

Parma Town Board meeting held on Tuesday, September 2, 2014 at the Parma Town Hall, 1300 Hilton Parma Corners Road, Hilton, New York.

ATTENDANCE

	Supervisor	James Smith
	Councilperson	Gary Comardo
	Councilperson	James Roose
	Councilperson	Tina Brown
	Councilperson	Kyle Mullen
	Highway Supt.	Brian Speer
	Building and Development Coordinator	Dennis Scibetta
Absent	Director of Parks and Recreation	Tom Venniuro

OTHERS IN ATTENDANCE

Helen Ives, Carol Kluth, Lon Jacobs, Dave Roth, Bernie Scoppa, Vickie Souvé, Tony Capuano, Mike Weldon, and other members of the public.

CALL TO ORDER

Supervisor Smith called the meeting to order at 7:03 p.m. and led those present in the Pledge of Allegiance to the Flag, followed by a moment of silence. Emergency exit procedures were noted.

PUBLIC HEARING – REQUEST TO REZONE
5247 RIDGE ROAD WEST

Supervisor Smith opened the public hearing and noted this was a request by Ridge Road 5247, LLC to have 5247 Ridge Road West rezoned from General Commercial to Highway Commercial. This has been identified as an unlisted action under SEQR, and this was referred to Monroe County Planning and Development and the Planning Board for input.

Supervisor Smith noted legal notices were published in the North and South Editions of the Suburban News on August 10th for the public hearing and again on August 24th for the change in the time of the public hearing. They were also posted on the official Town bulletin board and on the Town's website. *(See Schedule A for a copy of the legal notices.)* Notifications to property owners within five hundred feet have been made and proof received and the public hearing sign was posted at the property site.

Supervisor Smith asked if there were any written comments from the Planning Board. Mr. Scibetta reported Ms. Zoghlin, attorney for the applicant, made a presentation to those present at the Planning Board meeting. There were only three members present that evening and felt they had no specific recommendations to make.

Supervisor Smith reviewed comments from Monroe County Planning and Development. It cited that the rezoning of parcels should be consistent with the Town's Comprehensive Plan and that according to the National Wetland Inventory maps the site appears to contain a portion of a federal wetland. *(Copy attached at end of minutes as Schedule B).*

Supervisor Smith opened the discussion to those present and asked Ms. Zoghlin if she would like to address the Board.

Ms. Zoghlin presented the applicant's request for rezoning. *(See Schedule C at end of minutes)* In addition, she expressed that the small section of federal wetlands is located in the southeast corner of the parcel, is undeveloped and not impacted by the commercial activities. A copy of a survey map was provided to identify the area. In addition to the provided summary of the tenants at the property, she noted there were code enforcement issues at the property earlier this year with the tenant leasing the 10,000 square feet on the west side of the building (Adreneline Power Sports) and it was her understanding they had been resolved at the time of the application. She noted that on July 3rd there was a reinstatement of the certificate of compliance and this morning found out there had been a fire at the same location. The landlord does not intend to change the physical layout of the property or the building. In concluding, she asked the Town Board to grant the rezoning request.

Supervisor Smith asked if there was anyone else in attendance who wished to comment for or against this request. There was no response. Board members were asked if they had comments.

Councilperson Comardo stated that it was his understanding that it would be the applicant's responsibility to work with the appropriate agencies regarding the proximity to the wetlands. He asked if this was underway. Ms. Zoghlin responded that if there was development proposed within 100 feet of a federal wetland, they would have to apply and receive permission from the Army Corp of Engineers. She did not feel this was the case, as they are not proposing to change anything that would impact the wetland. This is a very large parcel and the wetland is only a small portion of the parcel. Councilman Comardo asked if they were obligated to contact the Army Corp of Engineers. Ms. Zoghlin replied they would only have to if what was proposed is within the 100 foot buffer or has the potential to impact the 100 foot buffer. She expressed they were not changing anything and the portion in the buffer is off in a small corner of the parcel and not impacted by the highway commercial use.

Councilman Mullen indicated that based on County information the property was not connected to sewers. He asked where the septic system is located relative to the building and in relation to the wetland. After discussion and confirmation from the tenant, it was established it was on a septic system and it is at the back of the building. Councilperson Mullen wanted to confirm that the requested change is to accommodate a business that is conducting auto repairs. Ms. Zoghlin responded that there were a couple of things driving the request. One being the existing tenant would like to engage in activities that are permitted under Highway Commercial but not under General Commercial. She felt that historically the uses of the building have been more appropriately characterized as highway commercial uses and not general commercial uses. And stated, when you look at those factors and the Master Plan's expectation that highway commercial use would increase, as infill along Ridge Road, as it became more developed. She felt it was appropriate in this case to rezone it to Highway Commercial.

Councilperson Mullen noted the reasoning for asking about the wetlands and the septic system is that there is or could be a business related to highway commercial that could affect these. He noted an auto parts store would be an allowable use under General Commercial. He felt there must be something different they want to do that would require Highway Commercial to be accomplished. He wanted to know what that would be; that it could not be done in General Commercial. This leads him to question

what else would need to be done to the building and parcel that would prevent environmental impacts such as, oil and water separators, and how that impacts with the septic system being close to a wetland. Ms. Zoghlin agreed that under no circumstances would they allow the discharge of oil or any petroleum product into a septic system. Councilperson Mullen felt it was necessary to account for that in the assessment of how the property might be used if rezoned. He felt it needed to be taken into consideration. Ms. Zoghlin stated she understood the concern and perhaps the best way to address those concerns would be through the site plan approval process. She felt the Planning Board is the entity to be looking at the configuration of the space, the connection to the sewer system and the systems linkage to the wetlands and whether there are adequate protections in place, what types of physical combinations need to be made, and that they are well suited to make those determinations. She did not feel it was within the scope of rezoning that the Town Board needs to consider. Councilperson Mullen agreed with her about the role of the Planning Board but felt it is the responsibility of the Town Board to take the general concerns of the Town and not down play this Board. Ms. Zoghlin stated that she was not trying to minimize this Board's concerns or authority over these kinds of things. With respect to the rezoning determination, she questioned if the uses in general the types of things that are better suited to for Highway Commercial use or General Commercial use.

Councilperson Mullen wanted to know what the owner's business plan is for this property. There are several opportunities for general commercial entities per our code. He wanted to know what is driving the owner of the property to not search for and seek out tenants that would fit that bill. Ms. Zoghlin stated the landowner would like to have the property fully rented, taxpaying parcel and not be a vacant eyesore. She indicated the vacancy of the 10,000 square foot area was not due to inaction on the part of the owner, as he has tried to market the property and look for tenants interested in uses permitted in a General Commercial zone. He has been unable to find that type of tenant after diligent searches. Rather than find a perspective tenant and then work through a limited case by case application, and having to go to the Zoning Board of Appeals for a use variance, the property owner feels the property is better suited to Highway commercial. So her client is asking the Board to consider rezoning it because it looks, acts and has been a Highway Commercial use since constructed and improved in 2003. She referenced the Planning Board actions in 2003 as creative to authorize Country Max to use the property in what looks to her as a Highway use. The property is across the street and adjacent to highway commercial and is on a fifty five mile an hour stretch of road. She acknowledged the Town Board has an obligation to rigorously look at and be attentive to the environmental property concerns. How a potential change to an auto repair business might impact, how an oil separator might impact, a septic system might impact a federal wetland is more in line with what the Planning Board attends to. The Board's focus is to look at the big picture. What is the property best suited for and it would be in the Town's interest not just the property owner's interest to rezone to Highway Commercial. The business plan is not the issue. She felt the issue is this particular parcel because of its configuration and history, its neighbors, it is in a 55 mile per hour stretch of road and really should be Highway commercial.

Supervisor Smith stated he tends to agree fundamentally with what she has said but when rezoning for a new structure there is a rigorous review of the site by the Planning Board. In the case where a very significant structure is being rezoned to Highway Commercial, although they should be going before the Planning Board that does not always happen. We know from past experience that property owners make changes without the appropriate review. It is not until later that the changes are discovered. That is why he is concerned with the environmental impact. By looking at it now we are staying ahead of the issue and, keeping it out of the septic and the wetland. Ms. Zoghlin suggested one way this might be handled is

to require that the property owner or the tenant to seek site plan approval before the Planning Board for any rezoning from General to Highway Commercial.

Councilperson Mullen stated it was his understanding that nothing has been brought to the Zoning Board for special use or any other permitted actions; that no other avenues have been attempted first. Ms. Zoghlin has not done so on behalf of this owner since she started representing him in May. The owner would like to engage in activity that is approved within a district subject to Town Board conditions. Ms. Zoghlin expressed that the owner is concerned that a portion of the property was vacant between 2009 and early into 2014 and raises the question of if he really wants to take the risk of finding tenant and having them apply for a use variance. The Zoning Board of Appeals standards for applying for a use variance are very high. She felt for some uses it might be the way to go but in this instance no. She reiterated the position that it has always behaved like Highway Commercial property.

Councilperson Comardo noted the Comprehensive Plan has a great deal to say about the Town Board having the responsibility for developing this area as the gateway to the community. He felt the two zoning types are quite different. He drove the length of Ridge Road and felt there were an extraordinary number of auto and repair facilities. He questions whether we need another. His vision would be more retail for mall type stores, not strip malls. He felt that Country Max looks like that which is more what he envisions. Ms. Zoghlin felt it was not appropriate to place community retail vendors in an area that is in a fifty five mile an hour zone.

Supervisor Smith noted the Town Board is acting as the lead agent and is responsible for completing Part II of the SEQR form. (The applicant submitted Part I and the Board received prior to the meeting for review.) Part II was reviewed:

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? Moderate. Would encourage more requests for highway commercial and goes to Councilperson Comardo's comments on where we are going with the west end of Ridge Road.

2. Will the proposed action result in a change in the use or intensity of use of land? Moderate. This will affect the visual aspects of the road.

3. Will the proposed action impair the character or quality of the existing community? Moderate. There are already a high number of Highway Commercial parcels. It was felt this was a character issue. There are lots of opportunities for what can go there that are not used car lots. A concern is that changing the zoning to highway commercial will promote another used car lot. Councilperson Roose asked if we were to change this to Highway Commercial. Would it automatically be able to change to a car lot? Supervisor Smith indicated it would make it much easier for a used car lot to go in there. The number of cars could not be very many in the front but they could be at the back. Councilperson Comardo wanted consideration to be given to how the Board envisions the further development of Ridge Road and would the character of the existing community be impacted. Councilman Mullen read the purpose of Highway Commercial (Chapter 165-40 paragraph A) *Purpose. The purpose of this district is to provide for and regulate in an orderly fashion the development of a full range of service and retail commercial uses, including more intensive uses which deal in bulk retail merchandise or businesses or trades which are dependent upon a high volume of traffic. Such uses shall not, however, be permitted to develop in such concentrations or in such a manner as to impede traffic or become a nuisance or hazard to the public welfare and safety*

It has been stated this is a busy highway and the request will put in a business that will attract high volumes. He sees this as a disconnect and raised the question of whether we would be going against our own code. The code also talks about concentration. He raised the question of would we be going against our code in that we should not do this as it may cause issues. The north side of Ridge Road in this area as shown on the zoning map already has a concentration of Highway Commercial and would we be creating a very dense Highway Commercial area on both sides of the road and in an area that is already fifty five miles per hour.

4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? Good site plan approval should not create any significant impact.

5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkways? It was felt this could be a borderline problem with impact as a visual distraction and more cars coming to an area where there is a higher speed limit.

6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities. No, could not envision at this point.

7. Will the proposed action impact existing:

a. public / private water supplies? Not a significant impact on the public water system.

b. public / private wastewater treatment utilities. Moderate to high concerns.

Concerns earlier expressed would have to be dealt at site plan approval level and should be a priority of this Board as it will set the tone the Planning Board will follow and necessitate taking a very significant look at.

8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? No, none we are aware of.

9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, water bodies, groundwater, air quality, flora and fauna)? Moderate. It was felt this would have an adverse change to natural resources in that any kind of a spill could impact ground water quality as there are a high number of residents who have wells and potential concerns for the wetland.

10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? Moderate. If the existing parking lot footprint did not change it would probably not have an impact. If Highway Commercial was approved and the owner decided to increase the parking lot footprint it would have a significant impact on the area and cause an increase in erosion.

11. Will the proposed action create a hazard to environmental resources or human health? No, not aware of anything except the potential effect on the septic system.

Supervisor Smith asked if there were any additional comments from the Town Board. Councilperson Comardo noted that so much of this is dependent on what they would do with the parcel going forward. He felt the Boards decision needs to be based on what the Board's vision is for the Ridge Road corridor.

The Supervisor explained Part III of the SEQR form and noted as the lead agent the Board is responsible for completing Part III.

He noted we normally render a SEQR determination indicating a positive or a negative impact on the environment. It was felt there should be some additional research and Part III will be filled out based on the discussion during the completion of Part II. It was suggested it be sent on to the Planning Board and that he and Mr. Scibetta would meet to finish.

Councilperson Mullen stated the permitted and principle uses offer a wide variety of opportunities in General Commercial. The primary differences are motor vehicles repairs, gas dispensing stations. Everything else is covered under principle uses, permitted or accessory uses. He felt there are opportunities for current and future tenants and interpretation by the Zoning Board of Appeals without having to change the current zoning. He does not recommend rezoning until all other avenues have been exhausted within the current zoning options.

Supervisor Smith recommended the decision not be made at this time. He asked if the discussion had generated any other comments or questions from those in attendance. Ms. Zoghlin asked if there was any other information the Board wanted from the applicant. Councilperson Brown was interested in knowing what kinds of applicants have been looking at the location. Supervisor Smith felt it was necessary to look at the age and condition of the existing septic system, what the impact would be going forward and the issue of water quality. He responded that the Board may have to ask for additional information. Mr. Scibetta was asked if there was sufficient time to prepare and review Part III for the next meeting on September 16th. He felt he could.

**RESOLUTION TO CLOSE PUBLIC HEARING
FOR REZONING OF 5247 RIDGE ROAD WEST**

RESOLUTION NO. 200-2014 Motion by Supervisor Smith, seconded by Councilperson Comardo to close the public hearing to rezone 5247 Ridge Road West from General Commercial to Highway Commercial at 8:04 p.m.

Motion carried: Aye 5 Nay 0

**RESOLUTION TO TABLE DECISION
FOR REZONING OF 5247 RIDGE ROAD WEST**

It was determined that a decision would not be made at this time and tabled to the September 16, 2014 meeting. It was noted Ms. Zoghlin might not be available for that date and would like to consult her client. It was felt the date would be set for the sixteenth and could be moved into October if necessary.

RESOLUTION NO. 201-2014 Motion by Supervisor Smith, seconded by Councilperson Mullen to table the request to rezone 5247 Ridge Road West from General Commercial to Highway Commercial to September 16, 2014.

Motion carried: Aye 5 Nay 0

MINUTES – AUGUST 19, 2014

RESOLUTION NO. 202-2014 Motion by Councilperson Roose, seconded by Councilperson Brown, to accept the August 19, 2014 Town Board meeting minutes.

Motion carried: Aye 5 Nay 0

TOWN CLERK REPORT

The Town Clerk reported the monthly Clerk report has been started and the VFW summary report for August has been completed, given to the Town Board and filed. Hunting and fishing license sales have begun. The State's new online system got off to a rough start. The State sent a technician out for a site visit and we are now running fairly smoothly. The Genesee Finger Lakes Regional Trail Initiative will be hosting two public meetings to obtain input on issues and opportunities related to the trail network. They will be held in Canandaigua on September 8th and in Batavia on September 11th. School tax collection has begun. Hours will be Monday, Tuesday Wednesday and Friday 8:00 a.m. to 4:00 p.m.; Thursdays till 5:00. During the month of September hours on Thursdays will be till 6:00 p.m. and Saturday, September 13th from 9:00a.m. until noon.

HIGHWAY DEPARTMENT REPORT

Supt. Speer reported staff is working on the Dunbar and Collamer Road recycling. The process is done in phases and time is required between each phase. He is hopeful the work will be completed by the end of the month. Due to construction of the new athletic field and the school district Building and Grounds building west of Merton Williams, the Town has received 1,500 yards of topsoil which is the equivalent of \$12,000 in savings to the Town. It is being stored at the Town Park off the Parma Center Road entrance. He would like to screen as much as possible for future use. He would also like to store some of it at the new salt shed and it can be used for finishing off the salt shed landscaping. The old Village salt shed is also being used to store some of it for the Village. Thirteen hundred tons of salt has been ordered, received and sprayed. He noted this is the most we have ever had on hand and is very pleased with the facility. The keys have been received for the fuel island. There are provisions for gates to be put up but they have not yet been installed. Disposal of our existing tanks will be looked into. The keys are unique for each vehicle. There was discussion on tracking the mileage as we have done previously.

Supervisor Smith reported he and Supt. Speer attended a public informational meeting on culvert work to be done on Clarkson Parma Town Line Road over Salmon Creek. The work is scheduled for 2015. Brochure information has been requested and when received will be provided to the Town Clerk for posting.

BUILDING DEPARTMENT REPORT

The Building Department report for August is in the process of being completed. The department has been busy with Ridge Road property issues and property maintenance issues. The Dyminski property issues appear to be moving quickly and there have been significant changes occurring. He will be on site Thursday to review further. An increased number of units will be removed and may include the removal

of the front commercial building (former September Place, Clover Pools). The timeframes are being met so far. He hopes to have a more detailed report for the next meeting.

Mr. Scibettea reported he had an inquiry on if the bids for the heating system included the chiller condenser. It is not included in this bid, will be a separate bid spec and the Supervisor wants to see how much the heating portion will be before determining if we will do both.

PARKS AND RECREATION DEPARTMENT REPORT

Mr. Venniuro was unable to attend tonight's meeting and Supervisor Smith reported on his behalf. The Summer Send Off celebration was well attended. It was estimated to have 1,000 people who enjoyed ice cream, kites, music, lawn games and the movie. The fall brochure will be available on line first and next week in print. It was hoped that all the cemeteries would be mowed prior to Labor Day, weather permitting. The Rec 1 software has provided an incredibly convenient way to register for programs. There have been issues with the credit card fees not matching reports which have resulted in reconciliation problems. A significant amount of time is being spent trying to resolve this.

PUBLIC FORUM

Supervisor Smith opened the public forum and asked if there was any citizen present who would like to address the Town Board. There was no response.

BUSINESS ITEMS

RESOLUTION CHANGE FOR RETIREMENT HOURS

RESOLUTION NO. 203-2014 Motion by Councilperson Comardo, seconded by Councilperson Roose, to correct Resolution No. 164-2014 by changing the standard workday for Brian Speer to eight hours and the associated days per month from 26.65 to 23.02 and remove Wendy Pinzon from the listing.

Motion carried: Aye 5 Nay 0

DISPOSAL OF FIXED ASSETS

RESOLUTION NO. 204-2014 Motion by Supervisor Smith, seconded by Councilperson Comardo, to declare the following list of computer equipment fixed assets as obsolete and surplus equipment and authorize them to be disposed of:

- 1 Magicard ID Badge Printer
- 1 HP LaserJet Printer
- 5 HP Compaq Micro Tower computers and keyboards

Motion carried: Aye 5 Nay 0

PERMIT FEE WAIVER

Dennis Scibetta reported a request has been received from a volunteer group for waiver of the fee to demolish a garage on West Avenue. The family is overcoming a health crisis and with the help of the Home Depot Foundation, community business', volunteers and Habitat for Humanity is getting a home makeover.

RESOLUTION NO. 205-2014 Motion by Supervisor Smith, seconded by Councilperson Comardo, to authorize the Building Department to waive the \$30.00 demolition fee to take down the garage at 1136 West Avenue in the Town of Parma.

Motion carried: Aye 5 Nay 0

WALNUT GROVE LETTER OF CREDIT

This was tabled to the next meeting.

ZONING BOARD FEE – BRAEMAR APPLICATION

The owners of Braemar Country Club have asked for a waiver of the Zoning Board application fee. They were scheduled in front of the Zoning Board earlier this year but did not appear and are requesting that the application fee previously paid be applied to this application.

RESOLUTION NO. 206-2014 Motion by Supervisor Smith, seconded by Councilperson Mullen, to waive the Zoning Board application fee for the next Braemar Country Club application before the Zoning Board of Appeals.

Motion carried: Aye 5 Nay 0

MISCELLANEOUS ITEMS

AMERICAN LEGION TREE DONATION

RESOLUTION NO. 207-2014 Motion by Councilperson Mullen, seconded by Councilperson Comardo, to accept the donation of a suitable flowering tree from American Legion Hiscock Fishbaugh Post 788. It will replace the pine tree previously planted in memory of Joseph C. McCarthy.

Motion carried: Aye 5 Nay 0

INFORMATIONAL ITEMS

Council of Governments – Supervisor Smith reported the town has been contacted and requested to provide examples of inter-municipal, cooperative, shared services agreements that the Town has participated in. They are an offshoot of the County Associations and are compiling information in a team effort to reduce overall spending and provide a way to share ideas with other municipalities in preparation of the changes coming to the tax cap for 2016. There was discussion on the fact that we already have numerous sharing and cost savings agreements in place; we have been doing this long before this current

push by the State and it will be difficult to find additional ways to share services. Starting in 2016, rebates will be issued reflecting cuts made.

Mr. Scibetta informed the Board that Justin Cole from Monroe County will be coming in to look at our access to the County GIS site and Pictometry access. If anyone one would to attend, there will be an opportunity to see the capabilities.

Master Plan Updating – Mr. Scibetta reported he and Councilperson Comardo have discussed the need to update the Town Master Plan. The last time this was done was in 1989 and generally is done every ten years. The first step will be to put a Board together.

LIAISON REPORTS

**Councilperson Brown reported there was no Planning Board meeting since we last met. There were only two members present for the Conservation Board meeting therefore no further recommendations were made on Wilder Estates. The Assessor's office is scheduling grievances.

**Councilperson Comardo noted the Parks department has already been discussed and the Farmland and Open Space Committee will be meeting next Tuesday.

**Councilperson Roose reported he was unable to attend the last Recreation Commission meeting.

**Councilperson Mullen reported there will be a presentation to the American Legion baseball team this Wednesday at 7:30 at the Community Center in recognition of winning the county championship. Councilperson Mullen has met with Jim Zollweg to discuss the Town's future use of GIS in conjunction of the digitizing of the Town's records, the new County GIS website and the potential to step up use of GIS and digital media for our Boards to access in meetings.

The Zoning Board denied a tabled action regarding a pet issue. There was an application for an area variance for a parcel that was originally a conforming lot but due to changes is no longer conforming. There was discussion on if there was a way to modify or streamline the code to take into consideration modification made to the code that puts compliant properties into non-compliance through no fault of the owner. The property owner needs to get a permit but they are also forced to go to the Zoning Board. It was felt this should be looked into the next time the Code is updated.

**Supervisor Smith had nothing additional to report.

There being no further business before the Town Board, Councilperson Comardo made a motion, seconded by Councilperson Brown, to adjourn the meeting at 9:02 p.m., and all were in favor.

Respectfully submitted,

Donna K. Curry
Parma Town Clerk

SCHEDULE A

**Town of Parma Legal Notice
Public Hearing
Request to Rezone 5247 Ridge Road West**

Please take notice that the Town of Parma will hold a Public Hearing on September 2, 2014 at 6:30 p.m. at the Parma Town Hall, 1300 Hilton Parma Corners Road, Hilton, New York for the Parma Town Board to consider the request to rezone 5247 Ridge Road West from General Commercial to Highway Commercial.

**DESCRIPTION OF THE PORTION OF TAX PARCEL NO. 071.02-1-19
REQUESTED TO BE REZONED**

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Parma, County of Monroe and State of New York, known and distinguished as part of Lot No. 28 of the John Smith's second Allotment of the gore, so called, more particularly described as follows:

BEGINNING at a point marked by an iron pin on the south right -of -way line of Ridge Road, which point is the northwest corner of the property conveyed by deed recorded in the Monroe County Clerk's Office in Liber 6969 of Deeds at page 73; thence

1. Southerly at an included angle of 80° 23' 34" a distance of 456.91 feet to a point marked by an iron pin; thence
2. Easterly at an included angle of 99° 36' 26" a distance of 400 feet to a point marked by an iron pin; thence
3. Northerly at an included angle of 80° 23' 34" a distance of 456.91 feet to a point marked by an iron pin on the south right -of -way line of Ridge Road; thence
4. Westerly at an included angle of 99° 36' 26" and along the south right -of -way line of Ridge Road a distance of 400 feet to the point and place of beginning

This conveyance is subject to all covenants, easements, and restrictions of record affecting said premises, if any.

Dated: August 6, 2014
Donna K. Curry
Parma Town Clerk

**Legal Notice
Town of Parma Public Hearing
Request to Rezone 5247 Ridge Road West
Time Change**

Please take notice that the time of the public hearing scheduled for September 2, 2014 to consider the request to rezone 5247 Ridge Road West from General Commercial to Highway Commercial has been changed to 7:00 p.m. It will be held at the Parma Town Hall, 1300 Hilton Parma Corners Road, Hilton, New York.

Dated: August 20, 2014
Donna K. Curry
Parma Town Clerk

SCHEDULE B



Department of Planning and Development
Monroe County, New York

Maggie Brooks
County Executive

Judy A. Seil
Director

To: Town of Parma Town Board
From: Renee Casler, Planner II
Date: August 6, 2014
Subject: Rezone 4.137 acres from General Commercial to Highway Commercial
5247 Ridge Road West
MCDP&D Response to Development Review Referral (PM14-13Z)

Review Authority and Response:

General Municipal Law: Section 239-m (Zoning)
 Approval Modification Disapproval Comment No Comment
 Section 239-n (Subdivision)
 Approval Modification Disapproval Comment No Comment
County Charter: Section C5-4.A (Airport)
 Approval Approval with Conditions Disapproval
 Section C5-4.C (Advisory Review)
 Approval Modification Disapproval Comment No Comment

Referred to the Development Review Committee (DRC) (If yes, DRC Project Review Report attached):

Yes No

MCDP&D Comments:

The rezoning of parcels needs to be consistent with the Town of Parma's Comprehensive Plan. In the case of a rezoning the Town Board should develop a clear written record describing how the rezoning will promote the goals and objectives of the comprehensive plan.

According to the National Wetland Inventory (NWI) maps prepared by the United States Department of Interior, this site appears to contain a portion of a federal wetland that is classified as PSS1/EM1E. This feature should be taken into consideration when determining if the proposed rezoning of this land should be approved. The Board should consider how this feature may be impacted by the proposed use and density.

If you have any questions regarding this review, please contact me at (585) 753-2026 or rcasler@monroecounty.gov.

DRC Attachment

xc: Development Review Committee
Steven V Metivier, Army Corps of Engineers
Mindy Zoghlin, Esq., Bansbach Zoghlin, PC
Ridge Road 5247, LLC

8100 CityPlace • 50 West Main Street • Rochester, New York 14614
(585) 753-2000 • fax: (585) 753-2028 • www.monroecounty.gov

PROJECT REVIEW REPORT
Monroe County Development Review Committee

August 6, 2014

Subject: Attachment to File PM14-13Z

The Monroe County Development Review Committee (DRC) has reviewed the subject application and has identified the following points that require appropriate action PRIOR TO SUBMISSION OF FINAL PLANS FOR APPROVAL.

(NOTE: The letter in parentheses following each comment identifies the DRC member listed at the bottom of the page making the comment. Questions should be addressed to the appropriate DRC agency.)

1. MCDOT has no comments to the re-zoning proposed. However, on page 1 of the Memorandum dated June 17, 2014 to Town Board, 2nd sentence beneath "The Property" should read "south" side of Ridge Road, not north. Also description for 5247 Ridge Rd. West, the word "country" is misspelled. (B)
2. Land use decisions should take into account the impacts on the state highway. Maintaining levels of safety to the extent possible can be achieved by implementing good access management principles, and planning for future development with a reasoned approach. We are always available to provide guidance and offer suggestions on traffic related issues. All work proposed within the Route 104 and Route 259 right of way will require a NYSDOT highway work permit. (D)
3. The following agencies reviewed this project and have no comments. (A)
4. This project was not sent to the following agencies for review. Applicants should verify with these agencies that they do not have jurisdictional requirements for this project. (C)

(A) - Monroe County Department of Health, John Frazer, 753-5476

(B) - Monroe County Department of Transportation, Thomas Cesario, 753-7711

(C) - New York State Department of Environmental Conservation, Division of Environmental Permits, 226-5400

(D) - New York State Department of Transportation, David Goehring, 272-3300

SCHEDULE C



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MEMORANDUM

TO: Parma Town Board
FROM: Mindy L. Zoghlin, Esq.
RE: Rezoning Request - 5247 Ridge Road West, Town of Parma
DATE: June 17, 2014

Rezoning Request

Ridge Road 5247 LLC (the "Owner") seeks rezoning of 5247 Ridge Road West, Town of Parma (the "Property") from General Commercial ("GC") (Town Code section 165-39) to Highway Commercial ("HC") (Town Code section 165-40).

The Property

The Property is located on the south side of Ridge Road between Route 259 and Trimmer Road. The property uses on the north side of Ridge Road between Trimmer and Route 259 (going from west to east) are:

5259 Ridge Road West	American Accents Furniture
5255 Ridge Road West	Spencerport Rental Equipment
5251 Ridge Road West	Quick Fill
5247 Ridge Road West	County Max
5161 Ridge Road West	Cobble Creek Farm
5121 Ridge Road West	Precision Power Services
5035 Ridge Road West	Doan Chevrolet

The speed limit on Ridge Road in the vicinity of the Property is 55 mph.

B&D Auto Sales and Service, Via Auto Sales, Whimpy's Auto, Anything With Wheels, Northwest Auto Mall, and Good Buy Auto Sales are on the north side of Ridge Road between Trimmer Road and Route 259. A Google map of Ridge Road between Trimmer Road and Route 259 is attached hereto as Exhibit "A" and the Town of Parma Zoning map for Ridge Road is attached hereto as Exhibit "B."

The Property is improved with a 300' x 100' stone masonry building constructed in 2003 (the "Building"). The Building is Type II-B construction (non-combustible) and protected by a fire suppression system (sprinklers).

The Building setbacks are as follows:

Front: 117.2'
West Side: 41.2' to 24.3'
East Side: 57.5'
Rear: About 250'

Between May 2003 and the present, the Owner leased approximately 20,000 square feet ("SF") in the eastern part of the Building to Country Max. The Country Max lease expires in June 2013 and that tenant is expected to vacate. The owner leased the remaining 10,000 SF of space Country Side Building Supply between 2003 and 2009. The western 10,000 SF of space was vacant between 2009 and late 2013. The Owner entered into an agreement to lease the 10,000 SF western space to Adrenaline Power Sports. The tenant intends to service and repair recreational motor vehicles and sell used parts for them. The tenant is working with the town building department to make leasehold improvements for its intended use.

The Property Should Be Rezoned from General Commercial to Highway Commercial

All land use in the Town must be consistent with the Comprehensive Plan. The 1989 Comprehensive Plan intended the General Commercial designation to provide centralized areas where a variety of services is offered and which serve a much larger geographic area than neighborhood commercial areas. Uses contemplated by this designation include general service and retail businesses whose operations are largely carried out within enclosed structures with little or no outside sales or service activities.

The Highway Commercial designation was intended to provide areas for commercial uses which are primarily highway or motorist oriented. Land uses in this designation may include a full range of service and retail uses, including those that area characterized by outdoor sales and service activity.

The Master Plan's land use plan shows the highway commercial designation along Ridge Road, primarily where this type of development existed when the 1989 Comprehensive Plan was written. The Master Plan envisioned expanding on this base of highway commercial areas by using in-fill development and development in depth from the highway. Town of Parma Master Plan, page 50.

The Property was an empty lot when the Town adopted the 1989 Master Plan. It now sits along a stretch of Ridge Road with a posted speed limit of 55 mph, surrounded and in close proximity to other Highway Commercial uses. The adjacent property to the west is zoned Highway Commercial.

Garden supply stores are permitted in a GC District. Parma Town Code section 165-39(B). Garden and nursery sales are permitted in an HC District, but not a GC District. Parma Town Code section 165-40(B)(3).

The Planning Board considered whether the zoning code allowed Country Max to operate a garden supply store with outdoor garden and nursery sales in connection with a 2003 application to modify this property's site plan. Based on the Town Engineer's recommendation, the Planning Board concluded that Country Max could have outside displays and storage for plants, lawn mowers and propane with site plan approval and that a use variance would not be required. A copy of the pertinent parts of the May 19, 2003 Planning Board meeting minutes is attached hereto as Exhibit "C."

It appears that the only uses at this Property have been those permitted in Highway Commercial, not General Commercial districts. The only tenants who have occupied the Building since its construction are Country Max (which is engaged in garden and nursery sales) and Country Side Building Supply (which apparently was a building supply center and home improvement showroom).

The Building on the Property fully complies with the lot size and setback requirements for motor vehicle service and repair; building supply centers and garden and nursery sales.

Considering all of the above, rezoning the Property to Highway Commercial is more consistent with the Comprehensive Plan because it is in a 55 mph zone that is surrounded by other highway or motorist uses, many of which have outdoor sales and service activity.

The stone masonry building constructed more than 100 feet from the street in 2003 is exactly the type of in-fill development that Master Plan suggested would be appropriate for Highway Commercial expansion.

***Rezoning a Single Parcel in Accordance with
the Master Plan is Not "Spot Zoning"***

The proposed rezoning of 5247 Ridge Road West is not spot zoning because it is consistent with the Comprehensive Plan and surrounding uses.

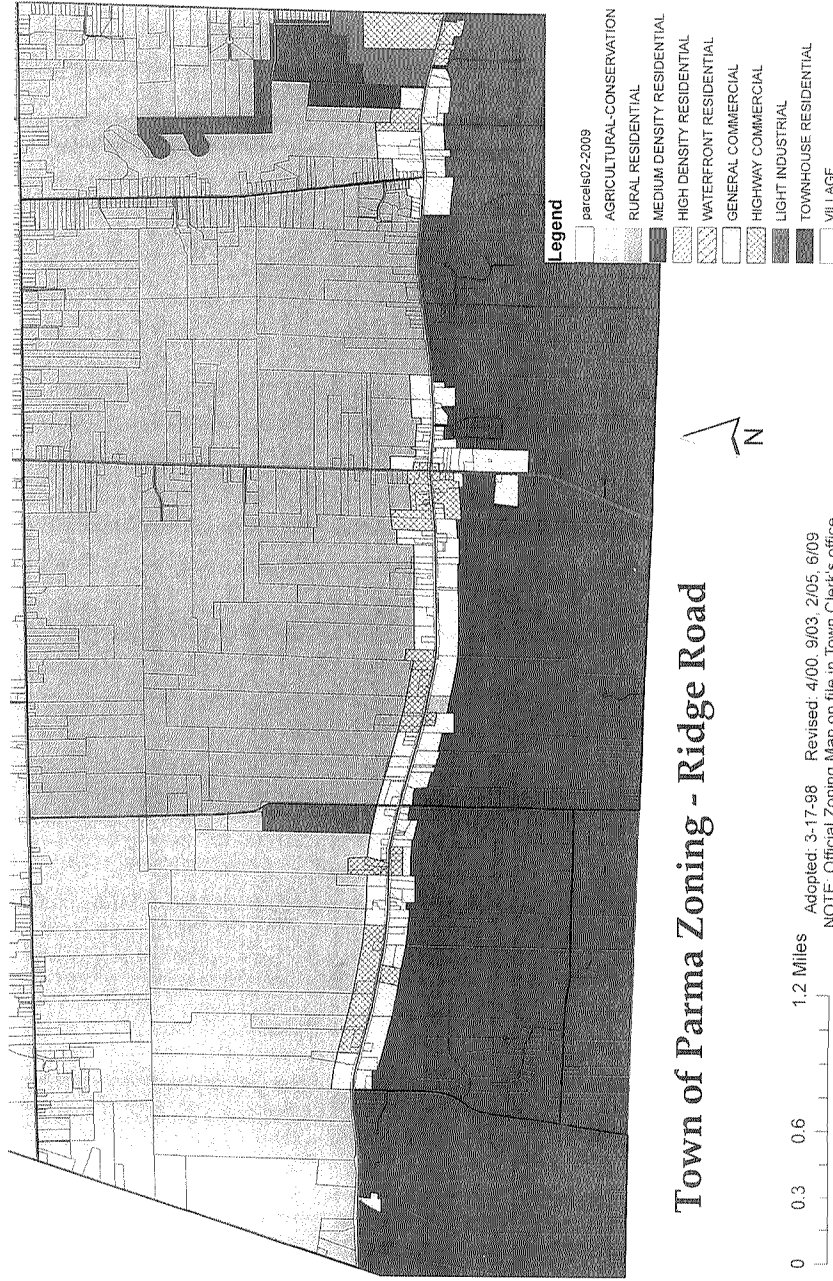
Spot zoning is defined as the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of said property to the detriment of other owners.

Rodgers v Village of Tarrytown, 302 NY 115, 123 (1951). Although a number of factors are relevant in ascertaining whether a zoning amendment fits within this definition, the ultimate test is whether the change is other than part of a well-considered and comprehensive plan calculated to serve the general welfare of the community. *Collard v Incorporated Vil. of Flower Hill*, 52 NY2d 594, 600 (1981).

The proposed rezoning is consistent with the Town of Parma's Comprehensive Plan because it is adjacent to the Highway Commercial district, in a 55 mph zone, has a concrete masonry structure placed more than 100 feet from the street and is exactly the type of in-fill development that Master Plan suggested would be appropriate for Highway Commercial expansion. Many of the surrounding uses are Highway Commercial. The proposed rezoning therefore is calculated to serve the general welfare of the community and not just benefit a single property owner.

ZONING

165 Attachment 4



165 Attachment 4:1

PLANNING BOARD

MAY 19, 2003

NEW BUSINESS

5570 Ridge Road West

No one present at meeting.

Commercial Site Plan

Big Site Plan

1 Lot

102 & 104 Dean Road

Brian Sorochty presented to the Board plans to combined tax account numbers 057.02-3-43.1 and 057.02-3-42 into one lot. The plans also show a proposed home to be built on the new lot. The home will be serviced by a private septic system and public utilities.

Jack Barton stated that the applicant is taking two non-conforming lots and making them into one less non-conforming lot.

After reviewing the plans the Board agreed to have the plans sent to the referral agencies for their comments.

County Max Store

5247 Ridge Road West

Bill Johnson, owner of the property, presented to the Board for his lessors, County Max, plans for a site modification to the property at Ridge Road West. The plans show proposed outside storage for plants, lawn mowers, propane, etc.

Jack Barton stated that General Commercial Zoning states that there is no outside displays allowed but allows garden stores in General Commercial Zoning. Garden stores all have outside displays. Mr. Barton then stated that he contacted Sears Brown, the Engineering Firm who worked with the Town on the new Zoning Codes, and asked them for their input on this situation. The Engineer stated that this type of application would not be a variance before the Zoning Board of Appeals but a site modification before the Planning Board, as the Zoning is conflicting with the use that it allows, Garden Stores, and not allowing outside displays.

The plans show proposed outside storage at the following areas:

1. A 4' x 130' area in the front of the store on the lawn for plant storage during the months of May and June.
2. Along the front of the store, for storage of lawn mowers.
3. Along the east side of the building.
4. A propane tank on the east side of the property.
5. Storage behind the building.

Mr. Johnson stated that he has paved the entire parking lot, including the area that the propane tank will be placed and behind the building.

Jim Smith asked if there will be any chemicals or pesticides stored outside of the building. Mr. Johnson stated that there would be none that they store all chemicals, pesticides and fertilizer in the store.

PLANNING BOARD

MAY 19, 2003

County Max Store Continued:

Jim Smith asked if there were any floor drains in the building. Mr. Johnson stated that there were none, only in the bathrooms that flow into the septic system.

A lengthy discussion followed on the drainage of the property and if there is a possibility of any contamination, i.e. chemicals, pesticides or fertilizers, could be washed into the surrounding water shed.

The Board stated that they did not have any major concerns with the site modification but they would like to have the building department look at the plans to make sure that all set backs and codes are met with the placement of the proposed outside storage. They chiefly would like the building department to make sure that the proposed propane tank is the proper distance from the building and that the owner has the proper protection around the proposed tank. Once the building department has reviewed the plans and returned to the Board with their report, the Board will entertain a motion on this application.

1633 & 1609 Hilton Parma Corners Road

Property Merge/Split

Darryl Moser presented to the Board plans to merge tax account numbers 57.03-1-8.1 & 57.03-1-010 into one tax account number and then split a 2.484 acre lot of the southeast corner of the property.

The plans also show a small parcel along the southwest property line, tax account number 57.03-1-30, which is land locked. Rick Holden questioned who owned the property and why is it not being combined with the other property. Mr. Moser and Jack Barton stated that this parcel is in the Spencerport School District and the rest of the property is in the Hilton Central School District and that Monroe County will not allow this property to be merged with the other property that is located in the Hilton Central School District as there is no way to split the taxes on the property after it has been merged.

After reviewing the plans, a motion was made by Jim Smith and seconded by Tim Harner to approve the merger and split of tax account numbers 57.03-1-8.1 & 57.03-1-010 as shown on the plans presented to the Board at this meeting. Motion carried unanimously 4-0 (Tod Ferguson absent).

198 Bailey Road & 290 Peck Road

Property Merge/Split

Jack Barton presented to the Board plans proposing the split and merger of tax accounts numbers 057.020-1-44 & 057.020-1-39.

The plans show a portion of the property from tax account number 057.020-1-44 being split for the property and being merged with tax account number 057.02-1-039, the center line of the creek is being used as the property line.

Mr. Barton stated that by splitting and merging these properties as proposed they would be making tax account number 057.02-1-39 a less non-conforming lot and that tax account number 057.020-1-44 will still be conforming.