

Clifton Park Planning Board Meeting Minutes

September 15, 2004

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Those present at the September 15, 2004 Planning Board meeting were:

Planning Board: S. Bulger, Chairman, T. Karam, J. Larkin, J. Marzola, S. Pace, J. Russell

Those absent were: R. d'Amico

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

Mr. Bulger, Chairman, called the meeting to order at 7:10p.m. Board members and all in attendance stood for recitation of the Pledge of Allegiance. Mr. Bulger called everyone's attention to copies of the public comments received regarding the Exxon-Mobil project and to the bound copies of the Planning Board responses regarding the application that have been made available to the public.

Public Hearings:

[2004-034] Donzelli, Daniel – Proposed (4) lot subdivision, Wayto Lane – Preliminary public hearing and possible determination.

Mr. Bulger, Chairman, called the public hearing to order at 7:16p.m. The Secretary read the public notice as published in the Daily Gazette on September 7, 2004.

Mr. Scott Lansing, consultant for the applicant, presented this application for the Board's consideration, explaining that the application has been reduced to four lots from the original five proposed since the project lies within the GEIS study area and is therefore, affected by the moratorium. The revised project now calls for the subdivision of 17.84 acres of land in an R-3 zone into four single-family residential lots ranging in size from 3.084 to 5 acres. Federally jurisdictional wetlands have been delineated and are depicted on the project plan. Each lot will be served by an individual well and septic system. The L-C zone has been indicated on the grading plan and soil investigation information has been provided. Mr. Lansing addressed several of the comments issued by Clough, Harbour, and Associates. The applicant has requested permission to construct an access road through a portion of the L-C zone in order to access the stormwater management area. Mr. Lansing reported that the project proposes no disturbance of either NYSDEC or ACOE wetlands: the filling that was completed previously complied with existing regulations. Test pit information has been supplied. Though the applicant had originally proposed a new town road, the applicant now plans to install a private roadway to be

known as Sharon Rose Court.

Mr. Kemper explained that this application was last reviewed by the Board on May 25, 2004. The project was removed from the August 10, 2004 agenda at the request of the applicant. During prior reviews, the major issues of concern included the project's close proximity to the railroad tracks and the applicant's caveat that he would consider subdividing one lot in the future. If Mr. Donzelli is indeed considering the future subdivision of one of the proposed lots, he should review the most recent Land Use Plan Recommendations pursuant to the GEIS for the western part of Town as presented to the Town Board by Clough, Harbour, and Associates. If the lot is going to be further subdivided, the applicant will have to conform to the findings of the GEIS. The current configuration will not allow for an additional lot if the Town Board endorses the current recommendations. A note must be added on the plans and placed in the deeds indicating the project's close proximity to the railroad tracks. Per Sheryl Reed's comments of May 25, 2004, "the fire district boundaries must be placed on the proposed subdivision map. The applicant must contact the respective fire departments with information." The clearing limit lines are in close proximity to the rear of the houses. The applicant should be confident that there will be adequate usable backyards because clearing limit lines will be strictly enforced. The applicant should, therefore, be sure that these clearing lines are placed on the plans in the correct location. The gravel access drive must be located outside of the L-C zone. A sign-off from the Highway Department would be required if a town road continues to be proposed. The project will be reviewed against the Conservation Density Subdivision Regulations to make sure it complies with zoning requirements.

Mr. Grasso reported that Clough, Harbour, and Associates reviewed the Subdivision Plan and Stormwater Management Report for this application and offered the following comments. The bearings and distances of the stormwater drainage easement should be shown on the subdivision plan. The access road to the stormwater management area and the basin should be contained within a fee parcel if possible and the road shifted outside of the L-C zoning district. A jurisdictional determination letter regarding the wetlands should be submitted from both the ACOE and NYSDEC. Due to unnecessary glare and spillage, the proposed globe style light is unacceptable. The light should be a cut-off down style fixture or "cobra head style" fixture oriented over the new roadway. The following comments were offered regarding the stormwater management report:

- In order to verify the existing soil conditions such as soil type, impermeable layers, high groundwater, and percolation rates, test pits and percolation tests should be performed within the limits of the proposed stormwater management area to a depth of two feet below the bottom of the basin.
- The report should evaluate the water quality distribution within the permanent pool and extended detention.
- The forebay shall be four to six feet deep.
- The full flow capacity of the proposed storm sewer system should be based upon the Manning Equation, not inlet capacity. The full flow capacity and velocity columns should be added to the Storm Sewer Sizing Table.
- The final stormwater report should have the stamp and signature of a NYS Licensed

Professional Engineer.

Mr. Grasso recommended that the Board withhold issuing a SEQRA determination until sign-offs from NYSDEC have been received. Mr. Kemper noted that a private road would have to meet emergency services' standards.

Mr. O'Brien, Environmental Specialist, reported that following review of the project, the ECC offered the following comment. The L-C zone comment on the plot plan should be moved from "Clifton Park Standard Notes" to "Environmental Notes."

There being no public comment, Mr. Bulger moved, seconded by Mr. Larkin, to close the public hearing at 7:25p.m.

Mr. Larkin expressed his disapproval of the applicant's plan to circumvent the moratorium, noting that he would not look favorably on a future request to subdivide one of these four parcels. He recommended that the Board require the addition of a note to the plan that states that no further subdivision of this parcel will be permitted. Mr. Bulger supported the recommendation offered by Clough, Harbour, and Associates that requires the access to the stormwater management area to be moved from the L-C zone to ensure that there will be no significant impacts to that zone. Mr. Karam concurred with this comment. Both Mr. Larkin and Mr. Bulger pointed out that the Statement of Findings that will be produced as a result of the GEIS could influence the applicant's ability to propose a future subdivision. Mr. Bulger listed the major items of concern as the applicant's agreement that no further subdivision be permitted, that a sign-off from NYSDEC will be required, and that all necessary legal documents related to the installation of a private road must be submitted for review.

Mr. Lansing will investigate the possibility of moving the access drive to the stormwater management area from the L-C zone and he will discuss the proposed note regarding further subdivision with his client.

[2004-041] North, Alan F. and Carolyn and Country Club Acres – Proposed transfer of .28 acres of land from the Lands of Country Club Acres to Alan F. and Carolyn North, 712 Carlton Road - Preliminary public hearing and possible determination.

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

Mr. North, applicant, explained that this proposal calls for the transfer of 12,158 SF from the Lands of Country Club Acres, Inc. to his property that adjoins it. This transfer will increase the road frontage available to the Norths from 35.66 feet to 150.94 feet.

Mr. Kemper asked that property descriptions and a consolidation deed be prepared and submitted to the Planning Department prior to the stamping of the final plat.

Though Mr. Grasso had no prepared comment on this application, he recommended that

the Board consider requesting the conveyance of a 10' strip along Carlton Road to allow for future road improvements.

Mr. O'Brien, Environmental Specialist, reported that the ECC had no comment on the application.

Mr. Bill Mackesey, member of the Trails Advisory Committee, supported Mr. Grasso's recommendation, explaining that a plan for the proposed "Skunk Hollow Trail" is currently being prepared. The applicant willingly agreed to convey the 10' strip along Carlton Road.

There being no additional public comment, Mr. Marzola moved, seconded by Mr. Larkin, to close the public hearing at 7:20p.m.

Mr. Marzola moved, seconded by Mr. Larkin, to establish the Planning Board as 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 #22, seconded by Mr. Larkin, to waive the final public hearing for this application and to grant preliminary and final subdivision approval conditioned upon satisfaction of the comments offered by Mr. Kemper and the conveyance of a 10' strip of land along Carlton Road. Ayes: Larkin, Pace, Karam, Marzola, Russell, Bulger. Noes: None.

[2004-040] Abate, Michael and Harold Ferguson – Proposed transfer of 1,593 SF of land from the Lands of Ferguson to the Lands of Abate, Fox Hollow Circle - Preliminary public hearing and possible determination.

Mr. Bulger, Chairman, called the public hearing to order at 7:42p.m. The Secretary read the public notice as published in the Daily Gazette on September 7, 2004.

Mr. Abate presented this application that calls for the transfer of 1,593 SF of land from the Lands of Michael Abate to the Lands of Harold Ferguson. This will provide a greater distance from the Ferguson's lot boundary to the existing shed on the Abate property.

Mr. Kemper asked that property descriptions and a consolidation deed be prepared and submitted to the Planning Department prior to the stamping of the final plat. Neither Mr. Grasso nor Mr. O'Brien offered comment on this application.

There being no public comment, Mr. Bulger moved, seconded by Mr. Karam, to close the public hearing at 7:45p.m.

Mr. Marzola moved, seconded by Ms. Pace, to establish the Planning Board as 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 #23, seconded by Mr. Karam, to waive the final public hearing for this application and to grant preliminary and final subdivision approval conditioned upon satisfaction of the comments offered by Mr. Kemper. Ayes: Larkin, Pace, Karam, Marzola, Russell, Bulger. Noes: None.

[2004-044] Zagata, Richard – Proposed transfer of 2,622 SF, 149 and 151 Hubbs Road – Preliminary public hearing and possible determination.

Mr. Bulger, Chairman, called the public hearing to order at 7:45p.m. The Secretary read the public notice as published in the Daily Gazette on September 7, 2004.

Mr. Stephen Lamb, consultant for the applicant, explained that this transfer of 2,622 SF from Lot #151 Hubbs Road owned by Richard Zagata to his property at Lot #149 Hubbs Road will correct a driveway encroachment problem. Following a discussion regarding the existing asphalt driveway that links the two parcels, Mr. Zagata decided that removal of the existing connecting asphalt might be advisable since he does plan to sell one of the properties.

Mr. Kemper asked that property descriptions and a consolidation deed be prepared and submitted to the Planning Department prior to the stamping of the final plat. Neither Mr. Grasso nor Mr. O'Brien offered comment on this application.

There being no public comment, Mr. Bulger moved, seconded by Ms. Pace, to close the public hearing at 7:47p.m.

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

Mr. Bulger offered Resolution #24, seconded by Mr. Karam, to waive the final public hearing for this application and to grant preliminary and final subdivision approval conditioned upon satisfaction of the comments offered by Mr. Kemper. Ayes: Larkin, Pace, Karam, Marzola, Russell, Bulger. Noes: None.

[2003-067] Exxon Mobil Oil Corp. – Proposed 3,900 SF convenience store, 1,152 SF carwash, and 6 gasoline dispensers, Ushers Road at VanPatten Drive – Reconvening of the public hearing of August 10, 2004 for Special Use Permit and preliminary site plan review and possible determination.

Mr. Bulger, Chairman, reconvened this public hearing that was adjourned on August 10, 2004 at 7:55p.m. The Secretary read the public notice as published in the Daily Gazette on September 7, 2004.

Mr. Rob Spiak, consultant for the applicant, described the one significant revision to the project plan. The curb cut onto Ushers Road has been revised to further discourage left turns into and out of the site.

Mr. Kemper explained that this project last appeared before the Board on August 10, 2004 at which the public hearing was adjourned. He reported that the applicant has proposed the elimination of all windows on the west side of the proposed convenient store in response to public comment. Since Board members had requested the installation of such windows, this issue must be resolved. The proposed signage will have to be evaluated by the head of the Building Department to determine if any variances are necessary. Mr. Kemper stated that a memo dated September 11, 2004 from Eric Hamilton, Trails Advisory Committee Chairman, to the Planning Board was forwarded to Board members. He recommended that some additional plantings or decorative planters should be placed around the sidewalk bordering the building. All public comments received as of Monday, September 13, 2004 were included in the packet of comment letters made available at this meeting. In addition, the Planning Department, Town Attorney, Clough, Harbour, and Associates, and Planning Board members have prepared an item-by-item response to concerns raised by citizens during the public comment period. The Saratoga County Planning Board determined at their August 19, 2004 meeting that the proposed Exxon Mobil application had "No significant county wide or intercommunity impact;" though the memo included the following comment: "Although the application raises no direct county wide or inter community concerns, the county planning board members recognize that there are important local issues of land use compatibility and the impact of the proposed commercial use on the existing rural residential character of the neighborhood."

Mr. Grasso reported that Clough, Harbour, and Associates reviewed the revised site plans for this project, the Stormwater Management Report last revised August 23, 2004, the traffic study last revised August 31, 2004, and the subdivision plan dated July 22, 2004. He offered the following comments. The traffic study has been revised to reflect a greater percentage of traffic using Van Patten Drive due to the restricted rights in/rights out on Ushers Road. The new level of service analysis at the Ushers Road/Van Patten Drive intersection indicates that the average delay for left-turning vehicles onto westbound Ushers Road will increase by up to 50 seconds during the PM peak hour. The level of service will drop from a "D" to an "F". The engineering firm considers anything lower than a "D" level of service for this area unacceptable and such a change in level of service to be significant. The study also indicates that a signal warrant analysis was completed that showed that a signal was not warranted. No mitigation for the drop in level of service is proposed. The gap analysis does not appear to accurately reflect the additional traffic taking a left onto Van Patten Drive. Although the technical review of the revised traffic information is continuing, it appears that a reduction in the scale of the project or a signal at the intersection of Ushers Road/Van Patten Drive will be required.

The design of the storm water management system has not been substantially revised since the last review. Given the concern over the potential change in character of the area due to development of the site, Clough, Harbour, and Associates continues to assert that preserving as much of the existing vegetation within the site has the potential to mitigate the impact of development. The plan proposes a standard open basin storm water management area on the south side of the site which will require the removal of many

significant trees. It is recommended that a subsurface storm water infiltration system which is located entirely within proposed paved areas be used. The cross walk and landing areas across Pierce Road need appropriate advanced warning signs, crossing signs, and a stop sign. Stop signs are not warranted where the pathway crosses the commercial curb cuts for the site. A typical section of the multi-use pathway should be provided which shows the relationship between the road, pathway, fence, etc. It appears as though a spot elevation for the top of curb at the end of the handicap ramp is missing. The curb should have a 6" reveal at that location. The proposed cross access easement for the parcel to the east should be shown on the subdivision plan. The proposed curb cut on Ushers Road has been slightly modified to further discourage inappropriate use, however, Clough, Harbour, and Associates does not feel it will adequately restrict inappropriate movements. The curb cut configuration needs to be substantially modified if it is to prohibit exiting traffic from taking a left onto Ushers Road. If the curb cut arrangement is driven by the need to handle fuel trucks and can't be modified to restrict turning movements, it is recommended that the access be eliminated. The proposed mountable curb (4" high by 12" wide) is also unacceptable, as it is easily mounted by all vehicles.

Mr. Grasso offered several additional comments. The lighting plan only indicates three poles to have house side shields. It would appear that they should be provided on all twelve poles. Clarification as to which poles receive shields is required. The shields should be used to reduce potential visibility of the lamp from the public roads. The proposed sanitary sewer system within the Town right-of-way will need to be made public and acceptable for dedication to the Saratoga County Sewer District. NYSDEC review and approval will also be required. An easement appears required on the west side of Van Patten Drive where the proposed sewer ties into the existing main. Detailed plans and specifications should be provided for the proposed modifications to Van Patten Drive. A separate "worksheet" copy of the proposed grading plan should be provided that shows the trees to remain and those to be removed. The location of the telephone line, sewer line and water service will require the cutting of a forty foot wide swath through an existing stand of trees to be preserved along Van Patten Drive. It is recommended that special construction practices be utilized to reduce the clearing width to no greater than fifteen feet. It appears the amount of proposed signage significantly exceeds that allowed by the Town's signage regulations and a variance appears required. The location of the pylon sign is within a stand of existing trees to be preserved along Ushers Road. The ability to restrict future trimming to increase visibility of the sign will be problematic from an enforcement standpoint. Consideration to a monument sign near the entrance on Van Patten Drive would appear to be more appropriate. The level of illumination associated with the L.E.D. lighting on the side of the car wash should be discussed with the Planning Board. The lack of vegetation immediately around the building has been a concern of the Planning Board. It should be noted that there are no shrubs proposed along the front façade and there are no shrubs with a minimum height over 24" in front corner islands. The Planning Board may wish to consider requesting additional landscaping. The proposed hydrant and ductile iron water main details do not seem warranted.

Mr. Spiak requested, and the Board agreed, to include the subdivision application that appeared under the evening's New Business agenda items with this site plan discussion.

The subdivision application calls for the subdivision of 6.83 acres of land in a L-I (unshaded) area at the southeastern quadrant of the intersection of Van Patten Drive and Ushers Road into lots of 2.04 and 4.79 acres, respectively. The lots will be served by the Clifton Park Water Authority and the Saratoga County Sewer District.

Mr. O'Brien, Environmental Specialist, reported that the following comment was issued by the ECC. The Commission believes it is advisable to develop a site plan that takes the entire parcel into account prior to subdividing to avoid the undesirable aspects of segmentation. The Commission also noted that it may be premature to consider the subdivision request before resolving the outstanding issues of the Exxon-Mobil project that is pending before the Planning Board.

Mr. Spiak noted that, in response to Clough, Harbour, and Associates' recommendation regarding the stormwater management plan, the stormwater area has been reduced to a 150' length.

Ms. Wendy Cimino, Creighton-Manning Engineers, discussed the traffic study that has been prepared to identify impacts that may be produced by this project and, if necessary, appropriate mitigation measures. She stated that traffic movements that involve a left turn from VanPatten Drive to Ushers Road during the p.m. peak hour were determined to be the most difficult. She stated that although the installation of a traffic signal may be indicated, it was not recommended since it would impede the existing free-flowing traffic pattern. She noted that the applicant has reduced the number of fueling stations and has proposed striping on VanPatten Drive to help mitigate traffic problems'

Mr. Spiak stated that the applicant would be willing to install a traffic signal at the intersection of VanPatten Drive and Ushers Road if required. He also reported that the applicant was willing to comply with all Clough, Harbour, and Associates' comments and recommendations, and that the signage proposed for the site would be similar to the signage at the Hess site. Mr. Bulger emphasized that if the signage is larger than what is required by law, the applicant must prepare architectural renderings that do not include signage.

Dr. James Ruhl, 168 Wooddale Drive, stated that he would like to express his comments and concerns as his wife had done at the August 10, 2004 public hearing. He stated that pursuant to Section 208-79 of the Town Code, the Planning Board has eleven reasons to deny the Exxon-Mobil application. He believes that there is "overwhelming sentiment" that the project not be approved. Addressing the subdivision application, Mr. Ruhl asked if the applicant was eligible for Empire Zone status and if application for such status has been submitted. Mr. Spiak explained that the applicant is not eligible and has not applied for participation in the Empire Zone.

Mr. Frank Berlin, 980 Main Street, presented his "observations" for the Board's consideration. He noted that his travels took him to Exit 12 where traffic is often "backed up" from the Northway exit to Route 9. Considering this to be a result of poor highway design, he asked that the Planning Board take into account the four different directions of

traffic flow in the Exit 10 area. In his opinion, “building on the edge of the Northway” does not represent good design. Mr. Spiak pointed out that several traffic improvements have been planned in conjunction with the Exxon-Mobil site development to minimize traffic problems: he noted that the cost of the improvements will be borne by the applicant.

Ms. Peggy Degena, 14 Hazeltine Lane, told the Board that she had moved to Clifton Park because of its rural character and its family-friendly atmosphere. She asked that the Board deny the Exxon-Mobil application.

Ms. Sherri Eckles, 8 Maple Line Road, asked the Board to consider the fact that there are several gas stations located in the Exit 10 area, that the proposed development will have a significant negative environmental impact, and that property values in the Exit 10 area will be reduced.

Mr. William Mackesey, 12 South Hollow Drive, spoke as a representative of the Trails Committee. He asked that the Planning Board require the installation of an 8’ wide trail along Ushers Road that would be designed with the safety of all users in mind. He suggested that the “triangle” that defines the curb cut at Ushers Road be moved back to make trail use easier and safer. He also asked that the telephone box located within the proposed pathway be relocated and that bollards be installed as necessary.

Ms. Sue Wareing, 15 Hearthside Drive, asked why there was a need for an additional carwash in the area. She asked that the position of residents be considered in the review process. She reported that she has lived in the area since 1979 and that another gas station is not necessary in the Exit 10 corridor.

Mr. Bernard Wald, 6 Chapel Woods, explained that he had moved to the Exit 10 area seven months ago. He told the Board that an additional gas station was not necessary and discussed the traffic problems that would result from this site’s development. He asked the Board to “leave the area alone.”

Ms. Pat Rezny, 3 Morningside Drive, told the Board that an additional gas station was not needed and noted that Exxon-Mobil would attempt to attract Northway traffic to its location. She was particularly concerned that the applicant would promote the station’s use by tractor trailer trucks. She asked if the applicant would place advertising logos on the signs along I-87. Mr. Spiak reported that Exxon-Mobil would seek to have such signs added along the Northway. Mr. Bulger called the public’s attention to the comments on pages 2 and 3 of the “Town of Clifton Park Planning Board Comments” document, noting that the Planning Board must follow all applicable laws. Ms. Rezny stated that she would not patronize this station.

Mr. Chris Lemire, 23 Parkside Trail, stated that his family had moved from Long Island because they liked the Exit 10 neighborhood. He noted that the Town Board rejected the plans to widen Ushers Road and improve the multi-use pathway because of intense public pressure. He asked if there was a definitive Master Plan for the corridor that would offer

the public an idea of the types of future development that will occur. Mr. Bulger explained that the Planning Board does have control over some of the issues and concerns involved in site development; however, he pointed out that it is the Town Board that controls zoning. He commended that Town Board for its diligence in establishing appropriate zoning throughout the Town, noting that it is very difficult to foresee what site-specific uses will be presented for each parcel within Town boundaries. Mr. Pelagalli explained that the Planning Board derives its powers from New York State Town Law. While the Planning Board makes determinations relevant to site plans, subdivisions, and special use permits, it is the Town Board that is entrusted with the establishment of zoning legislation. He emphasized that although the Planning Board can protect the public health, welfare, and safety by setting conditions on project approvals, a special use is a permitted use. Mr. Bulger further explained that the Town Board cannot now impact the outcome of this application by changing the zoning.

Mr. John Rajczewski, 173 Wood Dale Drive, stated that there were too many gas stations in the Exit 10 area. He asked if the public hearing would be adjourned or closed following the evening's discussion. Mr. Bulger stated that he would favor closing the public hearing but delaying action until additional information regarding some of the significant issues such as traffic and potential groundwater contamination are unequivocally addressed. Mr. Pelagalli responded to the speaker's comments regarding the number of gas stations available in the area, stating that although the "need factor" cannot be considered by the Board, the Board can impose some special conditions for development. Mr. Rajczewski asked if the Board could consider planning for the larger parcel as it was presented on the GIS depiction. Mr. Bulger addressed the issues involved in pro-active planning, stating that the Town Board has showed its commitment to protect the interests of Town residents by utilizing such tools as the preparation of a Generic Environmental Impact Statement for the western part of Town to create a foundation for future growth and development. Mr. Larkin pointed out that the Board had asked the applicant to provide – and the applicant has agreed - an easement that could allow a future interconnection with the parcel to the east. Mr. Rajczewski observed that it appeared that an applicant did not need to supply significant information for approval, but the Board required substantial information to deny the application. Mr. Bulger explained that the applicant was indeed required to convince the Board either that there would be no significant impacts produced by this development or that impacts could be effectively mitigated. He stated that the Planning Board must be certain that all applicable town, state, and federal regulations are adhered to. To this end, the Board employs the firm of Clough, Harbour, and Associates and has requested Town Board authorization to consult other experts to provide verifiable proof that the applicant's plan will meet required standards. To Mr. Rajczewski's suggestion that the Board simply "not cooperate" with the applicant, Mr. Pelagalli provided a lengthy explanation of the review and decision process that is required by law, stating that the Planning Board is required to render a decision regarding a special use permit application within sixty-two days of the closing of a public hearing. He also explained that substantial evidence is required to sustain a denial should be applicant file an Article 78 action.

Ms. Gretchen Ruhl asked if the required 62-day determination period would allow

sufficient time for the Planning Board to receive responses from the experts contracted to review information submitted by the applicant or to provide additional information regarding potential impacts. Mr. Bulger replied that though he expected that the specific studies requested would be completed within the time frame provided, he was confident that the applicant would agree to an extension of the determination period if necessary. Such an extension is permitted by law. In response to Ms. Ruhl's question regarding the types of studies authorized by the Board, Mr. Bulger stated that a hydrogeologist would be employed to study the groundwater issues and that the traffic study would also be carefully scrutinized.

Mr. Frank Berlin, who had addressed the Board previously, asked if the traffic study provided by the applicant contained estimates of the number of vehicles that the applicant hopes to attract. Another member of the audience asked to know who funded the traffic study. Mr. Larkin responded that although the applicant supplies the traffic study, the Town Engineer reviews and evaluates the information submitted.

Ms. Mary Lou Classen, 4 Blue Spruce Lane, reported that she travels the Northway to Albany every day. It has been her experience that traffic is generally much lighter in the spring time than when school reopens in the fall and she asked that a new traffic study be completed during the fall months. In response to her questions concerning the availability of diesel fuel, Mr. Spiak reported that the Northway signage will not include mention of such availability. He believes that it is unlikely that truck traffic would frequent this station. Mr. Bulger assured Ms. Classen that Clough, Harbour, and Associates is aware of the factors to be considered when analyzing the traffic information submitted.

Ms. Elaine Carrubba, 9 Hillside Drive, thanked her neighbors for making residents of the area aware of this special use permit and site plan application. She spoke of the importance of the "intangible" needs of residents, asking the Board to protect rights of existing property owners. The speaker questioned whether or not the Town Board was reviewing zoning legislation often enough. Mr. Bulger pointed out that the Town Board is very concerned with zoning issues. He called attention to the fact that the Town Board had protected the interest of citizens by establishing an Adult Business zone, thus eliminating the possibility that such businesses could locate within or near residential neighborhoods. He also addressed the speaker's comments by stating that since the uses on surrounding properties were commercial, the Town Board looked upon this parcel as a reasonable location for such a use.

A resident speaking from the audience asked the Board to determine the number of trips that Exxon-Mobil expected to generate because such information would be extremely important in determining the traffic impacts produced. He agreed with previous speakers who told the Board that there were enough gas stations in the area to adequately serve the needs of the residents. Mr. Grasso responded to his comments, stating that traffic engineers apply established standards when analyzing and evaluating traffic generation information.

Mr. Tom Piwinski, 7 Inverness Lane, told the Board that when a transfer station was

proposed for Pierce Road, the residents in the Exit 10 area not only objected the specific project plan, but also asked that the Town Board consider re-zoning VanPatten Drive. He asked if such consideration had taken place and rhetorically asked why the Town had a Planning Board if it, in fact, was not involved in planning for future development. Mr. Pelagalli responded Mr. Piwinski's statement regarding the transfer station by explaining that the transfer station was denied a use variance by the Zoning Board of Appeals. Such a variance is unlike the pending application because it involved a requested use that is NOT a permitted use within the designated zone: the Exxon-Mobil application involves consideration of a use allowed by special use permit – such a use IS permitted by law. Since the Mobil Corporation has abandoned a number of sites in close proximity to the proposed project area, Mr. Piwinski believes that the company has not been “committed” to its presence in the Exit 10 area. He recommended that the Planning Board encourage applicants to renovate and re-use older existing buildings and he stated that he did not want “too much of one thing” in the Exit 10 area. In response to his comments concerning brownfields and Executive Order 111 concerning green buildings, Mr. Bulger read applicable portions of the letter of response provided by the applicant that addressed concerns aired at the August 10, 2004 public hearing. He also stated that the standards mentioned by the speaker have not been endorsed by the Town Board.

Mr. Wilfred Ganem, 167 Wood Dale Drive, remarked that Clough, Harbour, and Associates commented extensively on the traffic issues involved in this development. He asked that the Planning Board recognize that impacts are significant because a major highway ties into a country road. Stating that he believes the Exxon-Mobil convenience store and carwash will create a traffic “bottleneck” and that the curb cuts onto Ushers Road will produce a serious hazard, he asked that the Board consider traffic impacts more carefully than it has to date.

Mr. Daniel Mathias, 7 Birch Hill Court, reported that he has traveled Ushers Road for fourteen years. He believes that a “one day” traffic study is insufficient for determining potential impacts associated with the Exxon-Mobil project and he asked that the Board require the completion of a supplemental study.

Ms. Kathy Capsimalis, 179 Wood Dale Drive, told the Board that she and her family have resided in the Exit 10 area for thirty-five years. She expressed sadness that the “refreshing canopy” of trees lining Ushers Road would be lost because of the Exxon-Mobil development. She encouraged the Board to conduct additionally independent studies and “take a careful look at all of the issues.” She reminded the Board that Exit 10 residents are “landowners too.”

Ms. Cimino, author of the Creighton-Manning traffic report, reported that the expected number of trips generated by the project would total 128 during the morning peak travel period and 160 trips in the evening. In response to a question from the audience, Mr. Spiak stated that the convenience store would operate on a 24-hour a day basis.

Ms. Judy Stone-Farina, 35 East Side Drive, called on the Board to deny the Exxon-Mobil application for “all of the reasons” mentioned by those who spoke at the public hearings.

Mr. William Engleman, 6 Partridge Plateau, read prepared comments that generally related to the long EAF (Environmental Assessment Form) that was submitted by the applicant. Describing this application as representing the “worst of sprawl,” he called upon Town to deny the special use permit application and acquire the land for use as open space. He asked that the Board issue a positive declaration pursuant to SEQRA. A copy of Mr. Engleman’s comments is attached to these minutes.

Ms. Pam Marshall, 5 Fairlawn Court, asked the Board to consider the increase in traffic that would be generated by this project. She also stated that, in her opinion, all the business uses within the Exit 10 corridor were compatible with the residential uses. She was particularly concerned with the truck traffic that would result from the project’s development.

Mr. Leo Hoogenboom, 13 Hillcrest Drive, supported the comments offered by Mr. Engleman. He told the Board that he had lived in the Town since 1965 and believed it possible that Mr. VanPatten would consider selling this parcel of the land to the Town.

Ms. Nancy Bellamy, 147 East Side Drive, explained that she had recently been involved with proposed development within the Town of Ballston and she asked that the Board consider the growth that was occurring beyond Town of Clifton Park boundaries that would significantly impact traffic within the Town of Clifton Park.

Mr. Karam addressed the issue of windows along the wet side of the building, stating that he believes that panels giving the appearance of windows but which would not emit light would be desirable because they would contribute to a “residential” look. Mr. Bulger commented that the Board certainly appreciated all the interest shown by everyone in attendance and stated that the issues raised by those who spoke would be considered during Board deliberations.

Mr. Bulger moved, seconded by Mr. Karam, to close the public hearing at 10:00p.m. The motion was unanimously carried.

Mr. Spiak asked that the subdivision be permitted to move forward to preliminary review. Board members agreed that this would be acceptable.

Old Business:

[2004-025] Stewart’s Ice Cream Shops - Proposed 10,600 SF retail plaza, Vischer Ferry and Grooms Roads – Preliminary site plan review.

Mr. Tom Lewis, real estate representative for Stewart’s, presented this project plan, noting that the company would now like to develop this project in phases. Phase I would consist of the construction of a 4,000 SF office building on the eastern portion of the property owned by Stewart’s and adjacent to a proposed (18) lot subdivision on lands currently owned by VanPatten. The project would include the construction of sidewalks,

a substantial buffer along property lines, and a combined unrestricted access to the proposed subdivision. An architect has been employed to design Phase II of the project and project plans will be presented for Board approvals when they become available.

Mr. Kemper reported that this project last appeared before the Board on July 7, 2004 when the major issue of concern identified by the Board was the location of the curb cut onto Grooms Road and Zoning Board of Appeals approval of the required variances. The following variances that were received from the ZBA on August 17, 2004 should be depicted on the plans: an area variance from the required 130-foot front yard setback from the center line of Grooms Road for Building #1 – the proposed setback is 105 feet resulting in a variance of 25 feet; an area variance from the required 130-foot front yard setback from the center line of Vischer Ferry Road for Building #3 – the proposed setback is 97 feet resulting in a variance of 33 feet; an area variance from the required 100 foot buffer on the western property line from a residential zone; an area variance from the Sign Law to permit a second freestanding sign of 105 SF.

Mr. Kemper explained that the applicant is seeking approval for Phase 1 at this time. Boundary lines that depict the phases should be shown on the plans. A sign-off will be required from Sheryl Reed on what fire safety requirements will need to be included in the first phase. The existing plaza sign should be replaced with a more decorative sign for the entire plaza: renderings for this sign must be submitted for review. Colored façade renderings and samples of building materials must be provided with the next submission. The handicap and no parking signs must be illustrated on the plans. A detailed planting plan must be provided. A stormwater management plan is also required. A sign-off still must be provided by the Saratoga County Department of Public Works. Construction details for the multi-use path to the Wishing Well Subdivision must be finalized. The comment letter from Don Austin, Director of the Clifton Park Water Authority remains to be addressed. Mr. Kemper reported that he had met on site with Ted Serbalik (SCDPW) and Larry Benton (SCPB) on September 2, 2004 to discuss the issue of the Stewart's curb cut and access to the subdivision being proposed on the adjacent lands. Mr. Benton reported this afternoon that he is in the process of preparing responses to the concerns raised at that meeting.

Mr. Grasso explained that the project plans were reviewed by Clough, Harbour, and Associates and that the following comments were issued. Based on the notes on the site plan, it appears that the applicant wishes to pursue site plan approval for Phase 1 only, the 4,000 SF building at the east end of the site. As such, it would seem unnecessary to construct the driveway entering from Vischer Ferry Road at this time. Since the applicant reports that an agreement could not be reached with the applicant proposing a subdivision on a parcel to the east, it does not seem likely that a desirable access management strategy will be implemented. When counting the existing curb cut for the fire house and access to the adjacent property to the east, there will be three curb cuts within 500 feet of the intersection on both Grooms and Vischer Ferry Roads. This will degrade levels of service and reduce traffic safety. A ten foot wide strip of land is shown for conveyance to Saratoga County along Vischer Ferry Road and a concrete sidewalk proposed. It is Clough, Harbour, and Associates' recommendation that the same occur along Grooms

Road to tie-in with the conveyance proposed by the adjoining subdivision to the east. Upon full development of the neighborhood retail center, a continuous concrete sidewalk should be provided along the properties' frontages. Details of the sidewalk including handicapped ramps, detectable warning strips, section showing grading and drainage relationship to adjacent street, etc. should be provided on the final plans. On the 6,681 SF parcel it is recommended that the existing trees remain undisturbed to provide an immediate buffer from the proposed residential subdivision to the east. A consolidation deed combining the two parcels will be required. The use of pylon signs for a neighborhood retail center is not recommended: monument signs should be provided. The plan notes that variances have been approved by the Zoning Board of Appeals for two front yard setbacks from 130' from the centerline of the road and from the 100' buffer when abutting a residential zone. Prior to granting site plan approval the Board may wish to require submission of a stormwater management report for the entire site, site plan details, a grading plan, a landscaping plan, and a lighting plan that identifies the types of fixtures and pole heights that will be used. It should also indicate whether cut-offs will be installed to insure that light does not spill off site onto adjoining properties. The project will benefit from and use reserve capacity within the municipal sanitary sewer and water supply systems that were installed as part of the Vischer Ferry Road Corridor Capital Improvement Plan (CIP). As such, in order to mitigate this project's impact on those facilities, the respective mitigation fees should be applied.

Mr. O'Brien, Environmental Specialist, reported that the ECC issued the following comments regarding this project. The proposed site plan must illustrate how and where stormwater will be managed for this project. In keeping with the rural nature of the project area and the recommendations of the Town Comprehensive Plan, the applicant is encouraged to consider retaining existing vegetation to the maximum extent practical and to use landscaping and grading to provide visual and auditory buffering between the project and roadway. The applicant should consider pedestrian access from adjacent properties.

Mr. Bulger commended the applicant for the willingness to work with the Board to create a desirable lay-out that permits a connection to the adjoining subdivision. Mr. Kemper informed that applicant that all emergency services' issues must be addressed prior to the release of the stamped plans. Mr. Larkin expressed his approval of the proposed sidewalk that will connect the Stewart's parcel and the new subdivision.

[2004-035] Country Club Acres, Inc. – Proposed 5,000 SF Blue Spruce Landscaping facility, NYS Route 146A – Preliminary site plan review and possible determination.

Mr. Vuillaume, consultant for the applicant, presented this project plan that remains generally as presented on July 21, 2004. He did explain that although the plan originally called for an on-site septic system, the applicant now anticipates connection to the sewer line that will be installed along Route 146A to serve the Country Club Acres subdivision. Mr. Vuillaume stated that he understood that the access point must be approved by NYSDOT.

Mr. Kemper explained that the project last appeared before the Board on July 21, 2004 at which time members found the project acceptable. A note must be added to the plans indicating the variances that were approved by the Zoning Board of Appeals. The specific variance numbers and the date of approval must also be included in the note. The specific uses to be incorporated on the site should be depicted on the plans. A NYSDOT curb cut permit will be required. The sight distance must be illustrated on the plans. A sign-off will be required from the CPWA. Colored façade renderings and samples of building materials must be provided for review. The plan should indicate whether or not a foundation proposed for under the carport. All evergreens proposed in the planting plan must be a minimum of 6' tall. The comment letter from Don Austin dated September 15, 2004 must be addressed.

Mr. Grasso explained that Clough, Harbour, and Associates reviewed the site plan and preliminary stormwater management report for this project and offered the following comments. It appears as though a special use permit has been granted for the proposed project. It should be verified that the currently proposed project is consistent with the special use permit that was granted. In addition, the project site should continue to provide a transition zone between the commercial nature of the project and the nearby rural residential and recreational uses. Although the application and the SEQR form note that the nature of the business is non-retail, the building is noted on the plans as being commercial: clarification should be provided. The adequacy of sight distances and conformance with NYSDOT recommended minimums should be verified and added to the plan. Because of the likelihood of a high percentage of truck traffic, these longer sight distance requirements should also be addressed. In accordance with § 208-40 of the town's zoning code, the property margins at the sides from the front building line to the rear property line shall be planted with trees and shrubs for a width of not less than 10 feet. Considering the proximity to the railroad, however, the Board may wish to waive this requirement in lieu of additional plantings along the project frontage. A paved driveway should be provided a minimum of 50' into the project site to reduce the potential of stone and sediment being tracked onto NYS Route 146A. The plan proposes grading over the existing railroad spur. If the intent is the removal of the spur, this should be indicated on the plan and the necessary approvals from the Hudson and Delaware Railroad Company should be obtained. The handicap parking space should be paved with a paved way to an accessible building entrance. In addition, a striped "No Parking" aisle should be provided. The plan should clearly define drainage swales from the stormwater basin outlets to the culvert under the railroad tracks. In addition, erosion controls where the concentrated storm water discharges onto the sides of the storm water management areas are required. Colored elevations of the proposed building should be provided. Mr. Grasso reported that the following comments on the stormwater management report were provided:

- A pre-development drainage map should be provided. The pre- and post- development drainage maps should contain the time of concentration and travel paths.
- A table should be provided comparing the pre- and post- development discharge rates.
- The report indicates the use of underdrains in the proposed basins. This should be shown on the site plan.

Mr. Larkin recommended that the applicant contact the railroad to determine if the railroad siding has been properly locked or dismantled. Mr. Bulger stated that the significant issues remaining included the verification of adequate sight distance at the access point and the submissions of colored façade renderings. Board members agreed that the plan was generally acceptable as presented.

New Business:

[2004-039] Country Club Acres, Inc. – Proposed (2) lot subdivision, Ushers Road and VanPatten Drive – Conceptual review.

This application was included as a part of the Exxon-Mobil review. The Board found the proposal acceptable.

[2004-043] Zeronda, Elizabeth – Proposed two-family residence in an R-1 zone, 24 Linden Court – Conceptual review for Special Use Permit and site plan.

Mr. Christopher Carney, representative for the applicant, proposes to construct a 30' x 30' 2-story in-law apartment to the left rear of the existing single-family residence located within the Clifton Gardens subdivision. Though the addition will include a new single-bay garage, it will utilize the existing utilities and driveway. Façade renderings indicating the proposed façade changes were presented for the Board's consideration. Mr. Carney explained that the building will benefit from a new roof and new windows that will provide a cohesive look.

Mr. Kemper explained that the applicant is proposing a 30'x30' addition to an existing single-family residence. In response to his question regarding the purpose of the proposed addition, Mr. Carney explained that the residence is currently occupied by a mother and daughter and that the daughter would now like "her own space." Mr. Grasso had no comment on this application.

Mr. O'Brien, Environmental Specialist, reported that the ECC requested that the following standard statements be added to the plans and that they be adhered to during the project's construction:

- a. The borders of all land that is to remain undisturbed shall be clearly marked on the site before site preparation begins. These on-site boundary markers shall remain until construction is completed and soils are stabilized.
- b. All erosion and water quality controls shall be put into place at the initial phase of site preparation and shall be maintained until all construction ends and soils are stabilized.
- c. The Applicant will control fugitive dust and debris during the construction/demolition phase of the project.

Mr. Pelagalli advised the Board that they were approving a "two-family dwelling" and that there should be no assumption that the addition would remain as an "in-law" apartment in perpetuity.

Mr. Larkin asked the reason for the construction of the additional living space. Mr. Carney stated that it would provide the desired privacy for both mother and daughter who currently reside together at the address. Board members found the proposal acceptable.

[2004-042] TGI Friday's – Proposed exterior remodel, 1 Southside Drive –Conceptual site plan review.

Mr. Philip Trice, Senior Project Manager for TGI Friday's, explained that the restaurant chain has requested approval to remodel the exterior of its existing restaurant on Southside Drive. Plans generally call for the construction of an applied tower with travertine tile, awning replacement with architectural lighting, and replacement of the signage. The entire exterior will be repainted. The consultant specifically identified the proposed changes:

- The blue paint will be painted a subtle cream color.
- The cornice will be painted a light taupe color to contrast with the lighter color.
- The awnings will be replaced with canvas awnings that will be taller and will be shallow.
- The TGI Friday's signage will be relocated to the new front entry tower.
- A tower element will be added to the front entry extended vestibule. This will require that the vestibule to be built out to allow the application of the 18" x 18" travertine tile. The tower will be approximately 23'2" tall, about 5' taller than the cornice is currently. The tower will be about 1' – 1'6" wider than it is now.
- New signage will be applied to the tower. This will consist of a "tumbler" background with the TGI Friday's signage applied to it. A canopy will be provided at the front of the Tower, with a smaller canopy located on the left side of the vestibule.
- The 2' x 10' canopy will have signage on it that reads: "In here it is always Friday." The smaller canopy will have no signage.
- The awning at the rear of the building will be removed and not replaced.
- There will be no changes to the cooler or service yard.

Mr. Kemper found the project acceptable, though he commented that the renderings submitted for approval do not depict what will happen on the rear of the building. He recommended that the north side of the building that faces Route 146 be improved. He also stated that it appears that a sign variance will be required for the proposed signage. Mr. Kemper also asked that the area surrounding the dumpster be visually improved and that additional plantings be installed in the area between the restaurant and Route 146.

Mr. Grasso reported that Clough, Harbour, and Associates offered no written comments on the application; however, he asked that the applicant supply a lighting plan that details all the proposed changes to the site's existing lighting design.

Mr. O'Brien, Environmental Specialist, reported that the ECC requested that any proposed exterior lighting be directional and limited.

Board members agreed that although the plan was generally acceptable, improvements to the dumpster area and additional landscaping along Route 146 would be desirable.

Minutes Approval:

Mr. Bulger moved, seconded by Mr. Marzola, approval of the minutes of the August 10, 2004 as written. The motion was unanimously carried.

Discussion Items:

Mr. Tom Andress, representative for Windsor Development, explained that the development company would like to lease the former Manhattan Bagel shop to Capital Bank. To improve the look of the building, Windsor is recommending that the red awnings be replaced with green awnings and that a pole light be added to the site for safety. Board members agreed that the site revisions were not significant and that no formal review was necessary.

Mr. Larkin moved, seconded by Ms. Pace, adjournment of the meeting at 11:10p.m. The motion was unanimously carried. The next meeting of the Planning Board is scheduled for September 28, 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 #21

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 September 15, 2004, there were:

Present: S. Bulger, Chairman, J. Larkin, T. Karam, J. Marzola, J. Russell,
S. Pace

Absent: R. d'Amico

Mr. Karam offered Resolution #21, and Mr. Larkin seconded, and

Whereas, an application has been made to this Board by Alan F. and Carolyn North for approval of a subdivision entitled Lot Line Adjustment between the Lands of Country Club Acres, Inc. and Lot #1 Subdivision of the Lands of Alan F. and Carolyn North consisting of the transfer of .28 acres of land from the Lands of Country Club Acres, Inc. and Lot #1 Subdivision of the Lands of Alan F. and Carolyn North

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and

was held on September 15, 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 September 15, 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 Lot Line Adjustment between the Lands of Country Club Acres, Inc. and Lot #1 Subdivision of the Lands of Alan F. and Carolyn North consisting of the transfer of .28 acres of land from the Lands of Country Club Acres, Inc. and Lot #1 Subdivision of the Lands of Alan F. and Carolyn North is hereby granted preliminary and final approval conditioned upon satisfaction of the comments offered by Mr. Kemper.

Resolution #21 passed 9/15/04

Ayes: Larkin, Pace, Karam, Marzola, Russell, Bulger

Noes: None

Steven J. Bulger, Chairman

Resolution #22

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 September 15, 2004, there were:

Present: S. Bulger, Chairman, J. Larkin, T. Karam, J. Marzola, J. Russell,
S. Pace

Absent: R. d'Amico

Mr. Russell offered Resolution #22, and Mr. Karam seconded, and

Whereas, an application has been made to this Board by Michael Abate for approval of a subdivision entitled No. 17 Fox Hollow Circle and No. 51 Archer Drive consisting of the transfer of 1,593 SF of land from the Lands of Harold H. and Theresa M. Ferguson to the Lands of Michael M. and Kristen A. Abate;

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on September 15, 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 September

15, 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 No. 17 Fox Hollow Circle and No. 51 Archer Drive consisting of the transfer of 1,593 SF of land from the Lands of Harold H. and Theresa M. Ferguson to the Lands of Michael M. and Kristen A. Abate is hereby granted preliminary and final approval conditioned upon satisfaction of the comments offered by Mr. Kemper.

Resolution #22 passed 9/15/04

Ayes: Larkin, Pace, Karam, Marzola, Russell, Bulger

Noes: None

Steven J. Bulger, Chairman

Resolution #23

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 September 15, 2004, there were:

Present: S. Bulger, Chairman, J. Larkin, T. Karam, J. Marzola, J. Russell,
S. Pace

Absent: R. d'Amico,

Mr. Bulger offered Resolution #23, and Mr. Karam seconded, and

Whereas, an application has been made to this Board by Richard Zagata for approval of a subdivision entitled Boundary Line Agreement: Lands of Zagata, Hubbs Road consisting of the transfer of 2,622 SF from the Lands of Richard Zagata to the Lands of Richard Zagata;

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on September 15, 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 September 15, 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 Boundary Line Agreement: Lands of Zagata, Hubbs Road of the transfer of 2,622 SF of land from the Lands of Richard Zagata to the Lands of Richard Zagata is hereby granted preliminary and final approval conditioned upon satisfaction of the comments offered by Mr. Kemper.

Resolution #24 passed 9/15/04

Ayes: Larkin, Pace, Karam, Marzola, Russell, Bulger

Noes: None

Steven J. Bulger, Chairman