

Town of Clifton Park

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PLANNING BOARD

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PAUL PELAGALLI
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Eric Ophardt

Sandra Pace

Kim Paulsen

Tom Werner

(alternate)Emad Andarawis

Planning Board Meeting August 10, 2010

Those present at the August 10, 2010 Planning Board meeting were:

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

Those absent were: M. Hale, E. Ophardt

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 explained that Mr. Andarawis would be sitting as a full voting member of the Board because of Mr. Ophardt's absence.

Public Hearings:

[2010-27] **Snap Fitness** – Special Use Permit #80787 to allow for a recreational use in a B3 zone and site plan review, 821 Main Street – Preliminary public hearing and possible determination. SBL: 264.-3-26

Mr. Bulger, Chairman, called the public hearing to order. The Secretary read the public notice as published in the Daily Gazette on August 2, 2010.

Mr. Chad Pagan, consultant for the applicant, explained that this application remains as presented at the July 21, 2010 meeting. Though at that time the Board granted preliminary site plan approval to the application, a public hearing was required before any action on the Special

Use Permit could be taken. Mr. Pagan explained that the plan continues to show rights-in only at the southernmost access point. Parking spaces have now been illustrated on the plan. It has been verified that the business is located 100' from any residential zone.

Mr. Scavo reported that all comments issued by the Planning Department have been adequately addressed. He recommends that the restricted curb cut be evaluated over a period of 12 to 18 months to ensure that it is operating safely.

Mr. Romano stated that all comments issued by CHA Companies have been adequately addressed.

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

There being no public comment regarding this application, Mr. Bulger moved, seconded by Mr. Koval, to close the public hearing at 7:07p.m. The motion was unanimously carried.

Mr. Werner described the proposed restricted right-in only turn at the southern access point as "dangerous" because drivers are often traveling at high speed when turning from Route 146A to Main Street. The driveway's close proximity to that intersection could pose problems. Ms. Paulsen commented that she would like to see two unrestricted curb cuts at the location because of the limited site distance for drivers traveling south on Main Street. It is her opinion that making a left from the most southern access point would be safer because there is more site distance available to drivers. In response to Mr. Werner's question concerning sight distances at the two access points, Mr. Scavo stated that no evaluations have been required of the applicant. Mr. Bulger questioned how the time for evaluation of functioning of the site access points would be "triggered": Mr. Scavo explained that the Municipality software used in the Planning Department would allow him to set a reminder notice. Mr. Pelagalli advised the Board to consider the type of data that would allow for reasonable evaluation of the access situation. Board members agreed that reports provided by the Town's public safety personnel as well as traffic incident reports provided to the Highway Superintendent would be reliable sources of information. Ms. Paulsen asked the Board to consider language requiring review of the traffic situation *within* a twelve – fifteen month period. Mr. Werner suggested that the situation be referred to the Town's Traffic Safety Committee.

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

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

Mr. Bulger offered Resolution #9, seconded by Mr. Koval, to approve Special Use Permit #80787 to permit the operation of a commercial recreational facility in a B3 zone pursuant to Section 208-37C(1)(a) conditioned upon evaluation of the proposed double access design that restricts traffic movements at the southernmost entrance drive to right-ins only within fifteen

(15) months of the issuance of the Certificate of Occupancy. Ayes: Andarawis, Paulsen, Pace, Werner, Koval, Bulger. Noes: None.

Mr. Bulger explained that since the Board rendered a SEQRA determination and granted preliminary site plan approval at the July 21, 2010 meeting, the Board must grant final site plan approval is required at this evening's meeting.

Mr. Bulger moved, seconded by Mr. Werner, to grant final site plan approval to this application conditioned upon compliance with the terms of approval for Special Use Permit #80787. The motion was unanimously carried.

[2010-023] **Kazmierczak, Mark S.** – Proposed (3) lot subdivision, 444 Vischer Ferry Road – Preliminary public hearing and possible determination. SBL: 271.-5-23.1

Mr. Bulger, Chairman, called the public hearing to order. The Secretary read the public notice as published in the Daily Gazette on August 2, 2010.

Mr. Andrew Kosiba, consultant for the applicant, presented this application that remains generally as presented at the July 21, 2010 meeting. The subdivision plan has been revised to include the required applicable standard notes as well as test pit and percolation information. In addition, a 15' wide easement for future roadway improvements or the installation of a multi-use pathway has been shown on the plan. A 25 ft. no-cut buffer has been provided to the rear of the property and four evergreen trees will be planted along the southern property boundary to help provide visual screening along the proposed combined driveway and the existing driveway on the Lands of Gatto. The speaker explained that the driveway has been relocated to preserve an existing mature tree on Lot #1. The applicant has verified that all adjoining residences are served by connection to the Clifton Park Water Authority system.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, provided comments regarding this application in a memo dated August 5, 2010. The property subdivision does not appear to require variances from Section 179-26C of the Town Code. A Storm Water Pollution Prevention Plan for the entire site will be required when the proposed new homes are to be constructed. Septic system designs will be required prior to the issuance of the respective Building Permits.

Mr. Scavo reported that all issues of concern identified by the Planning Department have been satisfactorily addressed. The applicant will be required to contribute applicable mitigation fees pursuant to the Capital Improvement Plan prepared as a result of the Vischer Ferry Road Corridor GEIS. He explained that the project had received approval from the Saratoga County Planning Board, though a Work Permit from the Saratoga County Department of Public Works will be required for installation of the proposed new driveway.

Mr. Romano reported that although CHA Companies did not provide a comment letter for this evening's meeting, a sign-off letter will be prepared when final plans are presented for stamping.

Mr. Montague reported that the ECC found the subdivision plan acceptable.

Mr. Ray Boltz, 17 Heather Drive, explained that he is very concerned about the development of the parcel that lies directly behind his property since his wife suffers from a heart condition and he believes that the noise and activity generated by construction of a home would be detrimental to her health. He stated his opposition to the subdivision plan since it would diminish the privacy he and his family now enjoy. He asked that the Board deny the application.

There being no further public comment, Mr. Bulger moved, seconded by Ms. Pace, to close the public hearing at 7:30p.m. The motion was unanimously carried.

Board members discussed the proposed 25' no-cut buffer established to the rear of the property. Mr. Bulger requested – and Mr. Kazmierczak agreed – to stake the buffer area prior to the commencement of construction. Mr. Pelagalli explained that although the right of enforcement of preservation of the buffer area rests with those “who take from a common grantor,” enforcement powers may be extended to existing owners of adjacent properties. He recommended that the applicant provide a letter explaining such rights to adjoining property adjoining property owners. Restrictions for disturbance of the no-cut buffer area would be included on the subdivision plat and incorporated in the property’s deed.

Mr. Kazmierczak willingly agreed to provide the 25' no-cut buffer; however, he argued that he should not be required to pay for legal documents to ensure that adjoining property owners are aware of their ability to enforce its preservation since adjoining properties had been cleared of most vegetation. Mr. Koval agreed with Mr. Kazmierczak’s argument, though he supported Mr. Bulger’s belief that the “Board has the opportunity” to offer adjoining property owners some assurance that mature vegetation that provides privacy between properties will be protected. Mr. Pelagalli explained that letters to adjoining property owners advising them of their enforcement rights would be sufficient notification.

Mr. Bulger commended the applicant for his willingness to address Board concerns and, in particular, to provide 25 ft. no-cut buffer between properties and to relocate the driveway to ensure preservation of an existing mature tree.

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

Mr. Koval offered Resolution #10, seconded by Mr. Werner, to waive the final hearing grant preliminary and final subdivision approval to this application conditioned upon satisfaction of the comments offered by the Planning Board, Planning Department, and CHA Companies. Ayes: Andarawis, Paulsen, Pace, Werner, Koval, Bulger. Noes: None.

Old Business:

[2010-008] **Clifton Park Center Mall Subdivision** – Proposed (2) lot subdivision, 1117 Route 146 – Determination from public hearing held on May 11, 2010. SBL: 272.-1-31.11

Mr. Joe Dannible, consultant for the applicant, explained that this application remains as presented at the May 21, 2010 meeting. .78 acres of land will be subdivided from the larger mall parcel to provide for the construction and operation of a Hilton Gardens hotel. The issue of concern that remained unresolved at the last meeting concerned the assurance from the applicant that “the current assessed values of 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.” Mr. Dannible reported that negotiations between the Town and the applicant’s legal representative have been concluded and that the Mr. McCarthy, Town Attorney, has determined that the agreement regarding present and future tax assessments and tax liabilities is acceptable. The applicant is working to obtain sign-offs from the Saratoga County Sewer District and the Clifton Park Water Authority that would permit connection to those utility services.

Mr. Scavo reported that all concerns outlined by the Planning Department have been addressed. Mr. Myers, Director of Building and Development, provided no comment on the application.

Mr. Romano reported that all comments issued by CHA Companies have been adequately addressed.

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

Mr. Bulger explained that an agreement has been reached with the applicant, Town, and school district regarding any potential impact the subdivision would have on the recently executed settlement regarding the Town’s property assessment and the applicant’s tax responsibilities.

Mr. Bulger explained that the public hearing was closed at the May 11, 2010 meeting and that the Board voted unanimously to waive the final public hearing for the application.

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

Mr. Werner offered Resolution #11, seconded by Mr. Andarawis, to waive the final hearing and to grant preliminary and final subdivision approval to this application conditioned upon satisfaction of the comments offered by the Planning Board, Planning Department, and CHA Companies. Ayes: Andarawis, Paulsen, Pace, Werner, Koval, Bulger. Noes: None.

[2010-028] **Regal Cinema Renovation** – Proposed renovation of Clifton Park Center Mall to accommodate an updated entrance and theaters, 22 Clifton Country Road – Preliminary site plan review and possible determination. SBL: 272.-1-31.11

Mr. Joe Dannible, consultant for the applicant, presented this application that proposes an 8,300 SF expansion of the existing cinema facility at Clifton Park Center mall, renovation of the

existing 23,000 SF cinema and renovation of 14,200 SF of mall shops and common areas. The new theater complex will occupy 45,500 SF and provide 2,000 seats in ten (10) theaters. The site entrance at the bend on Clifton Country Road and associated access road will be realigned to accommodate proposed renovations. A new entranceway to the internal mall will also be provided. Mr. Dannible reported that the applicant has submitted a site plan, colored façade rendering of the proposed south entry, a storm water management narrative, and a traffic assessment prepared by Creighton Manning Engineering, LLP. Focusing on new traffic designs, Mr. Dannible stated that the plan calls for realignment of the existing southern site entranceway enhanced by “revitalized landscaping” and a lot dedicated to short-term parking near the theater entranceway with a circular drive for the convenient pick-up and drop-off of theater patrons. The speaker reported that the traffic study which was based upon a build-out scenario that included the theater expansion, 100-room Hilton Garden Inn, and an approximate 1,600 SF Dunkin’ Donuts Shop, concluded that the project would generate approximately 166 additional trips during the PM peak hour. No capacity related improvements are recommended for the Clifton Country Road/McDonough Way intersection. A review of the 95th percentile queue on the southbound Clifton Country Road left-turn lane and on the left and right turn lanes on the westbound McDonough Way approach indicated that adequate storage will be provided to accommodate traffic associated with the proposed expansion. It is estimated that the average queue on the southbound left-turn lane on Clifton Country Road will remain at one to two vehicles during the PM peak hour. Mr. Dannible noted that Ms. Cimino, project coordinator, “looked at the project conservatively” to ensure that traffic could be managed safely with the roadway modifications proposed. Mr. Dannible stated that details of the proposed sanitary sewer and water connections will be provided. He stated that since the plan proposes approximately three (3) acres of site disturbance, a Storm Water Pollution Prevention Plan will be prepared. An infiltration system located beneath parking areas will be designed to accommodate the increased storm water capacities resulting from all planned improvements to the mall complex.

Mr. Scavo explained that since the project plans and supporting documents were just recently submitted to the Planning Department, technical comments and recommendations had not been prepared. Mr. Romano stated that CHA Companies will complete a comprehensive review of the materials submitted with the theater expansion application.

Mr. Montague, Environmental Specialist, reported that the ECC provided the following comments regarding this application. The ECC notes that sensitive environments may exist on properties adjacent to the project site, thus there is a potential for environmental impacts to these areas in the event that the capacity of the storm water management system is inadequate. As such the applicant's drainage, storm water, and erosion control plans should be protective of these environments during construction and occupation of the project. The ECC recommends careful review of these plans by the Town Engineer.

Mr. Werner reiterated comments he had made at the previous meeting regarding pedestrian access to the mall from the southern parking area. He recommended that the applicant provide a defined walkway, possibly with colored pavers, through the parking lot to provide pedestrians with safe accommodation to their destinations. A discussion of the best location for “safe routes” through the parking area ensued. Mr. Koval commented that the drop-off and pick-up points near the Colonie Center theater area does not appear to function well and encouraged

the applicant to provide a sufficient number of temporary parking spaces and enough queuing space for adequate traffic circulation. Mr. Bulger asked that the applicant provide building elevations and colored façade renderings for the Board's consideration. Board members expressed general approval of the conceptual site plan.

New Business:

There was no new business scheduled for this evening's meeting.

Minutes Approval:

Mr. Bulger moved, seconded by Mr. Koval, approval of the minutes of July 21, 2010 as written. Ayes: Pace, Andarawis, Werner, Koval, Bulger. Noes: None. Abstained: Paulsen.

Mr. Bulger moved, seconded by Ms. Pace, adjournment of the meeting at 8:20p.m. The motion was unanimously carried. The next meeting of the Planning Board will be held on September 15, 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 #9

**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 August 10, 2010 there were:

Present: S. Bulger, Chairman, J. Koval, S. Pace, K. Paulsen, T. Werner
E. Andarawis, Alternate Member

Absent: M. Hale, E. Ophardt

Ms. Paulsen offered Resolution #9 and Ms. Pace seconded, and

Whereas, an application has been made to this Board by James F. Marzano, Jr. for approval of Special Use Permit #80787 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 August 10, 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 James F. Marzano, Jr. for Special Use Permit #80787 to permit operation of a recreational facility within a B3 zone pursuant to Section 208-37C(1)(a) of the Town Code conditioned upon evaluation of the proposed double access design that restricts traffic movements at the southernmost entrance drive to right-ins only within fifteen (15) months of the issuance of the Certificate of Occupancy.

Resolution #9 passed 8/10/2010

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

Noes: None

Steven Bulger,

Chairman

NOTICE OF DECISION

Resolution #10

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 August 10, 2010, there were:

Present: S. Bulger, Chairman, J. Koval, S. Pace, K. Paulsen, T. Werner
E. Andarawis, Alternate Member

Absent: M. Hale, E. Ophardt

Mr. Koval offered Resolution #10, and Mr. Werner seconded, and

Whereas, an application has been made to this Board by Mark Kazmierczak for approval of a subdivision entitled Subdivision of the Lands of Mark S. Kazmierczak consisting of (3) lots;

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on August 10, 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 August 10, 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 Mark S. Kazmierczak consisting of (3) 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 #10 passed 8/10/2010

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

Noes: None

Steven J. Bulger,

Chairman

NOTICE OF DECISION

Resolution #11

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 August 10, 2010, there were:

Present: S. Bulger, Chairman, J. Koval, S. Pace, K. Paulsen, T. Werner
E. Andarawis, Alternate Member

Absent: M. Hale, E. Ophardt

Mr. Werner offered Resolution #11, and Mr. Andarawis seconded, and

Whereas, an application has been made to this Board by DCG Development for approval of a subdivision entitled Subdivision of the Lands of Clifton Park Center consisting of (2) lots;

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on August 10, 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 August 10, 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 Clifton Park Center consisting of (2) 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 #11 passed 8/10/2010

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

Noes: None

Steven J. Bulger,

Chairman