Design were present to represent the applicant.

Mr. Palumbo added that since introducing this project to the Planning Board in June of 2023, the architecture of the building has been updated based on comments received from both the Planning Board as well as residents. They have eliminated one of the driveways based on comments received from the Department of Transportation and the Planning Board.

After extensive work and renditions, a final Landscape Plan has finally been approved which includes the addition of a fence along the rear property line as a result of multiple discussions with neighbors.

Mrs. Salvati thanked Mr. Palumbo for improving this project since it started.

Mrs. Salvati reiterated that there is no drive-thru associated with this project, a dumpster is included, and has been moved forward and space has been given between the dumpster and the back property line. The dumpster will be screened appropriately per the Landscape Plan.

Mrs. Salvati noted that the fence as well as two rows of Spruce trees will be provided behind the building to help mitigate the views for the neighbors.

Mrs. Salvati reiterated that the mechanicals will be on the roof which will have a parapet wall to screen them.

In response to concerns about potential odors, the applicant explained that they have a very state of the art air filtering system that will have multiple filters and cleaned daily.

Mrs. Salvati noted that the site lighting will consist of canisters that face down, with the lighting standards on the site itself at 15 ft. high which is what was mutually agreed. All lighting is dark sky compliant.

Referring to the lighting standard located at the back of the lot, Mrs. Salvati asked if a hood will be installed to shield the light.

Mr. Wood responded yes; it will have a shield on it.

Mrs. Salvati noted that they plan to utilize the existing sign, and any future sign updates will need to go through the Sign Review Committee.

Mrs. Salvati asked about loading and unloading, to which Mr. Wood responded that it will not be done on Transit Road but rather somewhere within the site. Mrs. Salvati asked if it will be done during off-hours, Mr. Wood responded he believes so.

Mrs. Salvati noted the improvements in the elevations since the initial submission are very nice.

Noting that a secondary entrance is shown on the elevations, Mrs. Salvati asked if it will be used for emergencies or for open use.

Mr. Palumbo stated that it will probably be the tenant's call, but he believes it will most likely be an active door.

Mrs. Salvati reiterated that any outside dining will need a Temporary Conditional Permit through the Planning and Zoning Office and Town Board.

Mrs. Salvati suggested to the applicant that whatever other tenant moves in to the building, to be aware of parking requirements due to limited parking on the site.

In regards to Public Participation, the following resident spoke:

Debra Brent of 5354 Greenhurst Drive:

- concerns with rodent traps or any other trapping around the building
- the other store in Amherst had large trucks that were parked and kept at the store, wants to make sure there will not be any at this location
- confirmed there is no lighting or parking in the rear of the building
- appreciates all of the efforts of the applicant

Public Participation was closed for this item.

Mr. Palumbo returned to respond to the questions and concerns, stating that there are no rodent traps at the other location, or is there a need for them. Though not currently planned as part of the development, should an issue arise at this location, it would be addressed and handled appropriately.

Mr. Palumbo is unaware of what trailers have been parked at the other location, but stated that it will not take place at this location.

Mr. Wood stated that there is a security light located in the rear of the building, but it will have a shield and will be downward facing and will not extend past the limits of the property.

ACTION:

Motion by Wendy Salvati, seconded by Richard Bigler to **approve** the Caliber Brokerage project **Development Plan**, located at 5355 Transit Road, per the submitted plan by Carmina Wood Design, dated November 2023, with a final revision date of March 2024, and to **approve** the **Final Architectural** drawings by Carmina Wood Design, received in the Planning Office on May 13th, 2024, all subject to the following conditions being met:

1. Applicant meet the requirements of the Town of Clarence Engineering Development Plan Review Letter, dated April 26th, 2024.
2. Applicant will meet the requirements of the Town of Clarence Building Department fire code compliance review, and associated conditions.
3. Applicant meeting any additional requirements of the Town of Clarence Engineering and Building Departments, and any associated conditions, prior to any permits being obtained for construction on the property.
4. Any proposed tenants shall be reviewed by the Town to ensure that the use is allowable, meets the standards of the Town Code, and the standards of this approved Development Plan.
5. Subject to the issuance of a Temporary Conditional Permit by the Town of Clarence for any future proposed outside dining.
6. Subject to New York State Department of Transportation approval for proposed access to Transit Road.
7. Subject to Erie County Division of Sewerage Management review and approval, and additional regulatory agencies, as required, for connection to the sanitary sewer system within Erie County Sewer District #5.
8. Applicant will meet the requirements of the Landscape Committee Approval on April 24th, 2024, and associated conditions, including but not limited to, the management of all landscaping in perpetuity and replacement, in-kind, should there be any deterioration, or death, or disease to plantings; and the maintenance of all fencing, and replacement in kind, should there be any deterioration or damage.
9. Dumpster enclosure shall remain closed at all times when not in use. Dumpster service shall occur in conformance with the Town Code. No garbage or debris shall accumulate outside of the dumpsters.
10. All site lighting shall comply with the Town Code, be dark sky compliant and shielded to prevent spillage onto adjoining properties. No lighting shall be elevated above 15' and all lighting shall be turned off no later than one hour after the close of business hours except for necessary security lighting.
11. Buildings to be constructed per the labelled and approved materials and colors, and building materials to be used shall be of industry standard high quality for durability and appearance.
12. Any ground exposed mechanicals shall be shielded from view by approved landscaping, and any roof mechanicals shall not be visible from the public rights-of-way.
13. Building and site shall be maintained as approved, in perpetuity, and any building and site deficiencies shall be repaired or replaced as approved.

- 14. Paved areas on the site to be striped and maintained in perpetuity. No parking of vehicles outside the designated parking areas, and all parking areas shall be curbed except for any pedestrian access ramp areas.
- 15. No unapproved outside storage or display of any kind on the property, including, but not limited to goods, materials, and debris.
- 16. Any permanent signage is subject to review and approval by the Town of Clarence Sign Review Committee, and any temporary signage is subject to review and approval by the Office of Planning and Zoning.
- 17. Subject to Open Space, and any other applicable fees as required by the Town Code.

Mr. Palumbo has heard, understands and agrees to the conditions.

Mr. Bleuer noted that the box on the rear of the building that Mr. Wood called out as a light, is a gas meter. There are no doors or lighting shown on the back of the building.

Daniel Tytka	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED

Item 2

Resurgence Brewing Company
Commercial

Requests Concept Plan approval for the rehabilitation and expansion of a former automotive facility to be converted into a brewery and tasting lounge at 6585 Transit Road.

DISCUSSION:

Mr. Bleuer introduced this project at 6585 Transit Road, located on the east side of Transit Road, north of Miles Road. It is an existing 1.8-acre parcel located in the Commercial zone, containing a currently vacant and former automotive facility.

The applicant is requesting Concept Plan and Conceptual Architectural approvals for the rehabilitation and expansion of the former automotive facility to become a brewery and tasting lounge. The building addition is planned on the north and east side of the building, of approximately 5,362 sq. ft. An additional approximately 3,666 sq. ft. dining patio is proposed on the north and east side of the building. Additional parking, landscaping and associated facilities are also proposed.

The Town Board referred this proposal to the Planning Board in June of 2023. The Planning Board initiated a coordinated review under the State Environmental Quality Review Act (SEQRA) in December of 2023. Since that time, the applicant has made modifications to the proposal based on comments received from involved and interested parties. Most recently, the applicant received sign-off from appropriate agencies for the proposed sanitary system flowrate from this project.

The Planning Board has the authority to consider an action under SEQRA, and actions associated with the Concept Plan and Conceptual Architecture.

The proposed outside dining will be subject to a Temporary Conditional Permit (TCP), as issued by the Town Board.

Jeff Ware with Resurgence Brewing and Sean Hopkins with the law firm Hopkins Sorgi McCarthy on behalf of the applicant were present to represent this request.

Mr. Hopkins reviewed the project, pointing out that this site located along Transit Road has needed development for many years.

Mr. Hopkins noted that they worked closely with the Planning Board Executive Committee in terms of the elevations of the proposed building, and through that process they have brought the appearance to the standards that the Town of Clarence is looking for.

Mr. Hopkins stated that they will be providing 76 parking spaces, and upon request of the Town of Clarence there will be a 6 ft. board-on-board fence along relevant portion of the southern part of the site, to screen the building. While the property to the south is primarily zoned Commercial, there is a portion that is zoned and used as residential as well.

Mr. Hopkins noted that one of the conditions previously placed on the previous project, is to keep the rear 75 ft. of the site as permanent open space. That area is heavily vegetated as well as the northeast corner.

Mr. Hopkins stated that in terms of the landscape plan, there will be 25 trees, 7 different types, 33 shrubs and 3 different types. Mr. Hopkins emphasized they will be providing landscaping along Transit Road, and once they complete this process one of the next steps is to submit a landscape plan to the Landscape Committee.

Noting that this proposed project is not an intense commercial use as the Comprehensive Plan designates, Mr. Hopkins pointed out that the Town of Clarence is no longer interested in “typical suburban” appearances and aesthetics for projects.

Regarding the State Environmental Quality Review Act (SEQRA), Mr. Hopkins noted that this is an unlisted action and barely meets the threshold. There have been no objections to the Planning Board being the designated lead agency, and they have provided substantial documentation clearly supporting the issuance of a Negative Declaration.

Mr. Hopkins continued to review the project to this point, adding that they needed to receive approval from the Town of Amherst Engineering Department for downstream sanitary sewer capacity, which held up the project longer than they expected. This ultimately reduced the number of seats, and the approval has since been granted.

Mr. Hopkins stated that they also prepared a Traffic Impact Study at the request of the Planning Board Executive Committee, and even though they are not close to crossing the typical threshold of 100 trips during the a.m. or p.m. peak hour, the traffic impact study had three conclusions:

The proposed project is expected to generate approximately 49 entering / 22 exiting vehicle trips during the p.m. peak hour and 41 entering / 24 exiting vehicle trips during the Saturday peak hour. Mr. Hopkins noted that unlike most uses, their peak time will be Saturday evenings.

Mr. Hopkins noted that they are not anticipating any changes to the level of service within the study areas.

Ultimately, Mr. Hopkins noted that the conclusion of the traffic study found that the project will not result in any potentially significant traffic impacts.

Mr. Tytka asked if the applicant is willing to work with the developments to the north to allow access for a potential future traffic light.

Mr. Hopkins responded that they would entertain that, subject to the caveat that they would not be willing to work with them if the Department of Transportation (DOT) forces them to eliminate their one and only curb cut on to Transit Road.

Mr. Tytka asked how high the light standards are.

Mr. Ware responded that he believes they are 15 ft.

Mr. Hopkins added that there is no lighting spillover, and they are dark sky compliant.

Mr. Tytka asked if there will be any additional exterior lighting outside on the patio that will spill out with the TCP request.

Mr. Hopkins respond no; there will be some low-level lighting on the patio, oriented towards the north and will not have any spillover effects.

Mr. Tytka asked what the plan is for outdoor speakers and hours of operation for potential outside dining.

Mr. Hopkins responded that the outdoor speakers will be appropriate volume providing a background sound. There could be some live music in regards to an acoustic guitar, no bands.

In terms of hours, Mr. Ware explained that they are a family place, the outdoor patio hours may be 12:00 p.m. – 10:00 p.m. Monday – Friday, and 12:00 p.m. to midnight at the latest on the weekends.

Chairman Sackett asked if they will stipulate that the speakers will face towards the building.

Mr. Hopkins responded that they will stipulate the speakers will not face to the south.

Mr. Tytka reiterated that the speakers will face towards the building and not outward toward the neighbors.

Mr. Hopkins stated that there may be a couple of speakers on the northern façade of the building, but they have not reached the point of working out those details yet.

Chairman Sackett noted that more details are needed when proposing the Temporary Conditional Permit to the Town Board.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Daniel Tytka, seconded by Wendy Salvati that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Environmental Assessment Forms as prepared and to **issue a Negative Declaration** on the proposed Resurgence Brewing Company project at 6585 Transit Road in the Commercial zone. This Unlisted Action involves the rehabilitation and expansion of a former automotive facility to be converted into a brewery and tasting room. After thorough review of the submitted plans, documents, meeting minutes, reports, letters, and Environmental Assessment Forms, it is determined that the proposed action will not have a significant negative impact on the environment.

Daniel Tytka	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED.

Motion by Daniel Tytka, seconded by Wendy Salvati to **approve** the Resurgence Brewing Company **Concept Plan**, located at 6585 Transit Road, per the submitted plan by Tredo Engineers, dated June 21st, 2024, and to **approve** the **Conceptual Architectural** drawings by Silvestri Architects, dated October 10th, 2023, all subject to the following conditions being met:

1. Applicant meeting the grading and drainage standards and requirements of the Town of Clarence Engineer.
2. Applicant meeting the fire code standards and requirements of the Town of Clarence Fire Inspector.
3. Subject to Development Plan review by the Town, including a technical review of the final Development Plan by the Town Engineering Department.
4. Subject to Town Building and Engineering Departments approval prior to any permits being obtained for site work activity.
5. Subject to the issuance of a Temporary Conditional Permit by the Clarence Town Board for any proposed outside dining. Such outside dining shall be detailed on any future Development Plan submittals.
6. Subject to New York State Department of Transportation approval for the proposed access to Transit Road.
7. Vehicular cross access shall be pursued with the adjacent property owner to the north. Should a cross access agreement not be signed prior to Development Plan consideration, applicant shall provide commitment to the Town to allow such cross access in the future should the property owner to the north allow it.
8. Subject to Erie County Division of Sewerage Management review and approval, and additional regulatory agencies, as required, for connection to the sanitary sewer system within Erie County Sewer District #5.
9. Landscape Committee approval of a final landscape plan, prior to Development Plan approval, including any planting, dumpster fencing, and southern property line screening details where applicable. In addition, a maintenance plan shall be submitted as part of the landscape plan to ensure landscaping and fencing remain in perpetuity, and are maintained or replaced in kind should there be any deterioration, or death and disease to plantings.
10. Review of a lighting plan prior to Development Plan approval. All site lighting shall comply with Town Code, be dark sky compliant and shielded to prevent spillage onto adjoining

properties. No lighting shall be elevated above 15’ and all lighting shall be turned off no later than one hour after business hours except for necessary security lighting.

- 11. Final building elevations to be submitted as part of the Development Plan review, including the labelling of material types and colors, with the addition of detailing and material variety for any monotonous and blank wall areas. Building materials to be used shall be of industry standard high quality for durability and appearance.
- 12. Any exterior building mechanicals shall be identified, detailed, and shielded on any future Development Plan submittals.
- 13. Building and site shall be maintained as approved, in perpetuity, and any building and site deficiencies shall be repaired or replaced as approved.
- 14. Paved areas to be striped and maintained in perpetuity. No parking of vehicles outside the designated parking areas, and all parking areas shall be curbed except for any pedestrian access ramp areas.
- 15. No unapproved outside storage or display of any kind on the property, including, but not limited to goods, materials, and debris.
- 16. Any permanent signage subject to review and approval by the Sign Review Committee, and any temporary signage subject to review and approval by the Office of Planning and Zoning.
- 17. Subject to Open Space, and any other applicable fees as required by Town Code.

Mr. Hopkins has heard, understands, and agrees to the conditions on behalf of the applicant.

Daniel Tytka	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED.

Motion by Daniel Tytka, seconded by Wendy Salvati to **recommend** to the Town Board issuance of a **Temporary Conditional Permit** for outside dining at 6585 Transit Road as per the approved Concept Plan and associated conditions.

Daniel Tytka	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED.

Item 3

Mattina Development, LLC.
Industrial Business Park

Requests Subdivision & Concept Plan approvals for a proposed retail plaza at the southeast corner of County Road & James Ryan Parkway, SBL 44.00-1-55.

DISCUSSION:

Mr. Bleuer introduced this project, located at 0 County Road, SBL 44.00-1-55 at the southeast corner of County Road and James Ryan Parkway.

A proposed 2.14-acre lot within the previously approved Cimato Industrial Business Park, it is located in the Industrial Business Park zone.

The applicant is requesting a subdivision of land per the approved Cimato Business Park development plan, and Concept Plan / Conceptual Architectural approvals for a commercial plaza. The plaza structure is proposed to be approximately 11,000 sq. ft., with two access points off James Ryan Parkway.

The Town Board referred this proposal to the Planning Board in October of 2022. The Planning Board initiated a coordinated review under the State Environmental Quality Review Act (SEQRA) in January of 2023. Since that time, the applicant has made modifications to the proposal based on comments received from involved and interested parties.

The Planning Board has the authority to consider an action under SEQRA, and actions associated with the Concept Plan and Conceptual Architecture.

Per Town code, parking is not allowed in the 80' front yard setback. The proposed parking in the front yard setback of James Ryan Parkway will require variance consideration by the Zoning Board of Appeals.

Present to represent this project are Ari Goldberg from the law firm Barclay Damon, Project Engineer Chris Wood with Carmina Wood Design, and developer Joseph Mattina.

Mr. Goldberg briefly reviewed the project, adding that they have made some adjustments to the site plan based on comments and suggestions from the Planning Board Executive Committee. They have also made substantial progress towards the environment based on concerns that were raised. Most significantly was a concern with the presence of possible endangered species, the Short-Eared Owl. In conjunction with working with the New York State Department of Environmental Conservation (NYS DEC) a habitat assessment survey was prepared by Earth Dimensions. This survey determined that there are no threatened or endangered species on the site and the project will not take any of their habitat.

Mr. Goldberg stated that their revised design is based on comments from the Planning Board Executive Committee, therefore they need to request a variance for parking on James Ryan Parkway, as one third of the site's parking is located in that area.

Mr. Goldberg continued to review the project, noting that the applicant's plan with the subdivision of lots is to merge lots 1 and 2, subdivide lot 9 as a stand-alone parcel, and the remaining lot 10, 11 and stormwater detention basin into another lot.

Mr. Geasling noted the east elevation (rear) seems very monotonous, and asked that it is broken up with some additional architectural details.

Referring to one of the building materials labeled "brick veneer", Mr. Geasling asked if this is real brick, or brick paneling.

Mr. Goldberg explained that the elevation in front of them tonight is less monotonous than the previously proposed plans. The proposed landscaping will help to break of the monotony of the building. Mr. Goldberg stated that upon returning to the Planning Board after the Zoning Board, they will continue to work with the Planning Board Executive Committee as well as the Planning Board for the design components.

In regards to the brick veneer, Mr. Goldberg stated that it is his understanding that it is real brick but is not structural.

Mr. Geasling asked if the mechanical will be at grade, due to the pitched roof.

Mr. Wood stated that according to the site plan, the mechanicals will be in the back. They will be screened and landscaped to provide an adequate buffer.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Jason Geasling, seconded by Daniel Tytka that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Environmental Assessment Forms as prepared and to **issue a Negative Declaration** on the proposed Mattina Development Subdivision proposal at 0 County Road, SBL 44.00-1-55, and a Retail Plaza project proposal at the southeast corner of County Road and James Ryan Parkway, all in the Industrial Business Park zone. This Unlisted Action involves the subdivision of three (3) sublots within a previously approved industrial business park, and construction of an approximately 12,288 +/- sq. ft. retail plaza with associated facilities. After thorough review of the submitted plans, documents, meeting minutes, reports, letters, and Environmental Assessment Forms, it is determined that the proposed actions will not have a significant negative impact on the environment.

Daniel Tytka	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED

Motion by Jason Geasling, seconded by Daniel Tytka to **approve the Mattina Development Subdivision** at 0 County Road, SBL 44.00-1-55, as per the supplemental submittal received in the Planning Office on July 10th, 2024, to create three (3) sublots with the following conditions being met:

1. Newly created Lot 1 shall consist of lots 1 and 2 on the previously approved Cimato industrial business park plan set.
2. Newly created lot 9 shall consist of lot 9 on the previously approved Cimato industrial business park plan set.
3. Newly created lot 10 shall consist of lots 10, 11 and stormwater lot on the previously approved Cimato industrial business park plan set.
4. Any future proposals associated with these sublots shall be subject to a full Town review, including review under the State Environmental Quality Review Act.

Motion by Jason Geasling, seconded by Daniel Tytka to **deny** the Mattina retail plaza Concept Plan per the submitted drawing by Carmina Wood Design dated July 8th, 2024.

This denial is upon the request of the applicant due to the need for a variance consideration.

This proposal includes proposed parking within the 80' front yard setback of James Ryan Parkway which is prohibited. If the applicant chooses to make an appeal to the Zoning Board and is successful, this proposal must return to the Planning Board for Concept Plan Review.

Daniel Tytka	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED

Item 4

Natale Development
Commercial

Requests preliminary Conceptual review of a mixed-use project containing multiple-family housing and commercial space at 8080 & 8112 Wehrle Drive.

DISCUSSION:

Mr. Bleuer introduced this project at 8080 & 8112 Wehrle Drive, located north side of Wehrle Drive, east of Transit Road. It is an existing 14.5-acre vacant property in the Commercial zone, and within Erie County Sewer District # 5.

The applicant is requesting conceptual review of a proposed mixed-use project containing multiple-family housing and commercial space. 134 residential units and 58,759 sq. ft. of commercial space are proposed, throughout six 3-story buildings.

This property holds Development Plan approval for a 5-lot commercial business park, issued in 2020. The approval prohibits residential development on-site. Should the applicant proceed with this proposal, the prior Development Plan approval shall be rescinded by the Town.

The initiation of a coordinated review under the State Environmental Quality Review Act will allow for involved agency and interested party comment.

Per Town code, multiple-family housing proposals are limited to 2-stories, regardless of building height. The proposed third-story of each building will require variance consideration from the Zoning Board of Appeals.

Representing Natale Development was Bobby Carero, also present was Angelo Natale and Bob Blood with Greenman Pedersen Inc (GPI).

Mr. Carero noted that during the Planning Board Work Session, one of the items that was discussed is the connection at the north end of the site. Current drawings show that it connects to the retention pond on the Home Depot site, they are exploring their options of how to pass it through. It is their

understanding that the site at 8080 Wehrle comes with an easement that currently connects to the parcel. They are working on understanding where exactly it is located, and how they are able to connect to it.

Also discussed during the work session was the phasing, which Mr. Carero explained that this will more than likely be a phased project, and they are currently working with GPI on the best way to do that and which lines to follow.

Mr. Carero thanked Mr. Bleuer for working with them on this project, they think this proposed project will work great in this location.

Mr. Bigler noted that in regards to potential phasing, there will be concerns with clearing and asked Mr. Carero what the potential phases will look like with clearing.

Mr. Carero explained that he will address that the best he can without having a full understanding of what the phasing will consist of. Their intention to only clear the areas that need to be impacted to get infrastructure in to the site to meet all of the requirements. The only exception to that may be the central park area of the site, they may opt to install that earlier before the proposed project is complete because it is a large amenity for the people on and visiting the site.

Mr. Bigler stated that they do not want the entire site cleared immediately.

Mr. Carero responded yes; they are aware.

Chairman Sackett thanked Mr. Carero for attending the Work Session, noting that the northern access is important to the Town of Clarence as well as the applicant.

Mrs. Salvati asked the applicant if they will be preparing a Traffic Study Report.

Mr. Carero responded yes; if it is required.

Discussion continued regarding a potential traffic impact study.

Mrs. Salvati noted that elevation drawings for the front building have been provided, noting that at the appropriate time they will also need elevations for the rear buildings.

In terms of the central park, Mrs. Salvati noted that to her understanding they do not have intentions of clearing it all, and will hopefully preserve some of the existing trees and vegetation that is located there.

In regards to Public Participation, no one spoke.

Mr. Bigler added that this project has come along way since it's conception, and in his personal opinion, it is a beautiful project.

ACTION:

Motion by Richard Bigler, seconded by Daniel Tytka that 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 **commence a coordinated review** among involved and interested agencies on the Natale Development Mixed-Use project at 8080 and 8112 Wehrle Drive. This Type I Action involves the construction of a mixed-use development, containing commercial space and multiple family housing in the Commercial zone and Erie County Sewer District # 5.

Daniel Tytka	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED

Item 5

Jacqueline Winterhalter
Planned Unit Residential Development

Requests a Recommendation of a Special Exception Use Permit for the construction of an attached secondary living unit at 5312 Coyote Court.

DISCUSSION:

Mr. Bleuer introduced this project at 5312 Coyote Court, located at the northeast corner of Via del Sole and Coyote Court in the Loch Lea subdivision. It is an existing residence on a 0.48-acre parcel in the Planned Unit Residential Development zone.

The applicant is requesting a recommendation of a Special Exception Use Permit for the construction of a secondary living unit as an expansion to the existing residence.

The Town Board referred this proposal to the Planning Board in March. Since that time, the applicant has made modifications to the proposal based on comments received. Modifications include the removal of a secondary front door, addition of windows and brickwork, and an increase to the roof ridgeline height where the addition meets the existing residence.

The Planning Board is a recommending body for this proposal.

The applicant Jacqueline Winterhalter, and Michael Tucker with Sharp Contracting were present to represent this item.

Mr. Tucker noted that they have made the adjustments that the Planning Board Executive Committee had made, and are prepared with this newly updated plan.

Mr. Geasling stressed the guidelines of the Special Exception Use Permit and that it will be restricted on use, limited to family members and employees. It can not be used as a rental, and there will be a condition stating that.

Mr. Geasling asked if the brick veneer is real brick.

Mr. Tucker responded that it is real brick, they have a good match to the brick on the existing home.

Mr. Geasling asked how the brick veneer will go on to the existing garage.

Mr. Tucker explained that they will need to add lintels and headers over the existing garage.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Jason Geasling, seconded by Richard Bigler to **recommend issuance of a Special Exception Use Permit to the Town Board** for a secondary living unit addition at 5312 Coyote Court per the submitted plan by James E. Boy Architects, dated July 15th, 2024, subject to the following conditions:

1. Subject to permits and conditions of the Town Building Department.
2. Front façade shall be constructed with brick material and detailing to match the existing home per the approved plan.
3. Secondary Living Unit shall be secondary to the principle dwelling and not converted to a rental unit.
4. Occupancy shall be limited to family members, paid employees, temporary guests or principal homeowner.
5. A Deed Restriction shall be placed into the deed for the property, restricting its use and occupancy so as to limit same to family members, paid employees, temporary guests or principal homeowner so as not to allow the unit to be utilized or converted into a rental unit. The Deed Restriction language shall be submitted to and approved by the Town Attorney's Office prior to filing of the Deed in the Erie County Clerk's office.
6. An Agreement shall, simultaneously, be entered into between the property owner/Applicant and the Town of Clarence. This Agreement shall require that the property owner/Applicant prepare and record the Deed Restriction incorporating the conditions of approval and requiring those restrictions be placed into the property deed. Both the Agreement and Deed Restriction shall continue in perpetuity. A copy of the Agreement shall be filed as an attachment to the Deed to be filed in the Erie County Clerk's office. All required documentation shall be submitted to and approved by the Town Attorney's Office, prior to filing.
7. The property Owner/Applicant shall provide proof of filing of both the Deed and Agreement by providing stamped "FILED" copies to the Town Attorney's Office prior to the issuance of a Certificate of Occupancy by the Building Department.
8. Subject to any applicable fees as required by Town Code.
9. The property owner, or any future property owner, shall provide certification to the Town on an annual basis that the unit is being used in conformance with the conditions of approval. Failure to submit the annual certification may result in the termination of the Special Exception Use Permit, and may result in a Zoning Violation subject to enforcement and penalties as outlined within Town Code Zoning Law Chapter 229-160 and 161 or any changes made to the Code of the Town of Clarence in the future.

The applicant has heard, understands, and agrees to these conditions.

ON THE QUESTION:

Upon approval by the Town Board, the applicant should contact the Town Attorney’s Office for guidance on necessary legal requirements.

Daniel Tytka	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED

Item 6

Charles Kelkenberg
Agricultural-Rural Residential

Requests a Minor Subdivision of land to create one (1) new lot located at the southeast corner of Martin Road and Goodrich Road, to be split from 9490 County Road.

DISCUSSION:

Mr. Bleuer introduced this project at 9490 County Road, a proposed newly created lot to be located on the southeast corner of Martin Road and Goodrich Road.

It is an existing 6.7-acre parcel in the Industrial Business Park and Agricultural-Rural Residential zones, with frontage on County Road, Goodrich Road, and Martin Road. Construction is currently occurring on-site, for a previously approved self-storage facility, with access to County Road in the Industrial Business Park zone.

The applicant is requesting a Minor Subdivision of land to create one (1) new building lot on the southeast corner of Martin Road and Goodrich Road, in the Agricultural-Rural Residential zone. The newly created lot would be approximately 2.4-acres with 369’ of frontage on Goodrich Road and 319’ of frontage on Martin Road. The remaining parent parcel would be approximately 4.3-acres.

The Planning Board has authority to act on this request, after an action through the State Environmental Quality Review Act.

Charles Kelkenberg was present to represent his request.

Mr. Tytka asked what the need is for this split.

Mr. Kelkenberg responded that it is to create a single-family residential lot.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Daniel Tytka, seconded by Wendy Salvati that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Environmental Assessment Form as prepared and to **issue a Negative Declaration** on

the proposed Kelkenberg Minor Subdivision at the southeast corner of Martin Road and Goodrich Road, to be split from 9490 County Road. This Unlisted Action involves a lot split to create one (1) lot in the Agricultural-Rural Residential zone. After thorough review of the submitted plans and Environmental Assessment Forms, it is determined that the proposed action will not have a significant negative impact on the environment.

Daniel Tytka	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED

Motion by Daniel Tytka, seconded by Wendy Salvati to **approve the Kelkenberg Minor Subdivision** at the southeast corner of Martin Road and Goodrich Road, to be split from 9490 County Road, as per the submitted sketch plan received in the Planning Office on July 10th, 2024, with the following conditions being met:

1. Subject to Town of Clarence Highway Department approval for access to Martin Road, and/or Erie County Department of Public Works approval for access to Goodrich Road.
2. Review and approval by the Erie County Health Department for any future on-site sanitary facilities for the property.
3. Review and approval by the Town Building and Engineering Departments for any future construction on the property.
4. Should any drainage easements be required by the Town to address on-site drainage issues on the property, appropriate easements shall be submitted by the applicant and approved by the Town Engineering, Highway and Legal Departments. If required, applicant shall file same in the Erie County Clerk’s office and provide a stamped “FILED” copy to the Town Attorney’s Office after recording. If such easements are required, no Building or other permits shall be issued until the approved and filed additional easement has been received and accepted by the Town Attorney’s Office.
5. Subject to Open Space, Recreation, and any other applicable fees as required by Town Code.

ON THE QUESTION:

This newly created lot abuts property zoned Industrial Business Park. The Industrial zone is the Town’s highest intensity zoning classification, and current or future industrial businesses should be expected in the area.

Daniel Tytka	Aye	Jason Geasling	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye		

MOTION CARRIED

Meeting **adjourned** at 8:11 p.m. with a motion by Wendy Salvati.

Amy Major
Senior Clerk Typist