

Town of Clifton Park Planning Board
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PLANNING BOARD

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MEMBERS
Emad Andarawis
Joel Koval
Eric Ophardt
Kim Paulsen
Eric Prescott
Tom Werner

(alternate) Andy Neubauer

Planning Board Meeting
September 22, 2015

Those present at the September 22, 2015 Planning Board meeting were:

Planning Board: R. Ferraro, Chairman, E. Andarawis, J. Koval, E. Ophardt, K. Paulsen,
E. Prescott, T. Werner
A. Neubauer – Alternate Member

Those absent were: None

Those also present were: J. Scavo, Director of Planning
J. Bianchi, M J Engineering and Land Surveying, P.C.
P. Pelagalli, Counsel
J. Dean, Secretary

Mr. Ferraro, Chairman, called the meeting to order at 7:00p.m. All in attendance stood for recitation of the Pledge of Allegiance.

Minutes Approval:

Mr. Ophardt moved, seconded by Ms. Paulsen, approval of the minutes of September 9, 2015 as written. Ayes: Ophardt, Paulsen, Werner, Neubauer, Ferraro. Noes: None. Abstained: Andarawis, Koval, Prescott.

Public Hearings:

There were no public hearings scheduled for this evening's meeting.

Old Business:

[2015-019] **Clifton Park Plaza Redevelopment** - Proposed demolition and redevelopment of the existing shopping plaza and adjacent restaurant parcel to include construction of a 54,286 SF grocery store, 11,115 SF retail/pharmacy, and 10,000 SF retail and bank with drive-thru, 1018-1028 Route 146 – Review of stormwater management plan. SBL: 271.-1-7.1

Mr. Ferraro introduced this agenda item, explaining that only stormwater management plans proposed for the project were being reviewed at this evening's meeting. He noted that although a revised preliminary application has been submitted for consideration at the October 14, 2015 meeting, Planning Board members received that plan just this evening: comprehensive Board review of the entire proposal will take place at the next meeting.

Mr. John Lapper, legal representative for the applicant, Mr. Gregg Ursprung, engineering consultant, Mr. Steve Powers, representative of Nigro Companies, and Ms. Wendy Holzberger, Traffic Engineer, were all present at the meeting.

Mr. Lapper asked that Mr. Gregg Ursprung, design consultant for the applicant, be permitted to list the major revisions to the overall redevelopment plan. Mr. Ursprung explained that a number of design changes had been made in response to comments made by town officials, the town's designated engineer, and Board members. A mountable curb has been added to the 8' wide sidewalk along the northerly side of the grocery store, a more direct pedestrian link has been made via a flush sidewalk from the existing pathway along Route 146 to Market 32, a boulevard-type ingress/egress has been provided along Route 146, a three-way STOP has been provided within the northeasterly parking area drive aisle, YIELD signs have been placed as recommended near Market 32, the parking lot drive aisle along the westerly property border has been closed due to its proximity to the Vischer Ferry Road curb cut, a sidewalk link (possibly a staircase) will be provided from Vischer Ferry Road to an area to the rear of the bank building, and the Rite Aid store has been redesigned to be more compatible with other buildings included in the complex. Mr. Ursprung explained that all comments provided by M J Engineering and Land Surveying, P.C. will be satisfactorily addressed.

Mr. Scavo reported that all comments prepared by Mr. Myers, Director of Building and Development, Ms. Reed, Chief of the Bureau of Fire Prevention, the ECC, Mr. Reese, Stormwater Management Technician, M J Engineering and Land Surveying, P.C., and the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee for all projects to be reviewed at this evening's meeting have been forwarded to Board members for their consideration.

Mr. Scavo reported that Mr. Myers offered the following comments on this application in a memo dated September 8, 2015. Mr. Myers notes that his comments are limited to a review of stormwater treatment since no Stormwater Pollution Prevention Plan was submitted. He explains that plans call for the installation of two underground storage and infiltration systems: one outlets to the Dwaas Kill and one to a ditch along Route 146 which eventually flows to the Dwaas Kill. Discharge to both will be after treatment via COS units and passage through the system. Additional hydrants are needed on the property.

Mr. Scavo read the comments issued by the ECC. The ECC notes the applicant proposes reduction of greenspace noting that current greenspace is already below the requirements. The applicant should maintain a minimum 35% greenspace in accordance with B3 space and bulk standards required by Town Zoning Code Section 208-38G as calculated for the entire project. The ECC notes that the project includes extensive paving adjacent to, or in the vicinity of, the Dwaas Kill: it is recommended that the Planning Board require the applicant to incorporate sediment traps and oil water separators with appropriate capacities to limit the migration of vehicular contaminants into these sensitive environments. The ECC notes that sensitive environments exist on properties adjacent to the project site, thus there is a potential for negative impacts to these areas in the event that the capacity of the stormwater management system is inadequate. As such, the applicant's Drainage, Stormwater 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. The stormwater system should be sufficient to handle the combined stormwater runoff projected for the final development configuration. The ECC recommends that traffic flow on and off site be evaluated for potential traffic conflicts and safety for future development. The applicant shall ensure that the plan complies with Article X Land Conservation Districts LC – Section 208-69 B of the Town Code.

Mr. Scavo reported that Mr. Reese, Stormwater Management Technician, offered a number of comments regarding this project in a memo dated September 18, 2015. This project is planning on infiltrating 100% of the water quality volume that will meet the enhanced phosphorus removal standards required for outleting into the Dwaas Kill. The underground chambers also decrease the redevelopment runoff considerably from the existing conditions. The stormwater report states that the installation of the proposed stormwater management system will be a substantial improvement from the existing conditions on site: Mr. Reese concurred with this conclusion. Several comments related to stormwater plans. The applicant is asked to provide a detail of the new connection at the outfall to the Dwaas Kill. Additional rip-rap to stabilize the outfall at this location is recommended. The applicant is asked to clarify why the proposed storm manhole located in the northeast corner of drainage area P-3 has a rim elevation of 312.21', placing it 4' above grade. The applicant should indicate whether or not there will be additional soil testing at the infiltrator locations. The proposed underground infiltration area west of the grocery store is presently located under the building. There is concern because at the B-20 test hole located 90' from proposed infiltrators ground water was encountered only 5' below surface. For the northern location of the infiltrators there are two boring locations that are 8' in depth and do not reach the depth to verify groundwater separation from the bottom of the proposed chambers. The crushed stone beds of infiltrator units must be kept a minimum of 25' away from structures. The location of inspector ports for the underground infiltration units must be shown on the Utility Plan. The infiltration system should be designed with an isolator row for maintenance and ease of cleaning. If there will be any existing impervious areas converted to pervious areas, those areas should be shown on the plans. If so, there should be notes on the plans that address where the areas are and how the soil restoration shall be done.

Mr. Reese commented on the Notice of Intent. The Stormwater Pollution Prevention Plan (SWPPP) must include a description of how the site planning practices as checked off in question

#27 of the Notice of Intent (NOI) that were used. Questions 32, 32A and 40 in the NOI must be answered.

Several comments related to the Stormwater Report. It appears that the northwest portion of proposed drainage area P-1B, drains to UG-1 - not UG-2. The applicant is asked to explain how 100% stormwater treatment is being addressed at the new construction and the non-redevelopment areas. The time of concentration should be shown on the pre- and post-development drainage maps. The provisions for the emergency overflow at this site should be included on the project plan. Clarification regarding the handling of drainage at the lower end of the truck loading dock is requested. Mr. Reese expressed concern that there is only one catch basin below the finished floor elevation (FFE) that drains to the infiltration area at the westerly side of the proposed grocery store: the applicant is asked to consider adding a second catch basin below the FFE in case of clogging. The percentage of pre-treatment provided by the hydrodynamic separators must be calculated and included in the report. For infiltration areas greater than 2 inches an hour, 50% pretreatment is necessary: for infiltration areas greater than 5 inches an hour, 100% pretreatment is necessary.

Mr. Reese reported that a review of the Stormwater Pollution Prevention Plan resulted in the following comments. If any offsite borrow areas are proposed for this project, they should be mentioned in the plan. The maximum land disturbance at one time for this project should be calculated. Appendix D – Test Pit Logs reports at what levels water was or was not encountered, but does not include information regarding visibility of soil mottling that could possibly indicate the presence of a seasonal high water table.

Mr. Bianchi explained that, after review of the stormwater management information presented, M J Engineering and Land Surveying, P.C. provided a number of comments on the design plan. Section I.L of the Stormwater Pollution Prevention Plan (SWPPP) provides the inspection frequencies during construction that are consistent with GP-0-15-002; however, the project discharges to a 303d impaired waterbody. As such, the inspection frequency is more rigorous as outlined in Part IV.C.2.e. of GP-0-15-002: Section I.L of the SWPPP must be updated to correspond to the requirements of Part IV.C.2.e. of GP-0-15-002. The applicant is asked to provide documentation within the SWPPP to support permit eligibility with respect to cultural and historic resources in accordance with Section II.C.2 of GP-0-15-002. Question 4 of the NOI indicates that 8 acres of disturbance is expected with this project. Question 5 then indicates that no more than 5 acres will be disturbed at one time. The applicant is asked to provide a phased grading and disturbance plan to illustrate how the site will be constructed while disturbance remains below the 5 acre threshold. Section III.A of the Stormwater Management Report (SWMR) notes the project will be advanced under the criteria outlined in Chapter 9 of the NYS Stormwater Management Design Manual (NYSSMDM). Under this approach, the use of proprietary treatment devices requires the treatment of 75% of the calculated WQv. There is no apparent mention on how the new impervious area will be treated since it is understood that the project will result in an increase in impervious surfaces. These areas are required to capture and treat 100% of the WQv: the applicant must clarify whether or not new impervious area is proposed and if the design accounts for 100% treatment of the WQv for these areas. Under Section IV.A, of the SWMR for each storm event summarized, the applicant is asked to provide the resulting volume in ac-ft in addition to flow rates already provided. The 25-year, 24-hour HydroCAD model is believed

to be provided to support the design of the closed drainage system associated with the project. In reviewing the model, it appears that the closed drainage system adequately conveys runoff without substantial surcharge. For ease of review, the design plan should provide number designations for the storm sewer structures shown on Sheet C111 such that they match pond designations in the HydroCAD model. Appendix D provides information obtained from the soil investigations conducted. There were no infiltration tests conducted within the footprint of either infiltration facility, but in the general vicinity. Additional infiltration tests are warranted to meet the minimum requirements of Section 6.3.1 of the NYSSMDM and must be within the footprint of each facility. Some of the test borings suggest moist soils in the upper reaches of the borings. The applicant must confirm that both of the infiltration facilities are being provided with a minimum of 3 feet of vertical separation between the facility bottom and seasonal high ground water pursuant to Section 6.3.1 of the NYSSMDM. The SWPPP must include a section listing all available green infrastructure techniques available and a discussion of why certain ones were not utilized for the project. It appears that some practices may be easily claimed, thereby increasing the level of WQv and RRv provided (i.e. tree plantings). Within Appendix 20, the post construction maintenance requirements for soil restoration as outlined in Section 5.1, pages 5-20 of the NYSSMDM must be provided. The requirements of soil restoration in accordance with Section 5.1, Table 5.3 of the NYSSMDM must be provided on the plan set. Sizing information for the proprietary pre-treatment practices to confirm each is sized appropriately for the corresponding infiltration rates of the down gradient infiltration practice must be provided pursuant to Section 6.3.3. of the NYSSMDM.

Ms. Paulsen thanked the applicant for the redesign of the Rite Aid store, stating that she believed it to be more compatible with other building designs proposed for the shopping center. Mr. Koval commented that the closure of the drive aisle closest to Vischer Ferry Road was prudent and he recommended that the applicant consider the elimination of two parking spaces to the rear of the bank near the drive-through lane to prevent traffic conflicts. In response to his concerns about the location of the dumpster situated to the south west of the Rite Aid building, Mr. Ursprung explained that the dumpster served only the Rite Aid building and would be “screened as much as possible.” Mr. Ophardt questioned whether or not a curbed median was provided at the right-in/right-out only curb cut along Route 146: Mr. Ursprung reported that a curbed median was provided and that directional signage would not hinder truck traffic. Mr. Werner observed that the Vischer Ferry Road access point may well become the main entrance to the complex and recommended that the applicant consider a two-way center lane or dedicated left turn lane for those traveling south along Vischer Ferry Road. Creighton-Manning representative Wendy Holzberger stated that she believed it best to maintain single lane traffic flow along that roadway but she agreed to consider Mr. Werner’s recommendations when re-evaluating the traffic plan. Referencing the comments issued by ECC, Mr. Ferraro expressed his concern for protection of the Dwaas Kill noting that the project calls for an increase in impervious surfaces in the southeasterly portion of the site. Mr. Ursprung explained that the project plan includes increased pre-release treatment of stormwater in an effort to protect the stream’s water quality. Mr. Bianchi noted that NYSDEC regulations require twice-weekly inspections for stormwater management facilities located in close proximity to impaired stream corridors: this mandate applies to the development of this site. Mr. Ophardt questioned whether or not the Rite Aid dumpster would impede pedestrian traffic: Mr. Ursprung explained that the sidewalk skirts the dumpster area. In response to Mr. Ferraro’s question regarding the location of the pedestrian access from Route 146 through the site

to the grocery store, Mr. Ursprung explained that the proposed route was chosen primarily due to topography: the area selected permitted the installation of an ADA-compliant walkway.

New Business:

[2015-045] **380 Ushers Road (Lands of Randall Valachovic)** – Proposed (5) lot subdivision, 380 Ushers Road – Conceptual review. SBL: 259.-3-11

Mr. Duane Rabideau, consultant for the applicant, presented this application that calls for the subdivision of five (5) acres of land situated on the southwesterly side of Ushers Road into three (3) lots of 20,000 SF, one (1) lots of 1.22 acres, and one (1) lot of 2.4 acres. The property, located directly across Ushers Road from Hilltop Hollow Drive and Chandler Drive lies within the R1 zoning district: all lots conform to or exceed the bulk and space requirements outlined in the Town Zoning Code. Lot E is designed as a “keyhole” lot and will require specific Planning Board approval. Lots B and C and Lots D and E are proposed with a combined driveway: Lot A will be accessed via a private drive from Ushers Road. All lots will be served by existing municipal water and sewer lines within the Ushers Road right-of-way. A front setback variance from the Zoning Board of Appeals will be required since building locations have been situated to avoid grading of existing slopes. A Full Environmental Assessment Form was submitted along with the application.

Mr. Scavo reported receipt of an e-mail from Mr. Richard Burkhammer, 19 Knollwood Drive, which states his opposition to the proposed subdivision because of its negative impact on traffic, the “beauty of Ushers Road,” and the “overall country feel” of the Ushers Road corridor. Mr. Scavo also noted that the Town Clerk was in receipt of a letter from Mr. and Mrs. Heukensfeldt Jansen, 7 Stonegate Road that expressed concerns regarding the proposed subdivision, explaining that additional development would not only diminish “the natural oasis of peace” in the backyards of those along Stonegate Road whose properties border the Lands of Valachovic, but also “ruin the view, increase noise levels, and have a significant negative effect on property values.”

Mr. Scavo reported that Ms. Reed, Chief of the Bureau of Fire Prevention, requested that all approved postal addresses be added to the final plat.

Mr. Scavo read the comments prepared by Mr. Myers, Director of Building and Development. Mr. Myers noted that the application calls for the subdivision of a pre-existing single lot in the R1 zoning district into five (5) parcels. The 20,000 SF bulk requirement with water and sewer is met on all five (5) lots: lot width requirements are also met. Lot E is a keyhole lot which meets all setback and road frontage requirements, though Planning Board approval of the lot configuration will be necessary. Mr. Myers noted that the Planning Board may wish to require the applicant to maintain existing vegetative buffers to existing developments. A full Stormwater Pollution Prevention Plan will be required.

Mr. Scavo reported that the ECC offered the following comment after review of the project plan. The ECC would like to see the proposed grading to verify that onsite drainage will not impact adjacent properties or Ushers Road.

Mr. Scavo explained that Mr. Reese, Stormwater Management Technician, offered the following comment in a memo dated September 18, 2015. The project will disturb more than one acre and will need a basic Stormwater Pollution Prevention Plan that will include an Erosion and Sediment Control per the NYSDEC requirements. The plans should state the total area of disturbance to verify that it will be less than the five (5) acre threshold.

Mr. Scavo read the comments and recommendations provided by the Planning Department. In accordance with §208-98 Special Setback Lines within the Town Code, no building or part of a building, other than steps, eaves and similar fixtures along Ushers Road, shall extend nearer to the center line of the street or road than 100 feet if the building lies within a residential district. Based on existing site topography to the rear portions of parcel, however, a variance request by the applicant to place the proposed dwellings on Lots A, B, C, & D at the 50' front setback line appears reasonable. Lot E appears to be a proposed keyhole lot: in accordance with §208-86 of the Town's Zoning Code, keyhole lots may be permitted by the Planning Board within the R1 zone for the purpose of a single-family dwelling. The site statistics table should be updated to note the required setbacks for Lot E shall be minimum 50 feet for the main structure. It appears that the proposed water lateral for Lot E is to be constructed underneath a private driveway. Utilities such as water laterals, sewer laterals, gas, electric and storm/foundation drains shall not be installed underneath driveways. Standard notes for a keyhole lot shall be added to the preliminary plat. The applicant is asked to provide the proposed length of the driveway on Lot E. The following note needs to be added to the preliminary plat:

The proposed driveway shall conform to Sections 503 and 511 of the Fire Code of New York State.

An erosion and sediment control plan with initial clearing and grading limits for construction should be shown on the preliminary plat. It is assumed that the existing dwelling will be demolished. The assessment property information indicates that the existing dwelling is serviced by private water and septic: appropriate procedures for abandonment of the existing well and septic system should be noted on the plan. Additional comments will be provided upon review of the preliminary plat.

Mr. Bianchi reported that M J Engineering and Land Surveying, P.C. provided a number of comments and recommendations regarding this application. The project would result in land disturbances in excess of 1 acre and, therefore, is subject to the NYSDEC Phase 2 Stormwater Regulations and General Permit GP-0-15-002. Since the project is a residential subdivision expected to disturb between 1 and 5 acres, pursuant to Appendix B, Table 1 of GP-0-15-002, a basic Stormwater Pollution Prevention Plan (SWPPP) addressing erosion and sediment controls shall be provided. The noted SWPPP must be submitted as part of subsequent submissions. As a result of the project being subject to the Stormwater General Permit GP-0-15-002, the applicant will need to seek a determination from the NYS Office of Parks, Recreation, and Historic Preservation and the NYSDEC regarding the absence or existence of cultural or historic resources and threatened and endangered species, respectively, within the project boundaries to demonstrate permit eligibility. The subdivision will be provided public sanitary sewer from the Saratoga County Sewer District No. 1 sewer system via individual service connections to an existing sewer main located along Ushers Road. It is recommended that the Town be furnished with documentation that the SCSD is willing and capable of servicing this project. The applicant has indicated water service will be provided by

the Clifton Park Water Authority via individual service connections to an existing water main located along Ushers Road. It is recommended that the Town be furnished with documentation that the CPWA is willing and capable of servicing this project.

A number of Mr. Bianchi's comments related to State Environmental Quality Review requirements. Based upon a review of the proposal, it is considered a realty subdivision under Environmental Conservation Law (ECL) Part 74. In accordance with 10 NYCRR Part 97 in the NYSDOH regulation implementing SEQRA (Article 8 of the ECL), Section 97.14(b)(2)(ii) requires that a realty subdivision be classified as a Type I action. Since this application meets the criteria of a Type I action, a Full Environmental Assessment Form (FEAF) must be submitted to assist the Lead Agency in its evaluation of the project and its potential impacts. Under the assumption that the Town Planning Board is to request Lead Agency status under SEQRA, a coordinated review is required for Type I actions. Under a coordinated review, involved/interested agencies to be engaged may include, but are not necessarily limited to the following: Clifton Park Water Authority – taking of additional water; Saratoga County Sewer District No. 1 – discharge to public sanitary sewers; NYS Department of Health – realty subdivision approval; NYS Department of Environmental Conservation – permit coverage under stormwater SPDES, identification of threatened and endangered species; NYS Office of Parks, Recreation and Historic Preservation – identification of cultural or historic resources. Additional agencies may be identified by the town during review of the project. Under Part C.2.a of the Full Environmental Assessment Form the response indicates that the project site is not within the study area of an adopted land use plan. It is believed that the 2006 Town Comprehensive Plan included this parcel: the applicant is asked to confirm the response provided. The applicant must provide a response to Part D.1.d.ii in regards to the application being a cluster/conservation layout. Under Part D.2.a, the response of “yes” is provided, but appears it should be “no” based upon the narrative directions provided within the question: please confirm that the response is correct. Under Part D.2.c.ii, additional information must be furnished to substantiate the response that the existing water district is capable of servicing the project. Under Part D.2.d.iii, additional information must be furnished to substantiate the response that the existing sewer district is capable of servicing the project. Under Part D.2.m., the response indicates that the action will not produce noise that will exceed existing ambient noise levels during construction, operation, or both; however, it is typical that, at a minimum, during construction, equipment will generate noise that may exceed base line ambient noise levels: the applicant is asked to confirm that the response is correct. The applicant must provide a response to Part E.2.f regarding the percentage of site with specific land slopes. Under Part E.2.h.i, the response indicates that there are no wetlands within the project site: the applicant must provide supporting information as to how this determination was made. Under Part E.2.o, the response indicates the site does not contain any species of plants or animals that are listed by the federal government or NYS as endangered or threatened. A majority of Saratoga County has been determined to potentially include the Indiana Bat or Northern Bat, both with are federally listed\endangered species. The applicant must confirm that the response provided is correct.

Mr. Bianchi offered comments specifically related to the subdivision plan. The project is located within the town's R1 residential zoning district. The proposal for single family homes is considered a permitted principal use within the district pursuant to Section 208-10(B)(2)(b) of the Town's Zoning Code. In reviewing Sections 208-11, 208-86, and 208-98 of the Code, the

following bulk lot deficiencies have been identified. The parcel is located along Ushers Road. Pursuant to Section 208-98, the front yard setback shall be 100 feet from the center line of Ushers Road. It would appear that Lots A through D do not provide the minimum front setback. Pursuant to Section 208-86 of the Town's Zoning Code, keyhole lots may be permitted by the Planning Board only in Residential Districts R1 and R3 and only in rare instances when required due to unusual conditions of the area. The Planning Board shall review the circumstances surrounding the applicant's desire to create a keyhole lot for proposed Lot E. The applicant must provide notation on the plan consistent with the language noted in Section 208-86(F): the expected area of disturbance with an outline of the disturbance; that the parcel has or has not been evaluated for regulated wetlands; that any driveway in excess of 500 feet must meet the requirements of Section 511 of the Fire Code of New York State; any other designated notation directed by the Town. The Site Statistics Table should be adjusted to account for the appropriate minimum setbacks for standard lots (based upon Section 208-98 of the Town's Zoning Code) and the keyhole lot (based upon Section 208-86). Further, if the requested variances are granted, the plan should include information regarding the extent of relief granted, date the relief was granted, and Zoning Board of Appeals resolution for reference. The project proposes a shared driveway: the applicant should furnish the Planning Board counsel with a draft driveway maintenance agreement. Should the subdivision be approved, it is suggested that the applicant furnish the town with proof of filing of the easement and agreement with the County Clerk's office prior to issuance of a Building Permit for either lot. The plan shows minimal tree clearing along Ushers Road. There should be a review of site distance at each driveway to ensure that if the noted existing tree line is to remain along the right-of-way, it does not impact sight distances exiting from the drives onto Ushers Road. The sight distance analysis shall be based upon the posted speed limit of Ushers Road. If tree clearing is required, the extent of the clearing shall be shown on the plan. A delineation of the expected area of disturbance associated with the overall project must be provided. The site has extensive topographic relief. In order to support the orderly development of each lot and the extent of tree clearing shown, an overall grading plan for the project should be developed. This will ensure that lot drainage will be directed appropriately, without adversely impacting adjacent lots (either existing or proposed). Information must be provided on the plans to indicate how the potential sump pump lateral may be positioned in conformance with Section 86-7(A)(6) of the Town Code. The noted encroachments of fencing from the adjacent Lands of Huskensfeldt and Lands of Gradola shall be reconciled prior to final plat approval. The applicant needs to obtain the 911 emergency response addresses for each new lot and include them on the final plat.

Mr. Paul Hare, 17 Stonegate Road, asked for an outline of the procedure for project review. Describing the application as "relatively straightforward," Mr. Ferraro explained that the application was reviewed in its "conceptual or sketch" form at this evening's meeting at which time town staff members, the ECC, the Director of Building and Development, Chief of the Bureau of Fire Prevention, Town Designated Engineer, and Board members would provide comment on the proposal. The applicant will be directed to revise the plans accordingly and submit preliminary plans. If the plans submitted are deemed complete, a public hearing will be conducted and a determination rendered. In response to Mr. Hare's question regarding the availability of the plan, including a grading plan, for public review, Mr. Scavo explained that applications are submitted to the Planning Department twenty (20) days before a scheduled meeting at which time they are

available for public scrutiny. Pursuant to Town Code Chapter 179, preliminary plans must include a grading plan.

Mr. Anthony LaFleche, 21 Wheeler Drive, asked if the proposed 50' setbacks from Ushers Road were measured from the edge of pavement or roadway centerline. Mr. Rabideau reported that the proposed homes are to be situated 50' from the edge of pavement - 80' from the centerline of Ushers Road. In response to Mr. LaFleche's question regarding the amount of vegetation to be preserved on site, Mr. Rabideau explained that it is the applicant's intent to preserve as much vegetation as practicable. Mr. Rabideau responded to Mr. LaFleche's question regarding the location of the eastern most driveway by noting that it was "offset" from Hilltop Hollow Court. Mr. LaFleche recommended that the Planning Board require the applicant to post a "Hidden Drive" sign to warn those traveling from west to east along Ushers Road of driveway locations.

Ms. Mariann Molocznik, 24 Eagle Trace, explained that her property borders the proposed driveway for the keyhole lot and asked how far away the drive would be from the property line. Mr. Rabideau explained that the access strip provided is 40' wide: the paved portion of the drive would be 16' wide.

Mr. Hare explained that the residents of the Stonegate subdivision must abide by restrictive covenants, including one limiting tree removal. He asked if those purchasing the proposed new homes would be bound by such rules. Mr. Rabideau stated that the applicant will consider the placement of no-cut buffer zone along property boundaries. He pointed out that the site's topography may help to minimize visual impacts. Mr. Hare argued, however, that visibility changed with the "angle of the view" and the season of the year. Mr. Rabideau pointed out that many potential buyers find forested sites desirable and those attracted to such sites often seek to preserve as much vegetation as possible.

In response to Mr. Werner's question regarding the adequacy of sight distance to the west, Mr. Rabideau explained that although the sight distance meets the requirement, the applicant is willing to permit some clearing along the right-of-way to improve visibility. Mr. Koval commented that he usually "does not take issue" with subdivision proposals that appear to meet code requirements; however, since this application has many issues that may make a four lot subdivision as economically viable as the five lot one proposed, he recommended that the applicant consider a reduction in density. He asked that the applicant consider revision of the design plan citing as rationale the cost of installation of a driveway that must meet New York State Fire Code standards, the extra clearing and grading that may exceed disturbance thresholds and require preparation of a full Stormwater Pollution Prevention Plan, the need for setback variances approved by the Zoning Board of Appeals, and the additional burdens to be borne by the applicant as a result of the project being identified as a realty subdivision classified as a Type 1 action pursuant to SEQRA. Mr. Andarawis stated his preference for a four (4) lots not only for the reasons listed by Mr. Koval but also because the reduction in density would provide additional buffering between proposed and existing residences. Mr. Ferraro also cited the zoning regulations regarding keyhole lots in that they should be permitted only in rare instances when required due to unusual conditions of the area which, he believes, in this case, has not been met. Mr. Rabideau agreed to discuss the comments and recommendations presented at this meeting with his client.

[2015-046] **Emma Lane** – Proposed (6) lot commercial subdivision within the Verbeck Frank PUD, 2-9 Emma Lane – Conceptual review. SBL: 271.-2-22.111

Mr. Tom Andress, consultant for the applicant, presented this application for the Board's consideration. He reported that the parcel of land to be subdivided lies on the northerly side of Route 146 just west of its intersection with Northcrest Drive and Moe Road and is entirely contained within the Verbeck Frank Planned Development District. The applicant and property owner, Provident Development Group, LLC, proposes the subdivision of 7.1 acres of land currently containing five (5) one-story office buildings to create six (6) separate lots. Approval of the subdivision will result in each existing building to be situated on its own individual parcel: the sixth lot will be used for future development of a one-story office building in conformance with the existing PDD legislation. Cross-access and common easements that "run with the land" will be established to ensure proper maintenance of all parcels and infrastructure. Mr. Andress explained that a subdivision is requested at this time because existing tenants have expressed interest in purchasing the buildings. It is the applicant's intention to convey ownership of all sewer line connections to the Clifton Park Sewer District. Mr. Andress explained that, in response to comments and recommendations provided, the plan presented for the Board's consideration has been reworked to show 40' of frontage for each parcel on Route 146. Required notes have been added to the plan and existing postal addresses are displayed.

Mr. Ferraro asked for Town Board support of the purchase of technologically advanced equipment for the Planning Department that would make Planning Board review of applications easier and more comprehensive.

Mr. Scavo read the comments prepared by Mr. Myers, Director of Building and Development. The applicant proposes the subdivision of property within an existing PUD into six (6) individual building lots, several of which would be configured as keyhole lots. The keyhole lots proposed would have less than the required frontage on a public road and, as a result, would require variances from the Zoning Board of Appeals. The PUD was approved as four separate lot areas. The proposed subdivision would make area B the five existing buildings and the vacant land into six (6) individual lots. Areas A, C, and D appear to remain the same. Two of the proposed lots would be less than the 40,000 SF minimum required for B1 zoning which is the underlying zoning district for the PUD: variances for the reduced lot sizes would be required. Two of the five existing buildings would no longer meet the front setback requirements and, therefore, require approval of appropriate variances. Stormwater management appears to cross several property lines which is unacceptable. Mr. Myers recommends "re-evaluation of the PUD language."

Mr. Scavo read the comments prepared by the ECC after review of the application. The applicant should maintain a minimum 35% greenspace in accordance with the PUD as calculated for each new subdivided parcel. Lots #2 and 3 appear have minimal amounts of greenspace. The applicant must indicate the proposed amount of greenspace for this project. The party responsible for maintenance of stormwater management areas should be identified.

Mr. Scavo noted that Mr. Reese, Stormwater Management Technician, requested that the Planning Board require that there be a stormwater maintenance agreement with the future land owners who benefit from the stormwater management area.

Mr. Scavo read comments prepared by the Planning Department. Since the project is within 500' of NYS Route 146, a referral to the Saratoga County Planning Board shall be made in accordance with Sections 239m and n of General Municipal Law. It appears the project will require an area variance from the Zoning Board of Appeals for a subdivided lot that will have less than 40' of frontage on a public street pursuant to §179-26 of the Town Code. Mr. Myers, Chief Zoning Officer, will determine whether or not a variance is necessary. An existing reciprocal ingress/egress and utility easement is referenced on the proposed subdivision map within Verbeck Lane and the parking lot areas. Reiterating the ECC's concerns, Mr. Scavo requests that the applicant provide information as to who will be responsible for maintenance of the stormwater management area within Lots #4, 5, and 6. A private stormwater maintenance agreement with the Town as the MS4 should be executed as a condition of subdivision approval. Pursuant to §A217-314(B)(3) of the Town Code, Area B of the PDD consisted of six buildings, each 4,800 SF in floor area, for a total of 28,800 SF of office land use. This resulted in an overall site coverage for Area B as follows:

Building Area:	28,800 S.F. = 9%
Pavement Area:	79,766 S.F. = 25%
Green Area:	202,127 S.F. = 65%

The proposed subdivision will not affect these cumulative totals within Area B of the PDD. Any future development beyond what was contemplated within Area B under the existing PDD and approved site plan dated February 25, 2003 will require an amendment to the existing PDD and site plan review. A note should be added to the plan which states:

The properties within the subdivision plan are bound by all covenants, restrictions, and conditions of the site plan approval for Planning Board Project 2002-041.

Mr. Bianchi reported that M J Engineering and Land Surveying, P.C. provided the following comments regarding this application. Initial comments related to the State Environmental Quality Review. Based upon review of Part 617 of NYS Environmental Conservation Law, the project appears to be an "Unlisted" action. If the Planning Board is to request Lead Agency status under SEQRA, the need to undergo a coordinated review is optional. Under a coordinated review, involved/interested agencies to be engaged may include, but is not necessarily limited to the following: Saratoga County Planning Board – 239m referral due to the parcel's proximity to NYS Route 146. Additional agencies may be identified by the town during its review of the project. Additional comments related to the proposed subdivision plan. The project is located within the Verbank Frank PUD as outlined in Section A217 of the Town Code. No uses are proposed: there is no need to determine if the existing uses are permitted as of right. In reviewing Section 208-101 of the Town's Zoning Code, no dwelling shall be erected on a lot which does not abut at least one street for a distance of not less than 40 feet. Lots #5 and 6 appear to have less than the required 40 feet of frontage along Route 146. Pursuant to Section 208-86 of the Code, keyhole lots may be permitted by the Planning Board only in Residential Districts R1 and R3 and only in rare instances when required due to unusual conditions of the area. The applicant proposes two key hole lots: Lots #5 and 6. The Planning Board shall review the circumstances surrounding the applicant's desire to create keyhole lots. All privately owned utilities (except for sanitary sewers) shall be included in common easement for shared use. Any easement descriptions prepared shall be filed with the County Clerk and it is recommended that prior to filing of the plat, the applicant provide the town documentation of the required filing. Any

cross lot access easements proposed shall be supported by an easement filed with the County Clerk and it is recommended that prior to filing of the plat, the applicant provide the Town documentation of filing of the easements. It is unclear as to the ownership of the on-site sanitary sewer mains. At the point where more than one lot utilizes a common sewer main, it must be under the ownership of a public agency or transportation corporation. As a result of this subdivision, it may be necessary to convey the on-site sanitary sewer mains to a public authority or form a transportation corporation. The applicant needs to obtain the 911 emergency response addresses for each new lot and include them on the final plat.

Mr. Hartnett, Chairman of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee, recommended that cross access easements include language for bicycle and pedestrian connections. He also recommended that individual parcels provide connections between the adjoining buildings with any future submittals from individual property owners.

In response to Mr. Ferraro's question regarding the consistency of maintenance of landscaping throughout the site, Mr. Andress explained that specific maintenance responsibilities will be listed in all agreements and easements and such language would be included within individual property deeds. It is intended that all properties will be maintained by a single contractor, thus reducing inconsistencies of workmanship. In response to Mr. Koval's question regarding enforcement of the easements and agreements, Mr. Pelagalli explained that it would be the responsibility of those individual owners taking from "a common grantor" that would be responsible for enforcement. Mr. Andarawis questioned whether or not the greenspace requirement would be met for each parcel: Mr. Andress explained that greenspace requirements were addressed in the PDD legislation. Mr. Scavo noted that PDD legislation "defines zoning:" requirements for such things as parking, building size, and greenspace are addressed within the specific Planned Development District enabling legislation. In response to Mr. Andarawis' question regarding the paving of the small seeded area between the drive serving the final medical office building and the apartment complex, Mr. Andress stated that the area would be paved as mandated in the PDD. Mr. Pelagalli questioned whether or not the changes to the site would require amendment of the existing PDD. Mr. Scavo reported that he had discussed this issue with Mr. McCarthy, Town Attorney, who advised him that since the subdivision proposal did not change the site statistics or intent of the PDD, no amendment to the existing legislation would be necessary. Mr. Scavo will reconfirm this information.

[2015-047] **Connie Lake Properties** – Proposed (3) lot subdivision within the Town of Clifton Park (a fourth lot lies entirely within the Village of Round Lake with The Mill, a pre-existing business), 97 English Road – Conceptual review. SBL: 250.-2-27

Mr. Rabideau, consultant for the applicant, presented this application that requests approval to subdivide 2.66± acres of land situated within the R1 zoning district into lots of 35,000 SF, 33,000 SF, and 47,870 SF, respectively. The property is located on the easterly side of Route 9 at its intersection with English Road. An additional 1.95± acres lies within the Village of Round Lake and is not included in this application. The lots will be serviced by an existing public sewer line and individual private wells. All area requirements for the R1 zoning district will be met, though it is Mr. Rabideau's understanding that a possible use variance granted by the Zoning Board of Appeals would be required for the existing commercial use on a residential lot. Explaining that

neighbors have complained about noise emanating from the existing commercial use, he stated that the applicant “hopes that the homes will mitigate the noise issues.”

Mr. Scavo reported that Ms. Reed, Chief of the Bureau of Fire Prevention, requested that approved postal addresses be displayed on the final plat.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, commented in a memo dated September 8, 2015 that the property owner (applicant) is requesting a subdivision of property he owns which lies within the town’s R1 zoning district. The subject property borders another parcel owned by the applicant that lies within the Village of Round Lake and is zoned commercially (The Mill Restaurant and Tavern). Mr. Myers explains that it appears that the Round Lake property was extended across the town line into Clifton Park without the town’s “knowledge or approval.” Whether or not the subdivision application is approved, a use variance will be required for the use to stay in the R1 zone. There appears to be a significant parking area associated with the commercial use on Lot #3: this parking lot will require a use variance to remain. Lot #2 does not meet the 100’ width at the building line which is 50’ off the property line. It would appear that the issues surrounding the acceptability of commercial uses on the residential property must be resolved before any consideration is given to the proposed subdivision. Mr. Myers notes that Lot #4 appears to have both asphalt and gravel parking in the 100’ wetland buffer in Round Lake. It is believed that the garage built on Lot #3 for “residential use only,” as documented in the permit file is, in fact, being used as an accessory structure to the commercial use.

Mr. Scavo explained that the ECC offered no comments or recommendations regarding this project at this time.

Mr. Scavo reported that Mr. Reese, Stormwater Management Technician, noted that there are impervious areas on the proposed subdivided parcels and south of English Road that have not been subject to review for possible water quality and quantity impacts.

Mr. Scavo read comments prepared by the Planning Department. The applicant is asked to clarify what lots within the R1 zoning district are intended to have dwelling units. It is unclear whether or not a residence is proposed for Lot #3. The approximate locations for the proposed dwellings relative to any site clearing and grading that may be necessary when considering the existing topography for the site which should be shown. The applicant should clarify if access to Lot #2 will be proposed by way of a shared driveway with Lot #1. The applicant should discuss how the proposed subdivision will address or resolve outstanding issues such as noise violations and parking encroachments into the R1 zone associated with the site. It is Mr. Scavo’s understanding that noise ordinance issues are currently occurring when measured at an adjacent property owner’s boundary line: the applicant should explain two new residential dwellings closer to the commercial establishment will help to address this issue. A site statistics table which notes building area, parking area, and greenspace area for the portion of Lot #3 within the Town of Clifton Park should be included on the subdivision plan.

Mr. Bianchi explained that, after review of the conceptual plan submitted for review, M J Engineering and Land Surveying, P.C. provided the following comments and recommendations in a letter dated September 18, 2015. He stated that two comments related to the plan in general. The SEQRA Short Environmental Assessment Form indicates the project would disturb less than one (1) acre of land. Without any proposed structures, drives, or locations of utilities shown, the stated area of disturbance is unsupported. The subdivision will be provided public sanitary sewer from the Saratoga County Sewer District No. 1 sewer system via an existing sewer main, the location of which is not identified on the plans. It is recommended that the town be furnished with documentation that the SCSO is willing and capable of servicing this project. Based upon review of Part 617 of NYS Environmental Conservation Law, the project appears to be an "Unlisted" action. If the Planning Board is to request Lead Agency status under SEQRA, the need to undergo a coordinated review is optional. Under a coordinated review, involved/interested agencies to be engaged may include, but are not necessarily limited to the following: Saratoga County Planning Board – 239m referral due to the parcels proximity to U.S. Route 9; Saratoga County Sewer District No. 1: Sanitary sewer service connection; Village of Round Lake Planning Board – proposed project within 500 feet of the shared municipal boundary. Additional agencies may be identified by the town during its review of the project. Since the overall parcel is bisected by the municipal boundary between the Town of Clifton Park and Village of Round Lake and is expected to require subdivision approval from both municipalities, there needs to be a determination as to which municipal board will be the SEQRA Lead Agency. Item 2 shall list all expected permitting agencies, including, but not limited to, Saratoga County Planning and the Village of Round Lake Planning Board. Others may be added based upon further refinement of the plan. Item I.5.a indicates that the uses are permitted under the zoning regulations. The uses noted on proposed Lot #3 may not be permitted. Item I.11 notes the project will connect to existing wastewater utilities, however the subdivision application does not reference proposed provisions for sanitary facilities. Item 12.b notes that the project is located in an archeologically sensitive area. If it is determined that the project is subject to the Stormwater General Permit, GP-0-15-002, then there needs to be correspondence from the NYS Office of Parks, Recreation and Historic Preservation regarding the existence or absence of historic or cultural resources on the site to demonstrate permit eligibility. Item I.17.a indicates that stormwater flows will discharge to adjacent properties. Further detailing of how stormwater will be managed is necessary. If there are off-site discharges to adjacent properties, every effort must be made to mitigate adverse impacts associated with these planned off-site discharges.

Several comments prepared by the Town Engineer related to the subdivision plan. The project is located within the town's R1 residential zoning district. The proposal for single family homes on Lots #1 and 2 are considered a permitted principal use within the district pursuant to Section 208-10(B)(2)(b) of the Town's Zoning Code. In regards to Lot #3, there is a pre-existing accessory structure and parking within the lot's boundaries and it is unclear if these existing structures will be removed and a single family home constructed. M J Engineering and Land Surveying, P.C. would defer to the town's Chief Zoning officer as to whether or not a lot can have an accessory use and/or parking without a principal use on the lot or if the existing uses are permitted as of right or via special use. There has been no review completed for proposed Lot #4 with respect to bulk lot requirements or uses since it lies within the Village of Round Lake. In reviewing Section 208-11, of the Town Code, the minimum bulk lot requirements appear to be

met for Lots #1 and 3; however, the building line for Lot #2 has been set back 160 feet from the front line to meet the minimum lot width. Mr. Bianchi would defer to the Town's Chief Zoning Offices as to whether or not this is permissible. Proposed Lot #3, upon its creation, will have encroachments from existing site features that are part of the principal uses on proposed Lot #4. There needs to be a determination as to how these encroachments will be addressed. The plans need to provide 5 foot contours. The plans need to show the location of the existing sanitary sewer main intended to service the newly created parcels. The plans need to provide proposed lot development plans to substantiate the area of disturbances stated on the SEQRA Short Form. The applicant is asked to provide the following on the plan: the expected area of disturbance with an outline of the disturbance; indication of whether or not the parcel has or has not been evaluated for regulated wetlands; any other designated notation as directed by the town. The applicant needs to obtain the 911 emergency response addresses and show them on the final plat.

There was some discussion regarding the entity responsible for the assumption of Lead Agency status pursuant to SEQRA since the application involved possible action by the Village of Round Lake, Town of Clifton Park Zoning Board of Appeals, and the Town of Clifton Park Planning Board. Mr. Scavo explained that Lead Agency is typically assumed by the "Board responsible for taking the first action." Mr. Bianchi noted that one agency may not assign Lead Agency status to another: should the Town of Clifton Park Zoning Board of Appeals be the first to act on an application related to Connie Lake Properties, it would be necessary for that Board to declare itself Lead Agency.

Mr. Dan Hartnett, Chairman of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee, recommended that, since English Road is the main connection point in Clifton Park to the Zim Smith Trail and Route 9, the applicant is asked to provide a 15' right-of-way along the entire frontage on English Road for future multi-use trail and/or utility alignment.

Ms. Susan Thompson, 91 English Road, introduced Mr. Peter Sheridan, Village of Round Lake Building Inspector, who was in attendance at the meeting. Ms. Thompson alleged that since she has resided in her home at 91 English Road, the owner of The Mill Tavern and Restaurant which is situated on property that adjoins hers to the north, has removed "more than an acre of trees," constructed a retaining wall with lights above, and installed a commercial parking lot on lands now proposed for the residential development. The changes made to the property have resulted in increased noise that prevents Ms. Thompson from the quiet enjoyment of her property. She pointed out that the applicant has received at least eight tickets for violating noise ordinances and continues to utilize residentially-zoned land for commercial use. She is concerned that approval of the subdivision will result in construction that will threaten the quality of her well water and result in devaluation of her home since the proposed lots will be smaller in size than those parcels adjoining them.

Mr. Matt Chauvin, legal representative for the applicant, stated that there has been "no further encroachment of commercial use onto the residentially-zoned parcel since a court-ordered mandate issued on August 6, 2015 and that there are currently "no noise complaints pending against his client in the Town of Clifton Park." He reported that his client has installed "custom sound minimizing equipment and panels" on the property and noise levels have fallen within

acceptable levels. Mr. Chauvin explained that the applicant may subdivide his property into buildable lots “as of right.”

Board members discussed the ancillary issues at length. Ms. Paulsen reported that patrons of The Mill were not permitted to park on lands formerly used for parking on the proposed Lot #3 when she visited the site recently. Mr. Koval was concerned that the “existing commercial encroachment on Lot #3” would preclude Planning Board action since the Zoning Board of Appeals would be required to determine whether or not a use variance for expansion of a commercial use to a residential property would be acceptable. Mr. Pelagalli pointed out that the parking area could not be labeled as an encroachment at this time since the property is held under a single owner: should the property be subdivided, however, the term *encroachment* would apply. Mr. Ferraro expressed concern that the applicant had allowed “commercial encroachment” on the residentially-zoned area of his property which has resulted in a “self-created hardship.” Mr. Ferraro stated that, due to the roadway curve, the appropriate placement of driveways and buildings on the proposed parcels would be important. In response to Mr. Andarawis’ query regarding the Board’s authority to approve a single family residential lot for a property that currently contains a commercial parking lot, a portion of a stage for band performances, and garage apparently used as an accessory commercial building, Mr. Pelagalli said, “Probably not.” Planning Board members seemed to agree that the Board could take no action on the application until issues surrounding the commercial use on residentially-zoned property were resolved. Mr. Chauvin requested a meeting with Mr. Pelagalli, town officials, and Planning Board representatives to discuss issues and, perhaps, find the means to resolve them.

Mr. Ophardt moved, seconded by Mr. Werner, adjournment of the meeting at 9:22p.m. The motion was unanimously carried. The next meeting of the Planning Board will be held as scheduled on WEDNESDAY, October 14, 2015.

Respectfully submitted,

Janis Dean, Secretary