

APPROVED

At the REGULAR MEETING of the Town Board, Town of Clay, Onondaga County, held at the Town Hall, Clay, New York on the 16th of August, 2021 at 7:30 P.M., there were:

PRESENT:

Damian Ulatowski	Supervisor
Joseph A. Bick	Deputy Supervisor/Councilor
David Hess	Councilor
Eugene Young	Councilor
Ryan Pleskach	Councilor
Kevin Meaker	Councilor
Jill Hageman-Clark	Town Clerk
Mark V. Territo	Commissioner of Planning and Development
Robert Germain	Town Attorney
Ron DeTota	Town Engineer

ABSENT:

Brian Hall	Councilor
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OTHERS PRESENT:

Russ Mitchell; Planning Board Chairman and Cody Kelly; Onondaga County Legislator.

The meeting was called to order by Supervisor Ulatowski at 7:30 P.M. All present joined in the Pledge of Allegiance.

Approval of Minutes:

Councilor Bick made a motion to approve the minutes of the July 19, 2021 Town Board meeting. Motion was seconded by Councilor Hess.

Ayes – 6 and Noes – 0. *Motion carried.*

Cancellation and/or requested adjournments.

None

Correspondence:

Supervisor Ulatowski stated that the newest census information indicated that the Town of Clay now has over 60,000 residents making it one of the largest towns in the state.

REGULAR MEETING:

Special Permit (SEQR) – Town Board Case # 1167 – CLASSY CHASSY/KIMBROOK ROUTE 31 DEVELOPMENT, LLC:

Councilor Hess moved the adoption of a resolution that the application of **CLASSY CHASSY/KIMBROOK ROUTE 31 DEVELOPMENT, LLC., FOR A SPECIAL PERMIT** pursuant to Section 230-16C.(2)(e)[3] to allow for an Automobile Car Wash on +/-1.50 acres of land, located at **3610 NYS Route 31, Tax Map No. 052.-02-11.6**, is an unlisted action with a completed EAF and involves no other permit granting agency outside the Town. The proposed project **will not** have a significant effect on the environment and therefore **does not** require the preparation of an EIS. Motion was seconded by Councilor Meaker.

Ayes – 6 and Noes – 0. *Motion carried.*

Special Permit (A) – Town Board Case # 1167 – CLASSY CHASSY/KIMBROOK ROUTE 31 DEVELOPMENT, LLC:

Councilor Hess moved the adoption of a resolution **denying** the application **CLASSY CHASSY/KIMBROOK ROUTE 31 DEVELOPMENT, LLC., FOR A SPECIAL PERMIT** pursuant to Section 230-16C.(2)(e)[3] to allow for an Automobile Car Wash on +/-1.50 acres of land, located at **3610 NYS Route 31, Tax Map No. 052.-02-11.6**. Motion was seconded by Councilor Meaker.

Ayes – 6 and Noes – 0. *Motion carried.*

Special Permit (SEQR) - Town Board Case # 1164 - ANTHONY DANIELE, DANIELE FAMILY COMPANIES, LLC:

Councilor Meaker moved the adoption of a resolution that the application of **ANTHONY DANIELE, DANIELE FAMILY COMPANIES, LLC., FOR A SPECIAL PERMIT** pursuant to Section 230-16B(2)(e)[3] allow for an Automobile Car Wash facility (Royal Car Wash), on land located at **7376 Oswego Road, Tax Map No. 104.-03-04.1**, is an unlisted action with a completed EAF and involves no other permit granting agency outside the Town. The proposed project **will not** have a significant effect on the environment and therefore **does not** require the preparation of an EIS. Motion was seconded by Councilor Hess.

Ayes – 6 and Noes – 0. *Motion carried.*

Special Permit (A) - Town Board Case # 1164 - ANTHONY DANIELE, DANIELE FAMILY COMPANIES, LLC:

Councilor Meaker moved the adoption of a resolution **approving** the application of **ANTHONY DANIELE, DANIELE FAMILY COMPANIES, LLC., FOR A SPECIAL PERMIT** pursuant to Section 230-16B(2)(e)[3] allow for an Automobile Car Wash facility (Royal Car Wash), on land located at **7376 Oswego Road, Tax Map No. 104.-03-04.1**. Motion was seconded by Supervisor Ulatowski.

A Roll Call Vote went as follows:

Councilor Meaker	– Aye	Councilor Young	– No
Supervisor Ulatowski	– Aye	Councilor Bick	– No
Councilor Hess	– No	Councilor Pleskach	– No

Ayes – 2 and Noes – 4. *Motion failed.*

Special Permit (SEQR) – Town Board Case #1165 - SOUTH VERPLANK ROAD SOLAR, VP ROAD SOLAR, LLC:

Councilor Young moved the adoption of a resolution that the application of **SOUTH VERPLANK ROAD SOLAR, VP ROAD SOLAR, LLC., FOR A SPECIAL PERMIT** pursuant to Section 230-27I.(2)(e) to allow for a Utility Substation, on 81.75 acres of land, located at **4936+/- Verplank Road, Tax Map No. 047.-01-09.1**, is an unlisted action with a completed EAF and involves no other permit granting agency outside the Town. The proposed project **will not** have a significant effect on the environment and therefore **does not** require the preparation of an EIS. Motion was seconded by Councilor Bick.

Ayes – 6 and Noes – 0. *Motion carried.*

Special Permit (A) – Town Board Case #1165 - SOUTH VERPLANK ROAD SOLAR, VP ROAD SOLAR, LLC:

Councilor Young moved the adoption of a resolution **approving** the application of **SOUTH VERPLANK ROAD SOLAR, VP ROAD SOLAR, LLC., FOR A SPECIAL PERMIT** pursuant to Section 230-27I.(2)(e) to allow for a Utility Substation, on 81.75 acres of land, located at **4936+/- Verplank Road, Tax Map No. 047.-01-09.1**. This motion is strictly subject to and conditioned upon the applicant entering into a Limited Site Access Agreement with acceptable decommissioning plan and security posting in form and content that is satisfactory to the Town Attorney prior to issuance of any building permit for the project. Motion was seconded by Councilor Bick.

Ayes – 5 and Noes – 1. *Motion carried. (Councilor Hess voting No.)*

Special Permit (SEQR) – Town Board Case #1166 - NORTH VERPLANK ROAD SOLAR, VP ROAD SOLAR, LLC:

Councilor Young moved the adoption of a resolution that the application of **NORTH VERPLANK ROAD SOLAR, VP ROAD SOLAR, LLC., FOR A SPECIAL PERMIT** pursuant to Section 230-27I.(2)(e) to allow for a Utility Substation, on 22.99 acres of land, located at **0 Verplank Road, Tax Map No. 047.-01-07.0**, is an unlisted action with a completed EAF and involves no other permit granting agency outside the Town. The proposed project **will not** have a significant effect on the environment and therefore **does not** require the preparation of an EIS. Motion was seconded by Councilor Bick.

Ayes – 5 and Noes – 1. *Motion carried. (Councilor Hess voting No.)*

Special Permit (A) – Town Board Case #1166 - NORTH VERPLANK ROAD SOLAR, VP ROAD SOLAR, LLC:

Councilor Young moved the adoption of a resolution **approving** the application of **NORTH VERPLANK ROAD SOLAR, VP ROAD SOLAR, LLC., FOR A SPECIAL PERMIT** pursuant to Section 230-27I.(2)(e) to allow for a Utility Substation, on 22.99 acres of land, located at **0 Verplank Road, Tax Map No. 047.-01-07.0**. This motion is strictly subject to and conditioned upon the applicant entering into a Limited Site Access Agreement with acceptable decommissioning plan and security posting in form and content that is satisfactory to the Town Attorney prior to issuance of any building permit for the project. Motion was seconded by Councilor Bick.

Ayes – 5 and Noes – 1. *Motion carried. (Councilor Hess voting No.)* .

ZONE CHANGE (findings) – Town Board Case # 1160 - CTV, LLC.:

Councilor Pleskach moved the adoption approving and formally adopting the set of Town Board evidentiary **FINDINGS** with regard to the application of **CVT, LLC.**, seeking a Zone Change for the **Hinerwadel’s Grove** project located at **5300 West Taft Road**, from LuC-2 and R-10 to RC-1 and R-Apt, **Tax Map Nos. 117.-09-23.0, 117.-09.24.0, 117.-09.25.0 and 117.-10-01.0**. The Town Board has considered the potential impacts and implications of the project as a whole, and we have conducted exhaustive public hearings 1444copy of the **FINDINGS** will be filed with the Town Clerk and posted on the Town website (see attached). Motion was seconded by Councilor Bick.

Ayes – 6 and Noes – 0. *Motion carried.*

ZONE CHANGE (SEQR) – Town Board Case # 1160 - CTV, LLC.:

Councilor Meaker moved the adoption of a resolution that the application of **CTV, LLC.**, for a Zone Change for **Hinerwadel’s Grove, 5300 West Taft Road**, from **LuC-2 and R-10 to RC-1 and R-APT, Tax Map Nos. 117.-09-23.0, 117.-09.24.0, 117.-09.25.0 and 117.-10-01.0**, consisting of 30.3± acres of land, is an unlisted action with a completed EAF and involves no other permit granting agency outside the Town. The proposed project **may** have a significant effect on the environment. Motion was seconded by Councilor Hess.

Ayes – 6 and Noes – 0. *Motion carried.*

ZONE CHANGE (D) – Town Board Case # 1160 - CTV, LLC.:

Councilor Meaker moved the adoption of a resolution **denying** the application of **CTV, LLC.**, for a Zone Change for **Hinerwadel’s Grove, 5300 West Taft Road**, from **LuC-2 and R-10 to RC-1 and R APT, Tax Map Nos. 117.-09-23.0, 117.-09.24.0, 117.-09.25.0**

and 117.-10-01.0, consisting of 30.3± acres of land. Motion was seconded by Councilor Pleskach.

A Roll Call Vote went as follows:

Councilor Meaker	– Aye	Councilor Young	– Aye
Supervisor Ulatowski	– Aye	Councilor Bick	– Aye
Councilor Hess	– Aye	Councilor Pleskach	– Aye

Ayes – 6 and Noes – 0. *Motion carried.*

Agreement (A) – CICERO-CLAY SNOW OWLS:

Councilor Bick moved the adoption of a resolution confirming that the Town of Clay does not object to the **CICERO-CLAY SNOW OWLS** having snow trails on a strip of land owned by Niagara Mohawk Power Corporation, d/b/a National Grid, which runs through the Town of Clay for the purpose of a snowmobile trail and authorizing the Supervisor to execute the necessary document therefore. Motion was seconded by Councilor Young.

Ayes – 5 and Noes – 0. *Motion carried. Councilor Hess abstained due to employment.*

Authorization/ Application (SAM) (purchase) Town of Clay Highway Department:

Councilor Bick moved the adoption of a resolution approving the application for the State and Municipal Facilities Program (SAM) for the purchase of a Street Sweeper for the Town of Clay Highway Department, and authorizing the Supervisor to execute the necessary documents therefore. Motion was seconded by Councilor Hess.

Ayes – 6 and Noes – 0. *Motion carried.*

Personnel – Status Change:

Councilor Bick moved the adoption of a resolution shifting the Town Constable position from non-exempt to exempt status. Exempt status is not entitled to overtime, per federal law as determined by the Fair Labor Standards Act (FLSA). This position is reportable to the Town Supervisor and will receive an annual salary of \$12,000/year until September 30, 2023, at which time the position will be re-evaluated. Motion was seconded by Councilor Hess.

Ayes – 6 and Noes – 0. *Motion carried.*

ADDITIONAL AGENDA

Certiorari – Right Aid Corporation:

Councilor Pleskach moved the adoption of a resolution authorizing and approving the settlement of the New York State Supreme Court Tax Certiorari action (Index No. 2015EF3013 et. al.-2021) entitled **Rite Aid Corporation v. Town of Clay** effecting Tax Map No. 115.-01-19.2 for property located at 7245 Henry Clay Blvd. by reducing the assessment according to the attached matrix in the 2015, 2016 and 2017 tax years to \$341,173. Refunds from the Town will be paid on those years in a total amount not to exceed \$5,500.00. The assessments for 2018, 2019 and 2020 will be unchanged, and no refunds paid on those years. The 2021 assessment shall be \$280,000.00. Town refunds will be paid according to the matrix attached in an amount not to exceed \$5,500.00 for all years with RPTL 727 applied in accordance with the terms and conditions as stated in a proposed Stipulation of Settlement and the Supervisor and Town Attorney are hereby authorized to execute any and all documents necessary to complete this matter. Motion was seconded by Councilor Bick.

Ayes – 6 and Noes – 0. *Motion carried.*

Adjournment:

The meeting was adjourned at 7:57 P.M. upon motion by Councilor Young and seconded by Councilor Bick.

Ayes – 6 and Noes – 0. *Motion carried.*

Jill Hageman-Clark RMC / Town Clerk

ATTACHMENT:

TOWN OF CLAY BOARD
FINDINGS OF FACTS AND CONCLUSIONS

Applicant: CTV, LLC-Hinderwadel's Grove
Type: Change of Zone from Luc-2 and R-10 to R-Apt
Property: 5300 West Taft Road
Tax Map Numbers: 117.-09-23.0, 117.-09-24.0,
117.-09-25.0 and 117.-09-01.040.0

General Issue Summary:

The subject property under consideration consists of four tax parcels totaling approximately 30.3 +/- acres of land on the south side of West Taft Road in the southern quadrant of the town. The property is currently zoned Luc-2 ad R-10. The site has frontage on West Taft Road and abuts single-family residential properties on all three sides, as well as some commercial properties with frontage on US Route 11 to the east.

The land is commonly known as the former Hiderwadles Grove which operated as a party center in the town for many years. The applicant is proposing a zone change from Limited Use/Restaurants (LuC-2) and One-Family Residential (R-10) to Regional Commercial (RC-1) and Residential Apartments (R-APT) to facilitate construction of apartments and retail facilities. The surrounding area is predominantly R-10, with some Regional Commercial (RC-1), Limited Use/Gasoline (LuC-1), LuC-2, Neighborhood Office (O-1), and Office (O-2) properties to the east. The map submitted wit the zone change application dated December 4, 2020 shows 13.04 acres at the front of the site will be rezoned to RC-1 and the rear of the site, 16.08 acres will be R-APT to allow the entire site to be redeveloped; and the submitted Environmental Assessment Form (EAF) dated November 20, 2020 notes that the residential and commercial components of the proposed project will be constructed independent of each other. The residential component is planned to be completed in two phases, and the commercial development will be completed in up to three phases.

A subdivision is needed as part of the commercial development, and the submitted Concept Plan dated December 4, 2020 shows the commercial development to include a multi-tenant building with drive-thru and associated parking at one front corner of the site, a building with associated parking at the other front corner, and a large building with a large parking area at the rear of the commercial area. No information regarding commercial tenants was provided. The residential component appears to include 24 buildings around a proposed road. apartment buildings and others are townhouses. The EAF indicates the residential use will include (32) two-family units and (34) multi-family units (four or more); and the Concept Plan shows the site will three access points onto West Taft Road. Several local roads such as Rockland Drive will be impacted.

The EAF indicates the proposed action will result in a substantial increase in traffic above present levels, with peak traffic expected at morning, evening, and weekend hours; the existing curb cuts are expected to remain and future access is anticipated to consist of 1 signalized and 2-3 limited access drives.

Public Hearings Conducted:

The Town of Clay conducted a series of public hearing addressing the application for zone change and associated issues. Minutes from the public hearing are available from the Town Clerk or on the Town website.

Some members of the public (among other concerns considered by the Board) expressed the following concerns of note:

1. Traffic issues including but not limited to impact on local roads, stacking and lowering of service levels at intersections.
2. The need to construct turning lanes and widening of Taft may create a negative impact for the neighbors.
3. Noise impacts potentially above allowed decibel levels at the property lines.
4. Fire and Rescue issues including limited access points for residential project.
5. The scope and intensity of the proposed development and proposed residential density do not fit with the neighborhood.
6. Increased litter and pollution.
7. Decreased property values for single family homes.

FINDINGS

1. This application for a zone change is properly classified as a Type I Action for the purpose of SEQRA compliance. Section 617.4 states that any residential project “ in a city, town or village having a population of less than 150,000, 250 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment work qualifies as a Type I Action. The proposed development therefore exceeds the Type I threshold.
2. During the process the Town Board investigated and scoped the potential environmental impacts and decided that in lieu of submission of a full Draft Environmental Impact Statement, the developer needed to submit the following information and reports to supplement the filed and duly considered EAF Long Form:
 - A. Traffic Study with specific information addressing trip generation and traffic impacts of the project.
 - B. Cursory Drainage study.
 - C. Sewer use and capacity information.

* The applicant was told these studies constituted a baseline request only, and that the Town Board may request further information if necessary.

3. We acknowledge receipt of the GML Recommendation Report of the Onondaga County Planning Department dated March 31st, 2021 (OCPB Case #Z-21-114) resolved the project would have no significant adverse inter-county or countywide implications but noted there would be negative traffic impacts created by the increased uses.

4. We received a citizen Protest Petition pursuant to Section 256 of the Town Law. The Petition was reviewed by the Town Assessor for compliance with resident landowners within 100 feet and later verified as a valid Petition. Due to the filing of the Protest Petition, any approval would require a vote of 2/3 (greater than super-majority) of the Town Board members.

5. The traffic study submitted by GTS Consulting dated June 14th, 2021 shows:

A. The detailed accident analysis for West Taft from Buckley Road to South Bay provided over a three-year period shows 243 total accidents in the study avenue. Of note if the fact approximately 63% of the reported accidents were rear-end collisions. This type of accident is typical of high volume roadways and a problem for the area. We find the proposed project will only add to the already alarming rate of accidents, and agree with the public hearing evidence that there are already too many rear end type accidents in the area due to heavy traffic volume. We do not believe the negative traffic impact due to increased accidents can be mitigated.

B. The trip generation data provided indicates that in addition to pass-by use, total new trips generated will be as high as 217 entering and 207 exiting during the Saturday peak hours. We are also concerned about the high trip generation numbers for both midday and evening peak hours. We do not believe the impacts on our local residents due to increases in trip generation can be mitigated, and that the potential increases are unacceptable.

C. The capacity analysis of the proposed build condition indicates the levels of service at several intersections will result in a downgrade in service at those intersections. The report states there will be longer delays and a drop in the level of service of the many intersections during peak hours. We incorporate the data from page 11 of the GTS Report herein, and note that many of the intersections in the study area will be downgraded to either E or F (Failing) levels of service. Those intersections include Rockland Drive, South Bay Road, Pine Tree, Buckley Road, Willow Road, Dormer Drive and Route 11. We find the drop in anticipated levels of service due to the project to be unacceptable.

6. The evidence produced indicates the proposed project will negative impact residents in proximity to the project area in a far greater capacity than the overall public in the Town. The proposed development is too dense for the target area and neighborhood, and the use of the property as proposed too intensive. The potential disruptions to the residents living near the project cannot be mitigated, and therefore we find the proposed project impacts to be unacceptable for our residents.

CONCLUSION

The Town Board hereby adopts these findings and FINDS evidence of definable specific harm sufficient to deny the requested zone change.