

## **Clifton Park Planning Board Meeting Minutes**

**March 9, 2004**

Those present at the March 9, 2004 Planning Board meeting were:

Planning Board: S. Bulger, Chairman, R. d'Amico, T. Karam, J. Larkin, S. Pace, J. Russell

Absent: J. Marzola

Those also present: J. Kemper, Director of Planning, J. Grasso, Clough, Harbour, and Associates, M. O'Brien, Environmental Specialist, P. Pelagalli, Counsel

Mr. Bulger, Chairman, called the meeting to order at 7:10p.m. He explained that although the Board would discuss the Exxon Mobil application and accept a few general comments from neighborhood representatives later in the evening, a public hearing would be scheduled at a later date.

Public Hearings:

Massaroni Development Corp. – Proposed two-family residence in an R-1 zone, 737 Grooms Road – Public hearing for Special Use Permit and preliminary site plan review and possible determination.

Mr. Bulger called the public hearing to order at 7:10p.m. The Secretary read the public hearing notice as published in the Daily Gazette on March 3, 2004.

Mr. Gil VanGuilder, consultant for the applicant, presented this project plan that remains unchanged from the previous meeting. He explained that although the Board approved the Special Use Permit and granted final site plan approval to this application at the last meeting, it was discovered that the applicant had not sent the 500-foot notifications as required by law. These notices were sent on March 2, 2004 and the applicant now requests a reaffirmation of the approvals granted on February 24, 2004.

Mr. Kemper explained that project approvals granted at the last Board meeting on February 24, 2003 must be reaffirmed because a review of the file determined that the 500' notices had not been sent. This requirement was satisfied on March 2, 2004. In response to the notices, two neighbors have expressed their concerns with drainage problems in the area. The submission of a grading plan as previously recommended is requested and sign-off from CHA prior to the issuance of a Building Permit is advised. Mr. Kemper recommended that any approval be conditioned upon satisfaction of the comments made at the February 24, 2004 meeting. Neither Mr. Grasso nor the ECC offered additional comments.

There being no public comment, Mr. Bulger moved, seconded by Mr. Karam, to close the public hearing at 7:20p.m. The motion was unanimously carried.

Mr. Bulger noted that since the neighbors who were concerned about drainage stated that Mr. Massaroni was working cooperatively with them to solve any problems. He found that the submission of a grading plan for Clough, Harbour and Associates' review and approval would be reasonable.

Mr. d'Amico moved, seconded by Mr. Larkin, to establish the Planning Board as Lead Agency for this Special Use Permit application, an unlisted action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried.

Mr. Russell offered Resolution #6, seconded by Mr. d'Amico, to approve this Special Use Permit application to allow the construction of a two family residence in an R-1 zone pursuant to Section 208-10,B(9) and 208-79 of the Town Code conditioned upon satisfaction of the comment offered by Mr. Kemper. Ayes: Larkin, Pace, Karam, Marzola, Russell, Bulger. Noes: None.

Mr. Bulger moved, seconded by Mr. Karam, to establish the Planning Board as Lead Agency for the site plan application, an unlisted action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried.

Mr. Karam moved, seconded by Mr. d'Amico, to grant preliminary and final site plan approval to this application. The motion was unanimously carried.

Rosa, Ann – Proposed accessory use (business office) in residence in an R-1 zone, 13 Stockton Court – Public hearing for Special Use Permit and preliminary site plan review.

Mr. Bulger called the public hearing to order at 7:24p.m. The Secretary read the public hearing notice as published in the Daily Gazette on March 3, 2004.

Ms. Rosa explained that she seeks approval to continue to operate a minimally-sized home office in the basement of her residence on Stockton Court. Describing the office as a "garage size" area, she stated that although no customers visit this location, she and one full-time employee do computer work and filing associated with the retail business she operates in several local malls. She would like to continue this work that takes place within the confines of her home.

Mr. Kemper explained that when this project was considered by the Board on January 27, 2004, the Board asked that Ms. Rosa attempt to meet with her neighbors to address their concerns. As reported at the last meeting, Don Clemens provided a memo dated January 13, 2004 that stated the following "This application was brought to the Board as a result of this department investigating complaints from people in the neighborhood. There were complaints of employees working there and parking on the street as well as many deliveries and pick ups daily. It is my understanding that they operate several stores in the

area and this home is the general business office for this business. It may not be appropriate for a residential neighborhood and is much more than the intent of the SUP for an accessory use as defined in our zoning law.” The letter that Ms. Rosa sent with the 500-foot notifications was provided to the Board members. A powerpoint presentation that was prepared by the neighbors was also distributed to the members. Mr. Grasso and Mr. O’Brien, Environmental Specialist, offered no comment on this application.

In response to Mr. Bulger’s question regarding the Board’s recommendation that the applicant attempt to resolve issues with her neighbors, Ms. Rosa explained that she had experienced medical problems since the last meeting, that she is very busy, and that she really does not know her neighbors. She further stated that she left the last meeting feeling “extremely discouraged” and did not feel comfortable meeting with her neighbors when it seemed that a negative decision was “nearly made.” She reiterated her statement that there is nothing “going on” at her residence except a minimal amount of computer work and filing. She contends that pick-ups and deliveries made by parcel services are related to the family’s personal shopping habits and hobbies.

Mr. Mike Delaney, 10 Stockton Court, author of the powerpoint presentation mentioned by Mr. Kemper, stated that neighbors were concerned with the “illegal” business being conducted at Ms. Rosa’s home, the number of deliveries made on a daily basis, the number of employee vehicles that obstruct traffic on the court, and the irresponsible driving habits of those employed by Ms. Rosa. He offered comment on photographs presented in his powerpoint presentation, noting that the pictures illustrated the congestion created by several delivery trucks arriving at the same time and the number of cars that are continually parked on the street. He asked that the Board recommend that Ms. Rosa find a more appropriate location for her business.

Mr. Ron Cotton, 8 Stockton Court, explained that he and his family have resided at this location for twenty-five years. He noted that the tranquility of the court has been disrupted by Ms. Rosa’s presence and described the constant activity at her home as “obtrusive.”

Mr. Joe Jerzak, 6 Stockton Court, encouraged that Board to “maintain the character of the court,” stating that the speeding vehicles and excessive number of deliveries create safety hazards for those who reside in the area.

In defense, Ms. Rosa stated that she has one full-time housekeeper and one full-time clerk, that the cars are now parked in her driveway, that extra vehicles that may be parked on the premises belong to members of her family, and that she has spent over \$100,000.00 upgrading her home. She expressed concern about the excessive driving speeds and said that she would discuss the problem with her employees.

In response to Mr. Karam’s questions regarding the nature of the “pick-ups” that occur almost daily, Ms. Rosa stated that she sends items to a grandchild very frequently. He believes that the volume of traffic impacts the safety of those families residing in the neighborhood. Mr. Bulger discussed the issues of concern and suggested that the attorney

draft a release that would permit the Board to obtain manifests from shipping services. Mr. Larkin agreed that such information would permit Board members to make a reasonable determination concerning the nature of the business conducted and its effect on the neighborhood. Mr. Russell's concern was that the applicant was patronizing businesses that provided catalog and delivery services rather than local merchants. He supported the submission of additional information regarding deliveries. Ms. Pace recommended that the applicant "reach out" to neighbors in attempt to resolve the problems identified.

Mr. Pelagalli read the definition of an accessory use of a residence included in the Town Code. It was his opinion that this application may not be valid since the proposed use is not included in the list of professions provided in the definition. Mr. Bulger commented that the Board may first have to determine if the application is viable and then, if necessary, make a determination on proposal presented for consideration. He will ask for additional information from Mr. Clemens and establish whether or not the Building Department is responsible for determining if the applicant's office is limited to 25% or less of the total residence. Board members agreed that itemized information regarding shipments to and from the residence as well as a copy of Ms. Rosa's tax return would provide information necessary to render a decision. The tax return would be used to determine the percentage of the residence set aside for business use.

There being no additional public comment, Mr. Bulger moved, seconded by Mr. Larkin, to close the public hearing at 8:10p.m. The motion was unanimously carried.

Mr. Bulger noted that this was a very difficult deliberation since it was apparent that there were substantial differences in the testimony offered by Ms. Rosa and that of the other residents of Stockton Court. He thanked all of those who were involved in the discussion and expressed a hope that additional information would provide enough information to allow a fair and reasonable decision.

Old Business:

Tanski, Bruce – Proposed (2) lot subdivision, 1359 Route 146, Rexford – Determination from preliminary public hearing held on January 13, 2004.

Mr. Gil VanGuilder, consultant for the applicant, explained that although the Board found this project proposal acceptable at the previous meeting, it was necessary to obtain a front yard setback variance because the existing residence is too near NYS Route 146. This was granted by the Zoning Board on March 2, 2004.

Mr. Kemper stated that this project last appeared before the Board on February 10, 2004 at which time it was determined that the applicant needed to obtain a variance from the Zoning Board of Appeals. This variance was obtained and a note including the type of variance and approval date must be added to the plans. No comments were received from Clough, Harbour, and Associates or the ECC.

Mr. Karam moved, seconded by Mr. d'Amico, to establish the Planning Board as the Lead Agency for this application, an unlisted action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried.

Mr. Russell offered Resolution #7, seconded by Ms. Pace, to waive the final public hearing and grant preliminary and final subdivision approval to this application. Ayes: Larkin, Pace, d'Amico, Karam, Russell, Bulger. Noes: None.

Eells Family Irrevocable Trust – Proposed (2) lot subdivision, 831 Grooms Road – Determination from preliminary public hearing held on January 13, 2004.

Mr. Gil VanGuilder, consultant for the applicant, explained that this application was discussed by the Board on November 12, 2003 and again during the public hearing on January 13, 2004. Though the Board found the project generally acceptable, members were concerned about the possible presence of archeological artifacts on the property. The applicants have agreed to conduct a Phase IB study as requested by the New York State Office of Parks, Recreation and Historic Preservation; however, they would like to complete such a study prior to the issuance of a Building Permit. A note stating this has been added to the plan.

Mr. Kemper reported that when the project last appeared before the Board on January 13, 2004, the Board closed the public hearing pending a signoff from the New York State Office of Parks, Recreation and Historic Preservation. Mr. VanGuilder has spoken with representatives of the agency who suggest that a Phase 1B archeological study be performed on the site. Though the applicant has agreed to conduct such an investigation, test pits can not be dug at this time because of weather conditions: the test pits will be done in the spring. A note must be added to the plans stating that a building permit will not be issued until a signoff is granted from the Planning Department on the results of the test pits. A county Department of Public Works' work permit allowing access from Grooms Road must be obtained. Descriptions for the ingress/egress easement must be submitted for review. Mr. Grasso found the plan acceptable. The ECC offered no comment on this final plan.

Mr. Bulger thanked the applicant for his reasonableness and expressed his appreciation for the applicant's cooperation. He explained that the public hearing was closed on January 13, 2004.

Mr. d'Amico moved, seconded by Mr. Karam, to establish the Planning Board as the Lead Agency for this application, an unlisted action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried.

Mr. Karam offered Resolution #8, seconded by Mr. Larkin, to waive the final public hearing and grant preliminary and final subdivision approval to this application. Ayes: Larkin, Pace, d'Amico, Karam, Russell, Bulger. Noes: None.

Exxon Mobil Oil Corp. – Proposed 3,900 SF convenience store, 1,152 SF carwash, and 8

gasoline dispensers, Ushers Road at VanPatten Drive – Revised conceptual site plan review.

Mr. Rob Spiak, consultant for the applicant, presented this application for the Board's review. He explained that this submission represents the revised site plan that was presented to Mr. Kemper, Mr. Bulger, and Mr. Grasso at a meeting on December 16, 2003. His intent is to present the revised project plan to the entire Board for comment and recommendations. Three alternative architectural designs were presented, including photographs of a recently completed and opened store in New Paltz, New York.

The project narrative describes the proposed project. ExxonMobil Oil Corporation is proposing to construct a new 3,900 SF convenience store, a four tandem island with eight multi-product dispensers, and a 1,152 SF single-stall carwash on a 4 acre parcel in the southeast corner of the intersection of Ushers Road and VanPatten Drive. Access to the site is proposed via a full access curb cut located on Ushers Road and a full access curb cut on VanPatten Drive. Water service will be provided from existing water mains along the property's frontage on Ushers Road and VanPatten Drive: a 4" line will ensure sufficient water for both the convenience store and the car wash. Sewer service will be provided by C.K. Sanitary Systems: connection will be made at the intersection of VanPatten Drive and the private driveway to the existing lands of Country Club Acres. The applicant contends that the parcel is located in a LI (Light Industrial – unshaded) zone, the gasoline service station and carwash are permitted within this zone by Special Use Permit.

Mr. Kemper offered several comments on this project plan. He explained that this project last appeared before the Board on November 12, 2003 at which time the main issues of concern included the lack of façade renderings for the project, the number of dispensers, and the accessory car wash. He reported receipt of a memo from Don Clemens on November 12, 2003 which stated the following: "I have received several calls regarding my interpretation of the zoning regarding this proposed use. The parcel is zoned Light Industrial (unshaded). Section 208-64A(1)(d) lists: Automotive repair shops and garages and auto body shops as permitted uses in the zone. If you examine the definition of Automotive repair shops and garages in section 208-7 you will see that it states, that all components of the automotive industry including car washes are included under this heading. This is the reason for my interpretation that a car wash is an allowable use in this zone. I wish to remind you that my opinion is challengeable and may be overturned by appeal to the ZBA as prescribed in section 208-109 C (1). Although this may be an allowable use by law it is my opinion that in this case, the approval of such a use would mark a dramatic change in the character of this neighborhood. I am confident that you and the Board are keenly aware of this and will proceed accordingly."

Mr. Kemper acknowledged letters from the Country Knolls Civic Association, The Friends of Clifton Park Open Space, and the NYS Association of Service Stations and Repair Shops and stated that the letters were copied for all Planning Board members. The Saratoga County Planning Board reviewed the application on November 20, 2003 and made the following comments: "Upon review of the Town of Clifton Park Zoning Code,

planning staff understands that a car wash is not a permitted use in the Light Industrial District. It is the County's understanding that the Town is currently reviewing the required special use permit for the gas station. The town may want to consider rezoning this area that is still heavily vegetated to allow uses that are more compatible with the surrounding residential area. The Saratoga County Planning Board did not take action on this application due to the outstanding special use permit and interpretation of the car wash in the Light Industrial District."

Mr. Kemper reported that proposed building façade renderings have been provided to the Planning Department. The amount of proposed parking for this site seems excessive: the applicant should consider land banking the additional spaces. Renderings should be provided depicting the existing vegetation to be retained on the site and the proposed landscaping to determine the full aesthetic impact of the proposed building. The Saratoga County Sewer District provided the following comments: "A permit from SCSD will be required prior construction. The permit application process needs to comply with the Districts Rules and Regulations. The following information will need to be provided: information on the average and peak flow rates; correspondence from CK Sanitary accepting project flows and stating that adequate capacity is available; design of adequate pretreatment for car wash and food handling."

Mr. Grasso reported that the plans that have been re-submitted are the same as those previously reviewed during the initial concept review last fall. It appears that the only new information is the exterior elevations and the photographs of constructed facilities. Because there appears to be significant concern over the aesthetics of the facility, if a car wash continues to be pursued, consideration should be given to physically connecting the car wash and convenience store with a covered walkway which will emulate a colonial style breezeway. This will make the structure look similar to a colonial style residence and may fit better with the character of the area.

Mr. Grasso reiterated the comments from the original November 4, 2003 review letter. The proposed plan includes a car wash, which is not listed in the zoning regulations as a permitted use or a special use and is not mentioned in the Code's definition of automobile service station. Clarification from the zoning officer should be provided. If a car wash is allowed within the zone, plans for disposing wastewater from this facility should be provided and the applicant should provide confirmation from the Saratoga County Sewer District regarding their willingness to accept the wastewater from this facility. Potential noise impacts caused by the drying operation should be analyzed for conformance with Section 208-64.F.1 regarding noise standards. Mr. Grasso acknowledged that per the Town's zoning officer it appears the car wash is an allowable use in the zone. The parking requirements should be based on the 3,900 SF "On the Run," therefore, twenty spaces are required plus one at each pump. Nine spaces should be eliminated accordingly. The draft concept plan proposes access to the site from Ushers Road and Van Patten Drive. Section 208-66-A of the Town Code states that no more than one curb cut shall be permitted unless the Planning Board finds that traffic safety will be improved with the addition of another curb cut. Elimination of the drive proposed to Ushers Road is recommended. Full access should be from Van Patten Drive and should be located as far

from Ushers Road as possible. A rights in/rights out only drive on to Ushers Road may be considered. Section 208-65.E.1 of the Town Code states that there shall be no parking or maneuvering in the front yard. The plan should be amended to remove the maneuvering areas from the front yard on both Ushers Road and Van Patten Drive.

Mr. Grasso offered several additional comments. The site is well vegetated with oak and white pine. Section 208-66-B of the Town Code states that consideration shall be given to preserving natural and existing vegetation. There is a berm with oaks at the corner of Ushers Road and Van Patten Drive located primarily in the existing right-of-way. It is recommended that this berm be preserved on the site and supplemented with new plantings. A 25' wide buffer area is also required in the side and rear yards in the LI zone and can be existing vegetation. A site landscaping plan shall be submitted which includes plantings between the building and the sidewalk. Based on the above comments, it is recommended that the proposed components be moved south to the 25' setback per the attached sketch. This would move the curb cut on Van Patten Drive farther south, preserve the berm on the corner, eliminate any maneuvering areas in the front yard setback and increase the green space along the site's frontages, thereby reducing the impacts of the development on the suburban character of the area. A lighting plan shall be submitted showing building, canopy and site lighting fixtures, and foot-candle levels on the site to insure that no glare is emitted beyond the property line. The plans should show the multi-use pathway recently constructed along Van Patten Drive. As part of this project, a sidewalk or multi-use pathway should be continued in front of the site along Ushers Road to a termination at Pierce Road.

Mr. O'Brien, Environmental Specialist, reported that the ECC reiterated the following recommendations:

- the applicant shall determine the existence of Karner Blue Butterfly habitat on the parcel.
- a stormwater management plan must be submitted demonstrating Best Management Practices (BMP's) for the containment of surface runoff associated with gasoline stations.
- the installation of underground storage tanks will need to be evaluated in light of potential high ground water in this area.
- the applicant must address intended methods for water treatment and disposal of carwash effluent.
- consideration should also be given to also address the following impacts:
  - o increased traffic congestion caused by this commercial activity.
  - o impingements of trail right of way.
  - o An impact of petroleum spills to surface and ground waters.
- Impacts to the view shed by this project as viewed proceeding east on Ushers Road; specifically the decline of the deliberate Sylvan character of Ushers Road.

Mr. Bulger stated that the most significant issue surrounding this application concerns interpretation of the Town Code regarding permitted uses within the LI (Light Industrial – unshaded) zone. Although Mr. Bulger believes that the proposed use is acceptable at this location, he called upon Mr. Pelagalli to provide a legal interpretation of the code. Mr. Pelagalli explained that he found the code to be quite confusing. While it is clear that

the convenience store and automobile service station are permitted by Special Use Permit, it appears that the carwash is a use permitted only in conjunction with an automobile repair shop or garage. He explained that this interpretation contradicts that of the ruling made by Mr. Clemens. He also stated that discussions with other attorneys resulted in differing opinions: some supported Mr. Clemens determination; others supported his position.

Mr. d'Amico agreed with Mr. Pelagalli's interpretation that under the definition of "automotive repair shops and garages" a car wash would not be permitted. However, since the definition requires that repair services be the primary function engaged in, and there will be no repair services performed on the site, Mr. d'Amico believes that definition should not be used. The operative definition should be "automotive service station" which does not include a car wash as a permitted structure on the site. Looking at the two definitions, and because this is a light industrial zone, Mr. d'Amico, while not philosophically opposed to a car wash being combined with a service station, believes that as the Code is now written the Board could only approve as a special use the service station and convenience store, but not the car wash, until the Code is updated to permit the car wash as a special use. Mr. Caponera, legal representative for the applicant, rejected this idea, stating that since the code requirements are apparently unclear, the applicant should be permitted to pursue approvals based upon the applicant's interpretation of the code. Mr. d'Amico recommended that the Town Board address the deficiencies and lack of clarity in the code.

Mr. Larkin stated that he has attempted to put the proposed project in perspective with land uses within the area. Considering that there is an existing Mobil station at Exit 9 with an accessory carwash, that a carwash would not be inappropriate for the Stewart's location at Longkill and Ushers Roads, and that other service stations are located in close proximity to this parcel, he finds the project proposal as a reasonable "attempt to provide services to the neighborhood."

Mr. Bulger explained that the Board must be concerned with issuing an "arbitrary and capricious" decision, noting that a denial of the carwash facility may result in the applicant's filing of an Article 78 action. Without clear Town law and in light of the Director of Building and Development's assertion that the carwash is a permitted use within the Light Industrial zone, it is likely that the Town would lose such a lawsuit. The Board's fiduciary responsibility to the citizens of Clifton Park must be considered.

Mr. Karam views this proposal as a more "environmentally friendly" one than some other uses permitted for this zone. Citing the law that would permit such businesses as a diesel truck repair facility at this location, he found the application acceptable.

Mr. Tom Paolucci, Town Councilman, asked if questions would be permitted from the floor. Mr. Bulger recognized the speaker and allowed him to address questions to the applicant's representative and to the Board. He first requested that the Exxon representatives be identified. Mr. Spiak, Bohler Engineering, introduced himself and Mr. Victor Caponera, legal representative for the Exxon Corporation. Mr. Paolucci then asked

if this would be a company-operated business. Mr. Spiak stated that this facility would be operated by the firm and that there were eight to twelve such stores in the capital district area: the company operates approximately 40% of such stores nationwide. In response to Mr. Paolucci's question regarding the number of gasoline dispensers, Mr. Spiak reported that the plan calls for eight dispensers or sixteen vehicle locations. Mr. Paolucci observed that there appears to be three uses on the property: a convenience store, the dispensing of gasoline, and the carwash. He questioned the percentage of income accounted for by each use. Exxon representatives were unable to answer this question. The Councilman asked if there would be such accessory uses as auto repair or vehicle leasing. According to Mr. Caponera, there would be no such accessory businesses. Mr. Paolucci asked if grading would affect the existing berm located in the northwest corner of the site. Mr. Kemper explained that most of this area lies within the highway right-of-way and will, therefore, not be impacted by site development. Mr. Paolucci noted that the Saratoga County Planning Board had deferred action on this application. Mr. Kemper explained that the County Board is awaiting additional clarification of the law and information regarding the project plan.

Mr. Jerry McCormick, 8 Torrey Pines, stated that his primary concern was safety, noting that the recently constructed multi-use pathway from Carlton Road to Ushers Road passes the western boundary of the parcel under consideration. Mr. McCormick expressed concern that the site development may impact identified aquifers and water supplies. The speaker also observed that there was no apparent need for a gasoline service station at this location since there were several existing businesses in close proximity to this parcel. He recommended that area residents be formally notified of the Board's review since individuals residing in Country Knolls West will be affected by the project. Mr. Larkin responded to Mr. McCormick, explaining that the issues he raised would be appropriately addressed during the public hearing. He also stated that the concentration of gasoline service stations and market conditions were not subject to Board review: project proposals were presented at the owner's discretion. He recommended that a community representative contact the Planning Department to obtain information on future reviews.

Dr. James Ruhl, 168 Wood Dale Drive, presented a written statement for the Board's consideration. A copy of this "testimony" is attached to these minutes.

Board members discussed relevant laws and multiple legal opinions at length. Although Mr. Karam requested an advisory opinion from the Association of Towns or the Attorney General's office, Mr. Caponera encouraged the Board to proceed with their deliberations since the Town Code clearly empowers the Director of Building and Development to interpret the code: he has authorized the proposed uses. Mr. Caponera also stated that the applicant recognizes the magnitude of this development proposal and he noted that the applicant is prepared to address the Board's concerns with regard to access, topography, landscaping, traffic, and other issues.

Mr. Bulger added his voice to those of Mr. Larkin and Mr. Karam in finding the carwash an acceptable use on this site. He believes that the carwash would be a "minor" addition to the site and would produce a minor impact to the area. In an informal poll of the

members, it appeared that all of them supported the project plan as presented.

Mr. Bulger asked for Board comments regarding the proposed site plan. He stated that he was opposed to left turns from Ushers Road into the site, that the carwash location should be moved more to the south, and that additional and significant landscaping should be provided along Ushers Road. Mr. d'Amico asked if the buildings could be re-oriented toward VanPatten Drive.

Mr. Spiak reported that an actual tree survey would be prepared for the next submission. Board members would then be able to visualize what vegetation could reasonably be retained on site. Mr. Bulger emphasized that landscaping would be an integral part of the site approval and he encouraged all Board members to walk the site after the trees had been marked.

In response to Mr. Russell's question concerning the height of the proposed canopy, Mr. Spiak stated that it would be 16 feet high. It was also noted that the height of the canopy was regulated by fire suppression requirements and applicable building codes. Mr. d'Amico asked the applicant to consider splitting the large expanse of canopy to make it more visually appealing. Mr. Spiak stated that the height of the building itself would be determined at the time of final architectural design. He presented several architectural renderings for consideration. Board members discussed the colored façade renderings, building materials, and color selections, though there did not appear to be a consensus of opinion about which alternative was most desirable. A traffic study was requested to provide information regarding the impact on local roadways.

The Board took no action on this application. Mr. Pelagalli will continue to review applicable laws. The applicant will consider the Board's recommendations regarding greenspace, access, traffic, and architectural style.

New Business:

John Deere Landscapes (Pearl Partners, LLC) – Proposed 3,200 SF building, 202 Ushers Road – Conceptual site plan review.

Mr. Gordon Nicholson, consultant for the applicant, presented a brief description of the proposed project. He noted that the Zoning Board of Appeals approved a use variance for this parcel to allow for the proposed wholesale sale and distribution of irrigation systems. Mr. Nicholson further stated that with the exception of improvements to fencing and landscaping, the applicant plans no changes to the site. He explained that the business will operate from 7a.m. to 6p.m. on weekdays and a half day on Saturdays. In response to Mr. Grasso's question regarding changes to exterior lighting, Mr. Nicholson explained that though the applicant will replace damaged existing lights, no additional lighting is planned.

Mr. Kemper explained that the applicant is proposing to design and wholesale irrigation supply equipment from this location. A use variance was granted by the Zoning Board of

Appeals because the proposed use was not allowed in the B-3 Zone. The Saratoga County Planning Board reviewed and approved the use variance and site plan at its February 19, 2004 meeting. A detailed landscaping plan should be provided for the project. The “handicap” and “no parking” signs should be placed on the plans. Mr. Kemper also asked that the proposed sign location be added to the site plan.

Mr. Grasso explained that Clough, Harbour, and Associates reviewed the project plan and offered the following comments. The firm does not recommend construction of the proposed driveway due to the proximity to Route 9. The site statistics should indicate the proposed amount of greenspace. The limits of existing and proposed gravel driveways and parking areas should be clearly identified on plan. A stormwater management and pollution prevention plan should be submitted for review. The pollution prevention plan should include a Spill Prevention Control and Counter measures Plan for the proposed 30,000 gallon propane tank. “Handicap Parking” and “No Parking” signs and a landscaping legend should be shown. The proposed project appears to be an “Unlisted” action pursuant to SEQRA, and as such, coordinated review is optional. The involved agencies are expected to include:

- Clifton Park Planning Board -Site Plan Approval
- Clifton Park Zoning Board of Appeals – Use Variance
- Saratoga County Planning Board – Section 239 Referral

Mr. Bulger explained that since no exterior changes were proposed and since no significant modifications will be made to the existing building, he believes that formal site plan review should not be required. Board members agreed.

Otto Mitsubishi Automobile Dealership – Proposed 10,500 SF building, Clifton Park Center Road - Conceptual site plan review.

Mr. Gordon Nicholson, consultant for the applicant, described this application that calls for the construction of a 10,500 SF automobile dealership on a 3.07 acre parcel in a B-4 zone on the east side of Clifton Park Center Road. The property is bounded on the east by the Northway. Site ingress and egress will be provided via a single driveway along Clifton Park Center Road. The parking lay-out and drive aisle have been designed to allow for tractor-trailers to enter the site, unload, and turn around without having to back onto Clifton Park Center Road. An on-site well will provide water. Connection will be made to the Saratoga County Sewer District. The developed site will contain 36-37% greenspace: the greenspace includes several shallow-depth grass-lined stormwater detention basins. Two hundred fourteen parking spaces are proposed to provide space for inventory storage.

Mr. Kemper offered several comments on this application. The project is located in the Exit 9 GEIS study area and, as such, must conform to the Exit 9 GEIS Findings Statement. Significant screening should be placed along the Northway. The proposed greenspace for the project is below the 45% minimum in this study area: justification should be provided for the reduction. The applicant should explore the feasibility of connecting to the public water supply. The stormwater management plan for this project

will need to be closely evaluated due to the documented drainage problems in this area. Colored façade renderings and a detailed landscaping plan should be included with the next submission. The Saratoga County Planning Board approved the project on February 19, 2004 with the following comments “Based upon this site’s visibility from the Northway’s southbound lanes, the county Planning Board recommends that advertising signage directed toward I-87 be prohibited. This has been a recommendation of the County Planning Board for previous commercial applications bordering the Northway corridor. Site lighting for the proposed business was not indicated on the site plan. We suggest that the intensity of the lighting and height of the poles be established as a standard that does not negatively impact appearance along the Northway.”

Mr. Grasso, explained that Clough, Harbour, and Associates reviewed the concept site plan for this project as and offered the following comments. The project site lies within the limits of the Exit 9 Commercial Area GEIS, and as such, if the Planning Board determines the proposed action to be consistent with the Statement of Findings, additional SEQR review may not be required. The following comments were relative to the GEIS:

- An Environmental Assessment Form should be submitted.
- The site should be investigated for the presence of federal wetlands and a letter should be sought from NYSDEC regarding the potential for threatened and endangered species.
- One of the findings recommends that all commercial sites be provided a minimum of 45% greenspace. The proposed greenspace is 37%. Justification for the reduced greenspace should be provided.
- The proposed building height should be specified to verify that the height does not exceed the maximum forty-foot height recommended in the GEIS.
- In accordance with the Findings, development should provide pedestrian connections to the maximum extent practicable.
- The GEIS preparation mitigation fee totals \$1890.00 for 10,500 SF of commercial space based on \$0.18/SF.

Mr. Grasso offered several additional comments. The plan indicates that water supply be provided by a new well. The possibility of connection to a municipal water supply source should be investigated. The plan lacks any information regarding the proposed landscaping or lighting scheme. This should be discussed with the Planning Board prior to preparation of preliminary site plans. The plan should also clarify which portions of the existing vegetation along the site’s periphery will be removed. A portion of the proposed pavement appears to be within an existing permanent easement to NYSDOT. Approval should be obtained from NYSDOT regarding the construction of improvements within the easement. Direct tapping of the force main is preferable over extension of a private sewer service to the point of gravity flow. Correspondence from the Saratoga County Sewer District #1 should be provided. The plan should indicate if any spaces will be reserved for customers and employees and which spaces will be used for display or storage. The number of required handicapped spaces should be based on customer and employee spaces only. The plan should indicate if any landscaped areas will be used for the display of vehicles.

In response to comments from Mr. Kemper, Mr. Nicholson reported that the existing Northstar automobile dealership has improved the drainage problem by replacing a collapsed flared-end section of a drainage pipe that crosses the Northway. He also indicated that the applicant is seeking direction on whether the Board would prefer a monetary contribution or installation of a portion of the town-wide multi-use pathway. Mr. Nicholson emphasized that the applicant would have to eliminate 66 parking spaces to achieve the required greenspace. The applicant is unwilling to do this since it would not be economically feasible for him to conduct business at this location. In response to Mr. Larkin's question concerning site development, Mr. Nicholson stated that all of the parking spaces will be paved.

Mr. d'Amico asked that the proposed showroom facility be re-oriented to face Clifton Park Center Road. He asked that less advertising be visible along the Northway and that significant buffering be provided along the eastern border of the site. Mr. Russell was aware that flooding had created problems in the area and asked that sufficient stormwater management measures be designed.

Mr. Bulger called the proposed automobile dealership an "excellent use" for the Exit 9 area, noting that such a project generated minimal traffic. He indicated his willingness to consider possible mitigations for the lack of sufficient greenspace, suggesting that the Board may require the significant enhancement off-site open space areas or the contribution to an "open space fund" that would be used for open space acquisition projects.

Minutes Approval:

Mr. Bulger moved, seconded by Ms. Pace, approval of the minutes of the February 24, 2004 Planning Board meeting as written. The motion was unanimously carried.

Discussion Items:

Mr. Bulger moved, seconded by Mr. Larkin, adjournment of the meeting at 11:00p.m. The motion was unanimously carried. The next meeting of the Planning Board is scheduled for March 23, 2004.

Respectfully submitted, Janis L. Dean, Secretary cc: Planning Board Members, Planning Department, Clough, Harbour, and Associates, Supervisor, Town Administrator, Assessor, Zoning Board, Department of Building and Development, Town Clerk, Town Board Members, Highway Superintendent, Joel Peller, Town Attorney, Lou Renzi, Town Attorney, Jim Trainor, Town Attorney, Paul Pelagalli, Town Attorney, Department of Parks and Recreation, ECC, Saratoga County Planning Board, Shenendehowa Central School, Clifton Park Water Authority, Fire Districts.

Resolution #6

APPROVAL

## Special Use Permit

At a meeting of the Planning Board of the Town of Clifton Park, Saratoga County, New York, held at the Town Office Building, One Town Hall Plaza, on March 9, 2004 at 7:10 P.M. there were:

Present: S. Bulger, Chairman, R. d'Amico, T. Karam, J. Larkin, S. Pace, J. Russell

Absent: J. Marzola

Mr. Karam offered Resolution #6 and Mr. d'Amico seconded, and

Whereas, an application has been made to this Board by Massaroni Development Corporation for approval of Special Use Permit #80475 to allow the construction of a two family residence in an R-1 zone pursuant to Section 208-10,B(9) and 208-79 of the Town Code;

Whereas, pursuant to Section 276 of the Town Law a public hearing was advertised and was held on March 9, 2004 in the Town Office Building,

Whereas, the Planning Board was established as Lead Agency for this application, an unlisted action, and a negative declaration was issued pursuant to SEQRA, and

Whereas, it appears to be in the best interest of the Town that said application be approved,

Now therefore, be it resolved that the application of Massaroni Development Corporation for approval of Special Use Permit #80475 to allow the construction of a two family residence in an R-1 zone pursuant to Section 208-10,B(9) and 208-79 of the Town Code in an R-1 zone is hereby approved.

Resolution #6 passed 3/9/04

Ayes: Larkin, Pace, d'Amico, Karam, Russell Bulger

Noes: None

Steven Bulger,  
Chairman

Resolution #7

Preliminary and Final Approval

At a meeting of the Planning Board of the Town of Clifton Park, Saratoga County, New York, held at the Town Office Building, One Town Hall Plaza, on March 9, 2004, there were:

Present: S. Bulger, Chairman, R. d'Amico, J. Larkin, T. Karam, J. Russell, S. Pace

Absent: J. Marzola

Mr. Russell offered Resolution #7, and Ms. Pace seconded, and

Whereas, an application has been made to this Board by Bruce Tanski for approval of a subdivision entitled Subdivision of the Lands of Bruce Tanski consisting of (2) lots;

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on January 13, 2004 and;

Whereas, the Planning Board was established as Lead Agency for this application, an unlisted action, and a negative declaration was issued pursuant to SEQRA on March 9, 2004, and

Whereas, it appears to be in the best interest of the Town that said application be approved,

Now, therefore, be it resolved that the final hearing for this application is waived and the final subdivision plat entitled Subdivision of the Lands of Bruce Tanski consisting of (2) lots is hereby granted preliminary and final approval.

Resolution #7 passed 3/9/04

Ayes: Larkin, Pace, d'Amico, Karam, Russell, Bulger

Noes: None

Steven Bulger,  
Chairman

Resolution #8  
Preliminary and Final Approval

At a meeting of the Planning Board of the Town of Clifton Park, Saratoga County, New York, held at the Town Office Building, One Town Hall Plaza, on March 9, 2004, there were:

Present: S. Bulger, Chairman, R. d'Amico, J. Larkin, T. Karam, J. Russell, S. Pace

Absent: J. Marzola

Mr. Karam offered Resolution #8, and Mr. Larkin seconded, and

Whereas, an application has been made to this Board by Thomas King, trustee of the Eells Family Irrevocable Trust for approval of a subdivision entitled Subdivision of the Lands of Eells Family Irrevocable Trust consisting of (2) lots;

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on January 13, 2004 and;

Whereas, the Planning Board was established as Lead Agency for this application, an unlisted action, and a negative declaration was issued pursuant to SEQRA on March 13, 2004, and

Whereas, it appears to be in the best interest of the Town that said application be approved,

Now, therefore, be it resolved that the final hearing for this application is waived and the final subdivision plat entitled Subdivision of the Lands of the Eells Family Irrevocable Trust consisting of (2) lots is hereby granted preliminary and final approval.

Resolution #8 passed 3/9/04

Ayes: Larkin, Pace, d'Amico, Karam, Russell, Bulger

Noes: None

Steven Bulger,  
Chairman