

## OGDEN PLANNING BOARD

July 8, 2010

### Members Present

Gary Parker  
Tony Halaris  
Marc Robinson  
Mary Lou Hetzke  
Linda DelRegno

### Members Absent

Tom Coburn  
Jim Marshall

### Others Present

Jack Crooks, Building Inspector  
John Freel, Town Engineer  
Dave Pulhamus, Conservation Board  
Keith O'Toole, Planning Board Attorney  
Michele Hankey, Building Clerk  
Owen McIntee  
Edmund S. Martin  
Charles Hopson  
Fritz Gunther  
Tom & Kate Fairbrother  
Patrick Laber  
Tom Smith  
Brian Sorochty  
Jonathan Bratt  
M. Ihrig  
Barbara DiVincenzo

### ***I. PLEDGE OF ALLEGIANCE***

### ***II. PUBLIC HEARING***

***Parkview Center*** - application of Land-Re LLC., for preliminary approval to construct a mixed-use development on a 48.7 acre parcel located northeast of the corner of Union Street (NYS Route 259) and north of Big Ridge Road. The area is zoned to allow the proposed uses: SC (Senior Citizen), and RB (Restricted Business). The application is proposing to develop 23.9 acres zoned Restricted Business with the construction of a commercial development complex. The application is also proposing an 80-unit senior townhouse project (including 1 clubhouse) on 24.8 acres zoned Senior Citizen. This project will be serviced by public water and sewer and will be titled Parkview Center.

Mr. Crooks: For the chairman's information, Mr. Widger will not be with us this evening. Mr. Freel will read his comments.

Mr. Parker: This is also, as Jack mentioned, a public hearing. We will listen to the applicant first, and then the various members here, and then open it up to the public.

Mr. Martin: Good evening. My name is Ed Martin; I am a licensed Engineer with Land Tech. We represent Land-Re LLC and their application before you. The Board is, I am sure, quite familiar with this project having reviewed it several times through the conceptual phase. My presentation tonight will be brief, and for the benefit of those in attendance tonight from the public. We do understand this is a public hearing, and we look forward to getting comments back from them. As Mr. Crooks explained, the site is just shy of 50 acres. It is located north of Big Ridge Road, east side of Union Street, and directly opposite of Barefoot Landing. The western half of the site will be developed in accordance with Restricted Business zoning, while the eastern half will be developed in accordance with the Senior Citizen zoning. Mr. Crooks did mention that we have 80 units proposed within the senior portion. There is a clubhouse as required by the Senior Citizen Code, proposed to serve the residents of that development. The commercial portion or the western half, the plans before you show just shy of 208,000 square feet of building square foot area. I think it goes maybe, or maybe not, without saying that the actual building configurations are likely to change based on the market demand in particular. The site will be serviced by public water, with connection at Union Street and Big Ridge Road. The will be internally connected, which was one of the comments made by Mr. Freel very early on in the conceptual approval process. We do propose roadway connections, both to Union Street and to Big Ridge Road. I am sure that there will be some discussion regarding the connection to Big Ridge Road. I will go into that in more detail shortly. The wastewater for the site will be directed to a proposed pump station centrally located. As most of you know, the treatment plant was converted to a County pump station a couple of years ago. Unfortunately, that design does not allow for gravity service of any of the adjoining undeveloped land. So, we do propose a pump station. The water supply system, and the wastewater systems will be dedicated. They will be turned over both to the Water Authority for water supply, and to the Town of Ogden for sanitary sewer. We have an extensive storm water management system throughout the site, collecting water runoff and directing it to one of three ponds, which are interconnected. Mr. Widger, your Highway Superintendent, pointed out some problems with his storm sewer downstream of the development along the Union Street side. So he requested that we make every effort possible to take the storm water to the east, in a more direct route to Northrup Creek, we have done that. Just a side note here, the Town of Ogden has rather stringent storm water managements. They require 35% minimum reductions of the post development peak discharge rates, the design before you yields at least 60% reduction. So, suffice it to say, that our storm water system is oversized. The storm water system will remain private, but easements will be grated to the Town of Ogden to allow them to gain access to both the ponds, and the storm sewer, if they find it necessary. As I understand it, and I will risk speaking for Mr. Widger, there will be a

storm water management agreement in place between the property owners and the town, which basically states that the property owner will own and maintain the system. And if there are shortcomings with maintenance, the Town has the right to go in there and make repairs if necessary, and then back charges the property through taxes. We have met with town staff several times over the last few weeks and months, and we have received comments from them. Most recently, I met Mr. Freel to walk the off site drainage pathway to Northrup Creek just yesterday afternoon. I feel that we are well on our way to satisfying concerns. We do have some additional work to complete in that regard, but I feel that we are on the same page if you will. Finally, I will come back to the roadway connection to Big Ridge Road. We presented this to the Village Board last night, and there were some technical concerns with respect to the existing roadway section, both in width and cross section of pavement. There are a lot of utilities out there, sanitary mains, two of them in particular, and utility poles. Which really limit the available width to get both the roadway utilities and the sidewalk through there. I will leave it by saying that discussions are ongoing. If for some reason the Village does not go ahead and approve the improvements to the existing road that accesses the County pump station, we do have land along the frontage of Big Ridge Road, which could provide a secondary access. We are just considering that conceptually. That was literally just thought of today. But I want it on the record that if for some reason the Village does not allow that to go through, we do have another avenue to provide a secondary access, which really is needed due to the number of units that are back there. I do have comments from town staff. I can go through them if you like, but as I said, we have met several times with them, and are well on our way of satisfying those. We do understand that this is a public hearing and would welcome any feedback that you or the public has for us at this time.

Mr. Parker: Thank you Mr. Martin. Are there any comments from the Conservation Board?

*Conservation Board – Dave Pulhamus*

Yes we have a few. We will start off with a positive one. Having the garage doors not facing the street gives a nice, neater appearance to the whole project. We have a concern on the east pond. It is very narrow and deep. The aspect ratio is quite high. The concern there is leading to erosion, because it is so narrow and deep. It might fill in quite quickly, and may not serve its full function. There is no data tables for any deep hole tests, were any done on the lot's there?

Mr. Martin: Yes, we did several deep holes. Most recently, just a week ago, in the location of the proposed pump station, bedrock does vary. You will note on the grading sheets, I do not recall what numbers they are; they should be sheet 6 and 7, up at the top, there are tables showing the depth of the bedrock on there.

Mr. Pulhamus: This area is habitually wet and has poor drainage. On the maps that we received, the offsite drainage was not showing, and that is something that you talked about in reference to Dave Widger's comments, so I would like to think that is being

taken care of. The impervious surface of the project is approximately 40% by our calculations, which is quite a lot. Did you calculate the impervious surface too?

Mr. Martin: I cannot tell you off the top of my head, but that is a very easy calculation. We can get it literally within a tenth of a square foot.

Mr. Pulhamus: Ok, well you don't need to do that. It just seemed that it is quite a bit that we are trying to drain away, and just keep that in the fore front for the drainage in this area. That is quite wet. A few recommendations we had are; we would like to see the size of the open space and green areas increased. You already mentioned that you have the pertinent data concerning the soil and drainage conditions. The onsite and offsite drainage plans should be a little bit more detailed. That is where we came to do our SEQR recommendation, and not having all the information, we felt we could not make an informed decision on that. So we would have to leave it up to the Town Engineer. You have already had discussions with him.

Mr. Martin: Right.

Mr. Pulhamus: We are not privy to those. That is it Mr. Chairman.

Mr. Parker: Thank you. Are there any comments from the Engineering Department?

***Engineering Comments – John Freel***

I had submitted a letter dated June 23<sup>rd</sup> to the Planning Board. I have a few pages of comments. What I will try to do is kind of get the highlights. The concern always with Ogden is the drainage. There are going to be three ponds that drain to the east across the Village property. As Ed indicated, we went out yesterday and walked the path from the pond outlet structure to Northrup Creek. What I want to do is make sure that the information is shown on the plan. So that is going to require some more survey information, and then a design of a channel from this site to Northrup Creek. The concern is, because you are changing it from field, there is going to be a lot of homes and roads, and impervious surfaces. So there is going to be more water, more often, in all storm events. That is why the ponds are the size they are, to throttle it back. But you still are generating more volume leaving the site to the east. So we want to make sure that it continues on its way and does not flood out neighboring properties. Another issue is that there is talk of using the Village of Spencerport access to the where the sewage treatment plant was, upgrading that and using that for a roadway as a secondary access to the site. That issue has to get worked out. We want to make sure that there is at least a decent secondary access to the project. Another issue has to do with the sewage pump. There is going to be a pump station here, which is going to have to be dedicated to the town. As a result, we want to make sure that it is sized properly, and what we call for is that it be sized using Monroe County Pure Waters standards. I think that Ed is probably starting to work on that and will be providing us with information. Also what we are going to want to do is make sure that there is a letter of credit in place for all of the storm water improvements, including the offsite work and the pump station, we are going to

want to make sure that it is place, as well as the sanitary sewer. That is kind of the highlights of my letter. I have met with the developers engineer and the developer also. I think they are working on resolving those.

Mr. Parker: Thank you and I believe you also have comments for Dave Widger.

***Highway Comments – (read by: John Freel)***

Mr. Freel: Yes. He submitted a letter dated June 21<sup>st</sup>. His comments are similar to mine. One thing that Dave did suggest, and this really is not for the developers, it was just a general suggestion. With the NYS DOT comments, there is a concern with the left turn lane being in front of the entrance for Bare Foot Landing businesses. It might be better planning to talk to the owner and see if he would be willing to have his entrance off the Park Road. Then the Park Road could be re-stripped for three lanes, with the left turn lane to match the proposed Parkview Center entrance. The reason why Dave suggested this is because there is going to be considerably more traffic in that area, making turns easier, either to Pineway, or into this project. By having that existing entrance there, might create some confusion for drivers. If people go around the corner and into an entrance that would be off Route 259 and on Route 259, it might be a little safer. Other than that, Dave had a lot of detail information in his letter, and Ed has a copy of it. I think we can resolve those issues too. That is it for Dave.

Mr. Parker: Thank you. Are there any comments Mr. O’Toole?

***Legal Comments – Keith O’Toole***

Mr. O’Toole: I guess Dave Widger touched on my concern. The concern for me is what happens if the senior gets built before the commercial? I think we need to be a little clearer as to what roads are getting built by whom and when. Certainly the primary access is going to be Parkview’s Crossing North Land-Re Way. Before you pull a building permit on that senior project, and it is tough to approve something that you have not seen it as to the secondary access. I have nothing further.

Mr. Parker: Thank you. Are there any comments from you Mr. Crooks?

***Building Comments – Jack Crooks***

Mr. Crooks: Nothing further from the Building Department with the exception that I just shared with Mr. O’Toole. I did have a conversation today with Mr. Marra who owns the plaza on the west side of Union Street. The discussion between he and Mr. Widger are about the possible relocation of his access to Park Road. It sounds like at least at this point, that it is not an option that he is willing to consider after discussion with his tenants and the real estate appraiser. That really is a secondary part of this proposal, and that is something that directly impacts or is controlled by this applicant.

Mr. Parker: Thank you. Are there any comments from the Fire Marshal?

Mr. Crooks: Not at this time.

Mr. Parker: At this time then, I would like to open it up to the public. What I would like to do is for anyone who wishes to address the Board, to please raise your hand and we will ask you to step to the microphone and give your name and address, then you may address the Board.

Mr. Crooks: Mr. Chairman, if it pleases the chair, we are having some technical difficulties with this microphone, and we are going to ask anyone who wishes to speak, to use the handheld lapel microphone.

Mr. Parker: Ok, thank you. Is there anyone who wishes to comment? Yes sir.

Tom Fairbrother: 8 N. Union Street: *Mr. Fairbrother lives at the northeast corner of Big Ridge Road and Union Street. He has concerns about the drainage going from the south to the north. They have been seeing a lot of problems in that area. Mr. Fairbrother discussed with the Board issues with the storm sewer pipe that exists in the front of this property, going up to where the road is shown, that is nearing end of life. He discussed that when this is blocked, it causes quite a backup followed by flooding. He has talked to the Highway Engineer from the State about the condition, and he has indicated that that pipe may not be possible to be cleaned because of its length and the drainage tiles from the field that was there to break into it. He stated that as this pipe ages, anything that cannot be handled by that 4" pipe is going to end up coming out of that catch basin and going north and flowing up along the front of that development. He stated that it looks like it will be flooding the development. He wants the developer to assure that as that pipe deteriorates, that they are able to handle that flow decently going north. Mr. Fairbrother mentioned that it has been his understanding that the development of this farm property was going to result in one access point off of Union Street. He discussed that the lower left lot being cut off creates a self-generated problem. Mr. Fairbrother feels that they need to have sidewalk accessibility for a sidewalk like this so that the people in the Village can get to it easily.*

Mr. Parker: Thank you. Is there anyone else who would like to make a comment? Yes sir.

Fritz Gunther: 19 Big Ridge Road: *Mr. Gunther lives directly across from the second proposed egress on Big Ridge Road. Mr. Gunther stated that he is all for progress and this seems to be on the grand scheme of things good for the Town and the Village. His concern is if the proposed second exit is placed in that lot that is directly across from his house, it changes the entire dynamics of the neighborhood now. He stated it would now create two corner lots that did not exist before. He stated that Big Ridge Road is a fairly busy street right now with Boces there and it would completely change the flow of traffic through that area. He stated that he is completely opposed to the secondary means of egress out on that lot. He is concerned with it becoming the primary entrance and exit for the entire residential area of this development. Mr. Gunther discussed how Pineway*

*Park is a very busy park with football and soccer games and all. He stated it is very tough to get out of that area and there has been many accidents there in the past. He stated people have been injured crossing there. Mr. Gunther discussed that if there is another street coming out to that, he would like to be the primary entrance and exit for this development and his thought would be to put a stop light in there. That is all I have got.*

Mr. Parker: Thank you. Is there anyone else that has a comment on this project?

*Gwen Bacher: 2259 N. Union Street: Mrs. Bacher lives directly across from some of the retail space that is before the Park Road. She stated that she feels very strongly that if there is going to be another entrance across from Park Road that a traffic light is put in. She stated that traffic and accidents to pedestrians after any of the functions in the park are difficult enough and if you add that much additional traffic without a light there, will be very dangerous. She stated that she has lived in her house for 20 years and her back yard floods constantly and she has many problems with water, so she is concerned with the drainage issue. She wanted to know how putting in sewers for this particular area will affect her taxes and her home. Mrs. Bacher stated they all have septic tanks and her neighborhood tried to become a district four years ago and were told that unless all six neighbors agree to become a district they could not get sewers put in. Because of the age of some of the neighbors, they could not afford it. Her concern is that if sewers go in now and they tax her on top of a new septic system that she had to put in four years ago, her home will never achieve the value when she goes to sell it.*

Mr. Parker: Thank you. Are there any other comments regarding this project? Yes.

*Barbara DiVincenzo: 3604 Big Ridge Road: Mrs. DiVincenzo discussed how two very large sewer drainage pipes along her property on the east side of the road. Her neighbor's house on the corner of Big Ridge Road and the Utility Road has very little room there. She was concerned with how they can even put a regular road in there with the sewers on this side and the building with as close as it is to the Utility Road at the present time. Mrs. DiVincenzo discussed Northrup Creek with the Board and what happens when they have a heavy rain and how it comes almost all the way up to the bank of her property. She is not sure how they are planning that drainage, but she thought it was important to know that it is nearly flooded without any other situation or other drainage on its own now.*

Mr. Parker: Thank you. Is there anyone else in the audience that might have a comment? If not, I think I saw Ed taking copious notes there, would you have some comments how we may address on these issues?

Mr. Martin: Ok, lets see if I did take good notes here. Mr. Fairbrother talked about drainage along the Union Street frontage. We have submitted plans and multiple traffic studies to the State for the improvements along Union Street. What our goal was from the beginning was to avoid the State's drainage system. Our system does not connect with theirs, other than I understand from Mr. Freel and Mr. Widger and comments that

Mr. Fairbrother has made, that there are potentially farm tiles in that field that connect to the storm pipe along there. Mr. Freel has made the comment that they will be severed as construction occurs. The permit for the improvements and the connection to Union Street will require detailed plans for pipe sizing to get across our road. Our intention as of now is to not touch anything south of our entrance road. It is our perspective that it is the State's storm system and it seems like an undue burden to my client to ask him to fix the State storm system when there is a problem now and he has not even done anything. Most importantly, we are not connecting to that, we are not contributing to that flow whatsoever. Mr. Widger did make the comment early on that because of his storm sewer downstream of this, that he wanted us to take all of our storm water to the east, which we have done. Mr. Gunther commented that the second access creates two corner lots. We did recognize that, and there are zoning challenges that come along with that, if we do put in a road there creating two corner lots. Just for Mr. Gunther's benefit, this is just an idea that we came up with today not knowing ultimately if the Village is going to approve this, we were told a couple of years ago by a Village Trustee, they have this read and it is readily available for you, come through and we can get that approved. That is not a guarantee of an approval, but that was the thought process that there is a substandard road that our clients would upgrade and improve as a benefit to everyone. Until that is through, I just wanted that on the record in case for some reason the Village says, you cannot have access to our road. So for your benefit Mr. Gunther wherever you are, it is our intention to pursue those improvements if at all possible. I hear a couple of comments spoken by Mr. Gunther and Mrs. Bacher regarding a light on Union Street. It is my understanding that the State DOT is in the business of keeping traffic moving. We have not asked them to put in a light, nor would we. What happens is we submit a traffic study showing what will happen as a result of this development and then they come back with required improvement. Which as you can see in the plans, does not include the installation of a stoplight. I guess to summarize, it is totally driven by the State DOT. Mrs. Bacher talked about concerns with flooding in her rear yard and potential problems in her front yard. Again, I just want to reiterate, that storm pipe along the west boundary of our property, we do not connect to it, we do not sheet flow into that. Maybe a small portion of the lawn that will be west of the commercial sections, but anything that is from our development up to the north and east, all of that will be collected and taken to Northrup Creek. So the contributing area that ultimately goes to that storm pipe from our site is going to be reduced significantly. Mrs. DiVincenzo asked how the new road could be built in such a limited area, in other words the improvements to the Village Road. That is the technical challenge before us and the Village has risen as well, because there is only 40' between those two properties. There are two existing sanitary mains. The typically Village road section includes a 5' sidewalk with it. So we are challenged with that. Mrs. DiVincenzo also commented about Northrup Creek drainage. We do have a very clear understanding of how the drainage works back there. I do note on our plans that the 100-year flood plain comes very close to her home. Our connection if you will, with storm water will be well north of her property. Mr. Freel or Mr. Widger has made the comment about making any connection not perpendicular to the flow of encouraging it to come along side of the existing flow of the creek. Our discharges will occur above the 100-year flood plain and transition into the creek, which obviously is within a 100-

year flood plain. So all of that to say we should have absolutely no impact on her property whatsoever. I think that was it, unless someone noted something else?

Mr. Parker: Mr. Martin, correct me if I am wrong. I believe also through traffic studies and so on, the DOT has indicated or is requiring turning lanes, is that correct?

Mr. Martin: That is correct and earlier I referenced multiple traffic studies that went to them. Initially the project site was just the property within the Town of Ogden. After initial phases of the project, the developers obtained the property along Big Ridge Road, which gave them the opportunity to connect to that, which they did last year with Unity Health. That subsequently updated the way that traffic will work out there. Originally the State DOT asked for left hand turn lanes northbound and southbound, as well as a right hand turn into our site. As a result of that road connection, they recognized that the right hand turn into our property is no longer required. So to answer your question, there are left hand turn lanes northbound and southbound.

Mr. Parker: Thank you Mr. Martin. Are there any comments from the Board members regarding this project?

Mr. Robinson: Just a quick question on logistics for the letter of credit. Is the same developer going to develop both the senior citizen and the commercial part?

Mr. Martin: It is my understanding that they will be separate developers. Which leads into I think both your concern and Mr. O'Toole's about phasing, which is a common thread through a development of this size. So our subsequent plans will propose phasing if you will. Understanding that when we submit final plans for individual sections that they may change. The person submitting those plans will be responsible for the letter of credit covering that. Does that answer your question?

Mr. Robinson: Kind of, sort of. Leading back to what Mr. O'Toole said, that certainly for drainage, ponds are going to have to be put in for both no matter what. So the letter of credit for either one will have to include that. For example, if you decided that the commercial part would come in first that means they would have to put up the letter of credit also for the ponds.

Mr. Martin: Absolutely. That is kind of an offline challenge that Land-Re has with whoever they might be dealing with. Regardless of what gets built first, this pond will be constructed phase I, because that is part of the primary outlet structure. That is where everything is ultimately flowing. Then it is my challenge as the Engineer to decide how much further back upstream we come. Suffice it to say that the final plans will be extremely detailed for exactly what is required. As part of that, the letter of credit will back that up and I am sure Mr. Freel will comment on the appropriateness of that.

Mr. Robinson: Any more feedback from the Village on connecting sidewalks?

Mr. Martin: They are supportive of it. We met informally last week with the mayor and the common thread, both from this Board and the Village, is that they want connectivity. So, we do currently propose a sidewalk along Land-Re Way, down to Big Ridge Road and side walks throughout the entire development. Because of the scale of the plan and labeling size, things like that, it is not easy to read. But we do propose sidewalks throughout.

Mr. Robinson: The Village is fine with having people cross Big Ridge Road in that spot versus up at Union Street?

Mr. Martin: I will not say that they are fine with it. I spoke briefly with the Village Engineer yesterday, and there was a concern that he had with respect to that and the improvements to Big Ridge Road, as it exists today. If we bring a sidewalk stub out there, where do they go? They are kind of crossing at no crosswalk. It is one of those details that will be looked into at this Board and the Village Board as to whether or not additional sidewalks are required. I think I can speak for my clients when they are not in favor of installing sidewalks along the frontage of Big Ridge Road along property that they do not own.

Mr. Robinson: I guess my concern would just be that however people got to Big Ridge Road, that they were able to cross, as to whether there was actually a sidewalk on Big Ridge Road, running along it, to me is not the issue. It is people being able to get from this development to the Village. Do you follow me?

Mr. Martin: I think I do. We show the sidewalk currently along Land-Re Way. Does that address their ability to do that, or are you talking about having a cross walk?

Mr. Robinson: A cross walk or something. Having the sidewalk dead-ended at Big Ridge Road does not really work. You have got to have some way for them to get across the street.

Mr. Martin: That being a County Road, we can open that up for discussion with them about getting a walk in there of some kind.

Mr. Robinson: It is just one of those things to consider, should it move forward. We have to look at that.

Mr. Parker: Before we go further. Mr. Crooks, I might not have followed the procedure correctly. If we have no more questions from the public, we should close off the public hearing and then continue on with the Board discussion. And having said that, we have another question. Could you please step to the microphone?

Mrs. DiVincenzo: *Mrs. DiVincenzo had a question regarding the pond drainage and if that is going to be located along the utility road.*

Mr. Martin: The discharge from our site to the proposed outlet structure is approximately here. Your house is right here I just circled it. The flow from there currently does something like this into the creek here. We are pretty much going to use that path and we are just going to make improvements to it by way of excavation, so that we can safely pass that water. In other words, that water will not turn in your direction whatsoever.

Mrs. DiVincenzo: *Mrs. DiVincenzo asked if it is going to be open and not through drainage pipes.*

Mr. Martin: No, it will be open because of the flood plain elevation. We can obtain much greater capacities with an open channel, just the gentle swale. It will not have to be too deep, but I imagine it will be rather wide.

Mrs. DiVincenzo: *Mrs. DiVincenzo asked for the dimension of that and how far that will go.*

Mr. Martin: I would say it is probably somewhere on the order of 500-600 feet. Does that sound about right?

Mrs. DiVincenzo: *She asked for Mr. Martin to point it out on the map.*

Mr. Martin: Sure. It goes from here and the creek runs within this easement right back here. It is right along this line that I drew.

Mrs. DiVincenzo: *She asked if it would be moving.*

Mr. Martin: It would be moving following a rain event. What will happen is, rain will fall on our site and be collected by storm sewer and be routed to the ponds that we have highlighted and then the outlet structure on this pond, the very narrow one. What that serves is kind of like a plugged drain in your sink. It acts the same was if you had the faucet running. So the water would be collected and then slowly discharged at a slow rate, so that it doesn't flood downstream properties.

Mrs. DiVincenzo: *She wanted to know if there would be some type of maintenance that will be taking care of the pond.*

Mr. Martin: That is a very good question.

Mrs. DiVincenzo: *She mentioned mosquitoes and cruddy things that you see in hot weather.*

Mr. Martin: As of right now, there is a town easement over this and I think Mr. Freel should probably comment on that.

Mr. Freel: There will be an easement over the pond. The town will get involved with maintenance from a hydraulic standpoint. In other words, if there were issues with the

pond not working, as it should, then the town would get involved, make those repairs, and probably bill the owners of the project. As far as the town getting involved with mowing daily or weekly, the town would not do that. We would strictly just be maintenance. But maintenance would be the performance of the pond from a hydraulic standpoint. If you want to see where that drainage is going from their project through the woods. If you head north on that road you will kind of see an opening in the trees heading to the northeast. That is the existing drainage way today. What that needs to be is improved to handle the flow from this pond. But that is the location. If you just walk down that road, there are all the trees to your right, but you will see it just kind of open up on a diagonal. That is the flow of drainage from this pond. That is what Ed was saying, he and I walked yesterday along that, to see what type of improvements need to be made to make sure that the water from this pond continues without stopping to the northeast.

Mr. Parker: Before we close the public hearing, are there any more comments or questions? If there are not, we will now close the public hearing and further discuss with Board members.

Mrs. Hetzke: I do not know whether I heard you right, but you said the design of the buildings might change?

Mr. Martin: Well the actual footprint might change, because they do not have tenants to go in there today. Somebody may come to them and say well, we need X number of square feet and it may be bigger or smaller than one of the buildings out there, and one of those locations may best serve them. So, the actual building footprint is most assuredly going to vary.

Mrs. Hetzke: Are you talking about the retail area?

Mr. Martin: Yes the commercial portion.

Mrs. Hetzke: Oh, ok. I thought you meant the town homes.

Mr. Parker: Are there any other comments from any of the Board members?

Mr. Robinson: Mr. Martin, what is the smallest setback from the street for the town houses?

Mr. Martin: You would ask me that, it is the one thing that I did not review. It is 20' to the edge of pavement.

Mr. Robinson: Is that pretty standard for all of them, 20'?

Mr. Martin: It varies slightly because they are what they call curvilinear roads. But that is fairly consistent. That brings up a very good point. The developer is slotted to construct these homes, has built several other developments very much like this. Some of the Board members, I believe, attended a site visit in Greece. Some of their setbacks are

actually shorter than what we have proposed in this plan. So from a utility standpoint, from a design standpoint, we are sure that we can make it work. They have successfully operated those for several years.

Mr. Parker: Are there any other comments?

Mr. Robinson: I guess my glasses are not as good as they used to be. In behind units 11, 12, 13, in that area, it seems to drop off pretty quick. How quickly does that drop off?

Mr. Martin: Generally, the town has a maximum grading slop of 1' vertical for every 5' horizontal. We would never exceed that without prior approval. Since we have not asked for that, I can tell you we are no steeper than 1 on 5. Now, there are portions once you get inside of a pond, when you get below the daily water, where we might go steeper than that. But generally, it is 1 on 5 or flatter.

Mr. Robinson: And these are all private road, correct?

Mr. Martin: That is correct.

Mr. Robinson: For the senior section there, the last developer, would they be looking to do a fair amount of landscaping as they did on the other sites.

Mr. Martin: I would say you should expect comparable landscaping. Their feedback to me has not been all that detailed. But that was a question that we raised when we walked that site in Greece. Is this precisely what you want to do, and they said if not exactly this than something very much like it, so yes.

Mr. Robinson: The size of the clubhouse meets the standard for this sized development?

Mr. Martin: Yes, I do not recall off the top of my head, but it is a certain amount of square footage once you have exceeded a number of units within a senior development. So, yes it meets Code.

Mr. Robinson: Would the clubhouse be taken care of as part of the HOA, or how would that be handled?

Mr. Martin: Exactly. The residents of the senior portion will participate in a Home Owners Association, and their fees for that will go towards operating and maintaining roads, the clubhouse, landscaping I imagine, things like that.

Mr. Parker: Just a question on the clubhouse. Jack you can probably correct me if I am wrong. Just an example, in Hickory Hollow, they initially proposed a clubhouse. And then after the project was pretty much completed, it was in limbo as to whether there would or not be a clubhouse. I think then there was a vote amongst the residents. They said ok, we are going to build a clubhouse. It is going to have a monetary affect of your HOA dues by X. Then the current residents then voted, and I think this is correct, that

they did not necessarily want that clubhouse due to the additional dollar amount that they would have to pay in their HOA dues, therefore it did not happen at that point.

Mr. Crooks: I think that is the readers digest version of a long process. That is close enough. What we have done with Code revision since that time, through the Town Board, is make the clubhouse a mandatory item, not a proposed item as it was in the initial concept of Hickory Hollow. It is now a required facility and what we will do is... in fact, at the end of Coventry, in an earlier project that was approved by this Board a number of years ago. It was determined that the clubhouse and the cost of construction would be included in the letter of credit. So the developer will be building that clubhouse, the cost as it applies to the owners and through the HOA, would be something that they are aware of up front, not as an after the fact contract as this Hickory Hollow project turned out. The clubhouse will definitely be part of it and there will be money set aside to make sure that it does happen.

Mr. Robinson: Is there a percentage of units that have to be complete before it has to be built?

Mr. Crooks: The first phase will include money for the clubhouse in the letter of credit. That is what we determined with the other project.

Mr. Parker: First phase meaning regardless as to whether it is the residential or...

Mr. Crooks: First phase of the senior portion of this. The commercial portion has no obligation to that clubhouse or that portion of the development.

Mr. Parker: Are there any other comments from the Board? It's obviously my understanding that you are seeking preliminary approval this evening. However, I think one of the hurdles, as I understand it, is the fact of the need for some kind of approval regarding the secondary exit or egress. At this point it could go one of at least two ways. Based upon that, that has to come from the Village. Therefore, correct me if I am wrong again, I don't believe we can vote for a preliminary this evening, until we have that additional information.

Mr. Martin: I agree.

Mr. Parker: It looks like there is plenty of work to be done. We will look forward to rescheduling.

Mr. Martin: We will continue to work diligently with the town staff to address all the concerns to date and will get back to you about what the Village decides about that road.

Mr. Robinson: And sidewalks.

Mr. Martin: Sidewalks, absolutely. Obviously, any additional concerns that come up, I am in contact with Mr. Crooks quite a bit. So I would be happy to hear any additional comments. Thank you very much.

Mr. Parker: Take care Mr. Martin.

Mr. Crooks: I would suggest a motion to table the application at this point.

Mrs. Hetzke: When you come back, could you have a landscaping idea of what you are going to do.

Mr. Martin: What we tried to do during the conceptual approval process, was through inviting you folks out to the Fieldstone development in Greece, to let you know what the idea was, pictures, things of that nature. It would be our intention to have detailed landscape plans as part of the final set of plans that you approve before construction. Would you be ok with that?

Mrs. Hetzke: Yes.

Mr. Martin: Ok.

Mr. Robinson: Do you have a timetable as to when you are looking to do something with this.

Mr. Martin: My standard answer is that it is market driven. You have heard that a thousand times. I do not know if you want to come up...

Mr. Visca: My name is Val Visca. According to the people who are purchasing the back half there, they are seven months behind because they wanted to start already. They are sold out at Greece and they are very anxious to start here. So the back will start as soon as spring next year, I would imagine now. So, there is not a big wait. Thank You.

Mr. Parker: Would someone like to make a motion that we table this?

***RESOLUTION #1***

Introduced by Mr. Robinson  
Seconded by Mrs. Hetzke

**MAY IT BE RESOLVED** that at a meeting of the Ogden Planning Board held on July 8, 2010, the application for Land-Re LLC., **the application was tabled.**

**Vote of the Board**

Ayes: Halaris, DelRegno, Robinson, Hetzke, Parker

Nays: None  
Absent: Coburn, Marshall

***Home in the Woods*** - application of Spencerport Professional, Kris & Glynne Schultz, for preliminary and final approval to construct a single-family residential home on an existing site. This property is located at 117 Ogden Parma Town Line Road and will be serviced by public water and private leach system. The project will be titled Home in the Woods.

*Tax Acct# 087.02-2-12*

Mr. Robinson: Mr. Chairman, I am going to recuse myself from this application.

Mr. Schultz: Good evening my name is Kris Schultz. I am the owner and the engineer on this development. I am sure the Board has probably driven by the site. It is a lot that was never built on. It is in a line of a number of lots that were probably built on in the late 60's, early 70's. It happens to be right down the road from my house. The sign went up for sale on it, and it sat there for a while. I inquired on it and figured maybe we can do something different on this. I have been kicking around an idea with Marc Robinson and Larry Fenety, who is an architect and has shared space with me for a number of years. They have always wanted to do a type of home that was a very high efficiency home targeted most likely for retirees. The architect has been working up a floor plan specific to that type of use. Marc has built similar type of houses, which are very high efficiency with very low maintenance and utility costs. We informally always had kind of an arrangement where if I happened to see a lot, we would try to design it to fit a specific house. We would potentially market it towards that customer. This lot, we have a few pictures, if you drive by or you stop, what you really see from the road is this. The trees that are out there have probably been growing for 50 years. They are well over 100 feet. They were actually all the way out to the right-of-way, and a year or so ago when they came through to clear all of the trees that were close to the wires, they cut back the first 25 feet or so, and nicely left all of the stumps laying out there and weeds have grown up. Part of this whole concept was to try to minimize the impact of the development on the lot. So I looked at this thing and said, you know if we can tuck the house back in and leave the majority of the trees, right off the bat we have the option of a shaded house. One of the biggest costs, especially this week, is air conditioning, keeping a house cool, and the same thing in the winter. To have the ability to place the house and do minimal clearing, so that you are not developing a back yard on purpose. You are developing something where there may be a deck or something minimal and are right next to the trees. That kind of really appealed to me. We are very fortunate that the soils in the area were very sandy. They perked very well. It does require a little bit of sand in there. But again, the size of the leach system is very small. Our perk rates were 4 minutes and 5 minutes. That is very consistent with the type of soils in this area. So we had that going for us. We were not going to have to put in such a large leach system that it pushed the house way in the back. So we were able to get a house that lined up pretty well with the

existing house on either side of us. We had a lot of stuff going for us on this thing. So that is kind of how this all has come together. For the benefit of the audience if anyone is interested, these are existing residents on either side of the proposed house, which is here. The service with a standard driveway straight in, leach system out front. They have public water out there too. It is pretty straightforward. Because I already mounted it for something else, I figure I will pass it around. This is a floor plan that the architect put together. It is a single story house. It is a very open floor plan. He has an awful lot in there for the square footage. If you look at it, it sets up very well for retirees with the ability to bring grandchildren over or have a den. Again, we are trying to minimize the impact on the neighborhood and everything else. Even though everyone in the world has used it, this is an attempt to do a green development. Really that is a basic overview of what we are proposing here. I would be happy to answer any questions.

Mr. Parker: Are there any comments from the Conservation Board?

*Conservation Board – Dave Pulhamus*

Just a few; the perk rates as you said, it is great soil out there, a great sandy loam. I wish it were in my back yard. They are quite quick which could pose a pollution hazard because it is so quick. Things go right through it and do not get a chance to naturally filter. The mature woods, I am glad to see you want to keep them, because that is one thing we saw. They are beautiful back there. They are good 50-year-old stand of trees. We like to see every effort made to maintain them, which is great because it will be a treasure in the future. The only thing we saw was the open side of the raised fill system points to the neighbors yard. It is an uphill side, so it will catch runoff, and our only recommendation would be to make sure that is appropriate. Maybe we missed something when we were out there walking the site, which is a beautiful site. We just saw it points to the neighbors and we want to make sure that they are not impacted in any way.

Mr. Schultz: Certainly. Everybody is making water filtered with sand. They pull the water out of the lake and they run it through sand and that is how you get stuff you can drink. From the standpoint of this will be a sand bed, and any affluent that works its way down to the topsoil then down through the sand, is being polished. Leach systems are a proven technology and have been around for a long, long time. Having the benefit of decent soils is a great thing. If the system is put in per the plan and if it is maintained, it should have quite a good lifetime on it. From the standpoint of potential contamination, the Health Department draws a line on perk rates at 1 at 1 minute. If you get perks that run under 1 minute, then you could potentially have an issue. Anything above that, they are generally acceptable to allow for the installation of leach systems. Where it becomes really important is when you have existing wells in the immediate vicinity of leach systems. Fortunately, all along this road we are on public water. The possibility of the drinking water being contaminated by a leach aid is very minimal. The design of the leach system basically concludes a swale that is past the taper of the system that certainly would pick up any leach aid that left the system and direct it away from the neighbors. Both property lines we have developed swales that have about a 1% slope; again, to catch any runoff from our site and bring it out to the roadside ditch.

Mr. Freel: Kris, if there were issues could you turn the leach lines the other way?

Mr. Schultz: Yes we might be able to and then stack them.

Mr. Freel: If that became an issue.

Mr. Schultz: Absolutely, not a problem at all.

Mr. Pulhamus: Would you like a SEQR determination Mr. Chairman?

Mr. Parker: Yes.

Mr. Pulhamus: Ok, the Conservation Board views this as a SEQR unlisted action and recommends a negative declaration.

Mr. Parker: Thank you. Are there any comments from the Engineering Department?

***Engineering Comments – John Freel***

I submitted a letter; it has got a wrong date on it. It should be July 6<sup>th</sup>. I have six comments. There is nothing really major. The problem with the site, it is kind of lower than the neighbors. The neighbors are kind of built up. So this is a little bit of a hole. Kris has tried to put swales on both sides. We just want to make sure that, that works. What you don't want are the neighbors coming in because now they have drained onto Kris's lot forever, now Kris raises it up to comparable to what the neighbors are and pushes back the drainage. We want to make sure that it either heads out to the road or back into the wooded area. So, we just have to make sure that it does work. You might want to maybe talk to the neighbors and maybe get a grading release on their property to fine-tune it so that the swale is optimal for both parties. What I would like to see is, it looks like there is a lot of upland and drainage to the southwest. I asked in my comments that a map is provided just showing how much is coming at you. There is kind of a shallow swale; it really does not show up on the map. But there is a swale that cuts to the southeast through the rear yard area. I want to make sure that the water finds its way to the southeast and does not create a problem for the potential homeowner. Another item is that there was ground water encountered in the deep hole excavation for the septic system. There is actually seepage at 45". What we require in Ogden is if you encounter mineral deposits or ground water in the excavation for the deep hole test, that you have to do one at the house. We want to make sure that people's basements are dry. Because it is sandy soil, ground water can fluctuate through that. We want to make sure that there is no potential problem for any future homeowner. One thing I would suggest, it does show limits of kind of clearing for the woods for the construction of the home. I would be a little careful with saying that is where it is going to be. Let's say a homeowner wants to clear out a little bit for a deck. I just do not want to have it be, well it shows on the map that woods are all to stay and that a homeowner cannot grade his yard the way he wants. I think that you have this within 5' of the house. I think you are going to have to cut off limbs on trees.

Mr. Schultz: You are absolutely right. The intent is not to be scratching the house with the limbs or anything else. It is just to be very careful as we clear for the building envelope.

Mr. Freel: Yes and you are going to probably have to do some clearing to put in some side lot swales. The woods are nice, but they are open enough that I think you can kind of meander through there. Take out a tree here or there to improve the drainage if you had to, but not really affect what you are trying to achieve with keeping the woods in place. That is all I have got.

Mr. Parker: Thank you. I believe that you are also speaking for Mr. Widger.

***Highway Comments – (read by: John Freel)***

Dave had two comments. The first one is the proposed culvert will have a minimum cover over it. The elevation of the finished driveway needs to be increased. Also, there needs to be 12” of #2 crusher run under the culvert to prevent heaving in the winter. What Dave is saying is if he digs down I think a couple feet below the culvert, and puts in kind of almost a footing, it does not have the tendency to heave the way it does if you just put it on the dirt.

Mr. Schultz: Yes.

Mr. Freel: It gets rid of that speed bump at the end of the driveway that occurs over the next couple of years. The second item is that there should be a cleared area behind the home to have some yard. Again, it is really whatever the homeowner wants.

Mr. Schultz: Certainly, you can always take a tree down, but you cannot get it back up.

Mr. Parker: It takes a while.

Mr. Schultz: So we are going to be very careful.

Mr. Parker: Thank you John. Mr. O’toole, do you have any comments?

***Legal Comments – Keith O’Toole***

Mr. O’Toole: Just to build on Mr. Freel’s comments; if that is what we are going to do and just remove the verbage that says existing mature woods to remain, than I think that addresses it. I have nothing further.

Mr. Parker: Do you have any comments Mr. Crooks?

***Building Comments – Jack Crooks***

There are no comments from the Building Department or the Fire Marshal on this application Mr. Chairman.

Mr. Parker: At this point then, I will open it up to a public hearing. If there is anyone in the audience who would like to comment on this project, please raise your hand and step forward to the microphone. If there are no public comments, I will call the public hearing to a close. Are there any comments from the Board regarding the project?

Mrs. Hetzke: I have a question. I thought we changed the minimum size of a lot to  $\frac{3}{4}$  an acre.

Mr. Crooks: It was changed to 30,000 square feet about 2005. This is a pre-existing, non-conforming site. It was sectioned out years before this new requirement. For that type of subdivision to be in front of this Board today, this site would have been made to be bigger. It is what it is.

Mrs. Hetzke: I was just curious.

Mr. Schultz: If it was a new lot and we were creating property lines, we would need to make it bigger.

Mr. Parker: Are there any other comments regarding the project from the Board? The only comment that I had was again, with the woods. I thought, it is not my business but, if I had trees that close to my house, I would be concerned during a windstorm that they would blow over and destroy my house. But that is not my call.

Mr. Schultz: Well, part of it going into an existing woods is to take a good look at the trees to see that they are structurally sound, and do some selective trimming where necessary. That is a big part of it. Even though I am saying mature woods to remain, obviously you would get in and remove any potential dead fall and clean it up to the extent that it is safe, and legitimately if there is a tree that would impact the house, it would probably be dropped. This plan shows intent to try and not go in and clear-cut and drop it in, but to take a step back and try to place the house there and maintain as many trees as possible. I envision this house, when you drive down, seeing this one story house tucked in and seeing 80 feet of trees behind it and that whole house shaded.

Mr. Parker: It would have been nice the last three or four days.

Mr. Halaris: Do you have a potential buyer?

Mr. Schultz: We have not marketed this yet. I actually wanted to get past this meeting before I went out and said here is the potential house and everything. I wanted to make sure that everything was good so that I was legitimately showing them what could happen.

Mr. Halaris: So plan layout is just a concept.

Mr. Schultz: The layout is a concept of what we are trying to do. Ideally someone will see it and say this is great and engage Marc to build it, then the architect will get his fees for the house, and then I will get my fees for the lot and life is good. If we don't sell it in a couple or three years, I will be living there because my wife will say it is time to downsize, let's go over there. It is one of those things where sooner or later everybody says two stories don't work one story is great. I have lived here all my life; I want to stay in the immediate area. I looked at this like the layout has a lot of living space at the back of the house, the master bedroom and the main living area. I envisioned that they would have slider with deck space that would probably connect from a master bedroom slider down across the back, so that you could walk out on your deck and you would basically be almost under the canopy. That would be a cool place to relax after work or during retirement, and I would not be looking at lawn that I have to mow out back. All I would really have is a front yard to maintain, and the back yard would be woods. That is fine.

Mr. Parker: Are there other comments or discussions from the Board? If not, is there a motion to grant SEQR approval?

***RESOLUTION #2***

***SEQR Determination***

Introduced by Mrs. Hetzke  
Seconded by Mrs. DelRegno

**MAY IT BE RESOLVED** that the Planning Board classify this action as an unlisted action, with a negative declaration.

**Vote of the Board**

Ayes: Halaris, DelRegno, Hetzke, Parker  
Nays: None  
Absent: Coburn, Marshall  
Recused: Robinson

Mr. Parker: If there is no further discussion, is there a motion to grant preliminary and final approval?

***RESOLUTION #3***

Introduced by Mrs. Hetzke  
Seconded by Mrs. DelRegno

**MAY IT BE RESOLVED** that at a meeting of the Ogden Planning Board held on July 8, 2010, the application for Spencerport Professional, Kris & Glynne Schultz., **the application was granted preliminary and final approval with the following contingencies:**

- Satisfy the concerns of the Highway Superintendent;
- Satisfy the concerns of the Town Engineer;
- Satisfy the concerns of the Planning Board Attorney.

**Vote of the Board**

Ayes:	Halaris, DelRegno, Hetzke, Parker
Nays:	None
Absent:	Coburn, Marshall
Recused:	Robinson

Mr. Schultz: Thank you.

**III. OLD BUSINESS- None**

**IV. CONCEPT**

**4165 Buffalo Road** - application of Green Point Properties LLC, 17 Quail Lane, Rochester, NY 14624 for conceptual approval to construct a single-story 12,000 sq. ft. commercial building on an existing 2.3+/-acre lot. This property is located at 4165 Buffalo Road and will be serviced by public water and public sewer.

*Tax Acct # 132.01-3-15*

Mr. Laber: I am Patrick Laber with Schultz Associates, and Joe Gizzi of Green Point Properties joins me tonight. You stated the address is 4165 Buffalo Road. The site is about 2.3 acres in size. You may or may not have noticed it when you have driven by over by the old Arrowmart there, at that tight little intersection over there. Basically, the existing site right now has a house on it, a detached garage, one access out to Buffalo Road, and no access to Westside Drive. The majority of the site is grass lawn. It is well maintained right now with some mature trees around the outside. Basically, I don't know if you call them ornamental, but they are trees that are kind of set apart from one another. There are no woods on the site. The plan for this site, which I did not mention, is General Commercial and the plan is to take the house down, take the garage down, and build a one story, about 12,000 square foot retail building. The tenants that they are looking for on this is basically in line with was General Commercial allows. Kind of neighborhood commercial type tenants, maybe a salon, maybe a professional office, maybe a medical office, small retail, flower shop, coffee shop, that type of thing. Some of the features we are showing on the building right now is basically the store fronts are all going to face Buffalo Road. I am sure you noticed that we have a drive thru on the east side. We have showed that there. It is just an option right now. It is something that we are looking at conceptually to see if that would appeal to any possible tenants. I am sure we will get

into more of that when we get into preliminary, but that is just something that I wanted to mention on there right now. The building will be divided up so it can be sold off in increments depending on what each perspective tenant would need size wise. So they could take 20' chunks right down. So you may have ten tenants. You may have two tenants. You may have four tenants. It all depends on what the people need at the time. We have parking as you can see on the front and the back. The majority of the parking, which would end up being, obviously customer parking is on the Buffalo Road side. We do have some parking in the back. I think we have ten spots and four on the side. Those would probably end up being more oriented towards employees just because of where they are. There would be doors on the Westside Drive side of building as well for deliveries. We are not expecting anything that would need a tractor-trailer or anything like that to back up to it. So deliveries will probably stop in the back there and just take things in by hand. We are obviously going to close out that small residential driveway that they have out to Buffalo Road right now. We would be putting in a new commercial curb cut. We are showing it at the northeast side of the project, and then also an additional curb cut back to Westside Drive so that it can capture traffic from both areas. We have a large water main that actually runs through our site on the west side. You can see the easement there. So we have a 16" there that we are going to be tapping at a to be determined location. We also have sanitary sewer on the south side of Westside Drive. So we have access to that, lots of fall so we should not have a problem getting into that. Right now everything basically drains from Buffalo Road, down to Westside Drive, down to a low point that is right around where we are proposing the south access right now. We are showing a detention pond. This is going to need to be speedy's compliant. Because of the size of the site, we have enough disturbances and it is going to have to be a speedy's pond. We think we have enough room taking a look at the preliminary grading that we have done to make that work. Also, our firm was looking at the gas station there a few years back, so I think there may be some problems with the storm sewer on Westside Drive. So we are going to be taking a look at to see what we have to do to make sure that it functions adequately. Obviously we will come back with a landscaping plan when we get to that point. It is the intent to save as many of the trees as we can on the east side of the site just because, they are basically a natural buffer right now to the house there just to the east of us. You cannot replace those trees with the size that they are. So we would like to save those. We were also hoping to save some along the south side but, as some of the comments state, we may not be able to keep many of those just because of getting into the sanitary sewer and also for site distance. As we get closer to full design plans, we will have a better handle on what we can keep and what we cannot. But I think, with the east side ones, and there should not be a reason why we should have to touch those. We are showing a dumpster pad down towards the southeast side of the site and that will be fully screened according to the town's regulations. Site constraints and code compliant I have down there. Basically, the building coverage meets code. We are only at 12% of the site, and lot coverage we are at about 54% and I think 70% is allowed. Where we run into some conflict is with the setbacks because of the odd shape of the site and the fact that we have double frontage on two arterial roads. We have a 100' setback on either side and the setback goes I believe, the pond, pavement, and building. So if you take those 100' setbacks in an addition a 40' setback and a 10' buffer to the adjacent residential, you basically end up with a site that you

cannot do anything with. So, we will be looking for relief from the Zoning Board on that. The building itself though, basically meets those requirements. The building itself is not pushed way up to the road. The building is centered in the site. We are hoping to get some relief on that. We are also hindered by the easement and the water main that runs along the west side of the site. So we are trying to make the best use of the site as we can. Something else that comes into it is, when you have a multi use building such as this, where the code has several different parking regulations is what do you design for at the time, when you don't know if you are going to get all professional office, all medical, or what have you. We do not want to go overkill. We have 65 spots shown right now. That is adequate at least code wise for 1 per 200 square foot. So, depending on where that goes, we may or may not have to go to the Zoning Board for that. We think that the 65 should be adequate for this site. Obviously 240 would not be necessary. That would be 1 per 50 as some of the code states. We would be paving the whole site. That is a quick overview of what we are proposing here. We do not have any renderings tonight, or elevations of the building. That is all being worked out right now. Some of the features they are looking at are to have an overhang over the 10' wide sidewalk in the front, and possibly have some tables out there too, to have a shaded area if there is a coffee shop or something like that, where people can sit outside and be shaded and safe from the parking lot. I don't know if there is anything else that I missed, but that is basically what we are looking at.

Mr. Parker: Ok, thank you. Are there any comments from the Conservation Board?

*Conservation Board – Dave Pulhamus*

We just have a few quick ones. It was pointed out that the screening to the east is insufficient and it would be nice to have more of a buffer to keep to the residential house to the east. And the project, as you pointed out, does take up most of the lot. So there is very little room for open or green space and there is going to be a lot of impervious surface there. That might be detrimental. It is all going to scope down to Westside Drive too. When we walked down there and looked at the drainage, there is no definition of any drainage pattern down there. I wonder how those people are making due now, but they must be doing something. That is about it. I actually have another question. The driveway to the east on Buffalo Road, do we need a variance for that because it is so close to the property line, or is that ok?

Mr. Laber: I am not sure if it is parking structure or if drive lanes count.

Mr. Crooks: No.

Mr. Laber: I think we are closer to the sideline anyways with the parking.

Mr. Crooks: It appear at this point that it is across from the entrance from the church facility too, which would be a good place for it. But I would refer to council as you whether a driveway is considered parking space, which the code refers to.

Mr. Laber: For storm sewer on Westside Drive, there is just offsite a basin. That is where it all starts. It has minimal cover. So I know that the Highway Superintendent has some issues with that right now. Our intent is to have an outlet structure there and basically make our way over to connect into that storm sewer and take a look at capacity. We have to reduce the flow anyways.

Mr. Pulhamus: Thank you.

Mr. Parker: Are there any comments from the Engineering Department?

***Engineering Comments – John Freel***

Yes. I submitted a letter dated June 29<sup>th</sup>. In there, I have two comments. First item is I recommend the entrance on Westside Drive be located to west to more closely tie into Westside Drive as close to perpendicular as possible. The second item is that some trees along Westside Drive may need to be removed to insure adequate site distance for the proposed entrance and also the to cut through and take out some trees at the east end. You also want to make sure that connection of the storm pipe from the storm management pond to the existing system on Westside Drive. I think you are going to have good site distance when you leave this site, either heading east or west on Westside Drive. That is all I have got.

***Highway Comments – (read by: John Freel)***

Dave had nothing.

Mr. Laber: Those are the good letters.

***Legal Comments – Keith O'Toole***

Mr. O'Toole: We have had some discussion regarding the landscaping along the eastern boundary. The code requires that whenever commercially zoned property meets residentially owned property that we have a minimum, fully landscaped 10' wide buffer along the adjoining property lines. In addition the side setback, where you have commercial property meeting residential is not zero as it is called out on the plan it is actually 40' and then you take the 40' and add the 10' to it per code under section 210-49 and you line up with a 50' side setback on the eastern boundary line. With regards to the front setback with the facing of Buffalo Road and Westside Drive you are in essence have two front setbacks. The setback on a main road is 100'. It is not 60'. Buffalo Road is a State highway and I would argue that Westside Drive would also qualify. I think it would be 100' on both frontages. Under the code we measure setbacks not just to structures, but we also measure them to parking lots as well. I do not believe we measure them to curb cuts. If we measured them to curb cuts then every project with a curb cut would be in violation and you cannot get out of your property. I do not see that as part of the parking lot but certainly along Buffalo Road they have their parking lot as about 10'. That would mean that they are 90' shy of that setback. From a legal and practical point of view I always get in trouble when I see this type of development where you put the

parking lot right up against a state highway. At some point you have to assume that the State may decide to widen the road. They are one lot away from an intersection. The State widened Buffalo Road down at Route 259 a few years back. I have seen projects that were affected in the Town of Greece when the state widened the road and they sliced through whole bunch of parking lots. A number of those properties were left to sit there and rot because they did not have adequate parking anymore. It would seem to me that the Planning Board might want to consider pushing that parking lot back no matter what the Zoning Board chooses to approve.

***Building Comments – Jack Crooks***

Mr. Crooks: The only comment that I would make is that the code under General commercial is pretty specific as to when it permits drive thru's and when it does not. For instance a restaurant with a drive thru is not a permitted use. It is a conditional use permit. If that would be their ultimate tenant then it would require a Zoning Board approval for a conditional use. However bakeries and some other drugstores which are listed, as permitted uses do not exclude drive thru's. If this were to become a drugstore use with a drive thru it would be a permitted use and not a conditional use. Depending on the tenant that they were able to get down the road, the applicant should just be aware of that. It may require Zoning Board approval. The code is pretty specific as to what is permitted as a conditional use.

Mr. Robinson: One of the things that I would ask you to take a look at is the dumpster placement. I would rather see it behind the building, only for a safety standpoint. You get people at night taking their trash out from the building. They need to walk a long ways to get to the dumpster. It can be dangerous for them. I just ask that you put it somewhere behind the building.

Mr. Halaris: On behalf of the two driveways, one access to Buffalo Road and one access to Westside drive, I have heard that, from a county perspective they like to see only one access point, although that is different than the corner lot that is up there, I have heard that they restrict it to one access point.

Mr. Labor: Initially we will try for two and see where it goes and see what the traffic studies say. We would like to try and get traffic from both roads if we could. I think the State always tries to defer you to the county. If they can keep you off the state road they will. For this type of use, that is not advantageous, with most of the traffic being on Buffalo Road.

Mr. Robinson: A lot of variances.

Mr. Labor: I think the site itself is part of the reason that is. Obviously we are close and the proposal contributes to that but the site itself is a GC property in Ogden. We want to help the tax base and get these types of projects moving. I think it is a bit of a combination of the site itself and we are proposing to get the best project that we can.

Mr. Halaris: I think you said you might be close. It sounds to me that you are far apart.

Mr. Labor: For?

Mr. Halaris: I see the setback for one and side yards.

Mr. Labor: For the building I was saying. I did say from the beginning that we realize that it is to pavement and it is to the building. I stated all the setbacks. Just trying to put together a developable project with a tough site.

Mrs. Hetzke: I think you are going to have to reconfigure the parking lot. 10' is not 100'.

Mr. Labor: You are not going to get 100' on this site. You would be tough to get 50' on this site.

Mr. Robinson: Honestly I think it is a fair use for the property. You might have to look at downsizing the size of the building some. I do not know. I would have to see something from the zoning board saying they would be somewhat on board with this before I said too much about it. It is just so far apart that.

Mr. Parker: Yes I agree. Counsel is advising, if I understood properly that even if the zoning board does grant some variances we may or may not have to tighten them up more. I guess where I am coming from; pending Zoning Board approval concept in broad form is viable, pending the Zoning Board. That is just my opinion.

Mr. Labor: I am not even sure of the process. Would we need to come back here first and be referred to Zoning?

Mr. Robinson: In my view even if you went to the Zoning Board and said, what would you think about this, how would you approach this, not looking for a determination. A letter something from them saying they are on board with this. I would be more interested in going ok.

Mr. Labor: We obviously want to keep the project moving so I just want a clear view of what the next step would be.

Mr. Robinson: That would be my thought.

Mr. Halaris: I would like to see some letter from these homeowners. I know that if I lived there I would not want something 10' from my side yard. You are going right up to residential.

Mr. Labor: The people from the east you are saying? We have 2 residences there. In the end it is going to be a big variance no matter what. You cannot have a building that is too much narrower, depth wise. Width you might be able to work there, but to get the required parking you are still going to have the sidewalk and then your parking and then your driveway. You are going to need a dry lane to keep the fire marshal happy and keep

DEC happy with the pond. Really we are going to Zoning with a pretty substantial variance.

Mrs. Hetzke: You may have to cut the size for the building down. Which if you did then you would not need as much parking.

Mr. O'Toole: There is that and if we delete the drive thru lanes it would preempt the parking configuration a fair amount I would think. It would pull back a fair amount of parking that is along Buffalo Road. The drive thru chews up the parking area that is why you have that angled parking. You are basically swapping a 2 way for a 1 way with a drive thru.

Mrs. Hetzke: I doubt another drugstore is going to go in there but you never know.

Mr. Gizzi: In regards to the drive thru, how difficult would it be, the primary reason for the drive thru is a restaurant. How difficult would that be down the line to put a restaurant tenant in there? Like you said we are not looking for a pharmacy. That would be the ideal use, for that drive thru. It would be a deli or a Dunkin Donuts.

Mr. Crooks: The code does not exclude Dunkin Donuts, which could be construed as a bakery. It is not excluded from a drive thru. But if it is a McDonalds then we are talking about a restaurant and it is not prohibited it is a conditional use. That means that the Zoning Board would look at that use in this specific location. Does it fit, is it a reasonable use or is it not a reasonable use. Now if you had a huge subdivision to the east of you and the neighbors are all saying they do not want those speakers from McDonalds there and there was a big objection, you would probably have a tough time. Given the large open space to the east of this property, and the unique configuration with the two roads. The Board needs to keep in mind that the minimum lot size for a commercial development in a General Commercial is 1 acre. You have 2.3 acres as I recall. You have a lot more than the minimum lot requirements in a commercial development. Where the real pinch comes in is that you have these two primary roads, one north and one south. That is where, like a corner lot you are confined to 2 front setbacks that make it pretty difficult to develop. Marc I am not sure I understood your comment. We have customarily in the past, prior to going to the Zoning Board, have asked that at least, in general, a letter from the Planning Board that we can work with the brick and the sticks here. It does not mean that I have to do that; we deviated from that recently in another project. I think as legal counsel says and it is very important, even if the zoning Board were to grant a 10' front setback rather than the 100' required this board is not bound to allow that type of development, they can say that the Zoning Board says that is ok but we still want 50 or 60'. That would be the minimum you could go. They are not bound and one of the reasons that we have not been aggressive about going to the Zoning Board first is often it is misconstrued as well the Zoning Board said we can do it, how dare you tell me we can't. Like the rest of this code these are all minimum standards. This Board is on their own determination I think obligated to exceed those minimum standards. They might decide that 100' is not enough and that is their option thru planning. You can certainly pursue Zoning Board approval but this does not bind this board to any standard that comes out of the Zoning Board.

Mr. Labor: Well considering the lot that we have and the constraints that we have and the issues with the two roads, does the Board have any feeling on what they would like to see, something for us to shoot for? Going 30' back or something like that, I do not think I am going to be able to do.

Mr. Parker: How about 30' back from Buffalo Road right-of-way. You are not even ½ way back yet.

Mr. Labor: I do not think we can anywhere near 50'. It just eats up too much of the site. With the configuration the way it is and everything being on an angle on the north side. That just takes a huge chunk out of the north side.

Mr. Robinson: Definitely need more of a setback from Buffalo Road. Might want to look at making the building a little smaller. It is cramming a lot of stuff in a little box. I am not so sure I am excited about the second entrance onto Westside Drive either.

Mrs. Hetzke: I think if you took out the second entrance from Westside Drive you would have a lot more space.

Mr. Robinson: The setbacks are still there.

Mr. Labor: Yes the setbacks actually come to a point about 30' off the west line.

Mr. Robinson: Again just as long as the applicant understands that if they come to widen out Buffalo Road. The State does not care.

Mr. Labor: I would hope that if the State has something in the foreseeable future they will put that in the comments but we cannot design based on what the DOT may or not do in the future.

Mr. Robinson: It is just that you are so close to it. You have to throw up red flags and make sure they really want to do that.

Mr. Parker: You can not design with that in mind, however it still would be in the back of your mind that you are pushing the envelope to the end. It just seems to me that to make it work the building would need to become smaller. A drive thru would be another issue because it takes up additional parking space that is already an issue. You are indicating that it is important to your project. Obviously making it smaller also has a negative impact on your project.

Mr. Gizzi: I am looking for 2000 square foot leases. That is generally the size you are seeing in plazas. It makes it tough when you make it much smaller than that. If you cut the building down, you are talking only 3 tenants. It is a big piece of property for a building with 3 tenants in it. It probably would not pan out to be financially the smart way to do it.

Mrs. Hetzke: If it was a medical building you could make it 2 stories.

Mr. Gizzi: I am kind of against the medical thought. My Father owns a professional building just down the street and has several open offices and my brother is opening a very nice building in Chili next to Walgreen's. It would be primarily a 2 story with retail space. I am trying to stay away from that. I want to make this esthetically a very nice looking building, clean the lot up. Right now there is a rental house on it that I would be taking down. I already have cleaned it up to make the area a lot nicer. I would be taking that down to make the area a lot nicer. Even if we went to 10,000 or 8 or 9,000 square feet I would have to take down the house.

Mr. Halaris: Have you had any interest from someone like Dunkin Donuts or is it to preliminary to say?

Mr. Gizzi: No interest I just think the area needs some retail space.

Mr. Robinson: Have you looked at, I am sure you probably have, but just touring the building so that it did run north and south. How did that layout?

Mr. Labor: We have tried a couple of different layouts, we even, the thought was to have it face the east so that you could see it coming from the city on Buffalo Road. Those setbacks are worse. The building itself is right up against there.

Mr. Robinson: What about an "L" shaped building?

Mr. Labor: We looked at that. We had an "L" shaped building with the leg of the "L" going down towards where the pond is now and the whole thing squished over. It just is not a workable building plan. If you did have storefronts on the Westside Drive side they would not have good visibility.

Mr. Crooks: Let me throw this out for the Board to consider. I am not finding the exact verbage right now. I know that it has been there. I think we dealt with it when we did the Unity affordable Senior Living Project on Route 31. If the applicant can make just case to this Board the recommended parking spaces according to the schedule called out by the code can fall to the discretion of this Board. It seems like it is the number of parking spaces that are really pushing the setback along with everything else. It does take up a lot of room. I know there is a section of the code that allows this Board some discretion in the scheduled parking spaces. That may be an opportunity to at least find some relief as we rotate that building or do something different.

Mr. Robinson: It does seem like an awful lot of parking for what that is.

Mr. Crooks: I think that is the way it was designed when it was originally put forth was to make sure you cover worse case scenarios. That would allow them some opportunity to adjust those parking spaces. I am not saying cut it to 30 but I am saying with some different parking arrangements perhaps some more work with the drive thru you can come up with some additional setback area. Our code says parking lots ponds the whole

9 yards as far as setback requirements. It does limit you to some extent. This Board does have some discretion in that area.

Mr. Parker: Jack, we do not require a vote per se?

Mr. Crooks: No not for concept.

Mr. Parker: I would just offer them my opinion, which would be, that you may want to consider reducing the size for the building, change your parking space quantity. The risk is yours to go to the Zoning Board and determine what they have to offer. The concept is possibly workable.

Mr. Labor: Obviously we want to work with this Board, we do not want to spite this Board run to Zoning, get all sorts of variances and come back and have you say, we told you.

Mr. Robinson: Again I am not looking for you to get the variances. I am looking for something from them going, this is not one or two small variance. This is huge.

Mr. Labor: Does the Zoning Board do any informal.

Mr. Crooks: There is the opportunity to do a workshop with the Zoning Board. I think traditionally, I go back to the strength of your position when you go to the Zoning Board, my personal recommendation would be to take what you have heard tonight, work with these comments and come back with something that is more in line with the comments that you have gotten from this Board and get their support. One of the questions that the zoning Board is going to ask is what the Planning Board thinks. If you have a letter from the Planning Board saying in concept or in part we can work with this concept it gives them some reassurance that this is a viable project. If the answer is that the Planning Board does not want anything to do with it the way it is presented than why bother. I think it is important that you get a reasonable level of support from the Board. That is my recommendation.

Mr. Robinson: I would not have a problem with getting rid of a number of parking spaces. Whether you lost the ones in the back, or it is an either or kind of thing, lose some in the back. I cannot imagine needing all the parking.

Mr. Labor: I think no matter what we do I think we can pull back from Buffalo Road. I think you are always going to be pretty consistent with the setback for Westside Drive. What I am hearing is that is of less concern. It is probably 75', the dumpster I can move. I just want to make sure that everyone understands what we are dealing with on the site.

Mr. Halaris: Is there any possibility of purchasing these two homes.

Mr. Gizzi: Was not in the plan.

Mr. Labor: It still gives us more of an odd parcel. It is still 100' setback off of those and it is just elongating the triangle shape. There is not a whole lot of benefit. I think we understand your concerns. We will take a look at it and it sounds like we will be coming back here first.

**Massaro Subdivision** - application of Gennaro Massaro, 215 Ford Avenue, Rochester, NY 14606 for conceptual approval to subdivide an existing 7.0+/- acre parcel to construct four single-family residential homes. This parcel is located between #74 and #80 Hutchings Road. This project will be serviced by public water and private leach systems.

*Tax Acct # 117.03-2-25.118*

Mr. Sorochty: Mr. Brian Sorochty with DDS engineers, here tonight representing Mr. Massaro on this application. Our client's intention is to create 4 new single-family lots. Basically the configuration is, there is 2 frontage lots, I guess one on the north and one on the south and two flag lots that are sandwiched in between those. All four of these lots meet the minimum requirements for the R-1 zoning district. Access from all the lots will be off Hutchings Road, which is where their water service, electric, and gas will come from as well. Private leach fields would service the lots. The perk testing and deep hole tests with the Health Department has already been done. In no case did we find minerals or water in any of the holes down to 6'. We are looking at in-ground systems. One point that I should bring up to the Board is that there is Federal Wetlands on the site. Those were delineated back in 2009. They are located along the south and east property lines. Those are shown on the plans. We have also shown the approximate limit of the flood plain, which is associated with the tributary to the east. We have taken that elevation from an engineer's report that was prepared by Mr. Schultz back when this was Gabriel's Landing Subdivision. This is a pretty simple application.

**Conservation Board – Dave Pulhamus**

This was Gabriel's Landing subdivision, and we looked at this back in 2001. There is a flood plain in that area and that area is kind of wet. The perk rates are very fast, 30 sec. to 2 minutes. You also said that there was no mineral deposits found but in your notes on lot one they were at 42".

Mr. Sorochty: I apologize.

Mr. Pulhamus: In your drawing, the drainage patterns are not defined enough.

Mr. Sorochty: We did not show any proposed grades, this is just the existing, everything draining from the road toward the tributary.

Mr. Pulhamus: I remember when we walked this there was standing water. You are not building in that area and that is good. The lots are being built in prime farming soil.

Once you build there you can no longer use it for farming. There is a federal wetland on lots 1, 3 and 4. There is a wood lot on the edge of lots 3 and 4.

***Engineering Comments – John Freel***

I submitted a letter and I apologize that the engineer did not have a lot of time to review my comments. I have 3 comments and they are more for when you develop more comprehensive plans. There is going to be a fair amount of fill required to do the site grading for lots 3 and 4 with the proximity of the septic systems. It looks like he can move the houses away to improve the grading. There may be some terracing landscape to help that.

John Gauthier is reviewing the location of the flood plain. I do not know how many people are aware, but he reviews all the drainage reports for the Town. That is what he has his Masters in. He made some comments also; I think they are in the file.

All the sight distances for the driveways need to be shown on the plans.

***Highway Comments – (read by: John Freel)***

Dave submitted a letter dated June 23, 2010. In there he has four main comments and six general comments. The first comment is that there is not a storm water pond shown on the plans. When you do your preliminary plans you should look at that. It appears that the site will be considerable cut and large amounts of fill needed. This needs to be shown on the concept. Lots 3 and 4 are shown with in-ground septic systems with the houses shown being 6 feet above them with 20 to 30' between them it does not seem that will work well. I have concerns with this concept.

***Legal Comments – Keith O'Toole***

None.

Mr. Halaris: It fits the area, homes, and house sizes.

Mr. Robinson: With Gabriel's Landing how come that did not go forward?

Mr. Sorochty: I think this is the last remaining lot.

Mr. Freel: I do not know why this did not go forward it had approvals.

Mr. Sorochty: The client had preserved this last lot for his own home and he had a change of heart with regard to what he wanted to do with the property.

Mr. Crooks: Gabriel's Landing did go forward, that is the houses that are there now but the developer at that time felt that he wanted to keep this large portion of this back property for his own future use and obviously that is no longer a viable option for him.

Mrs. Hetzke: Is that going to be a private road for lots 3 and 4?

Mr. Sorochty: We are showing them as individual driveways.

Mrs. Hetzke: I know that one of the comments is that there are not enough numbers on Hutchings Road.

Mr. Sorochty: That is correct the 2 bounding addresses are 74 and 80. Which leaves you 76 and 78 to provide addresses for 4 lots. I talked to Mr. Criddle to see what other options we may have. I know that the Town staff has frowned upon Private Drives in the past. I called Mr. Criddle to see what other options we may have, maybe a 76-A and a 76-B. I personally have never run across a situation like this where there was not enough numbers available. My next step was to call the Post Master General to see what they do with addresses in this case.

Mrs. Hetzke: I think they change all the numbers.

Mr. Sorochty: Yes, I talked to another developer and he ran into a similar situation in another town and that is what they needed to do.

Mr. Robinson: Emergency Services makes this important.

Mr. Sorochty: If there were no other options left and he had to put in a private drive he would, but that is a last resort. I would prefer to keep 2 private driveways if at all possible.

Mr. Robinson: Concept wise I am fine with it.

Mr. Halaris: Are there any setback requirements as far as driveway to the lot line?

Mr. Crooks: None. It is not recommended to do that for snow removal but your driveway can run right to the lot line. Nothing in the Town Code that regulates that.

Mrs. Hetzke: I am just curious how well do these houses that sit way back like that sell? There is one on Brower that has been for sale for ages.

Mr. Crooks: That is not the fault of the setback. I have worked with Mr. Criddle in the past with situations like this and I do not know that it is a recommended solution but where they have caused addresses to be changed. In that circumstance that you mentioned. The property owner just to the west, he got his address changed. The gentleman to the west is refusing to change his address and his old street address is still on his house. This is a violation of New York State Building Code and now we are going to take him to court and make him change it.

Mr. Parker: I have no problem with the concept of this. Obviously those addresses and some other things need to be addressed.

**V. EXPIRATIONS -None**

**VI. MAPS FOR SIGNING- \*\*Please see map table in Building Department.**

**VII. APPROVAL OF MINUTES**

**RESOLUTION #4**

Approval of the Planning Board Meeting minutes of **April 22, 2010** as presented.

Introduced by Mr. Robinson

Seconded by Mr. Parker

**MAY IT BE RESOLVED** that the minutes of the Planning Board meeting of **April 22, 2010**, stand approved as submitted.

**Vote of the Board**

Ayes: Robinson, Halaris, DelRegno, Hetzke, Parker

Nays: None

Absent: Coburn, Marshall

**VIII. WORK SESSION - 3875 Buffalo Road**

**IX. ADJOURNMENT**

Introduced by Mr. Robinson

Seconded by Mrs. Hetzke

**MAY IT BE RESOLVED** that the Planning Board meeting of July 8, 2010 was adjourned at 9:42pm.

**Vote of the Board**

Ayes: Robinson, Halaris, DelRegno, Hetzke, Parker

Nays: None

Absent: Coburn, Marshall

