

Town of Clifton Park

One Town Hall Plaza
Clifton Park, New York 12065
(518) 371-6054 FAX (518)371-1136

PLANNING BOARD

STEVEN BULGER
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Michael Hale

Joel Koval

Eric Ophardt

Sandra Pace

Kim Paulsen

Tom Werner

(alternate) Emad Andarawis

Planning Board Meeting **May 11, 2010**

Those present at the May 11, 2010 Planning Board meeting were:

Planning Board: S. Bulger, Chairman, M. Hale, J. Koval, E. Ophardt, S. Pace, K. Paulsen,
T. Werner
E. Andarawis – Alternate Member

Those absent were: None

Those also present were: J. Scavo, Director of Planning;
P. Pelagalli, Counsel;
J. Dean, Secretary

Mr. Bulger, Chairman, called the meeting to order at 7:00p.m. All in attendance stood for recitation of the Pledge of Allegiance. Mr. Bulger explained that Mr. Andarawis, Alternate Member, was in attendance and would be sitting in as a voting member for Ms. Paulsen during the review regarding the Players Park Tent.

Public Hearing:

[2010-008] **Clifton Park Center Mall** – Proposed (2) lot subdivision, 117 Route 146 – Preliminary public hearing and possible determination. SBL: 272.-1-31.11

Mr. Bulger, Chairman, called the public hearing to order at 7:00p.m. The Secretary read the public notice as published in the Daily Gazette on May 3, 2010.

Mr. Joe Dannible, consultant for the applicant, presented this subdivision proposal for the Board's consideration. He explained that the application calls for the subdivision of .78 acres of land from the existing 30.9 acre Clifton Park Center Mall which is located at the intersection of Clifton Country Road and Route 146 within the B-4 zoning district. The subdivision is proposed to provide for the development of a proposed hotel. Connections to the Saratoga County Sewer District #1 and to the Clifton Park Water Authority service lines will be provided.

Mr. Scavo stated that Mr. Myers, Director of Building and Development, has reported that all necessary variances have been granted by the Zoning Board of Appeals.

Mr. Scavo reported that Mr. Mackesey, representative of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee, provided several recommendations regarding this application. The Trails Committee recommends that the applicant consider the construction of sidewalks that would connect the hotel to the mall and to surrounding businesses. Painted crosswalks to provide safe pedestrian crossings along Clifton Park Center Road and Clifton Country Road should be required. A useable bicycle rack should be provided in front of the hotel. The installation of benches, particularly for senior citizens who may be using the sidewalks and patronizing the businesses, is also recommended. The installation of "4 Season" trash receptacles in close proximity to the benches is also recommended to reduce littering.

Mr. Scavo stated that the ECC offered no comment on this application.

Mr. Josh Westfall, Town Planner, reported that CHA Companies provided the following comments regarding this application. The proposed conceptual utility locations have been added to the plan. Future plan submittals should include the detailed design information including pipe size, material, slope and inverts. The exiting sanitary sewer from MH#1 to the existing manhole within the Clifton Country Road right-of-way will be required to be made public and turned over to the Saratoga County Sewer District #1. The applicant should discuss with SCSD #1 their requirements for dedication of the existing sewer. The 30' wide sanitary sewer easement should be granted to Saratoga County Sewer District #1, not the Clifton Park Sewer Department. The final subdivision plan should include the following: bearings and distance of the proposed eastern property line; bearings and distances of the proposed easements; a north arrow; stamp and signature of a NYS Registered Land Surveyor.

Mr. David Rowley, legal representative for the Shenendehowa Central School District, asked that the Board consider the impact subdivision approval may have on the recent litigation and settlement regarding the assessed value of the mall property. The speaker requested that the applicant provide "written confirmation" that the applicant [DCG] acknowledges that any requested approvals will not be used to "lower or amend" the assessments for the parcels as set forth in the Order of Settlement signed by Judge Nolan on December 7, 2009.

There being no additional public comment regarding this application, Mr. Bulger moved, seconded by Mr. Werner, to close the public hearing at 7:08p.m. The motion was unanimously carried.

Mr. Bulger explained that since the Planning Board is awaiting assurance from the applicant's legal representative that "the current assessed values on the two lots from which the hotel is proposed to be subdivided would remain unchanged, despite any reduction in the overall improvements to those lots." The applicant must also provide details regarding the proposed sanitary sewer connection and a sign-off from the Saratoga Sewer District No. 1 prior to the issuance of subdivision approval.

Mr. Bulger moved, seconded by Mr. Koval, to waive the final public hearing for this application. The motion was unanimously carried.

Old Business:

[2010-009] **City Slices** – Proposed patio enclosure, 7 Southside Drive – Preliminary site plan review and possible determination. SBL: 271.-3-78

This application was considered by the Board at its April 28, 2010 meeting and remains unchanged from that date. Mr. Jonathan Trager, applicant, presented proposed building elevations, explaining that the enclosure is necessary to provide additional indoor seating for the restaurant he plans to open.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, will require the appropriate distances between existing buildings or the construction of a fire wall to ensure compliance with fire safety codes.

Mr. Koval moved, seconded by Mr. Ophardt, 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. Hale moved, seconded by Mr. Werner, to grant preliminary and final site plan approval to this application conditioned upon satisfaction of all comments offered by the Planning Department. The motion was unanimously carried.

New Business:

[2010-013] **Players Park** – Proposed installation of temporary tent, 1012 Route 146A – Conceptual site plan review. SBL: 264.-2-6.111 and 264.-2-6.121

Ms. Paulsen recused herself from any discussion or vote on this application. Mr. Bulger explained that Mr. Andarawis, Alternate Member, would be considered a full member of the Board during review of this application.

Mr. Robert Potter, owner-applicant, explained that he requests approval to place a 40' x 60' temporary tent on land within the existing Players Park that adjoins Eagle Crest Golf Club. The tent will provide shade and some protection from inclement weather for patrons and non-profit groups. Players Park is located within the Eagle Crest Plantation PDD on the southerly side of Route 146A east of its intersection with Waite Road. The applicant seeks approval to install the tent from April 1st to September 30th.

Mr. Scavo stated that Mr. Myers, Director of Building and Development, provided the following comments in a memo dated April 28, 2010. Mr. Myers states that Players Park is part of the Eagle Crest Plantation Planned Unit Development and that changes to the site plan require site plan approval by the Planning Board. He notes that since there is no mention of tents in the "development description" portion of the PDD legislation, a revision to that legislation by the Town Board may be required. If the tent is permitted, the applicant must obtain a Building Permit from the Building Department.

Mr. Scavo explained that Mr. Mackesey, representative of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee, reported that his committee recommended that, if the proposed tent becomes an annual feature of the park, bicycle racks be installed near the entrance of the tent. The Trails Committee would also recommend the installation of a sidewalk from the entrance of the tent to the existing trail along Route 146A.

Mr. Scavo reported that the ECC offered no comment on this application.

Mr. Scavo explained that the Planning Department offered a number of comments regarding this application. Article XVI (16), Site Plan Review and Approval, Section § 208-113 (B) (5) states the following:

"In instances where the building exists, no change of occupancy is occurring and structural changes will be made to the building, the occupant shall appear before the Planning Board to determine if a revised site plan approval will be required prior to the issuance of a building permit and/or certificate of occupancy."

He stated that although the applicant had considered amending the application to a 20' x 30' tent structure, the applicant continues to request approval of a 60' x 40' tent. The stated purpose of the tent is to service existing patrons of the prior approved businesses and uses: the applicant has stated that it will not result in the expansion of type and/or intensity of operations. The hours of operations shall be consistent with that of the prior approved site plan. A copy of the prior approved site plan shall be provided to the applicant. The dumpster should be enclosed on all four sides and the site plan should reflect this change. The tent permit issued by the Building Department should reference the fact that no additional exterior lighting will be allowed. Specific dates for installation and removal of the tent should also be noted. The site must conform with all applicable rules and regulations under the Town code, specifically, but not limited to, Town signage standards.

Mr. Josh Westfall, Town Planner, reported that CHA Companies offered the following comments on this application. The proposed project appears to be an "Unlisted" action pursuant to SEQRA, and as such, coordinated review is optional. The only involved agency is expected to include the Clifton Park Planning Board with site plan review. The sketch plan appears to depict

a portion of the proposed temporary tent within the limits of the existing parking lot. The impacts to parking should be evaluated. The proposed uses, daily hours and the months of operation associated with the tent should be provided. The plan depicts an 8' x 8' dumpster. An enclosure should be provided. It is unclear how the dumpster will be accessed by the refuse vehicle. The plan does not depict lighting associated with the tent. The impacts of any proposed lighting should be evaluated. If lighting is not proposed, a note should be added to the plan.

Board members discussed the proposal at length. In response to Mr. Koval's concern regarding the loss of up to five parking spaces, Mr. Potter explained that the subject area consists of gravel and that picnic tables currently occupy the space. Mr. Potter responded to Mr. Koval's question concerning the applicant's plans for large parties by stating that there are no plans to increase the number of special events that have taken place during the past several years. He stated that owners have hosted parties of up to six hundred people comfortably and would like to continue to do so. He acknowledged that during such large gatherings patrons utilize the adjoining Eagle Crest parking lot and access the site via a paved walkway between the two facilities. Mr. Potter stated that he would be opposed to placing a limit on the number of people using Players' Park at one time. Mr. Hale asked about the dumpster enclosure: Mr. Potter explained that the dumpster will be fully enclosed and gated as recommended. Ms. Pace questioned the use of the Eagle Crest parking lot for "overflow parking," asking if there is an executed cross-access easement and/or reciprocal parking agreements. Mr. Potter stated that he was unaware of any such agreements. Mr. Koval expressed his concerns for tacit approval of a temporary structure that could allow for large numbers of people to congregate on the premises. Though Mr. Werner observed that the number of on-site parking spaces would not be sufficient to accommodate the number of people who might attend a large party – one that would occur perhaps five (5) times a season – Mr. Potter reiterated his position that the tent was not intended to promote or encourage new business: it was simply proposed to accommodate existing business. Mr. Bulger summarized the discussion by stating that the Board was concerned with two issues: the problem of approvals for more intensive use of the site – real or implied - for future businesses that may consider occupying the site and the consistency of this action with the previously-approved PDD legislation. In response to Mr. Opharpt's question concerning the closing of the park should a "private party" be held, Mr. Potter explained that the park is not closed, though most patrons would not enter the park after seeing that the parking area is full. Mr. Koval recommended that the site plan, if approved, contain language that would limit the use of the site, stipulate the hours of operation, and, in general, assure that existing conditions remain unchanged. Mr. Bulger read a portion of the PDD legislation and concluded that the "proposed action appears to be consistent with existing legislation." He did state, however, that he would not approve "an increased level of entertainment" at Players Park. Responding to a question from a member of the audience, Mr. Bulger explained that the permit requested would not require site plan review on an annual basis: future permits would be issued by Ms. Sheryl Reed, Chief of the Bureau of Fire Prevention. At the request of the applicant, Board members agreed that the issuance of a "temporary permit" by the Chief of the Bureau of Fire Prevention could be issued and remain in effect until Board members render a decision.

Discussion Item:

Clifton Storage Associates

Mr. Kevin Dailey, legal representative for the applicant, explained that on September 15, 2005, the Planning Board granted site plan approval to an application submitted to the Board by Clifton Storage Associates for development of a 27,800 SF office/warehouse complex on a 13.9 acre parcel located on the west side of Route 9 south of the Town's northern border with Round Lake. He noted that development of the 3.2 acres of "upland area" on the site required variances for work within the L-C zone that were granted by the Zoning Board of Appeals as well as permits from the NYSDEC. These permits have been renewed as required. Per ACOE directives, a required culvert was installed on the site and Mr. Dailey reports that that agency's files have been "closed". A Phase IA Literature Search/Sensitivity Assessment and Phase IB Archaeological Study were completed for the project. The site plan approval expired in 2007. Since economic conditions have now improved, the owner/applicant would like to apply for re-affirmation of the approved plan.

Mr. Bulger explained that because the approvals granted in 2005 have expired, the applicant will be required to re-submit the application for the Board's consideration. Though NYSDEC permits may remain in effect, the applicant must comply with applicable new storm water regulations and any other updated code requirements. Though Mr. Werner was concerned that the approved NYSDOT curb cut may be impacted by addition development in the Route 9 corridor, Mr. Dailey stated that the curb cut that would serve the complex has existed for many years and has been approved by NYSDOT. Board members agreed that re-submission of the site plan would be reasonable.

Think Local. Buy Local. Campaign

Ms. Nigar Hale presented updates to the Think Local. Buy Local. campaign that has been initiated by the Southern Saratoga Chamber of Commerce. Explaining that she is working with the Chamber, the Spot Light newspapers, and Jimapco, she stated that campaign workers plan to distribute maps and information to several thousand potential employees of the new "chip fab" and foundry plant being developed in Malta. "Buy Local" guides and an on-line site are also being prepared.

Mr. Bulger thanked Ms. Hale for the presentation and stated that the Town of Clifton Park has taken a "proactive" approach to the economic development in Malta and hopes to encourage the preparation of "shovel ready" sites that would attract "high end" businesses to locate within the Town's light industrial and corporate commerce zones. He stated his appreciation for Ms. Hale's presentation and recommended that she speak before the Town Board.

Minutes Approval:

Mr. Koval moved, seconded by Ms. Paulsen, approval of the minutes of April 28, 2010 as written. Ayes: Ophardt, Paulsen, Pace, Andarawis, Hale, Koval, Bulger. Noes: None. Abstained: Werner.

Mr. Bulger moved, seconded by Ms. Pace, adjournment of the meeting at 8:12p.m. The motion was unanimously carried. The next meeting of the Planning Board will be held as scheduled on May 26, 2010. Mr. Scavo reminded Board members that this meeting is scheduled for **WEDNESDAY**, May 26, 2010.

Respectfully submitted,

Janis L. Dean

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, Lou Renzi, Town Attorney, Tom McCarthy, Town Attorney, Paul Pelagalli, Town Attorney, ECC, Clifton Park Water Authority