

Town of Clifton Park Planning Board
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PLANNING BOARD

ROCCO FERRARO
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MEMBERS
Emad Andarawis
Joel Koval
Eric Ophardt
Kim Paulsen
Eric Prescott
Tom Werner
(alternate) Andy Neubauer

Planning Board Meeting
October 27, 2015

Those present at the October 27, 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.

Mr. Ferraro announced that the application regarding Kain Preserve requesting approval to install fencing within a Land Preservation Area has been withdrawn from this evening's agenda at the request of the applicant.

Minutes Approval:

Mr. Andarawis moved, seconded by Mr. Neubauer, approval of the minutes of October 14, 2015 as written. Ayes: Ophardt, Andarawis, Neubauer, Koval, Ferraro. Noes: None. Abstained: Paulsen, Prescott, Werner.

Public Hearings:

[2015-046] **Emma Lane** – Proposed (6) lot commercial subdivision within the Verbeck Frank PUD, 2-9 Emma Lane – Preliminary public hearing and possible determination. SBL: 271.-2-22.111

Mr. Ferraro explained the review process to those present, stating that the Board was required to render a determination pursuant to SEQRA (State Environmental Quality Review Act) prior to conducting a public hearing on this application. He explained that although the Planning Board would deem the application complete, assume Lead Agency status, and issue a negative declaration, these actions would neither grant nor imply approval of the subdivision application. Should it be determined that additional environmental review is required based on input received at the public hearing, SEQRA discussions would be reopened and a decision rendered when all environmental issues are satisfactorily addressed.

Mr. Ophardt moved, seconded by Ms. Paulsen, 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. Ferraro, Chairman, called the public hearing to order at 7:05p.m. The Secretary read the public notice as published in the Daily Gazette on October 22, 2015.

Mr. Tom Andress, consultant for the applicant, presented this application that remains generally as presented at the September 22, 2015 Planning Board meeting. The speaker offered a brief overview of the plan, explaining that five of the six office buildings approved as a part of the Verbeck Frank PUD have been constructed. Since the tenants of the existing buildings would like to purchase the individual buildings, the applicant has requested approval of a subdivision plan that would allow the properties to be sold to individual owners. Describing the proposal as a “paper subdivision,” Mr. Andress explained that there will be no changes to the office buildings or the existing site. Common easements have been established for access, greenspace, parking, stormwater, sidewalk maintenance, and other shared services.

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 explained that Mr. Myers, Director of Building and Development, provided the following comments in a memo dated October 20, 2015. Mr. Myers notes that the lot configuration has been revised so that each lot has 40’ of frontage on a public road even though keyhole lots are not allowed in the underlying zoning district. Stormwater will require the establishment of a maintenance agreement between lot owners. The water easement now passing through several properties will require modification.

Mr. Scavo reported that Mr. Scott Reese, Stormwater Management Technician, offered the following comment on this application. There shall be a stormwater maintenance agreement with the future land owners that contribute to the stormwater management area.

Mr. Scavo explained that, after discussing the application with Mr. Myers, it was determined that the PUD provided all of the guidance for setbacks, greenspace, and other requirements to which the property owners were bound: no variances from the Zoning Board of Appeals would be required.

Mr. Scavo reported that the ECC offered comments regarding this application in a memo dated October 20, 2015. The applicant should maintain a minimum 35% greenspace in accordance with the PUD, calculated for each newly subdivided parcel. Lots #2 and 3 appear to have minimal amounts of greenspace. The applicant must indicate the proposed amount of greenspace for this project.

Mr. Scavo offered comments prepared by the Planning Department. The project was referred to the Saratoga County Planning Board which issued a letter dated October 21, 2015 that stated that there would be no county-wide or inter-community impacts. Mr. Scavo reported that an adjoining property owner at 7 Robinwood Drive requested that approval of the application be conditioned upon the requirement that the parking lot lights be turned off during the night when the office buildings are not in use. Suggested notations for the subdivision plan have been added.

Mr. Bianchi explained that, after review of the revised subdivision plan submitted for consideration, M J Engineering and Land Surveying, P.C. offered a single comment. As noted in Comment 8 of the review letter prepared for the September 22, 2015 meeting, 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.

Mr. Andress responded to Mr. Bianchi's comment stating that although the property owner would prefer to transfer ownership of the sewer service to the Town of Clifton Park Sewer Department, the issue is still under consideration. If the preferred transfer is not feasible, a transportation corporation will be established. Easements for stormwater maintenance will be provided to Mr. Pelagalli, Planning Board Attorney, for review.

Mr. Hartnett, Chairman of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee, expressed his thanks to the applicant for his willingness to address all comments issued by the Subcommittee at the September 22, 2015 meeting.

There being no additional public comment, Mr. Ferraro moved, seconded by Mr. Werner, to close the public hearing at 7:20p.m. The motion was unanimously carried.

In response to Mr. Ferraro's question regarding site plan approval for any development proposed for the vacant lot, Mr. Scavo pointed out that the development is governed by the existing PUD and since that development is substantially complete, no site plan review will be required. Mr. Ferraro called attention to the request submitted by the adjoining property owner at 7 Robinwood Drive that the lighting be turned off during the night. Though he commented that

lighting on a commercial site is provided for safety reasons and that the existing low-level lighting at Emma Lane appears appropriate, Mr. Address stated that he would speak with the existing owner of the office complex about the installation of a dimmer or, perhaps, motion sensor to reduce lighting intrusion onto other properties. Although Board members would encourage the applicant to address the neighbor's lighting concerns, a reduction in the level of lighting at the site would not be made a condition of approval.

Mr. Ophardt offered Resolution #18 of 2015, and Mr. Koval seconded, to waive the final hearing for this application and to grant preliminary and final subdivision approval conditioned upon the establishment of all easements necessary to assure compliance with the approved site plan and proper maintenance of all commonly-used facilities and utilities, the transfer of sewer service to either the Clifton Park Sewer Department or the formation of a transportation corporation, and all items listed in the final comment letter prepared by the Planning Department. Ayes: Ophardt, Paulsen, Andarawis, Prescott, Werner, Koval, Ferraro.

Old Business:

[2014-054] **Caruso Home Builders** – Proposed (2) lot subdivision, 701 Riverview Road – Resolution to Approve. SBL: 276.-1-44

Mr. Ferraro presented this agenda item, explaining that at its March 24, 2015 meeting, the Planning Board reviewed the Caruso Builders subdivision application, established itself as Lead Agency and issued a negative declaration pursuant to SEQRA. Although recognizing that the Zoning Board of Appeals had granted the applicant five variances which permitted the application to be considered by the Planning Board, the Board unanimously voted to deny the application since it was not in keeping with the stated goals of the CR (Conservation Residential) zoning district. The applicant chose to file an Article 78 proceeding. On September 2, 2015, the Hon. Thomas D. Nolan, Jr., Supreme Court Justice, ruled against the Planning Board. The decision rendered states that “the petition is granted, Resolution #2 of 2015 is annulled, and the Planning Board is directed to approve the subdivision application, all without costs.” Mr. Ferraro explained that this evening's agenda includes this subdivision application simply for the purpose of complying with the court order.

Mr. Scavo offered comments prepared by the Planning Department. He reiterated Mr. Ferraro's comments, noting that, in accordance with a Decision and Order issued by Hon. Thomas Nolan, Jr., Supreme Court Justice dated September 2, 2015, “... resolution (#2-2015) is annulled, and the Planning Board is directed to approve the subdivision application, all without costs.”

Mr. Scavo explained that, based on follow-up discussion with the applicant's design professional, the applicant has agreed to provide the following plan modifications and conditions prior to stamping of the final plan. Underground utility connections to a dwelling unit are not allowed to be constructed underneath a private driveway. Such utilities include but are not limited to water laterals, sewer laterals, gas, electric and storm/foundation drains. A Certificate of Occupancy will not be issued without all utilities complying with this requirement. Clifton Park is a Right to Farm Community. Residents should be aware that farmers have the right to undertake farm practices which may generate dust, odor, noise, smoke and vibration associated with farming

practices. The standard note regarding the parcel's proximity to agricultural activity shall be added to the plat. The subdivision map notes, "Tax Map number: 279.00-1-44: this should be revised to identify the correct Tax Map Parcel number as 276.-1-44. The applicant should make this change before submitting the final plan for stamping. Pursuant to Town Code, there is a one-time parkland fee assessed to each new residential dwelling unit added as a result of an approved subdivision. Since this is a (2) lot subdivision the parkland fee of \$1,250.00 will be assessed for the newly created parcel.

Mr. Koval offered Resolution #19 of 2015, and Mr. Werner seconded, that states that in accordance with a Decision and Order issued by Hon. Thomas Nolan, Jr., Supreme Court Justice dated September 2, 2015, Resolution #2 of 2015 is annulled and the subdivision plat entitled Two Lot Subdivision, 701 and 703 Riverview Road, Lands of Caruso Home Builders consisting of (2) lots located at 701 and 703 Riverview Road is hereby granted preliminary and final subdivision approval. Ayes: Ophardt, Paulsen, Andarawis, Prescott, Werner, Koval, Ferraro. Noes: None.

Mr. Ferraro commented that although he understands the legal arguments and court-ordered approval of this application, he does not believe that – from a planning perspective - the subdivision conforms to the terms of the Statement of Findings adopted with the Western Clifton Park GEIS or with CR (Conservation Residential) zoning requirements adopted to implement the mitigating measures outlined in the related Statement of Findings. He does not view this approval as “precedent setting” since the Planning Board’s action has been mandated by a decision rendered by the Zoning Board of Appeals. He recommended that the Planning Board work cooperatively with the Zoning Board of Appeals to ensure that special variances do not impact the less dense development strategies for the western part of town as implemented in the CR zoning regulations. He concluded his remarks by stating that this evening’s “yes” vote does not indicate his approval of the subdivision. Mr. Andarawis also stated that his affirmative vote was made to comply with the court order rather than to validate the subdivision plan.

[2014-054] Kain Preserve – Consideration of proposed amendment for 5 Dhara Court to permit installation of a fence in the designated Land Preservation Area. SBL: 250.-1-10.11

This item was withdrawn from the evening’s agenda at the request of the applicant.

New Business:

[2015-051] Riverview Subdivision – Proposed (10) lot subdivision, Riverview Road – Conceptual review. SBL: 288.-1-35

Mr. Joe Dannible, consultant for the applicant, presented this application that calls for the subdivision of 48.42 acres of land located on the northerly side of Riverview Road west of its intersection with VanVranken Road into (10) lots ranging in size from 1.01 acres to 12.4 acres. The parcel to be subdivided lies in the CR (Conservation Residential) zoning district. A total of 20.84 acres of land is described as “constrained:” 1.63 acres of land contains slopes greater than 20%; 5.21 acres of land are located with the identified 100-year flood plain; 14 acres of land contain delineated wetlands. The unconstrained land area totals 27.58 acres of land, providing an allowable density of (9) lots. The applicant proposes to purchase building rights for an additional

lot from the town. Mr. Dannible noted that a subdivision density of .33 units per acre is permitted when 50% of the site is designated as permanent open space. A minimum of 25% open space must consist of unconstrained lands. Since the lots will be served by private wells and individual wastewater systems for sanitary sewer, the minimum lot size must be 40,000 SF. Access to the proposed homes will be via a 26' wide public roadway [increased from the originally proposed 24' wide road in accordance with code requirements], approximately 2,120' in length that terminates with a cul-de-sac. Minimum building setbacks per zoning requirements will be as follows: 25' front yard; 25' rear yard; 10' side yard. Soil data provided on the plan indicates that existing soils are suitable for conventional absorption septic systems, though additional soil test pits and percolation tests will be performed to confirm preliminary results. 11.07 acres of deed restricted open space will be contained within the 12.4 acre parcel that borders Riverview Road and 16.41 acres of deed restricted open space will be included in the rear Lots #6 and 7, respectively. NYSDEC wetlands, adjacent buffer areas, and the approximate location of the 100-year flood plain and associated buffer area have been shown on the plan. An easement will be provided along the property's frontage along Riverview Road to provide for future trails and/or roadway improvements.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, offered a number of comments regarding this application in a memo dated October 10, 2015. Mr. Myers concurs that when the density calculation is applied to the project, the allowable density is (9) lots and notes that (10) are proposed. Mr. Myers reports that the minimum lot size for properties utilizing septic systems is 40,000 SF. It is noted that 50% of unconstrained land must be left as open space: he calculates that that would total 13.79 acres and points out that the proposed lot areas do not meet this requirement. The proposed public roadway should be 26' wide [the consultant has made this revision to the plan]. He explains that the significant wetland and flood plain crossings will be required to access the developable portion of the site and observes that this will require special consideration for road construction within the flood plain, potentially placing a considerable maintenance burden on the town. The stormwater pond is apparently proposed without any consideration of other options as required. Since the proposed pond is directly adjacent to the flood plain and wetland, the pond will be a "wet pond" as a result. Percolation rates provided are questionable for septic. Flood plain data will be required for foundation elevations to ensure that they are located above the flood plain and water table. Mr. Myers states that a zoning change and/or variance appears to be required, though the EAF provided with the application indicates no such change or variance will be necessary. He notes that the hours of operation during construction are scheduled for 7a.m. to 9p.m. and questions whether or not this is accurate and compliant with the Town Code.

Mr. Scavo read comments prepared by Ms. Sheryl Reed, Chief of the Bureau of Fire Prevention. The minimum roadway width must be specified at 26'. Postal verification forms must be submitted for approval and all assigned postal addresses added to the final plat. Special consideration should be taken regarding the location of the proposed town roadway since it is located in delineated wetlands and floodplain area. If a flooding event shall occur, emergency responders may not be able to reach the occupants because the only ingress/egress to the proposed area would be blocked.

Mr. Scavo reported that the ECC issued the following comments and recommendations after review of the application. The ECC is concerned with the only access of the subdivision going through the flood plain. This area floods when the ice dams on the Mohawk River, approximately every two to three years as per an ECC member that resides on Riverview Road. This could possible impact access to the homes by emergency vehicles and cause maintenance issues for the road. The ECC notes that the amount of unconstrained land does not support the 10 homes proposed for this parcel as per the CR code. The ECC is concerned with the proximity of the NYSDEC wetlands and the Mohawk River to the proposed lots as it pertains to the use of septic systems in the CR zone. The ECC is concerned with test pit results because they were done during the dry season of September. When additional tests are conducted, the seasonal high water elevation shall be recorded.

Mr. Scavo stated that Mr. Reese, Stormwater Management Technician, provided the following comments related to this application in a memo dated October 22, 2015. Future plans should show the test pit and percolation test locations. The test pit information shall include the seasonal high water elevation. The applicant should indicate how the stormwater runoff from the proposed entrance road will be treated below the proposed stormwater management area. When preparing preliminary plans, the applicant's design consultant is asked to show and label the elevation of the 100-year flood plain since the outfalls for the stormwater management areas should be above that elevation.

Mr. Scavo offered comments prepared by the Planning Department. A referral to the Saratoga County Planning Board will be required since the project is within 500' of farming operations located in Saratoga County Consolidated Agricultural District #2. Section 208-16(E)(3) of the Town Code states that "where permeant Open Space is proposed, it must include a minimum of 25% of the unconstrained land of the parcel:" the Site Statistic chart for Open Space should be updated to reflect the percentage of uplands provided. The following note must be added to the subdivision plan:

The subdivision is located in an area which may be impacted by aviation activity.

Impacts may include noise or vibration. A study describing this impact in detail is available for inspection in the offices of Albany International Airport.

The subdivision plan must provide for an approved United States Postal Service cluster mailbox detail and design location on the plan and provide verification that the detail and location are approved by the Rexford Postmaster. The applicant shall follow the submittal procedure and requirements for the open space incentive zoning request for one additional lot pursuant to §208.43.16 of the Town Code. The applicant must add a note to the plan which states:

The subdivision is in close proximity of active farming operations and as a result the proposed dwelling may be subject to noises, odors, and vibrations commonly associated with active farming operations.

Part 1 of the Long Environmental Assessment Form, Page 2, (B) Governmental Approvals must be updated to include the Clifton Park Town Board for consideration of the Open Space Incentive Zoning option. A note must be added to the plan which states:

The subdivision is to be included within the Riverview #1 Park District.

The following note must be added to the plan:

The subdivision is in a flood-prone area. Since a part of the subdivision is within the 100-year flood elevation, the proposed subdivision is required to ensure that

principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

A note must be added to the plan which states the following:

Riverview Road is prone to seasonal flooding and as such may limit travel and affect emergency first responder times.

Since the Project is a Type I Action Pursuant to SEQRA coordinated review is required: it is recommended the Clifton Park Planning Board declare itself Lead Agency for the SEQRA review process.

Mr. Bianchi reported that M J Engineering and Land Surveying, P.C. offered the following comments and recommendations regarding this application in a letter dated October 23, 2015. Initial comments related to the SEQRA review and information provided on the Full Environmental Assessment Form. The proposed project is considered a realty subdivision pursuant to NYSDOH regulations. Section 97.14(b)(2)(ii) of 10 NYCRR Part 97, which is the NYSDOH regulation implementing SEQRA (Article 8 of the ECL) requires that a realty subdivision be classified as a Type I action. For Type I actions, a coordinated review is required. 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 project’s proximity to an identified agriculture district; NYS Department of Environmental Conservation – Permit coverage under GP-0-15-002, potential impacts within the 100-foot adjacent area of a NYSDEC wetland (Joint Permit) and identification of the existence/absence of threatened and endangered species; NYS Office of Parks, Recreation and Historic Preservation – identifications of the existence/absence of historic and/or cultural resources; NYS Department of Health – Realty Subdivision approval; United States Army Corps of Engineers - potential impacts within the 100-foot adjacent area of a NYSDEC wetland (Joint Permit). Additional interested and involved agencies may be identified over the course of the town’s review of the application. Under Part B of the Full Environmental Assessment Form, the Saratoga County Planning Department should be added as they have jurisdiction due to the parcel’s proximity to a designated agriculture district. Under Part D.2.c.vi once the well yield is known, this information shall be furnished to the Town to ensure adequate supplies will exist to support the development. Under E.2.j and k, the responses indicate the project will be within a 100 and 500 year flood plain, respectively. The applicant must provide information regarding whether or not compensatory mitigation will be necessary as a result of additional fill within the noted flood plains. Under E3.f, there needs to be formal documentation from the NYS Office of Park, Recreation and Historic Preservation regarding archeological resources being located on or adjacent to the project site. At a minimum, a search of the online CRIS database is needed to determine permit eligibility for coverage under GP-0-15-002.

Mr. Bianchi offered several general comments on the application. The applicant has proposed to service each lot with on-site septic systems and private wells. As part of the regulatory review process, the NYSDOH will require on-site soil testing and test well(s). Initial soil tests suggest favorable soil conditions. As the design progresses, actual locations of these facilities will need to be shown and will likely dictate final areas of disturbance. The project is considered a realty subdivision in accordance with NYSDOH implementing regulations. Any approvals offered by the Planning Board should be conditioned on receipt of NY SDOH’s review and approval of the realty subdivision. The project proposes to disturb more than 1 acre of land

and is therefore subject to the NYSDEC Phase II Stormwater regulations and General Permit GP-0-15-002. Subsequent submissions will require preparation of a Stormwater Pollution Prevention Plan (SWPPP) that includes water quality controls as well as green infrastructure elements.

Several comments referred to the subdivision plan. The project is located within the Town's Conservation Residential (CR) zoning district. In reviewing Section 208-16(D)(1)(b) of the Town Zoning Code, the proposal for single family homes is a permitted principal use. In reviewing section 208-16(E) of the Code, the project layout generally appears to meet the minimum requirements for bulk lot dimensions and permanent open space. As the project progresses with more detailed information provided, dimension requirements will be confirmed. The site plans note through the analysis completed that there is 27.58 acres of unconstrained lands available with 10 new residential lots proposed. Pursuant to Section 208-16(E)(2)(b) of the Zoning Code, the maximum lot density would be 9.1 lots, rounded to 9. The developer has proposed the purchase of one lot from the Town. As such, the 10 new lots proposed appear to meet the requirements of the CR zone. The project proposes permanent open space. The applicant needs to indicate the form of ownership, whether it be retained as private (common or uncommon), semi-public under a land conservancy, or public to the Town. The project provides a proposed lot layout that is supported by a site analysis diagram to demonstrate that the four step resource analysis has been conducted, which is a requirement of Section 208-16(E)(13)(a)(2) of the Town Code. The Planning Board should review the analysis to see if it is sufficient to support the number of lots being proposed. The project proposes a single cul-de-sac that appears to be approximately 1,500 feet in length. The proposed layout should be reviewed by the town's emergency service agencies to ensure that adequate facilities exist for an emergency response. The proposed road crosses a NYSDEC wetlands and adjacent area. Given the road's proximity to wetlands, further detailing of how stormwater drainage will be managed needs to be provided. The applicant is asked to confirm that adequate sight distances exist at the proposed intersection with the existing roadway. Wells are shown as potentially being in the front yards and in some instances in close proximity to the proposed roadway. It is suggested the candidate well sites be located as far away from the roadways as possible to avoid potential contamination from road salting. The FEAF notes the total site disturbance will be in excess of 9 acres. Subsequent submissions shall detail how disturbances will progress and whether or not a 5 acre waiver will be requested. Prior to filing of the subdivision plat, the applicant must obtain the 911 emergency response numbers from the town and these numbers shall be shown on the filed plat.

Mr. Hartnett, Chairman of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee, thanked the applicant for providing the required right-of-way or easement along Riverview Road for future construction of a multi-use trail and/or utility easement, though he did request that the easement area be increased to a width of 25'. He explained that the additional 10' of right-of-way is requested due to the presence of wetlands in the area.

Ms. Shannon Kuhn, 24 VanVranken Road, asked if the property to be subdivided was subject to restrictive building requirements if it was determined to be situated within the boundaries of the historic hamlet of Vischer's Ferry. Mr. Dannible was uncertain if the property was located within the hamlet-designated area. Mr. Scavo pointed out that the applicant must receive a sign-off from the State Office of Parks, Recreation, and Historic Preservation, an agency that would identify whether or not the proposed development was to be constructed in a designated

historic district that may place restrictions on building. In response to Ms. Kuhn's query regarding Mr. Dannible's reference to an existing roadway, Mr. Dannible explained that the existing access to the property is provided by an existing "tractor path." When asked about the elevation of the property, Mr. Dannible stated that the proposed homes would be approximately 5-5½' above the lowest area of the site. Ms. Kuhn asked whether or not the Planning Board could impose lighting restrictions on the properties. Mr. Ferraro explained that the Board had no authority to restrict lighting in a residential neighborhood.

Mr. Kuhn, 24 VanVranken Road, questioned whether or not water quality and quantity would be considered by the developer since it has cost him over \$20,000.00 to drill a well over 400' to obtain water which then required installation of a filtration system. Mr. Ferraro explained that the applicant must have NYSDOH approval for water services. He expressed his concerns with the proposed locations of wells and septic systems, explaining that the density of the project may impact water quality and quantity: he would like to be assured that the town will not have to mitigate problems in the future and he questioned whether or not NYSDOH reviews took into account new impervious surfaces and septic systems. Mr. Dannible noted that the agency has rigid standards for well-septic separation distances and other requirements to ensure potable water supplies. Mr. Kuhn pointed out that the soils are not consistent in the area and that he was required to install a raised bed septic system.

In response to Mr. Koval's question regarding on-site mitigation for wetland disturbances, Mr. Dannible stated that such mitigation would occur on the upland areas contained within the designated wetlands. Mr. Koval recommended that a note be added to the plan stating that the mitigation areas are established permanently. Mr. Ferraro requested that the applicant add a note to the plan which states that lots with permanently protected open space may not be further subdivided. Mr. Ophardt observed that times of severe flooding may cause the residents of the new subdivision to be "cut off" from emergency services. Mr. Dannible could not answer Mr. Koval's question regarding the elevations of the proposed new road and Riverview Road. Mr. Ophardt asked the applicant to consult with fire departments and emergency service agencies regarding their ability to provide necessary protections for potential residents. Mr. Ferraro asked the applicant to ensure that site development would not expand the boundary of the flood plain or "create flooding problems elsewhere." Mr. Dannible stated that he will seek input from Sheryl Reed and other "relevant officials" regarding accessibility issues. In response to Mr. Andarawis' question concerning preservation of buffer areas, Mr. Dannible stated that there were no plans to place deed restrictions on buffer areas. Mr. Neubauer asked that the Highway Superintendent comment on roadway ownership, maintenance, and elevations. Mr. Ferraro noted that there is an identification label on the plan for a Radar Ranger Station. Mr. Dannible explained that the station was used by the Albany International Airport for a number of years but that all equipment has been removed from the site and all easements have been expunged. Board members did not comment positively or negatively on the application.

Discussion Items:

[2015-052] **Residential Community** – Proposed 50 duplex units and 52 single-family residences, Route 146 Miller Road and Tanner Road – Possible Planning Board recommendation to Zoning Board of Appeals for approval of a use variance. SBL: 270.-2-3.11 and 270.-2-3.121

Stating that he represented the property owner for the sale of this property, Mr. Koval recused himself from any comment and/or vote on this application and left the building.

Mr. Joe Dannible, consultant for applicants, Timothy Mitchell and Brooks Teele, presented this application that requests approval of a use variance that would allow residential uses within the B-5 (Corporate Commerce) zoning district. He explained that the owners have owned this property for over thirty-five years and have been actively marketing it unsuccessfully for the past ten. Mr. Dannible stated that in order to move forward with the area variance town officials have requested that the concept layout be presented to the Planning Board for a recommendation related to the proposed density, types of residential uses, lot areas, setbacks, buffers, and general project layout and design. The consultant explained that the property consists of ±67 acres and is located on the northerly and southerly side of Route 146 west of its intersection with Miller and Tanner Roads. The northern parcel consists of 22 acres, the majority of which is unconstrained and available for development. The southern 45 acre parcel contains approximately 12 acres of wetlands that will remain undisturbed. The speaker provided a description of code-compliant uses which have been incorporated in a feasibility study which represents “the highest and best use of the parcels,” but which, unfortunately, has produced not a single purchase offer. He focused on the benefits offered by the plan proposed, noting that the residential uses would result in one-half the water usage, one-half the sewer usage, and less traffic than the code-compliant uses. Most notably, the plan would “fit” with existing uses along the Route 146 corridor.

Mr. Dannible explained that the current proposal calls for the construction of 50 single-family attached dwelling units (25 duplex buildings) accessed by a public roadway with two curb cuts onto Tanner Road for the northern parcel. The southern parcel will be developed with 52 single-family detached dwellings which have been arranged in clusters with natural features to provide rear yard buffers. The applicants propose establishment of a Homeowners’ Association to own, govern, and maintain the substantial open space. Discussing traffic impacts, Mr. Dannible stated that the proposed uses would “create one tenth the traffic of a potential zoning-compliant use.” He briefly discussed proposed connections to existing water and sewer systems, estimated impervious area, and community character. Mr. Dannible explained that plantings installed within the drainage corridor on the property to the south would eventually “grow into a vegetated buffer.” Summarizing his presentation, Mr. Dannible stated that the proposed project plan would “resolve the financial hardships faced by the property owners, result in a development with fewer environmental impacts than code-compliant development, provide needed housing alternatives for the aging population, and reflect the character of development along the corridor.

Mr. Werner commented that the applicant has wisely selected the “demographic that needs to be served” for its target market. He expressed his appreciation for the time and effort the applicant expended to produce a desirable project, stating that he particularly liked the fact that all residences backed to open space areas. Mr. Ophardt found the duplex development desirable but commented that the cluster development proposed for the southern portion did not appear to provide a substantial “public benefit.” Mr. Dannible countered by stating that the proposal substantially reduced environmental impacts as compared with the code-compliant build-out scenario and provided significant open space areas. Mr. Ferraro explained that cluster subdivisions

are usually designed to provide for contiguous open space areas or walking trails that the public would be able to access. Mr. Neubauer viewed the dense “sprawling westward” design as contrary to the restrictions imposed by the surrounding CR (Conservation Residential) zoning that limits density. Mr. Andarawis agreed that the proposed plan would result in fewer impacts to the environment but he was concerned that approval of a use variance would be “precedent setting.” He was not certain that the design reflected the “right density,” noting that the proposal on the northern parcel “appeared to make sense.” He was uncertain of the quality of the design for the southerly portion, however, stating that there was a lack of connectivity in the plan. He does believe that there is a pressing need for the type of housing stock proposed. Mr. Pelagalli advised that it was not within the purview of the Zoning Board of Appeals’ to change zoning since that body has no experience in applying SEQRA or other components of the decision-making process necessary for approving such a significant change. Mr. Ferraro stated that he “was conflicted” with the applicant’s request for a use variance since it would appear that Town Board review of the entire Corporate Commerce zoning district may be warranted. Although Mr. Pelagalli contended that a PUD would be the appropriate mechanism for achieving the desired development, Mr. Dannible argued that the applicant could “make a reasonable case for a use variance.” Mr. Pelagalli explained that the PUD process would provide the necessary framework for the standards to be applied to the development, providing specific requirements for housing types, setbacks, sidewalks, open space, stormwater management, and other critical design components. Mr. Ferraro expanded on Mr. Pelagalli’s comments, stating that if the Zoning Board of Appeals granted a use variance, it would be unclear to what extent the Planning Board would be able to “dictate density and design.” Although he was “not disturbed by the proposal,” Mr. Ferraro was concerned about the encroachment of density into the area of western Clifton Park that the Town Board, through the adoption of CR (Conservation Residential) zoning was attempting to control. He called for feedback from the Town Board before any recommendation was made on the Residential Community plan presented for consideration, explaining that the “fiscal components” of the change should also be considered. Ms. Paulsen stated that since there would be “no rules” associated with a Zoning Board decision, she would support a recommendation that the application be referred to the Town Board for review and possible PUD approval. Mr. Scavo stated that there was probably no need for a formal recommendation to the Town Board: he would attempt to schedule a meeting with Town Board representatives, representatives of the Planning Board, the applicant, and other stakeholders to discuss the best means to reach a reasonable end. Mr. Ferraro thanked Mr. Dannible and the applicant for providing such a comprehensive and thoughtful presentation.

Mr. Ophardt moved, seconded by Mr. Prescott, adjournment of the meeting at 9:20p.m. The motion was unanimously carried. The next meeting of the Planning Board will be held as scheduled on November 10, 2015.

Respectfully submitted,

Janis Dean, Secretary

Notice of Decision

Resolution #18 of 2015

Preliminary and Final Approval

At a meeting of the Planning Board held at the Town Hall of the Town of Clifton Park, Saratoga County, New York, held at the Town Office Building, One Town Hall Plaza, on October 27, 2015, there were:

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

Absent: None

Mr. Ophardt offered Resolution #18 of 2015, and Mr. Koval seconded, and

Whereas, an application was made to this Board by Provident Development Group, LLC for approval of subdivision plat entitled 6 Lot Subdivision, Provident Group, LLC, 2/3/4/5/7 Emma Lane consisting of (6) lots on property located at 2, 3, 4, 5, and 7 Emma Lane;

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 October 27, 2015, and

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on October 27, 2015;

Whereas, it appears to be in the best interest of the Town that said application be approved,

Now, therefore, be it resolved that final hearing for this application is waived and the subdivision plat entitled 6 Lot Subdivision, Provident Group, LLC, 2/3/4/5/7 Emma Lane consisting of (6) lots is granted preliminary and final approval conditioned upon the establishment of all easements necessary to assure compliance with the approved site plan and proper maintenance of all commonly-used facilities and utilities, the transfer of sewer service to either the Clifton Park Sewer Department or the formation of a transportation corporation, and all items listed in the final comment letter issued by the Planning Department.

Resolution #18 of 2015 passed 10/27/2015

Ayes: Ophardt, Paulsen, Andarawis, Prescott, Werner, Koval, Ferraro

Noes: None

R. Ferraro, Chairman

Notice of Decision

Resolution #19 of 2015

Preliminary and Final Approval

At a meeting of the Planning Board held at the Town Hall of the Town of Clifton Park, Saratoga County, New York, held at the Town Office Building, One Town Hall Plaza, on October 27, 2015, there were:

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

Absent: None

Mr. Koval offered Resolution #19 of 2015, and Mr. Werner seconded, and

Whereas, an application was made to this Board by Anthony Caruso for approval of subdivision plat entitled Subdivision of the Lands of Caruso Home Builders, LLC, Two Lot Subdivision, 701 and 703 Riverview Road, consisting of (2) lots:

The Planning Board voted not to approve the subdivision application on March 24, 2015. The applicant then sought judicial review of the Board's determination pursuant to Article 78 of the Civil Practice Law and Rules;

Whereas, upon review by the Hon. Thomas D. Nolan, Jr., Supreme Court Justice on September 2, 2015, the court reversed and annulled the Board's determination and ordered that the Planning Board approve the subdivision application: Resolution #2 of 2015 is annulled and the Planning Board is directed to approve the subdivision application, all without costs;

It is therefore resolved that final hearing for this application is waived and that in accordance with a Decision and Order issued by Hon. Thomas Nolan, Jr., Supreme Court Justice dated September 2, 2015: Resolution #2 of 2015 is annulled and the subdivision plat entitled Lands of Caruso Home Builders, LLC Two Lot Subdivision, 701 and 703 Riverview Road, lots is hereby granted preliminary and final subdivision approval.

Resolution #19 of 2015 passed 10/27/2015

Ayes: Ophardt, Paulsen, Andarawis, Prescott, Werner, Koval, Ferraro

Noes: None

R. Ferraro, Chairman