

## Town of Clifton Park

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### PLANNING BOARD

STEVEN BULGER  
Chairman

PAUL PELAGALLI  
Attorney

JANIS DEAN  
Secretary



### MEMBERS

Michael Hale  
Joel Koval  
Eric Ophardt  
Sandra Pace  
Kim Paulsen  
Tom Werner

(alternate) Emad Andarawis

### Planning Board Meeting July 21, 2010

Those present at the July 21, 2010 Planning Board meeting were:

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

Those absent were: K. Paulsen

Those also present were: J. Scavo, Director of Planning  
J. Romano, CHA Companies  
M. Montague, Environmental Specialist  
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 announced that because Ms. Paulsen was absent, Mr. Andarawis would assume her position as a full voting member of the Board. He also explained that two projects – Genstar FZE and DeMarco-Stone Funeral Home – were removed from this evening's agenda at the request of the respective applicants.

### Public Hearings:

[2010-007] Clifton Preserves – Proposed (5) lot subdivision, 326 Moe Road – Preliminary public hearing and possible determination. SBL: 259.-2-52

Mr. Bulger, Chairman, called the public hearing to order at 7:06p.m. The Secretary read the public notice as published in the Daily Gazette on July 12, 2010.

Mr. Greg Meyer, consultant for the applicant, presented this application that was last reviewed by the Board on April 28, 2010. The revised plan remains generally as presented at that time, though the consultant explained that the plan has been modified to address concerns identified during that meeting. The curve in the driveway has been “flattened,” an 80’ wide easement has been provided for the driveway installation and utility connections, and a note regarding land uses within the L-C (Land Conservation) zone has been added to the plan. Addressing CHA Companies’ comment regarding preservation of the 8-10 trees along the southerly side of the existing home, Mr. Myer explained that the property owner has had the trees all removed because the shade they created was the apparent cause of the growth of mold within the house.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, provided comments regarding this application in a memo dated July 19, 2010. He stated that provisions of Section 208-86D, E, and F should be addressed prior to the Board’s approval. Water table height and separation for basement floors must be verified prior to the issuance of a Building Permit. Due to the expected need for sump pumps, sump discharges must be clearly shown and approved prior to issuance of a Building Permit. Discharge directly into wetland areas will not be allowed. The applicant must ensure that the requirements of Section 179-26C of the Town Code are met.

Mr. Scavo reported that revised plans address most of the issues of concern, though he asked that the final plat include approved postal addresses.

Mr. Romano reported that CHA Companies prepared the following comments regarding this application. There is a significant row of trees around the existing home site. This should be preserved in any development of the subdivision. The location of the trees should be depicted on the plan. The proposed method of crossing Moe Road with the proposed utilities (if required) should be provided. The following additional Moe comments were provided. Standard Subdivision Notes #7 and #10 refer to a common ingress/egress easement for the proposed lots. The easement should be depicted on the plans and Note #7 should include a reference to Lot #1. The “Private Easement” on Lot #1 should be depicted as an easement for the existing water service for Lot# 5. The “Concept Plan” label should be removed on the final subdivision plan.

Mr. Montague, Environmental Specialist, reported that the ECC offered no comment on this application.

Mr. Dan Hartnett, speaking as a member of the Trails Subcommittee of the Open Space, Riverfront, and Trails Committee, requested that the applicant construct a pathway link from the combined driveway entrance southward to the existing asphalt trail on Moe Road.

Mr. Abraham Blum, 13 Parkland Court, expressed concerns regarding the preservation of the forested area to the rear of the site. The consultant explained that the wooded area in question was included as part of Lot #5 which was described as the “homestead lot” since it contained an existing residence. Mr. Meyer also explained that development of the back portion of the parcel is unlikely since the area contains substantial wetland areas that are generally protected by the town’s L-C (Land Conservation) zoning overlay.

Ms. Kathy Collins, 27 Grooms Pointe Drive, reported that she had observed stakes in the forested area behind her home and asked about their significance. Mr. Myer explained that they

were likely placed in the area as part of the field work related to accurate surveying of the Just property.

There being no further public comment, Mr. Bulger moved, seconded by Ms. Pace, to close the public hearing at 7:16p.m. The motion was unanimously carried.

Mr. Hale recommended that a planted buffer be provided between Lots #1 and #2 not only where the property owner has removed trees along the southern boundary line but also along the westerly side of Lot #1. The consultant recommended that arbor vitae plantings replace the old tree line. Board members agreed that an 8' wide trail connection from the proposed driveway south to the existing multi-use pathway was reasonable: its installation would be a condition of subdivision approval. The consultant agreed to install the pathway. Mr. Bulger recommended that the plan include a note that states that no further subdivision of Lot #5 will be permitted. Though Board members found this acceptable, Mr. Vaccarielli, applicant, asked that the development of the lots remain unrestricted since he would like to reserve the ability to allow agricultural or other uses compatible with L-C zoning on the parcel. Mr. Bulger remarked that restricting additional subdivision of lands would not limit the owner's ability to use the land as zoned. Though Mr. Blum raised concerns about possible agricultural uses such as the raising of poultry or the use of harmful fertilizers and pesticides, Mr. Bulger explained that uses of the property in accordance with zoning regulations would be permitted.

Mr. Ophardt moved, seconded by Mr. Hale, 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 #4, seconded by Mr. Koval, to waive the final hearing form this application and to grant preliminary and final subdivision approval conditioned upon the comments issued by the Planning Board, Planning Department, and CHA Companies. Ayes: Ophardt, Andarawis, Pace, Hale, Werner, Koval, Bulger. Noes: None.

[2010-014] **Genstar FZE** – Special Use Permit #80772 to allow for accessory use of a building for non-agricultural uses within the CR (Conservation Residential) zone, 6 Hilltop Court – Preliminary public hearing and possible determination. SBL: 276.-1-2.4

This application was withdrawn from this evening's agenda by the applicant.

[2010-019] **Wagner Lumbering** – Special Use Permit #80781 to allow for selective timber harvesting in the CR (Conservation Residential) zone and site plan review, 164 Sugar Hill Road (Lands of Tom Hicks) – Preliminary public hearing and possible determination. SBL: 282.-1-29

Mr. Bulger, Chairman, called the public hearing to order at 7:20p.m. The Secretary read the public notice as published in the Daily Gazette on July 12, 2010.

Mr. Tom Kane, representative of Wagner Lumbering, presented this application for the Board's review, explaining that approval of a Special Use Permit is required to permit the

selective cutting of timber pursuant to Section 184 of the Town Code. In general, the plan calls for the removal of 8-9 trees per acre within a 70-acre area on the northeasterly side of Riverview Road. 108 trees are to be harvested are located within 50' of the property boundary. The speaker stated that less than 12 trees per acre will be removed within 50 feet of the property boundary line. Chainsaw felling techniques will be utilized. Trees will be removed from the site by a skidder which will only be operated on established trails. All wood will be removed from the site and utilized. All other debris will be scattered in the woods where it will not be visible from the roadway or adjacent properties. The loading area will be smoothed, regraded, and seeded. He advised the Board that the company uses the most up-to-date harvesting techniques and employs certified professionals to conduct the logging operation.

Mr. Scavo explained that Mr. Myers, Director of Building and Development, commented that notes on the application indicate that "portions of the project are subject to the storm water controls cited in Section 86-7B(5)(b)" and a plan to address these controls is required prior to issuance of the Building Permit by Section 184-3E. He also cautions the applicant that all restrictions outlined in Chapter 184 of the Town Code are applicable. A Building Permit will be required.

Mr. Scavo explained that the application submitted by Wagner Lumber Company requires approval of a Special Use Permit because it involves the removal of trees within 50' of property boundaries.

Mr. Montague, Environmental Specialist, reported that the ECC provided the following comments regarding this application. Due to the lack of detail submitted identifying the specific parcels on which logging is to occur, it is impossible to determine the environmental and visual impacts of the proposed logging operation. Based on information submitted, and the lack of any stated justifications on how the proposed use will satisfy the standards for special use permits, the ECC does not recommend intruding on the 50 foot buffer area due to possible visual and erosion control impacts, in particular along the Mohawk River.

There being no public comment, Mr. Bulger moved, seconded by Werner, to close the public hearing at 7:35p.m. The motion was unanimously carried.

In response to Mr. Hale's question regarding the species and size of the harvested timber, Mr. Kane stated that the site contained a predominance of red oaks and sugar maple trees: the diameter at breast height (DBH) was approximately 18".

Mr. Bulger explained that the Board must first consider approval of the Special Use Permit.

Mr. Hale moved, seconded by Mr. Bulger, 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 #5, seconded by Mr. Koval, to approve Special Use Permit #80759 that would permit to allow for selective timber harvesting in the CR (Conservation Residential) zone . Ayes: Ophardt, Andarawis, Pace, Hale, Werner, Koval, Bulger. Noes: None.

The Board must act to approve the site plan.

Mr. Ophardt moved, seconded by Mr. Bulger, 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. Werner moved, seconded by Mr. Koval, to grant preliminary and final site plan approval to this application as presented. The motion was unanimously carried.

[2010-021] **Wagner Lumbering** – Special Use Permit #80782 to allow for selective timber harvesting in the CR (Conservation Residential) zone and site plan review, 61 Appleton Road (Lands of Carl Springel) - Preliminary public hearing and possible determination. SBL: 276.-1-5.1

Mr. Bulger, Chairman, called the public hearing to order at 7:37p.m. The Secretary read the public notice as published in the Daily Gazette on July 12, 2010.

Mr. Tom Kane, representative of Wagner Lumbering, presented this application for the Board's review, explaining that this application is similar to the proposed timbering project that will be conducted on the Lands of Hicks. Approval of a Special Use Permit is required to permit the selective cutting of timber within 50' of a property boundary pursuant to Section 184 of the Town Code. This application involves timber harvesting on 5.7 acres of lands owned by Carl Springel located at 61 Appleton Road: approximately 62 trees have been identified within the 50' setback requirement. The speaker stated that less than 12 trees per acre will be removed within 50 feet of the property boundary line. Chainsaw felling techniques will be utilized. Trees will be removed from the site by a skidder which will only be operated on established trails. All wood will be removed from the landing and utilized. The landing area will be regarded and reseeded. All other debris will be scattered in the woods where it will not be visible from the roadway or adjacent properties.

Mr. Myers, Director of Building and Development has stated that "portions of the project are subject to the storm water controls cited in Section 86-7B(5)(b)" and a plan to address these controls is required prior to issuance of the Building Permit by Section 184-3E. All restrictions outlined in Chapter 184 of the Town Code are applicable. A Building Permit will be required.

Mr. Scavo reported that all comments from the Planning Department had been satisfactorily addressed.

Mr. Montague, Environmental Specialist, stated that the ECC provided the following comments regarding this application. Due to the lack of any stated justifications on how the proposed use will satisfy the standards for special use permits, ECC does not recommend intruding on the 50 foot buffer area due to possible visual and erosion control impacts

In response to Ms. Pace's question regarding the types of trees to be removed, Mr. Kane stated that a majority of the trees to be removed were of the red oak variety. In response to Mr. Ophardt's question regarding the time frame for the removal of the trees, Mr. Kane stated that timbering operations on the Lands of Springel would take place during the winter to prevent

disturbance of wetland areas. Mr. Kane anticipates that the timbering operation require about one month.

There being no public comment, Mr. Bulger moved, seconded by Ms. Pace, to close the public hearing at 7:40p.m. The motion was unanimously carried.

Mr. Bulger explained that the Board must first consider approval of the Special Use Permit.

Mr. Hale 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. Ophardt offered Resolution #6, seconded by Mr. Hale, to approve the Special Use Permit 80782 that would permit the construction of selective timber harvesting in the CR (Conservation Residential) zone. Ayes: Ophardt, Andarawis, Pace, Hale, Werner, Koval, Bulger. Noes: None.

The Board acted to approve the site plan.

Ms. Pace moved, seconded by Mr. Bulger, 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. Ophardt moved, seconded by Mr. Bulger, to grant preliminary and final site plan approval to this application. The motion was unanimously carried.

[2010-022] **Unter, Theresa** - Special Use Permit #80783 to allow for a commercial recreational use in a B-3 zone, 609 Route 146A - Preliminary public hearing and possible determination. SBL: 271.-1-14

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 July 12, 2010.

Ms. Unter, applicant, presented this request for a Special Use Permit to permit the operation of a recreational business within the B3 zone pursuant to Section 208-37C(1)(a) of the Town Code. The proposed fitness facility would be located in a portion of an existing building at 609 Route 146A which is located on the easterly side of Route 146A just north of the Route 146-Route 146A intersection. No significant renovations to the building are proposed. It is the applicant's intention to establish a business "where women of all ages, sizes, and fitness levels can go to work out, get fit, and feel good about themselves."

Mr. Scavo reported that Mr. Myers, Director of Building and Development, offered the following comments regarding this application in a memo dated July 17, 2010. Mr. Myers asked that the applicant indicate which portion(s) of the building will be utilized for the proposed fitness business and provide details regarding any proposed renovation of the space. He recommended that the parking area be evaluated since the lot is oddly configured and handicapped parking appears limited.

Mr. Scavo asked that the applicant provide a detailed site plan that included information regarding the building's multiple uses and available parking spaces.

Mr. Romano reported that CHA Companies provided the following comments regarding this application. The proposed action appears to be an "Unlisted" action pursuant to SEQRA, and, as such, coordinated review is optional. The only involved agency is expected to be the Planning Board for approval of a Special Use Permit. A project narrative should be provided that describes how the proposed project will meet the Special Use Permit requirements of Section 208-79E of the Town Code. The narrative should include the anticipated parking demand and proposed hours of operation. A site plan should be provided to document the fact that the existing site can accommodate the proposed uses.

Mr. Montague, Environmental Specialist, reported that the ECC offered no comment on this application.

There being no public comment, Mr. Bulger moved, seconded by Mr. Koval, to close the public hearing at 7:50p.m. The motion was unanimously carried.

Mr. Bulger stated that he had found the application generally acceptable since it involved a change of tenancy rather than significant renovation of the building or site. He recommended that approval be granted conditioned upon a site visit conducted by Mr. Scavo that would confirm that all site improvements comply with the Town's zoning requirements. If significant violations are identified, the applicant would be required to return to the Planning Board for further review. In response to Mr. Ophardt's question regarding uses within the building, Ms. Unter replied that the building has been used as a child care facility. A company involved with software technologies currently occupies a portion of the building. Mr. Scavo stated that it appears that there is adequate parking on the site. Mr. Koval asked about the number of clients the applicant anticipated: Ms. Unter described the number of patrons as "limited".

Mr. Bulger explained that the Board would first consider approval of the Special Use Permit.

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. Werner offered Resolution #7, seconded by Mr. Hale, to approve the Special Use Permit #80783 that would permit the operation of a recreational facility within a B3 zoning district pursuant to Section 208-37C(1)(a) of the Town Code. Ayes: Ophardt, Pace, Andarawis, Hale, Werner, Koval, Bulger. Noes: None.

The Board must act to approve the site plan.

Mr. Ophardt moved, seconded by Mr. Andarawis, 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.

Ms. Pace moved, seconded by Mr. Bulger, to grant preliminary and final site plan approval to this application conditioned upon verification by Mr. Scavo, Director of Planning, that the site complies with zoning requirements, particularly with respect to the adequacy of parking and the proper number and signage of handicapped spaces. The motion was unanimously carried.

[2010-010] **Bartlett, Evalyon M.** - Proposed (3) lot subdivision, 537 Clifton Park Center Road – Possible determination from a preliminary public hearing held on May 26, 2010.

Mr. Bulger, Chairman, introduced this application by stating that the preliminary public hearing for this application was conducted and closed on May 26, 2010.

Mr. VanGuilder offered a recap of pertinent facts regarding the calculations of the bulk requirements for the proposed keyhole lots - the most significant issue of concern identified by the Planning Board during its previous reviews. He explained that when Mr. Semenza, applicant, considered purchase and development of the property at 537 Clifton Park Center Road, Mr. VanGuilder recommended that he consult with Mr. Myers, Director of Building and Development, to determine if the “stem” portion of a keyhole lot could be included in its bulk area. Upon review of Section 208 of the Town Code, Mr. Myers apparently advised Mr. Semenza that such portions of keyhole lot could be included in the overall lot area. Following that determination, CHA Companies identified “conflicting legislation” [Section 179-26C] that notes that the “area within the driveway access strip” is not to be included in calculating the lot size for a keyhole lot.

Mr. Gil VanGuilder then described the revisions made to the plan pursuant to comments provided by adjoining property owners, Kirk and Dale Gleason, and Planning Board members at the meeting held on May 26, 2010. The plan now shows a 20’ wide “no cut buffer” along the property’s western boundary as well as the 25’ “no cut buffer” areas along the northern, eastern, and southern property lines of the proposed new lots. The applicant has also submitted a “Proposed Deed Restriction for the No Cut Buffer Areas” that would extend enforcement of the not-cut buffer to the adjoining property owners. It reads as follows:

This conveyance is made and accepted subject to the restriction that no live vegetation can be removed from the areas delineated as a “No-Cut Buffer” zone as shown on the subdivision map entitled “Subdivision of the Lands of Evalyon M. Bartlett as Trustee of The Mericle Family Trust” dated March 31, 2010 and filed with the office of the Clerk of the County of Saratoga on \_\_\_\_\_  
As Map Instrument #\_\_\_\_\_, with the exception of dead or dying trees that may create a safety issue. The restriction may be enforced by any landowner, their heirs, successors and/or assigns, which adjoins the parcel(s) subject to the “No-Cut Buffer” zone as delineated on said subdivision map.

Mr. Scavo stated that the following standard notes must be added to the plans prior to stamping:

This property may border a farm, as defined in Town Law. Residents should be aware that farmers have the right to undertake farm practices which may generate dust, odor, smoke, noise, and vibration.

All lot sales shall be contingent upon a contract addendum for the location of water, flow capacity and potability in accordance with Town of Clifton Park and New York State Health Department Standards.

Lots will be connected to public water within two (2) years of availability at the property line.

Final location and orientation of each house is subject to the approval of the Director of Building and Development at the time the building permit is issued. Foundation location surveys (plot plans) are to be provided and approved prior to proceeding with framing in order to ensure compliance with the original approval.

The proposed perpetual ingress-egress easements shown hereon shall be used in common by the owners of lots numbered 537, 537A, 537B. All such easements shall be in effect and binding upon the owners of said lots, their heirs, successors, and assigns and all future owners of said lots, their heirs, successors, and assigns, upon filing of this subdivision plan in the Office of the Saratoga County Clerk.

The street number of a dwelling situated on a keyhole lot shall be permanently and conspicuously displayed on a sign, with lettering no less than 3 inches nor greater than 8 inches in height, and placed no more than 25 feet from the road pavement. The sign shall be displayed for both directions of travel and be reflective. Identification markers must also be placed at any location where a common drive splits.

Although it appears that the driveway will be less than 500' in length, Mr. Scavo asked that the consultant indicate the driveway length on the plan.

Mr. Romano reported that CHA Companies provided the following comments regarding this application. Justification for the use of flag lots is required. It appears flag lots are only being used to increase the development potential of the parcel. It does not appear the minimum lot size would be met if the flag portion of the lot was not included. Section 179-26.C of the Subdivision Regulations requires the minimum lot size to be met without including the driveway access strip. The Planning Board should determine if a waiver is appropriate. The site statics table should reference the 50' minimum setback for all yards of keyhole lots.

Mr. Pelagalli commented on the proposed language that would extend enforcement rights to the adjoining property owner, explaining that he is unaware of any case law that would support the extension of such rights to anyone who does not "take from a common grantor".

Mr. Bulger explained that although the Town generally "frowns" upon flag or keyhole lots, the Planning Board has the discretion to approve such lots where it deems them reasonable. Mr. Bulger then introduced the latest ruling from Mr. Myers, Director of Building and Development and Chief Zoning Officer regarding keyhole lots. With regard to the proposed Kazmierczak Subdivision application that is to be reviewed at this evening's meeting, he has determined that pursuant to Section 179-26C of the Town Code that the location of the **access driveway** is the determining factor in calculating the overall bulk requirement of a parcel. If the

driveway is not located within the strip or “stem” portion of the lot, the area may be included as part of the lot. Mr. VanGuilder explained that the determination did not remedy the problem for Mr. Semenza since a 16’ wide driveway would require relocation of the proposed drive into the 20’ wide buffer area proposed along the westerly boundary and two (2) curb cuts would be necessary. The removal of significant vegetation would also be necessary. Since this did not seem a reasonable alternative to the plan presented, Board members did not view this as a viable alternative.

Board members discussed the subdivision proposal at length. Mr. Koval considered the applicant’s request for a waiver pursuant to Section 179-26C of the Town Code “understandable” and recommended that the language provided in that section also be included in the zoning code. Mr. Hale and other Board members agreed that code revisions were required. Mr. Koval stated that he believes that the language regarding the no-cut buffer area that would be included on the subdivision plat and in the property deeds would discourage disturbance of those areas. He viewed the proposal as a “minimal deviation” from code requirements. Mr. Werner was comfortable with a “waiver” from the bulk requirement considering the circumstances. Mr. Ophardt, however, argued that the request represented a significant change from code requirements: he did not support a waiver from the requirements of §179-26C of the Town code.

Mr. and Mrs. Gleason, adjoining property owners, and Mr. Pentkowski, their legal representative, were in attendance at the meeting. When questioned by Mr. Bulger, Ms. Gleason stated her satisfaction with the wider buffer areas proposed, though she believes that a waiver should be granted on “another basis,” indicating that concern with the proposal also includes the potential negative impacts of the addition of two wells and two septic systems in close proximity to adjoining properties may create. She believes that a single lot would be more desirable since it would have less impact on adjoining properties: she described an approval of the requested waiver as “precedent setting”. Though Mr. Pentkowski argued that the Board’s approval may allow for waivers in “every other circumstance,” Mr. Bulger explained – and Mr. Pelagalli concurred - that the Board reviews applications on a “case-by-case, project-specific” basis. Mr. Bulger explained that the Planning Board relies on CHA Companies’ professional engineering expertise to determine if proposed wells and septic systems meet acceptable standards. In response to Mr. Pentkowski’s comment that a waiver of the requirements of Section 179-26C of the Town Code appears “arbitrary,” Mr. Bulger pointed out that the Town Board has granted the Planning Board discretionary powers in some instances, though it is incumbent upon the Board to provide justification for its action. Mr. Pentkowski responded that since there is apparently no “appropriate criteria” for approving the waiver, a positive action would appear to be arbitrary. Mr. Bulger explained that since the applicant has proposed a single drive onto Clifton Park Center Road, provided significant “no-cut” buffer areas, and added language that would allow adjoining property owners to enforce the “no-cut” buffers, he believes that the application now represents an “acceptable project”. Ms. Pace viewed the determination regarding the waiver as a “hard decision,” stating that Lot #3 appears to be quite small. She questioned whether the decision would be defensible in court. Mr. Pelagalli stated that he had no knowledge of a court action that involved litigation of a waiver granted by the Planning Board. Mr. Andarawis stated that although he appreciated the applicant’s willingness to provide a “no-cut” buffer and reconfiguration of the parcels, he had difficulty justifying approval of the waiver.

Mr. Bulger called for an informal poll of Board members regarding the waiver of the requirements of Section 179-26C of the Town Code that would permit the applicant to include the “stem” or “driveway access” areas of a keyhole lot in the overall acreage calculation of the lot. With the exception of Mr. Ophardt, all members approved of the waiver. Mr. Bulger stated that, in his opinion, the applicant’s willingness to revise the plan to incorporate substantial no-cut buffer areas along property boundaries and to address the concerns of adjoining property owners by providing language within the new deeds that assures that adjoining property owners – in addition to common grantors – will have the ability to enforce the required preservation of buffer areas provides adequate and reasonable justification for the waiver.

Mr. Koval moved, seconded by Mr. Bulger 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 #8, seconded by Mr. Hale to waive the final hearing for this application and to grant preliminary and final subdivision approval to this application conditioned upon satisfaction of the comments offered by the Planning Department and the Planning Board with the understanding that the Board supported by a 6-1 vote the waiver of the requirements of Section 179-26C of the Town Code to permit the applicant to include the “stem” or “driveway access” areas of the proposed keyhole lots in the overall acreage calculation of the proposed lots. Ayes: Andarawis, Pace, Hale, Werner, Koval, Bulger. Noes: Ophardt.

### **Old Business:**

[2010-002] **Dunkin’ Donuts** – Proposed 2,400 SF restaurant with drive-through, 1208 Route 146 – Preliminary site plan review and possible determination. SBL: 270.-2-55

Mr. Scott Lansing, consultant for the applicant, explained that this application remains generally as presented at the March 9, 2010 meeting. Minor revisions include the modification of the easterly site driveway from full service to a right-in/right-out only access and the addition of the dumpster location to the site plan. Full service will still be provided to the site via the shopping center’s westerly site driveway. Mr. Lansing explained that a traffic study prepared by Creighton Manning Engineering, LLP has been submitted for the Board’s consideration. The study concludes that site development will not significantly impact traffic flow in the area: the right-in/right-out restriction provided at the easterly driveway should mitigate any negative impacts. The speaker addressed the issues of concern identified by CHA Companies, reporting that the proposal conforms with existing terms of the Planned Unit Development, that coordination has been initiated with NYSDOT regarding modification of the easterly site driveway, a cross-access easement with the adjoining Stewart’s shop will be considered if the traffic study recommends such a connection, utility locations for water and sewer service have been added to the plan, the calculated net change in impervious area is an increase of .04 acres, and that there are 756 existing parking spaces on the project site: a net loss of 28 spaces is anticipated.

Mr. Scavo stated that Mr. Myers, Director of Building and Development, provided several comments regarding this application in a memo dated July 19, 2010. The applicant has not provided a traffic plan for review. Access to the parcel to the east currently occupied by a Stewart's Shop should "occur as required by the Town". A Storm Water Pollution Prevention Plan has not been provided as required. Proof that the proposed restaurant is over 300' from a residential zone has not been provided.

Mr. Scavo read comments provided by Mr. Bill Mackesey, representative of the Trails Subcommittee of the Open Space, Riverfront, and Trails Committee, that generally recommends that the applicant provide a 5' wide sidewalk from the restaurant to Route 146. He recommended the installation of a bicycle rack near the front entranceway and a park bench for walkers.

Mr. Scavo read comments and recommendations prepared by the Planning Department. He focused his concerns on the negative impacts of eliminating a fully functional in and out entrance within the complex. This would be of particular concern when large events held at Northern Lights fill the parking lot. The plan provides for the dumpster location to be within the front portion of the property. It is recommended that the dumpster be relocated to the rear of the project and not within the front lawn area adjacent to the bank where it creates negative visual impacts. The hours of operation should be included within the project narrative.

Mr. Romano provided comments that had been prepared by CHA Companies after review of the revised concept site plan dated June 10, 2010 prepared by Lansing Engineering, PC and the Traffic Assessment dated June 11, 2010 prepared by Creighton Manning Engineering, LLP for the above referenced project. He explained that several comments from the February 8, 2010 review letter remain to be addressed and that additional comments have been provided. The project is located within an existing Planned Unit Development: the project should be reviewed with the PUD legislation to verify conformance. The project site is also located within the Vischer Ferry Road Corridor GEIS Study Area: compliance with the Statement of Findings and payment of mitigation fees will be required. A cross access easement should be provided to the existing Stewart's Shop as any future development of this parcel will require revised access to Route 146. Though the response letter provided by the applicant indicates that the applicant will consider an access easement should the traffic study indicate that it is necessary, it does not appear as though the traffic study addresses the cross access easement. CHA Companies, however, continues to recommend that the easement be provided. Conceptual utility locations and sizes should be depicted on the plan since it is unclear as to the location and size of the existing utilities. An evaluation of the overall parking, including the required parking based upon existing uses, should be provided.

Mr. Romano explained that CHA Companies offered the following additional comments. Based on the extent of queuing confirmed in the traffic assessment, it is recommended that a relocated rights in/rights out curb cut be provided to the west between the bank and the proposed Dunkin' Donuts. The current layout does not adequately address the circulation conflicts with the existing bank. The traffic study does not evaluate the traffic impacts during the weekend peaks. The traffic associated with Clifton Commons and Northway Church during the weekend peaks could impact the conclusions presented in the report. Dumpsters have been added to the plans in

front of the proposed Dunkin Donuts along the Route 146 corridor. The dumpster will not be adequately screened at this location and should be relocated outside of the front yard.

Mr. Montague, Environmental Specialist, offered a number of comments that had been prepared by the ECC. Due to the probability of food and liquid wastes leaking from the on-site dumpsters into a storm water catch basin and surface water body, the ECC recommends that the applicant enclose the area on an impervious surface with a berm surrounding the dumpsters that accept food and liquid wastes. If necessary, the applicant will need to periodically pump out the accumulated wastes within the bermed area to avoid any overflow. Since the site discharges storm water directly to the Dwaas Kill, a Storm Water Pollution Prevention Plan should be submitted for the entire site and approved by Steve Myers, Director of Building and Development, prior to any Planning Board approval. The storm water system should be sufficient to handle the combined storm water run-off projected for the entire site, including the proposed Dunkin' Donuts location. The applicant should "reconfigure the placement, or provide buffering, of the front parking lot and waste receptacles out of view from NYS Route 146."

Board members discussed traffic concerns at length. Mr. Ophardt explained that the traffic study did not "focus" on the adjoining Stewart's Shop that operates "basically the same business with the same peak hours." He is concerned that conflicting traffic movements from the sites will result in hazardous traffic movements. Mr. Koval agreed with Mr. Ophardt and CHA Companies' comment regarding the proximity of the Stewart's Shop to the proposed Dunkin' Donuts. Mr. Hale agreed with the need for reciprocal easements between businesses and encouraged the applicant to consider relocation of the access drive to the west. He also recommended that the applicant relocate the dumpsters. Mr. Bulger noted that since this was the "third busiest intersection in town," the Board should work to ensure that it operates better than the Cumberland Farms site that is located on the southeasterly quadrant of the Vischer Ferry Road – Route 146 – Route 146A intersection where drivers continually make "illegal" lefts-in and left-out of the site. Mr. Lansing pointed out that CME recommended the installation of "an elongated traffic directive" that would discourage dangerous turns in and out of the site. Mr. Howard Carr, representative for the applicant, stated that relocation of the access drive to the west was not feasible because of the conflict with vehicles making the right turn on the "slip lane" from Route 146A to Route 146 and because of the downhill slope near the existing bank. Mr. Bulger advised the applicant to provide alternative design lay-outs since it was apparent that Board members were extremely concerned with traffic safety in the area, particularly because development of the vacant parcel on the northwesterly side of the intersection is imminent. Board members agreed that a storm water management plan limited to the development site was reasonable.

Mr. Hartnett, representative of the Trails Subcommittee, requested that the Board consider requiring the applicant to provide a sidewalk connection to Route 146 and that a bicycle rack be provided near the entranceway for bicyclists. A park bench is recommended for pedestrian use.

Board members did not appear supportive of the proposed development plan and asked that the applicant provide alternative design plans.

[2007-027] **DeMarco-Stone Funeral Home** – Proposed 3,300 SF funeral home, 533 MacElroy Road – Preliminary site plan review. SBL: 259.-1-17

This application was withdrawn from this evening's agenda at the request of the applicant.

**New Business:**

[2010-023] **Kazmierczak, Mark S.** – Proposed (3) lot subdivision, 444 Vischer Ferry Road – Conceptual review. SBL: 271.-5-23.1

Mr. Andrew Kosiba, consultant for the applicant, presented this application for the Board's consideration. The project site is located on the westerly side of Vischer Ferry Road, south of its intersection Clifton Park Center Road within the R1 zoning district. The application proposes the subdivision of 3.47 acres of land into lots of 40,091 SF (.92 acres), 42,948 SF (.99 acres), and 51,216 SF (1.18 acres), respectively. The two new lots are designed as "keyhole" lots. The presenter noted that, pursuant to Section 208-124 of the Town Code (as interpreted by Mr. Myers, Director of Building and Development and Chief Zoning Officer), the "driveway easement" area was not included in the bulk lot size requirement for Lot #3, though the "stem" portion of Lot #2 was included in the bulk requirement calculation for that parcel since no **driveway access** was proposed on it. [A discussion of the manner in which bulk requirements for keyhole lots are calculated pursuant to Sections 179-26C and 208-124 occurs previously in these minutes with regard to the proposed subdivision of the Lands of Bartlett.] The largest lot contains an existing 1½ story, three bedroom house. The applicant proposes the construction of a detached garage on this parcel. The homes will connect to the Clifton Park Water Authority: individual septic systems designed by a licensed engineer. All applicable setback requirements have been met and notes regarding the proximity of the property to farm lands, keyhole lots, and ingress/egress easements are included on the concept plan. Mr. Kosiba explained that all existing accessory structures are in poor condition and will be razed prior to construction of the proposed homes on Lots #2 and 3. In response to comments provided by CHA Companies, Mr. Kosiba stated that perc test information will be provided at the time individual septic systems are designed and that the location of wells and septic systems for adjoining properties will be shown on the subdivision plan.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, provided the following comments in a memo dated July 19, 2010. The proposed subdivision does not appear to require variances per Section 179-26C of the Town Code. A Storm Water Pollution Prevention Plan for the entire site will be required when built. Septic designs must be submitted prior to the issuance of Building Permits.

Mr. Scavo explained that the Trails Subcommittee of the Open Space, Riverfront, and Trails Committee recommends that the Planning Board require the conveyance of a 15' strip along the property's frontage to provide for future roadway improvements or the installation of a multi-use pathway.

Mr. Scavo stated that approved postal addresses must be included on the final subdivision map. The following standard note shall be added to the subdivision plan:

The Land Conservation (LC) Zone has been delineated in accordance with Section 208-69 of the Clifton Park Town Code. Uses in this area are restricted.

The Town of Clifton Park Building Department shall be notified before undertaking any land disturbance activities in the LC Zone.

He recommended that the language in the note also be included in the deeds for Lots #1 and 2. Mr. Scavo noted that, in accordance with Section 208-86 of the Town Code, “keyhole lots may be permitted by the Planning Board only in Residential Districts R-1 and R-3 and only in rare instances when required due to unusual conditions of the area. Keyhole lots shall not be created for any use other than a single-family dwelling.”

Mr. Romano offered the following comments prepared by CHA Companies. 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 Subdivision Review. The project is located within the Vischer Ferry Road Corridor GEIS Study Area. The project should comply with the Statement of Findings and the applicable mitigation fees shall be applied. The area of Lot #2 should be calculated excluding the 40’ wide strip of land with access to Vischer Ferry Road. Section 179-26-C of the Town Code requires a keyhole lot to be large enough to contain the minimum lot acreage required by the zoning ordinance without including the area of the driveway access strip. Test pits and percolation tests should be performed within the limits of the proposed septic systems to determine the adequacy of the underlying soils. The results should be depicted on the subdivision plan. The location of wells and septic systems on the adjacent properties should be depicted on the plans.

Mr. Montague, Environmental Specialist, reported that the ECC found the project acceptable.

Mr. Koval recommended that the proposed residences be oriented toward the proposed driveway. Mr. Ophardt asked that the buffer area along the southern property boundary be preserved and that a no-cut buffer be established along the rear (western) boundary line. Mr. Ophardt also questioned the historical value of the existing residence and accessory buildings. Mr. Kosiba explained that the house was constructed circa 1930 and that the deteriorated condition of the accessory buildings renders them worthless. Board members found the subdivision proposal generally acceptable.

[2010-024] **Enterprise Rent-A-Car** – Proposed parking lot expansion, 21<sup>st</sup> Century Drive – Conceptual site plan review. SBL: 270.-2-2

Mr. Scott Lansing, consultant for the applicant, presented this project proposal, explaining that the applicant proposes the installation of an additional 448 parking spaces and necessary storm water management facilities near the existing Enterprise Rent-A-Car facility located at 460 21<sup>st</sup> Century Park Drive/1315 Route 146. The property is located on the northern side of Route 146 approximately 720 linear feet west of the Tanner Road – Miller Road – Route 146 intersection in a B5 (Corporate Commerce) zoning district. The property is currently owned

by WEW Advisor Corporation. Mr. Lansing explained that 25.43 acre site that was originally known as Twenty-First Century Park is currently occupied by two large buildings, associated parking, access drives, and a cell tower. The southernmost building is approximately 33,000 SF in size and houses the Enterprise Rent-A-Car facility and a child day care center. The other remaining building totals approximately 30,130 SF and is currently a vacant warehouse. The remaining site is open lawn and meadow with some lightly forested area at the northeast corner. Within the past few years the property owner has received approval for an 8.68 acre subdivision along Route 146 for the construction of 51 units of senior housing; to date that subdivision plat has not been stamped and recorded. No senior housing units have been constructed. There are .47 acres of delineated ACOE wetlands located in the northeastern corner of the site. No disturbance of the wetland area is proposed. The parking area expansion is necessary to allow the facility much needed capacity, enabling the business to store low mileage vehicles taken out of the fleet before they are “wholesaled” to local car dealers. The primary proposed infrastructure for the Enterprise Rent-A-Car includes connections with existing access ways, interior connections to aisles and parking spaces. The project objective is to offer a layout that will efficiently utilize the existing facility’s layout and offer the needed parking for their services while preserving environmentally sensitive areas. Municipal sanitary sewer and water currently exist on the project site and shall be utilized as they were previously. The consultant explained that due to the greater number of parking spaces, there will be a notable increase in the total impervious area on the site, creating a larger demand for storm water management. Storm water will be managed on site through the use of above ground storm water management areas. A project specific Storm Water Pollution Prevention Plan will be designed and implemented in accordance with NYSDEC standards. The speaker stated that the design of the site will follow the natural topography as closely as possible in order to connect drainage features and convey storm water runoff. Mr. Lansing concluded his presentation by stating that the Enterprise Rent-A-Car facility is in keeping with the character of the surrounding area.

Mr. Lansing addressed the issues identified by CHA Companies, explaining that the applicant will address all items outlined in the Statement of Findings for the Corporate Commerce GEIS, that a narrative describing traffic generation for the project will be provided, that a wetland delineation has been completed on site: no disturbance of wetland areas is proposed, that the approved townhouse development along Route 146 will be overlaid on the project plan, and that test pit information will be provided.

Mr. Mark McMann, Regional Operations Manager for Enterprise Rent-A-Car, explained that the project is designed to accommodate “re-marketing” and “re-distribution” of the fleet of rental vehicles. There will be no sale of vehicles to the general public at the site. 90% of the vehicles will be individually transported to and from the site. On rare occasions car carriers will be used to transport automobiles removed from the fleet.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, offered the following comments regarding this application. Mr. Myers notes that during the recent warehouse expansion at the site it was apparent that the area proposed for the parking expansion was extremely wet. He stated that since the project requires over an acre of disturbance a full Storm Water Pollution Prevention Plan will be required.

Mr. Scavo reported that the Trails Subcommittee of the Open Space, Riverfront, and Trails Committee recommends that a sidewalk be built from the site to Route 146 to provide for pedestrian safety and improved access to the building.

Mr. Scavo offered the following comment regarding this application. The site plan must include the approved 21st Century Subdivision on Site Plan that will allow the construction of 51 townhouse units, access roads, and other amenities. The 8.9 acre parcel must be deducted out of the green space calculations for the parking lot expansion project. The speaker did note that although approved by the Planning Board, the subdivision and site plans have not been stamped or filed to date.

Mr. Romano provided the following comments prepared by CHA Companies. The proposed project is located within the Corporate Commerce Zone for which a generic environmental impact statement (GEIS) and findings statement was previously prepared. In order to initiate the SEQR review the findings statement should be reviewed by the applicant's consultant and a narrative should be provided that indicates how each finding statement item either applies and is being addressed or does not apply. The only involved agency is expected to include the Clifton Park Planning Board with site plan review. The narrative should include a more detailed description of the proposed operation. CHA Companies is particularly concerned with the traffic generation of the proposed project. The narrative should include a discussion on how the additional cars will be delivered to the site and the frequency of such deliveries. The narrative should estimate the average number of cars to be stored on site and whether sales will be conducted on site. The concept plan depicts approximate limits of wetlands. A field delineation should be performed and the limits of the wetlands should be incorporated into a surveyed basemap. Senior townhouses have been approved for the southern portion of the project site. The approved project should be depicted on the plans for clarity. Test pits should be conducted within the limits of the proposed storm water management area to verify the underlying soil conditions and groundwater elevation.

Mr. Montague, Environmental Specialist, reported that the ECC provided the following recommendation. The northeastern corner of the site is an environmentally sensitive area including federal wetlands and forested areas. The ECC recommends elimination or relocation of the parking spaces proposed for that area.

Mr. Koval observed that elimination of the townhouse site from the overall acreage will limit the amount of green space on site. Revised green space calculations should be provided for the Board's consideration. He also asked that the applicant provide buffering to the adjoining residences to minimize visual impacts. In response to Mr. Werner's question regarding the number of trips generated per day, Mr. McMann stated that there will likely be 15-20 trips per day. He answered Mr. Ophardt's question regarding the number of employees by stating that the number of workers at the site would increase from 20 to 40. Mr. Hale commented that the project requires significant paving and asked that the applicant consider utilizing alternative paving materials. Mr. Bulger agreed with Mr. Koval's comment regarding green space and asked that the applicant provide revised calculations. Board members did not comment positively or negatively on the application.

[2010-025] **Addison Estates** – Proposed amendment to the approved Addison Estates subdivision for relocation of existing multi-use pathway – Conceptual review. SBL: 276-2-121

Mr. Gavin Vuillaume, consultant for the applicant, presented this project plan for Mr. Paul Amedore, applicant. Briefly stated, the applicant proposes to remove an existing 760 foot asphalt multi-use trail that runs along the eastern property boundary of Lot #23 Addison Way to connect Addison Estates to the Summerhill Subdivision. The proposed new 8' wide asphalt multi-use path would utilize an existing gravel road as base for a portion of the new 960 foot pathway that would border the existing storm water management basin that serves Addison Estates. The sketch plan indicates that the plan will require the construction of a 60-foot "boardwalk bridge" to cross a designated wetland area. The new trail would link with the existing Meadows/Summerhill trail.

Mr. Amedore, applicant and resident of 23 Addison Way, addressed the Board, explaining that the multi-use pathway that adjoins his property is of great concern to him because it compromises his family's privacy and safety. On two occasions he has witnessed automobiles traveling on the pathway and has reported the incidents to the Town Board. The speaker explained that, although options such as landscaping and fencing have been considered, the only acceptable plan would be the removal and relocation of the trail.

Mr. Scavo offered comments prepared by Mr. Myers, Director of Building and Development in a memo dated July 17, 2010. He explained that since the entire path would be constructed in an L-C (Land Conservation) zone, some type of storm water management plan should be provided. Review by the ECC is recommended. The source of funding for the project should be clarified since it appears that all construction will occur on Town-owned property.

Mr. Mackesey, representative of the Trails Subcommittee of the Open Space, Riverfront, and Trails Committee, provided a memo that states that the committee does not support a relocation of the trail because of the precedent such an approval would set and since the owner of the property was well aware of the trail location when the home was purchased.

Mr. Scavo reported that the Planning Department had no comment on this application at this time.

Mr. Romano provided the following comments that were prepared by CHA Companies. 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: Town of Clifton Park Planning Board – Subdivision Amendment; ACOE- Wetland Disturbance Permit. The removal of the existing trail eliminates an important looped connection to the neighborhood's on the west side of Miller Road. The existing path location was carefully considered during the review and approval of the Addison States Subdivision and was chosen because of the looped connection it provided and the opportunity for the path users to access other areas of the Town's trail system. The proposed path location provides a very similar connection to the existing trail that already exists approximately 400 ft to the north in Addison Estates. A proposed path along the east side of Miller Road from the entrance to Addison Estates to the existing trail at the water tower service drive would appear to be a provide a more acceptable replacement of the proposed path section to be removed. The long term ownership and maintenance responsibilities of the 60' long wetland crossing boardwalk should be considered by the Planning Board. Future plan

submittal should include construction details.

Mr. Montague, Environmental Specialist, offered the following ECC recommendation. The existing trail is part of the defined network of the Town's Trails Master Plan and was previously approved as part of the subdivision review. In addition, the proposed trail realignment would create additional wetland disturbance; therefore, the ECC does not recommend approval of this relocation.

Mr. Hale requested that the applicant consider other areas for the trail relocation, though he noted that construction of a trail link along Clifton Park Center Road would require easement approvals from property owners. Mr. Koval explained that he uses the trail regularly and commented that the proposed trail does not "loop" in the same way the existing trail does. He does not support its relocation. Mr. Ophardt did not find the applicant's concern significant enough to warrant a change to the existing trail network. Mr. Werner recommended that bollards be placed at the trail's entry point to prevent access by automobiles. Members discussed various options for construction of a new trail.

Mr. Vuillaume stated that he would investigate wetland disturbance concerns and consult with property owners along Miller Road who would be required to provide land conveyances or easements for trail development.

Mr. Hartnett, representative of the Trails Subcommittee, reiterated concerns listed by Mr. Mackesey, stating that the Board should consider on-going trail maintenance and the precedent such a change would make for the relocation of other train segments.

Mr. Vuillaume stated that the applicant and the consulting engineering firm would explore other alternative locations for the trail.

[2010-026] **Coburg Village** – Proposed 88 additional units and 170 parking spaces, 1 Coburg Village Way – Conceptual site plan review. SBL: 276.-2-54

Mr. Gavin Vuillaume, consultant for the applicant, explained that the owners of the existing Coburg Village, a senior housing facility, propose to construct a three story apartment building addition within Parcel C of the Coburg Village Planned Unit Development District. The 8.29 acre parcel is located on the southwesterly quadrant of the Grooms Road – Vischer Ferry Road intersection. The project consists of the development of 39 senior citizen independent living apartments in Phase 1, 24 in Phase 2, and 15 in Phase 3. Approximately 170 parking spaces are proposed. A storm water management plan will be prepared. Mr. Vuillaume noted that the site currently contains two additional buildings. He stated that the applicant proposes the rehabilitation of the existing Birch Tavern building per a memorandum of understanding between the Town of Clifton Park and the land owner. The applicant will provide a 15' wide easement along Grooms Road to the Town of Clifton Park for future road improvements or the construction of a multi-use pathway. A 10' wide asphalt multi-use pathway will be constructed along the westerly side of Vischer Ferry Road from Grooms Road south to the property line. The new buildings will be served by the Clifton Park Water Authority and Saratoga County Sewer District #1. Greenspace on the site is calculated to be 55%. A Full Environmental Assessment Form has been submitted with the conceptual application.

Mr. Scavo reported that Ms. Reed, Chief of the Bureau of Fire Prevention, issued the following comments regarding this proposed project. The applicant must provide adequate access for all emergency service vehicles. The plan must show established “No Parking – Fire Lanes” for emergency services.

Mr. Scavo explained that Mr. Myers, Director of Building and Development, provided the following comments regarding this application. Rated fire separations will be required between phases of development for them to be constructed as separate entities. Building areas may also require separations. Mr. Myers does not believe that large emergency vehicles will be able to access the site via the staff/event parking area. Since this is the only vehicle access to that side of both the new and existing buildings, modification of the design will be required. Access across green areas will be required for emergency service vehicles. A full Storm Water Pollution Prevention Plan will be required.

Mr. Scavo reported that Mr. Mackesey, representative of the Trails Subcommittee of the Open Space, Riverfront, and Trails Committee recommended that the applicant construct an 8’ wide trail along both Grooms and Vischer Ferry Roads. The construction of sidewalks within the Coburg site that connect existing buildings to the proposed new facility and to both the Grooms Road and Vischer Ferry Road trails is recommended.

Mr. Scavo requested that the following note be added to the plan:

The terms and conditions of the Memorandum of Understanding entered into agreement between the Town of Clifton Park and Wartburg Lutheran Services as a condition of the 2010 Planned Unit Development District Amendment shall be also considered as conditions of stie plan approval by the Planning Board. These terms and conditions shall become legally binding between the Planning Board and Wartburg Lutheran Services.

Vischer Ferry Road Corridor GEIS Fees shall apply. The applicant shall comply with all conditions of the Statement of Findings prepared at the conclusion of the Vischer Ferry Corridor GEIS. Additional comments will be prepared as the site plan progresses through the approval process; however at this point the Planning Department has no objection in concept to the proposed location of the new structure.

Mr. Romano stated that, after review of the conceptual site plan, CHA Companies provided a number of comments regarding this application. The proposed project appears to be an unlisted action pursuant to SEQRA and as such coordinated review is optional. Involved agencies are anticipated to include the following: Clifton Park Planning Board - Site Plan Review; Clifton Park Town Board – PDD Amendment; Saratoga County Sewer District #1 – Sanitary Sewer Connection; Clifton Park Water Authority – Water Connection Permit. The proposed project is located within the limits of the Coburg Village PDD. The proposed project will require an amendment to the existing PDD. If the original PDD General Development Plan will not be revised to show the expanded PDD, the plan must reference the former PDD and qualify as its own General Development Plan. CHA Companies has not been provided a copy of the original PDD legislation for review, though this legislation should be reviewed to identify previously required components of the project that require modification or elimination. The

building setbacks established as part of the PDD should be depicted on the plans and the proposed building setbacks also labeled. A significant portion of the existing vegetated buffer along Vischer Ferry Road will be removed as part of the proposed project. The visual impact of the proposed project along Vischer Ferry Road should be evaluated. With the reduced buffer, the proposed lighting could impact the area. Future plan submittals should include photometric and manufacture cut sheets of the proposed site and building mounted lights. A 10' wide multiuse pathway is proposed from the driveway of the Birch Tavern Building to the intersection of Grooms Road and Vischer Ferry Road intersection. It is recommended that the width of the multi-use path be reduced to eight feet to be consistent with the other multi-use pathways in the vicinity of the project site. It is also strongly recommended that multi-use paths or sidewalks be provided from the entrances on Grooms Road and Vischer Ferry Road to the intersection of Grooms Road/Vischer Ferry Road, extending across the intersection to the multi-use path that Stewart's has constructed. The plan depicts an easement to the Town along Vischer Ferry Road to accommodate a multi-use path. A portion of the proposed parking lot is located along a steep slope immediately adjacent to the proposed easement. Additional separation may be required to accommodate the required grading. The proposed utility connections and/or extensions should be depicted on the plan. A wetland delineation should be provided within the limit of work. If wetlands are not present, a note should be added to the plan. CHA Companies is concerned that the storm water management area will need to be larger than currently depicted on the plans and result in additional clearing and grading. Test pits should be conducted within the proposed storm water management area to verify the underlying soil conditions and the groundwater elevation. CHA Companies understands that the Department of Fire Prevention has raised concerns with the proposed three-story building and access to the roof by emergency services: these concerns should be addressed with future plan submittals. The plan indicates the existing Birch Tavern Building will be rehabilitated as per the memorandum of understanding between the Town of Clifton Park and the land owner. Future plan submittals should include additional detail of the rehabilitation.

Mr. Montague, Environmental Specialist, reported that the ECC requests that the applicant should redesign or use landscaping and grading to provide visual buffering between the staff and event parking area and Vischer Ferry Road. The applicant should allow for pedestrian access from the Coburg Village Way curb cuts to the business corner of Vischer Ferry and Grooms Road.

Mr. Ophardt recommended that the applicant consider extending the boulevard-type entranceway to Grooms Road. He also recommended that a multi-use pathway be installed along Grooms Road. Mr. Hale asked that the applicant consider the adequacy of the "staff/event" parking area, particularly if residents are also permitted to park in those spaces. Mr. Koval expressed his concern for the adequacy of the parking proposed on site.

Mr. Hartnett, representative of the Trails Subcommittee of the Open Space, Riverfront, and Trails Committee stated his committee's support for the installation of multi-use pathways along both Grooms Road and Vischer Ferry Road as well as sidewalk connections throughout the site. He explained that such a network of pedestrian connections would aid residents of Coburg Village in walking to businesses located at the corner of Vischer Ferry and Grooms Roads. A representative for the applicant stated that construction of pathways along both Grooms and

Vischer Ferry Road may be cost-prohibitive since the applicant is already committed to restoration of the historic Birch Tavern.

Board members found the project plan generally acceptable.

[2010-27] **Snap Fitness** – Special Use Permit #80787 to allow for a recreational use in a B-3 zone and site plan review, 821 Main Street – Conceptual review. SBL: 264.-3-26

Mr. Tom Andress, consultant for the applicant, presented this application that calls for the use of 4,055 SF in an existing 6,425 SF building as a fitness center. Mr. James Marzano, Jr., applicant, proposed to purchase 821 Main Street. The existing tenant, the ACS Group, a document scanning and electronic storage company will remain in the building, occupying 2,370 SF of space. The remaining area will be renovated into a gym space for Snap Fitness which will be operated in the same manner as the existing Snap Fitness that the applicant owns in Saratoga Springs. Snap Fitness is an international franchise with over 1,000 facilities throughout the United States, Canada, and abroad. The concept was developed to meet the needs of business men and women who want a clean gym and do not have time to wait for machines to become available. The gym has a limited maximum membership of 500. There are no showers: a small changing room is provided. The facility is not regularly staffed and access is by swipe card. Normal facility use is 6-8 members at a time: the maximum amount is approximately twenty members. 23 parking spaces are available on site. The existing tenant has 3 to 4 employees during the day with a maximum use of five (5) parking spaces; office hours are from 8:00a.m. to 5:00p.m. Though the Code requires 28 parking spaces for gym use, the applicant contends that controlled use of the proposed gym would allow the site to “function with the 23 spaces available for both tenants.” Additional space for parking is available on site and the green space exceeds the require 35%: additional parking spaces could be added if warranted. Pursuant to Section 208-37C(1)(a), the applicant must seek approval of a Special Use Permit that would allow the operation of a commercial recreational facility in a B3 zone. Mr. Andress explained that the applicant proposes restricting the southernmost access drive to “right-in” only.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, provided the following comments regarding this application in a memo dated July 19, 2010. The building has two pre-existing non-conforming entrances from Main Street: one should be closed or a variance obtained pursuant to Section 208-39 of the Town Code. Pursuant to Section 208-38H, the applicant should confirm that the business is located 100’ from a residential zone. Parking issues should be addressed during site plan review.

Mr. Scavo reported that the Mr. Mackesey, representative of the Trails Subcommittee of the Open Space, Riverfront, and Trails Committee, provided the following comments regarding this application. He requested that if the applicant paves the existing gravel parking lot that a 15’ wide area with an 8’ paved trail be provided along Main Street. Mr. Andress pointed out, however, that trail construction from the Kinns Road overpass to the site would be problematic due to the existing steep slope and ditch line.

Mr. Scavo explained that approval of a Special Use Permit is required for this application since it requires a change in the use of an existing building from business to commercial recreational (gym) pursuant to Section 208-37C(1)(a).

Mr. Romano reported that CHA Companies provided a number of comments regarding 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 be the Clifton Park Planning Board with a special use permit. While the project narrative makes a valid argument for the reduction in parking from the amount required by code, CHA Companies is concerned that some of the parking spaces provided are not easily accessible. The six spaces in the southeast corner are accessed by a 13’-15’ wide drive aisle and would require a car exiting the spaces to back out to the front of the building. The proposed handicap accessible space is also accessed by a reduced drive aisle. These limited parking spaces further reduce the available parking. Consideration should be given to eliminating the southern curb cut. It would appear the site can operate efficiently with one full access curb cut. Access to the dumpster location appears to be severely restricted by the proposed parking.

Mr. Montague, Environmental Specialist, reported that the ECC offered no comment on this application.

Mr. Bulger addressed the issue of site access, stating that he believed the proposed right-in only turn at the southern most entrance to be reasonable. Board members agreed that such a restricted turn would improve traffic flow through the site. Mr. Hale recommended that the applicant consider the use of permeable pavers to extend the parking spaces along the site’s southern boundary line. He also noted that conditions imposed through the Special Use Permit approval may provide for future additional parking when warranted. Mr. Ophardt noted that additional parking may be provided in the northeasterly portion of the site. Mr. Scavo recommended that the Board establish a time frame for future site plan review of the project to determine if parking is adequate and whether the restricted right turn for access is working efficiently.

Mr. Andress asked that the Board render a decision since the applicant’s bank financing is dependent upon Town approvals. Mr. Bulger explained that the Board would be unable to act on the Special Use Permit applicant because a public hearing is required. Board members agreed, however, that preliminary site plan approval could be granted at this time.

Mr. Bulger moved, seconded by Mr. Koval, 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 moved, seconded by Mr. Ophardt, to grant preliminary site plan approval to this application conditioned upon approval of the Special Use Permit by the Planning Board. The motion was unanimously carried.

### **Discussion Item:**

#### **Regal Cinema Renovation**

Mr. Donald MacElroy, representative of the applicant, CCM Associates of Clifton Park, LLC, presented a brief description of the proposed expansion of the regal cinema facility at the Clifton Park Center. He explained that the project consists of an expansion of 8,000 SF to the existing cinema facility's footprint allowing for a 500-seat increase: the cinema will now be able to serve 2,000 patrons. The number of screens will be increased from 8 to 10. It is anticipated that the "state of the art" facility will be designed to draw patrons to the existing businesses within the mall as well as to the theaters. The construction will require a minor "shift" to the entranceway location and existing driving lane. In response to questions posed by Mr. Bulger, Mr. MacElroy explained that the applicant hopes to construct the approved hotel and renovate the theater area simultaneously. It is expected that construction will begin at the end of this year and be completed within a year. Mr. Hale stated his support of the project plan, commenting that the cinema facility "begs for improvement". Board members appeared to be generally pleased with the plan that would provide the first "lifestyle center" of the capital region. Mr. Werner asked that the applicant consider the installation of pedestrian accommodations in the project design, noting that the current parking lot does not provide for pedestrian safety. Mr. MacElroy anticipates that a formal application will soon be submitted to the Planning Department.

**Minutes Approval:**

Mr. Bulger moved, seconded by Mr. Werner, approval of the minutes of June 8, 2010 as written. Ayes: Ophardt, Andarawis, Werner, Koval, Bulger. Noes: None. Abstained: Pace, Hale.

Mr. Bulger moved, seconded by Mr. Koval, adjournment of the meeting at 11:55p.m. The motion was unanimously carried. The next meeting of the Planning Board will be held as scheduled on August 10, 2010.

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

**NOTICE OF DECISION****Resolution #4****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 July 21, 2010, there were:

Present: S. Bulger, Chairman, M. Hale, J. Koval, E. Ophardt, S. Pace, T. Werner  
E. Andarawis, Alternate Member

Absent: K. Paulsen

Mr. Bulger offered Resolution #4, and Mr. Koval seconded, and

Whereas, an application has been made to this Board by Anthony Vaccarielli for approval of a subdivision entitled Clifton Preserves consisting of (5) lots;

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on July 21, 2010;

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 July 21, 2010;

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 that the subdivision plat entitled Clifton Preserves consisting of (5) lots is granted preliminary and final subdivision approval conditioned upon satisfaction of the comments offered provided by the Planning Board, Planning Department, and CHA Companies.

Resolution #4 passed 7/21/2010

Ayes: Ophardt, Andarawis, Pace, Hale, Werner, Koval, Bulger

Noes: None

Steven J. Bulger,

Chairman

**NOTICE OF DECISION**

**Resolution #5**

**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 July 21, 2010 there were:

Present: S. Bulger, Chairman, M. Hale, J. Koval, E. Ophardt, S. Pace, T. Werner  
E. Andarawis, Alternate Member

Absent: K. Paulsen

Mr. Bulger offered Resolution #5 and Mr. Koval seconded, and

Whereas, an application has been made to this Board by Wagner Lumbering for approval of Special Use Permit #80781 to permit selective timber harvesting within the CR (Conservation Residential) zone pursuant to Chapter 184 of the Town Code;

Whereas, pursuant to Section 276 of the Town Law a public hearing was advertised and was held on July 21, 2010 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 approval is hereby granted for the application by Wagner Lumbering for Special Use Permit #80781 to permit selective timber harvesting within the CR (Conservation Residential) zone pursuant to Chapter 184 of the Town Code.

Resolution #5 passed 7/21/2010

Ayes: Ophardt, Andarawis, Pace, Hale, Werner, Koval, Bulger

Noes: None

Steven Bulger,

Chairman

**NOTICE OF DECISION**

**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 July 21, 2010 there were:

Present: S. Bulger, Chairman, M. Hale, J. Koval, E. Ophardt, S. Pace, T. Werner  
E. Andarawis, Alternate Member

Absent: K. Paulsen

Mr. Ophardt offered Resolution #6 and Mr. Hale seconded, and

Whereas, an application has been made to this Board by Wagner Lumbering for approval of Special Use Permit #80782 to permit selective timber harvesting within the CR (Conservation Residential) zone pursuant to Chapter 184 of the Town Code;

Whereas, pursuant to Section 276 of the Town Law a public hearing was advertised and was held on July 21, 2010 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 approval is hereby granted for the application by Wagner Lumbering for Special Use Permit #80782 to permit selective timber harvesting within the CR (Conservation Residential) zone pursuant to Chapter 184 of the Town Code.

Resolution #6 passed 7/21/2010

Ayes: Ophardt, Andarawis, Pace, Hale, Werner, Koval, Bulger

Noes: None

Steven Bulger,

Chairman

**NOTICE OF DECISION**

**Resolution #7**

**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 July 21, 2010 there were:

Present: S. Bulger, Chairman, M. Hale, J. Koval, E. Ophardt, S. Pace, T. Werner  
E. Andarawis, Alternate Member

Absent: K. Paulsen

Mr. Werner offered Resolution #7 and Mr. Hale seconded, and

Whereas, an application has been made to this Board by Teresa Unter for approval of Special Use Permit #80783 to permit operation of a recreational facility within a B3 zone pursuant to Section 208-37C(1)(a) of the Town Code;

Whereas, pursuant to Section 276 of the Town Law a public hearing was advertised and was held on July 21, 2010 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 approval is hereby granted for the application by Theresa Unter for Special Use Permit #80783 to permit operation of a recreational facility within a B3 zone pursuant to Section 208-37C(1)(a) of the Town Code.

Resolution #7 passed 7/21/2010

Ayes: Ophardt, Andarawis, Pace, Hale, Werner, Koval, Bulger

Noes: None

Steven Bulger,

Chairman

## NOTICE OF DECISION

### 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 July 21, 2010, there were:

Present: S. Bulger, Chairman, M. Hale, J. Koval, E. Ophardt, S. Pace, T. Werner  
E. Andarawis, Alternate Member

Absent: K. Paulsen

Mr. Bulger offered Resolution #8, and Mr. Hale seconded, and

Whereas, an application has been made to this Board by Semenza Homes for approval of a subdivision entitled Subdivision of the Lands of Evalyon M. Bartlett consisting of (3) lots;

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on May 26, 2010;

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 July 21, 2010;

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 that the subdivision plat entitled Subdivision of the Lands of Evalyon M. Bartlett consisting of (3) lots is granted preliminary and final subdivision approval conditioned upon satisfaction of the comments offered provided by the Planning Board and the Planning Department with the understanding that the Board supported by a 6-1 vote the waiver of the requirements of Section 179-26C of the Town Code to permit the applicant to include the "stem" or "driveway access" areas of the proposed keyhole lots in the overall acreage calculation of the proposed lots.

Resolution #8 passed 7/21/2010

Ayes: Andarawis, Pace, Hale, Werner, Koval, Bulger

Noes: Ophardt

Steven J. Bulger,

Chairman