

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday, October 1, 2025

Work Session 6:00 pm

Status of SEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:00 pm

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
Jason Geasling

Vice-Chair Richard Bigler
Gregory Todaro
Daniel Tytko

Planning Board Members absent: Jason Lahti

Town Officials Present:

Director of Community Development Jonathan Bleuer
Junior Planner Andrew Schaefer
Councilman Paul Shear
Councilman Bob Altieri
Deputy Town Attorney David Donohue

Other Interested Parties Present:

Anne Ohanessian	Laura Meli	Linda Turri	Michael Turri
Amy Bucholtz	Bob Bucholtz	Ben Plessinger	Scott Thomas
Seth Harvey	Katie Harvey	Kristine Toth	Brian Panzer
Joe Miano	Robin Miano	Lynn Kawa	Tony Mineo
Jennifer Siefert	Daniel Crowther	Danielle Cohen	Pamela Edel
Michelangelo Lamborg	Brian Goris	Miriam Haefner	Roxanne Kenline
Richard Spencer	Chris Polus	Lindsay Polus	Dennis Murphy
Muriel Gaynor	Donna Benthowski	Robert Benthowski	David Summa
Lorrie Ann Knight	Jamie Powers	Francis Haefner	Dennis Garofalo
Raelynn Wagner	Sue Rusin	Tony Zinaty	Tom Curry
Bob Gentner	Cheryl Schultz	Beth Hess	Anne Quesada
Brendan Shaw	Ruthann DiNatale	Michele Panzer	Karen Rogowski
John Rogowski	John Horvath	Kathy Horvath	Gail Weymouth
Barry Yavener	Marilyn Goris	Suzette Altieri	Wendy Swantek
John Swantek			

Item 1

Benderson Development, LLC.
Traditional Neighborhood District

Requests Change-In-Use approval for a proposed Tim Hortons restaurant as a rehabilitation of the former bank, to include a drive-through facility, at 8503 Main Street.

DISCUSSION:

Mr. Bleuer introduced this project at 8503 Main Street, located at the southeast corner of Main Street and Harris Hill Road.

It is an existing 0.6-acre parcel located in the Traditional Neighborhood District, containing a vacant former bank building and drive-through facility, with a total of three vehicular access points; two on Harris Hill Road and one on Main Street.

The applicant is requesting a Change-In-Use approval for a proposed Tim Hortons restaurant as a rehabilitation of the former bank, to include a drive-through facility. No outside dining is proposed.

The Town Board initially referred a Tim Hortons proposal on this site to the Planning Board with a series of conditions and considerations in February of 2024. At that time, the referral was for Site Plan review. In October of 2024, the Planning Board initiated a coordinated review under the State Environmental Quality Review Act (SEQRA). From February of 2024 until March of 2025, the applicant made modifications to the proposal per comments received. Due to conflicting interests, it was determined that not all comments, conditions, and considerations could together be met. In March, the applicant submitted an amended proposal for this change-in-use to utilize the property as-is with no right-of-way modifications and internal changes only. In May, the Town Board referred this amended proposal to the Planning Board. Since that time, the applicant has modified the proposal per comments received. Such modifications include the addition of a mansard asphalt shingle roof, clapboard siding, dark sky compliant lighting, additional site landscaping and decorative stone wall, sound attenuated menu board speaker, and a permit request and construction commitment for the sidewalk on the west side of Harris Hill Road to be raised and curbed, subject to Erie County Department of Public Works approval.

The Planning Board has the authority to act on this request.

Present on behalf of Benderson Development was Matthew Oates, who explained that the building will remain the same with no changes to the existing building footprint. The drive thru canopy on the east side as the pickup window with 13 cars within the dedicated drive thru stacking lane on the site. The site will maintain 16 parking spaces which is greater than the 9 spaces required by the Town code. We are proposing to maintain fencing on the east side of the site. In addition, the order board system for the drive thru will be a lower decibel system but final specifications are not yet available and will be provided for final review by the Town. In addition, the septic system for this site is proposed to be in the green space south of the building just north of the drive thru. There is a single dumpster enclosure proposed that will be fully enclosed with gates so it is fully screened.

Benderson has contacted Erie County requesting to replace the sidewalk along Harris Hill Road which is currently at grade with the road to be raised six inches higher than grade to provide pedestrian protection. The County is amenable to allowing the change and removing the existing apron and curb cut as changes to the Harris Hill right of way. Correspondence has been supplied to the Town.

Access to the building will remain as it exists today with stairs on the west side and a ramp in the front.

Benderson is modifying the look of the building to bring it into compliance with the Town's Vision for Main Street to include:

1. Addition of storefront on north side of the building
2. Addition of clapboard siding at the red band at the top of the building.
3. Mansard roof of asphalt shingle to be added
4. Storefront appearance will be changed from black to white
5. Existing RTU unit to be replaced with a new smaller unit to be screened by the Mansard roof
6. Signage will be mounted to the building

Mr. Todaro acknowledged the correspondence received regarding the proposed Tim Hortons project since the last meeting:

Jen Speranza-Holowicz	May 22
Sharon Figelioso	May 23
Dennis Garofalo	May 25
Bart Johnson	May 25
Fran Hefner	June 11
Dennis McCarthy	June 16, 13, May 28, 27, 24
Mary Carouty	June 17
Bob Altieri	June 25
Mary Aronica	June 28
Kathleen Harvey	July 14
Christina Heights	June 14
Patricia Mineo	July 14
Jennifer Redmond	July 15
Julian Mussaco	June 18
Laura Meli	July 29
Herbert Gunther	October 16, July 15
Michelle Panzer	August 3
Brian Panzer	August 3
Brendan Shaw	Sept 4

Mr. Todaro also acknowledged a letter sent to the Planning Department from change.org with 355 signatures by October 1st and a corresponding Facebook group that had 111 members regarding the proposed development. The main concerns were traffic safety, lighting, sound, dumpster and location. It also addressed concerns regarding the building materials, fence height and more specifically the view shed to the property and safety of the location.

Noting that the agency has basically approved the curb and raised sidewalk, Mr. Todaro asked Mr. Oates to further elaborate as to how that will work against Harris Hill Road. How long will it be from Main Street, where does it end, and what are the plans for the elevation.

Mr. Oates explained that it will end at their southern property line and then connect back in with the sidewalk at the Main Street right-of-way. Once it comes on to their property, there would then be a transition point coming off the sidewalk that would be just under a 5% grade to raise it up to the 6 in. That would be over 10' in length, then the sidewalk would run to just south of where the driveway is where there would then be one of two ADA compliant ramps.

Mr. Todaro asked if there is a retaining wall located in the area of transition, or is it a slope of median.

Mr. Oates responded that there is a slope of median on the sidewalk itself. They hope to work with Erie County for the couple of feet of greenspace on the inside of the sidewalk to see if they would shift approximately a foot of the greenspace to the sidewalk. This would provide additional transition and a bit of a buffer.

Mr. Oates added that they still need to submit final construction documents for the sidewalk to Erie County Department of Public Works.

In regard to vehicle access and this Change-in-Use, Mr. Todaro added that this Board and the Town of Clarence do not have authority based on what the DOT has established when it comes to access. Regardless of this, Mr. Todaro asked Mr. Oates to explain what the access to this property will be.

Mr. Oates explained that the access will be via the existing driveway on Main Street and the existing driveway on Harris Hill Road. The existing southernly curb cut will be removed, leaving the two access points to remain on the site.

Mr. Todaro asked Mr. Oates to describe the traffic flow that will occur on the property based on the two access points.

Mr. Oates explained that the traffic flow for cars entering Harris Hill will either enter the parking lot or the drive-thru. They will either exit on to Main Street, or drive around and exit on to Harris Hill. The same will occur with entry from Main Street, they will enter the drive thru then around and leaving either via Main Street or Harris Hill. For those going inside, they are able to park along the side or rear, or if applicable, utilize the handicap parking at the front of the site.

Mr. Todaro asked Mr. Oates to elaborate on the plans in regard to landscaping, which will still need to go through Landscape Committee Review.

Referring to the plans as shown on the screen, Mr. Oates described their proposed plans for landscaping. The stone wall detail will extend along the Main Street frontage with proposed trees and shrubs. They will refresh all of the landscaping along the building, and refreshing all of the greenspace areas around the building. They will install new plantings along Harris Hill Road, the perimeter of the septic system area, around the dumpster enclosure, and finally along the drive-thru.

Mr. Todaro asked for a description of the septic system area and whether it is level.

Mr. Oates explained that it will be greenspace, it will be raised slightly and will be a bottomless septic system. It still needs to go through the review and approval process with the Erie County Health Department.

In regard to lighting, Mr. Todaro asked Mr. Oates to describe the parking lot lighting.

Mr. Oates stated that there are 5 new 15 ft. high, single-head poles proposed for the parking lot in multiple places. They are LED fixtures, dark-sky compliant and meet all of the Town of Clarence codes.

Mr. Todaro explained that Town Code compliant means there is no spillage on to adjoining properties of any kind.

Mr. Oates added that the lights closer to the property lines will also have backside shields.

Mr. Todaro asked for the plan for lighting on the building.

Mr. Oates stated that there will be some smaller architectural lights on the building itself, under-lighting at the canopy to provide lighting under the canopy. Aside from that there will be the required security lights above the exit doors, and decorative lighting along the columns and similar. There are no building-mounted lights to project any light on to the parking lot.

Mr. Todaro asked if the decorative lighting that Mr. Oates is referring to is similar to sconce lighting.

Mr. Oates responded yes.

Mr. Todaro asked for the location of the dumpster and how it will be enclosed and contained so that it is not visible, as well as pickup times.

Mr. Oates explained that it is proposed to be on a concrete pad, with a gated wood fence enclosure around it, with additional landscaping proposed around it as well. They will work with the refuse company that have pickups during the day to make sure that the pickup time is not too early in the day.

Mr. Todaro asked for information regarding the ADA (Americans with Disabilities Act) accessibility for the building and where that is proposed.

Mr. Oates explained that the ADA space that exists today in front with a ramp system that brings you up to the door. The current building sits approximately 2 – 2 ½ ft. higher than the existing grade around the building, and the existing ADA system is what is required for this project.

Mr. Todaro asked if there is ADA parking in the rear of the building as well.

Mr. Oates responded no; there is not enough room for another ADA space in the rear.

In regard to the menu and sound system, Mr. Todaro asked about the plans for that and how they intend to keep the noise levels to a minimum.

Mr. Oates stated that it will be a lower decimal system, technology has come a long way, and there is now noise-canceling technology. They will provide the specifications to the Town as part of the building permit process, and it will be closely looked at to be sure that the noise does not reverberate out in to the community.

Mr. Todaro asked where the mechanicals will be located on the site.

Mr. Oates stated that there will be a new rooftop mechanical unit placed at the top of the building. There is an existing one there that is fairly large and quite visible from the street. That will be replaced with a newer unit that is much smaller and lower in the overall size. It will be hidden and screened appropriately.

In regard to signage, Mr. Todaro confirmed that there will not be any other signage aside from on the building.

Mr. Oates stated that there will not be a free-standing monument sign, there will be lower directional signage on site, and two building mounted signs proposed.

Mr. Tytko asked if the signage will be illuminated, and what the hours would be.

Mr. Oates responded yes, they will be illuminated, from dusk until close of business and then dawn until it is light out.

Mr. Tytko noted that those are difficult to make dark-sky compliant, so he wants to be sure they will not be on 24-7.

Mr. Oates responded that they will turn off with the close of business.

Regarding the fencing proposed for around the dumpster, Mrs. Salvati asked if it will be higher than the height of the dumpster. They prefer that so that you can not see the dumpster over the top of the fence.

Mr. Oates responded yes; they are proposing 8 ft.

Mr. Geasling asked about ingress and egress from Harris Hill and Main Street, and whether a left-hand turn will be allowed on to Main Street.

Mr. Oates stated yes; they are not proposing any changes to the existing curb cuts.

Before beginning Public Participation, Chairman Sackett noted that while this proposed project was previously in front of this Board for site plan review, it is now here for a Change-in-Use. The Board's authority, accountability, and responsibility cannot speak to traffic, but to the site. Mr. Todaro spoke to the site extensively, and they are trying to get concerns and information regarding the site.

Chairman Sackett stated that during Public Participation, you are free to go on the record with any topic that you wish; he wants to make it clear what is happening this evening with this Board being asked to consider a Change-in-Use only.

In regard to Public Participation, the following residents spoke:

1. Scott Thomas of 4187 Oakwood Dr.:
 - a change-in-use leads directly to a change in traffic patterns
 - concerns with safety
 - 13 cars stacking for the site is impossible
 - has a video from previous accident at the intersection

- making a left turn on to Main Street is a preposterous idea
 - if they do not make left turn, they will end up cutting through the neighborhood from Nottingham Terrace
 - concerns with proposed septic
2. Tony Minneo of 4280 Oakwood Dr.:
 - concerns with pedestrian safety, traffic, and construction
 3. Cheryl Schultz of 4188 Oakwood Dr.:
 - opposition to drive-thru
 - listed the zoning concerns
 - does not agree that the drive-thru is existing and should not be grandfathered in to the new use
 - continued to state concerns regarding drive-thru and zoning requirements
 - asked to table this item for further review
 4. Michelle Panzer of 8545 Nottingham Terrace:
 - continued with zoning concerns and Special Exception Use Permits
 - concerns with vehicle stacking lanes and queuing, site plan not accurate
 - requested this item be tabled for further review
 - cited a Traffic Impact Study and recommendations
 5. Daniel Crowther of 4260 Fireside Dr.:
 - concerns with SEQR
 - Planning Board role and responsibilities to residents
 - proposed project will be a burden on the infrastructure
 - safety concerns
 - concerns with heavy and dangerous traffic
 - feels the traffic should not move forward
 - requests Planning Board recognize the public turnout for this proposed project
 - bad site selection
 6. Ben Plessinger of 4300 Wildwood Dr.:
 - concerns with sidewalks, snow and ice and removal to keep the residents safe
 - concerns with site safety and the potential for accidents
 - drivers cut through the project parking lot to avoid the light
 - not the same applicant, should have new traffic study
 7. Joseph Giovanni of 4171 Harris Hill Rd.:
 - concerns with safety hampered by traffic
 - traffic patterns hampered by their need for coffee
 - speed limit not enforced
 - altered traffic pattern when there is snow
 8. Beth Hess of 4254 Circle Ct.:
 - asked how neighbors are notified when a developer or project goes to the County
 - concerns with school drop off at Harris Hill Elementary and the amount of traffic

- foresees trouble on garbage days as well
 - son is a first responder; the amount of traffic will impede on the volunteer firefighters who already need more volunteers
9. Seth Harvey of 4175 Oakwood Dr.:
- this is the type of project that raises a lot of concerns amongst the neighbors
 - how does the change in applicant and request for change-in-use not trigger an additional traffic study
10. Wendy Swantek of 4171 Connection Dr.:
- already get a lot of cut-through traffic on Connection Drive
 - this building has always been a bank, never a food service
 - the drive-thru was only for banking, never for food service with a substantial amount of traffic coming through
 - the previous banking facilities were not open on weekends, did not need to worry about weekend or morning traffic
11. Sue Rusin of 8365 Ericson Rd.:
- is a gardener for Nativity school and church
 - people cut through the parking lots, it is dangerous
 - there is an 8:00 a.m. drop-off, preschool with 3 yr. old and 4 yr. olds
 - 8:00 a.m. mass primarily senior citizens
 - main concern is traffic and the safety of the children
12. Katie Harvey of 4175 Oakwood Dr.:
- already seeing so many traffic issues even before this project goes in
 - it is not safe
 - has no problem with Tim Hortons, but does not agree with this location because of traffic and safety
13. Barry Lavener of 8690 Nottingham Terr.:
- challenges the Board to go in to the parking lot and to the Main Street exit in the morning and attempt to make a left-hand turn on to Main Street
 - the traffic cutting-through the adjacent neighborhood and Nottingham Terrace will be unsafe
 - the traffic and safety on Harris Hill will be unsafe and too busy
14. Chris Polus of 4255 Cameron Dr.:
- traffic concerns
 - concerns with the snow removal
 - questioned the drainage in the parking log
 - problems with the dumpster and rodents
 - board needs to take the concerns and safety of the citizens
 - agrees with sidewalk concerns previously stated

15. Lynn Kawa of 4145 Vinewood Dr.:

- how and where are the deliveries being made, size trucks and how will it affect traffic and parking lot and blocking roadways

16. Christine Toth of 4265 Harris Hill Rd.:

- concerns with the raised sidewalk and transition to the street level
- concern with the tree at the corner that will block vision
- consideration to not be able to turn left on to Main from the north driveway

17. Linda Tieri of Harris Hill Rd.:

- this will be a significant change to the neighborhood
- concerns for the children at Nativity school
- the Tim Horton's lines are out to the road everywhere
- elementary children in the area, this is too busy and too much traffic for that area
- ruining the neighborhood and the place that they love
- concerns with the 16' lights and if they will be on all night
- would you put this anywhere other than the Harris Hill area

With no one else wishing to speak, Public Participation was closed for this item.

Chairman Sackett asked Mr. Bleuer to explain the change in applicant and the transition that occurred.

Mr. Bleuer stated that the initial iteration that was brought forward for Site Plan review was submitted by Kelton Enterprises. Kelton Enterprises was involved during the State Environmental Quality Review (SEQR) process of the original proposal which resulted in over 400 pages of transportation data being collected and created by a transportation consultant, and reviewed by all agencies.

Prior to the change-in-use portion being brought in, Mr. Bleuer stated that the file was transferred from Kelton Enterprises to Benderson Development. There is a letter in the project file from Kelton Enterprises authorizing Benderson Development to take control of the project file. It does not mean that the contents of the file are thrown away, all of the information remains in the project file, and remains used by all relevant agencies. All of the appropriate paperwork is in the project file to accommodate the change in applicant.

Regarding the Special Exception Use Permit (SEUP) process, Mr. Bleuer reiterated that this is an existing drive-thru facility, the building was built in the 1970's. There is no information regarding how it was constructed or approved, but it was certainly approved as a bank in the original form. That is why we have the Change-in-Use process, to allow for the review to other businesses and type of operation.

Mr. Bleuer explained the renewal process, explaining that there is no renewal process for a Special Exception Use Permit, but there is a renewal process for a Temporary Conditional Permit (TCP). These two terms and permits are often confused for one another.

Mr. Bleuer added that a Special Exception Use Permit is issued for the construction of something. While windows and doors may be modified, the Town of Clarence has deemed that this is an existing drive-thru facility.

Chairman Sackett reiterated that this is change-in-use has been deemed at Type 2 Action, which means that all previous SEQR is only relevant to the site plan, not to the county or state roads.

Mr. Oates returned to the podium to address resident concerns and questions, beginning with the septic system. The plan is that it will be a bottomless sand filter in the back greenspace area that will be designed by the project engineer Carmina Wood and submitted to the Erie County Department of Health for their review.

In regard to vehicles using this property as a cut-through to skip the light, Mr. Oates stated that it is his understanding that it is a violation of a traffic law, and with it no longer being a vacant property, it should deter drivers from using it as a cut-through.

Mr. Oates addressed the concerns with the sidewalk along Harris Hill and raising it up 6 in., in previous discussions with the Town of Clarence, that was an item that was requested be included.

Regarding discussion with Erie County, Mr. Oates explained that there are not formal meetings for discussions. They reached out to Erie County Department of Public Works, they review all requests in the highway, they are the ones that review the permits to see if they will allow the work to be done.

Regarding deliveries and snow removal; Mr. Oates stated that deliveries would be received in the back of the building, and the plan would be to have deliveries during non-busy operating hours such as during the day, late morning or early afternoon. As for snow removal, they have greenspace on and around the site to place snow. They do not plan to pile the snow up in the parking spaces. Town Code requires 9 parking spaces and they have 16 spaces on their plan, so if they do lose a space or two to snow, they would still be providing ample code compliant parking.

Mr. Oates stated that they can remove the tree that is planned for the corner if necessary, and leave that section as grass if there are concerns with visibility.

Mr. Oates added that they can have the site lights turned off except for security lighting after the close of business.

Chairman Sackett stated that all landscaping is subject to landscape review through the Landscape Review Committee. The Planning Board refers to the Landscape Committee and their expertise to make decisions regarding vegetation and the environment.

In terms of the sidewalks, Chairman Sackett asked Mr. Oates if they plan to maintain them around their property.

Mr. Oates responded yes.

Regarding drainage, Chairman Sackett asked what the plan is with that.

Mr. Oates stated that they would be proposing to utilize the existing drainage system that is currently on the site. They will tie in to that, it will be fully engineered and they will work with the Town of Clarence Engineering Department for final review.

Mr. Todaro asked about directional signage on the ingress and egress to help translate the traffic pattern.

Mr. Oates responded yes; that will be in addition to the building-mounted sign there will be directional signage on the site to help direct the traffic.

ACTION:

Motion by Gregory Todaro, seconded by Richard Bigler, to **Approve the Benderson Development, LLC. Change-In-Use** to Tim Hortons Restaurant, located at 8503 Main Street, per the submitted site plan by Carmina Wood Design, dated September 23rd, 2025, and elevation plan by James Allen Rumsey, dated September 23rd, 2025, all with the following conditions being met:

1. Applicant meeting the requirements of the Town of Clarence Engineering and Building Departments, and any associated conditions.
2. Applicant shall apply for permit from the Erie County Department of Public Works, and the New York State Department of Transportation if required, and construct if approved, a curbed and raised sidewalk on the east side of Harris Hill Road for the north/south length of the property.
3. Any planned on-site vehicular access directional controls to the public rights-of-way are not of the purview of the Town as part of this Change-In-Use approval, and shall be considered at the discretion of the applicant. Prior correspondence has been provided by the New York State Department of Transportation, Erie County Department of Public Works, and the Town of Clarence, for consideration of the applicant.
4. Landscape Committee approval of a final landscape plan, prior to permits being issued for the project, including any stone wall, planting, perimeter and dumpster fencing where applicable. In addition, a maintenance plan shall be submitted as part of the landscape plan to ensure landscaping, walls, and fencing remain in perpetuity, and are maintained or replaced in kind should there be any deterioration, or death and disease to plantings.
5. Dumpster enclosure shall remain closed at all times when not in use. Dumpster service shall occur in conformance with Town Code. No garbage or debris shall accumulate outside of the dumpsters.
6. All site lighting shall comply with the Town Code, be dark sky compliant and shielded to prevent spillage onto adjoining properties. No building lighting shall extend above the roofline and no freestanding lighting shall be elevated above 15'. All lighting shall be turned off no later than one hour after business hours except for any necessary security lighting.
7. Building to be constructed per the labelled materials and rendered colors, and building materials to be used shall be of industry standard high quality for durability and appearance.
8. Building and site shall be maintained as approved, in perpetuity, and any building and site deficiencies shall be repaired or replaced as approved.
9. Any ground exposed mechanicals shall be shielded from view by approved screening and/or landscaping, and any roof mechanicals shall be screened from view by approved architectural features.
10. Drive-through menu board shall utilize a speaker system that is of industry high-quality for the reduction of noise spillage onto adjacent properties.
11. Paved areas to be striped and maintained in perpetuity. No parking of vehicles outside the designated parking areas, and all parking areas shall contain curbing and/or bumper stops as shown on the approved development plan.
12. No unapproved outside storage or display of any kind on the property, including, but not limited to goods, materials, and debris.

13. 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.
14. Subject to Open Space, and any other applicable fees as required by Town Code.

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

ON THE QUESTION:

This proposal has been deemed a Type 2 action by the Town of Clarence, and therefore requires no further environmental review nor action under the State Environmental Quality Review Act.

Daniel Tytko	Aye	Jason Geasling	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Item 2

Harris Hill Development, LLC.
Commercial & Restricted Business

Requests amended Concept Plan approval of a proposed mixed-use project containing multiple-family housing and commercial space at 8450 Sheridan Drive, SBL 70.11-5-1.

DISCUSSION:

Mr. Bleuer introduced this project at 8450 Sheridan Drive, located on the north side of Sheridan Drive, west side of Harris Hill Road.

It is an existing 14.8-acre previously disturbed vacant parcel located in the Commercial and Restricted Business zones.

The applicant is requesting amended Concept Plan approval of a mixed-use project containing multiple-family housing and commercial space. The project consists of the following:

- 3 mixed-use buildings, each containing 8,065 sq. ft. commercial and 11 to 15 apartments.
- 7 residential townhouse buildings, each containing 4 units.
- 5 residential apartment buildings, each containing 4 units.
- 3 garage buildings, each with 8 to 10 bays.

This results in a total of 85 residential units and 24,195 sq. ft. of commercial space.

This property currently holds Development Plan approval for a mixed-use project containing 80 residential units and 24,800 sq. ft. of commercial space, which will become null and void should this amended Concept Plan approval be granted. In February of this year, the Town Board referred this amended proposal to the Planning Board. In April, the Planning Board initiated a coordinated review under the State Environmental Quality Review Act (SEQRA). Since that time, the applicant has addressed comments received, planted the required vegetative buffer on the west side of the parcel, and constructed interim drainage improvements on the property. In August, the Planning Board issued a

Negative Declaration under SEQRA and denial of the Concept Plan due to the 3rd story element of the mixed-use buildings. In September, the Zoning Board of Appeals issued variances for the 3rd story element of the mixed-use buildings.

The Planning Board has the authority to act on this request.

Present to represent this project were Ken Zollitsch with Greenman Pedersen, Inc. and Al Randachio with the applicant Windsor Ridge Partners. Mr. Zollitsch briefly reviewed the project, adding that since the last meeting there were specific concerns from the residents regarding drainage flowing on to their property. In working with the Town of Clarence Engineering Department, they have developed a plan to temporarily intercept the drainage. It is basically a temporary measure until the time that they are able to construct the entire site.

Mr. Zollitsch explained that there are cut-off swales on the northern edge of the property line, and that work is well underway. This drainage work was reviewed and approved by the Town Engineer.

Mr. Geasling asked about the height and type of the site lighting proposed.

Mr. Zollitsch responded that he is unsure if they have any planned at this point, they will work with the Town of Clarence in terms of heights. They will be dark sky compliant throughout the site.

Mr. Geasling stated that 15 ft. is the maximum height for light standards.

Mr. Zollitsch noted that there is not a need for significant height on this site.

Mr. Geasling noted that the dumpsters appear to be enclosed and shielded.

Mr. Zollitsch stated that dumpsters will be fully enclosed, the fence higher than the dumpster itself.

Mr. Geasling noted that mechanicals need to be shielded.

Mr. Zollitsch responded yes.

Mr. Geasling asked if there are any vertical pipes exiting the roofline of the building are asked to be a similar color to the roof color.

Mr. Zollitsch stated that they will make that point known to the architects. Silvestri Architects have worked diligently to satisfy the Town of Clarence in terms of materials, lowering the edges. As they get in to the details, they will be sure to make that point known to them.

Regarding the sidewalk along Sheridan Drive and Harris Hill Road, Mr. Geasling asked if there is any intention of putting an access out to Harris Hill Road from the site.

Mr. Zollitsch responded that what they have right now in terms of pedestrian access is merely sidewalk along Sheridan Drive for this project, because that is what they are fronting. He believes Harris Hill Road has been tied in separately with the subdivision. They do have the access driveway going out to Harris Hill Road, but no pedestrian intent along the back property line. Mr. Zollitsch reminded the

Board that this proposed project is not the anchoring corner parcel, there is still another project to be developed between this proposed project and Harris Hill Road.

Mr. Bleuer stated that the approved Development Plan that exists currently has a sidewalk requirement for the frontage along Sheridan Drive as well as the frontage along Harris Hill Road. There is another sidewalk component to the North that is tied to the 19 proposed subdivision lots, and that would extend to Eastmoor Lane. But there is a required sidewalk within the blue boundaries of this site.

In regard to Public Participation, the following resident spoke:

1. Thomas Curry of 8473 William Smith Way:
 - concerns with drainage and taxes
 - dubious about the temporary drainage plan
 - if the temporary drainage plan does not work, the residents on William Smith Way will be in trouble
 - questioned why a berm was not considered
 - wanted to see landscaping plans tonight
 - questioned why this project is eligible for IDA
 - what new jobs will this proposed project create
2. Tony Zinaty of 8463 William Smith Way:
 - appreciates the drainage ditch, has watched the work and met with the inspectors; hopeful that it works
 - would like some more privacy since so much brush has been removed, would be very appreciated
 - looking to see landscape plans
 - hopes the board does the right thing to give them some privacy, is thankful for temporary drainage

With no one else wishing to be heard, Public Participation was closed for this item at this time.

Mr. Zollitsch returned to address the concerns and questions of the residents, explaining that they expect the temporary drainage to work, from the western property line all the way over to the east they have created either swales or a larger area parallel with the northern property line that will intercept the drainage.

Mr. Zollitsch reminded everyone that the intent of this is to collect it on the site, then connect it to an existing pipe that is towards the center of the site. It will then flow in to the piped stormwater system that goes north in to the Harris Hill Development in to an existing system linked in to an existing pond.

Mr. Zollitsch stated that this temporary drainage plan will not eliminate, but will substantially improve drainage. Their preference is always for swales rather than berms, because then they can control the drainage.

In terms of a buffer, Mr. Zollitsch stated that the site was cleared, but there was never a promise or intent to have a 45' buffer on this site. That has been provided in the common areas in the Harris Hill subdivision. He acknowledges that there are some gaps, they have not been filled in yet because they

need to remove the plants upon site construction with the extension of sewer and water lines as well as general activity in that area.

They have heard the concerns from the residents regarding an additional buffer, Mr. Zollitsch stated that as the site is designed there will be plenty of screening where Sheridan Drive will no longer be seen. They will work with the Landscape Review Committee and receive input from the neighbors to see what they can do to increase additional plantings along the north end of their property line.

Regarding jobs on the site, Mr. Zollitsch stated that the 25,000 sq. ft. commercial component of the project will provide the opportunity for jobs.

Mr. Bleuer stated that even if this project is approved this evening, it will be back to this Planning Board for Development Plan Review. Prior to that there is a requirement to be seen at the Landscape Committee to review the overall landscape plan including a northern landscape buffer. Ultimately, if they proceed to the point of Development Plan review it would come back to the Planning Board and notices would go out to the neighbors again. This would allow them to have the opportunity to review that plan at that time, or even before if they choose.

Chairman Sackett stated that the Landscape Review Committee meets on the second Tuesday of each month. You can check with the Planning Office to see if this project is on an agenda.

Chairman Sackett reiterated that the Planning Board has no influence over the IDA at all.

Mr. Geasling asked since this is phased construction, when will utilities installed in the rear of the project where the area could be planted.

Mr. Zollitsch responded it will be in Phase One.

Mr. Geasling stated that they would be able to get privacy as soon as possible.

Discussion continued regarding landscaping and utilities.

ACTION:

Motion by Jason Geasling, seconded by Wendy Salvati, to **approve** the Harris Hill Development, LLC. **Concept Plan**, located at 8450 Sheridan Drive, per the submitted plan by GPI, dated April 2025, and to **approve** the **Conceptual Architectural** drawings by Silvestri Architects, dated July 15th 2021, May 7th 2024, and April 11th 2025, 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 New York State Department of Transportation approval for the proposed access points to Sheridan Drive, and subject to Erie County Department of Public Works approval for the proposed access point to Harris Hill Road.
6. Subject to Town of Clarence Engineering and Erie County Division of Sewerage Management review and approval, and additional regulatory agencies, as required, for connection to the sanitary sewer system within Clarence Sewer District 10, with conveyance of sanitary sewer flow to and through Erie County Sewer District #5.
7. A phasing plan, including phased clearing and grading/drainage, shall be submitted as part of Development Plan review.
8. Landscape Committee approval of a final landscape plan, prior to Development Plan approval, including any split rail fencing, planting, and dumpster or tote fencing 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.
9. Dumpster or tote enclosures shall remain closed at all times when not in use. Garbage service shall occur in conformance with Town Code. No garbage or debris shall accumulate outside of the dumpsters or totes.
10. Review of a photometric lighting plan prior to Development Plan approval. All site lighting shall comply with the Town Code, be dark sky compliant and shielded to prevent spillage onto adjoining properties. No building lighting shall extend above the roofline and no freestanding lighting shall be elevated above 15'. All lighting shall be turned off no later than one hour after business hours except for any residential and necessary security lighting. Any and all security lighting shall be depicted on the lighting plan.
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 or blank wall areas. 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 screening and/or landscaping, and any roof vents shall be painted to match the roof color.
13. Site curbing plan shall be submitted as part of Development Plan review.
14. Applicant shall propose an on-site recreational component during Development Plan review to meet the requirements of Clarence Town Code. Such recreational component may include pedestrian paths and amenities such as benches and bike racks.
15. Buildings and site shall be maintained as approved, in perpetuity, and any building and site deficiencies shall be repaired or replaced as approved.
16. Paved areas to be striped and maintained in perpetuity. No parking of vehicles outside the designated parking areas.
17. Applicant shall construct an ADA compliant sidewalk along Sheridan Drive and Harris Hill Road which extends the length and depth of the property, to be reviewed as part of the Development Plan review.
18. For commercial uses, no outside display or storage of any kind on the property unless same shall have been pre-approved by the Town, including but not limited to goods, materials, debris, or other items.
19. Any future proposed commercial outside operations shall be subject to a Temporary Conditional Permit as reviewed and approved by the Town of Clarence.

20. Any future development proposal for the area between the west property line and the westerly building shall not impact the community character of the adjacent residential neighborhood and this project.
21. Any future development proposals on exception areas shall provide full interconnectivity to this project, for both vehicular and pedestrian movement.
22. A conservation easement or deed restriction to permanently protect the identified open space shall be prepared by the applicant and submitted to the Planning Office for Town Attorney review and approval. After review and approval, applicant shall file same in the Erie County Clerk's office and provide a "Stamped Filed" copy to the Planning Office and Town Attorney's office after recording and prior to permits being issued for the property.
23. A 30' trail easement along Sheridan Drive and Harris Hill Road, which extends the length and depth of the property, shall be prepared by the applicant and submitted to the Planning Office for Town Attorney review and approval. After review and approval, applicant shall file same in the Erie County Clerk's office and provide a "Stamped Filed" copy to the Planning Office and Town Attorney's office after recording and prior to permits being issued for the property.
24. 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.
25. Subject to Open Space, Recreation, and any other applicable fees as required by Town Code.

ON THE QUESTION:

This proposal has previously received a Negative Declaration from the Planning Board, and Variances from the Zoning Board of Appeals for the total height of mixed-use buildings.

Daniel Tytko	Aye	Jason Geasling	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Motion by Jason Geasling, seconded by Wendy Salvati, to **recommend** to the Town Board approval of **Special Exception Use Permit** for the Harris Hill Development, LLC. project at 8450 Sheridan Drive, containing multiple-family housing units as per the approved Concept Plan and associated conditions.

Daniel Tytko	Aye	Jason Geasling	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Item 3

Rick Switala
Industrial Business Park

Requests Concept Plan approval of a proposed 5-building, industrial/utility storage project at 9717 County Road.

DISCUSSION:

Mr. Bleuer introduced this project at 9717 County Road, located on the south side of County Road, east of Goodrich Road.

It is an existing 4.3-acre vacant parcel located in the Industrial Business Park zone.

The applicant is requesting Concept Plan approval of a proposed 5-building, 25,000 sq. ft., industrial/utility storage project. Each building is 50' x 100', arranged linearly on the site with a single access, and the building closest to County Road contains an 800 sq. ft. office area.

The Town Board referred this request to the Planning Board in August of 2024. In March of this year, the Planning Board initiated a coordinated review under the State Environmental Quality Review Act (SEQRA). Since that time, the applicant has addressed comments received, including the addition of fence screening and architectural modifications.

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

Present to represent this project were Project Engineer Pat Sheedy with Carmina Wood Design and Joey Tripi with Bamel Architects.

Mr. Sheedy added that they are requesting Concept Approval for the entire site, but the project will be constructed in phases. Basically, it will be one building at a time, beginning with the building closest to County Road.

Mr. Tytka noted that there is not much too clear, and asked if they would be doing full concrete or phase by phase.

Mr. Sheedy stated that they would clear and construct per the phase lines.

Mr. Tytka asked if there will be enough space for emergency services to get through if necessary.

Mr. Sheedy responded yes; at the end of the driveway there will be a turn-around, and will be moved from phase to phase until it is completed.

Noting that it is early on in the process, Mr. Tytka asked if they have any plans for the mechanicals yet.

Mr. Sheedy stated that specifically for the first phase the mechanical will be placed in the office space, which is where the heated space will be. It is notated in the utility closet on the plans.

Noting that it is rather close to the property line, Mr. Tytka asked if stormwater retention will be mostly dry.

Mr. Sheedy noted that it will be designed as a dry pond to hold water temporarily.

Mr. Tytka asked if there are any new light standards proposed for Phase 1.

Mr. Sheedy responded yes; they will have wall packs on the building that point downward and are dark-sky compliant. There will also be supplemental site lighting for security purposes. They will all be code compliant and shut off during non-business hours.

Mrs. Salvati asked how high the fence that they are proposing to construct along the western property line will be.

Mr. Sheedy stated that they are proposing a 6' stockade fence.

ACTION:

Motion by Daniel Tytko, seconded by Gregory Todaro 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 Rick Switala project at 9717 County Road, in the Industrial Business Park zone. This Unlisted Action involves the construction of a 5-building, 25,000 sq. ft. industrial/utility storage project. 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 Tytko	Aye	Jason Geasling	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Motion by Daniel Tytko, seconded by Gregory Todaro to **approve** the Rick Switala **Concept Plan**, located at 9717 County Road, per the submitted plan by Carmina Wood Design, dated January 31st, 2025, with a final revision date of March 5th, 2025, and to **approve** the **Conceptual Architectural** drawings by Bammel Architects, dated September 23rd, 2025, 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 Erie County Department of Public Works approval for the proposed access point to County Road.
6. Subject to Erie County Health Department and New York State Department of Environmental Conservation approval, if required, for the proposed on-site sanitary facilities.
7. A phasing plan, including phased clearing, shall be submitted as part of Development Plan review.
8. Landscape Committee approval of a final landscape plan, prior to Development Plan approval, including any planting and dumpster or tote fencing 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.
9. Review of a photometric lighting plan prior to Development Plan approval. All site lighting shall comply with the Town Code, be dark sky compliant and shielded to prevent spillage onto

adjoining properties. No building lighting shall extend above the roofline and no freestanding lighting shall be elevated above 15'. All lighting shall be turned off no later than one hour after business hours except for any necessary security lighting. Any and all security lighting shall be depicted on the lighting plan.

10. 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 or blank wall areas. Additionally, building features should be considered, such as dormers, windows and other architectural features. Building materials to be used shall be of industry standard high quality for durability and appearance.
11. Any exterior building mechanicals shall be identified, detailed, and shielded from view on any future Development Plan submittals.
12. Site curbing plan shall be submitted as part of Development Plan review.
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.
15. Other than licensed vehicles, no outside storage or display of any kind on the property unless same shall have been pre-approved by the Town, including, but not limited to equipment, goods, materials, and debris.
16. Each proposed business operation or operator shall be subject to review and approval by the Town.
17. 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.
18. Subject to Open Space, and any other applicable fees as required by Town Code.

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

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

MOTION CARRIED.

Meeting **adjourned** at 9:00 p.m. with a motion by Wendy Salvati.

MOTION CARRIED

Amy Major
Senior Clerk Typist