

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

PLANNING BOARD

ROCCO FERRARO
Chairman

ANTHONY MORELLI
Attorney

PAULA COOPER
Secretary



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Emad Andarawis
Eric Ophardt
Jason Beach
Andrew Neubauer
Denise Bagramian
Greg Szczesny

(alternate) Ram Lalukota

Planning Board Minutes
January 14, 2020

Those present at the August 14, 2018 Planning Board meeting were:

Planning Board: R. Ferraro, Chairman, E. Andarawis, J. Beach, A. Neubauer, E. Ophardt,
G. Szczesny, D. Bagramian
R. Lalukota – Alternate Member

Those absent were:

Those also present were: J. Scavo, Director of Planning
W. Lippman, M J Engineering and Land Surveying, P.C.
A. Morelli, Counsel

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

Mr. Ferraro announced the loss of former Councilman Sanford Roth who passed away over the weekend. Mr. Ferraro spoke about Mr. Roth and the various roles and volunteerism capacities Mr. Roth served. Planning Board Members and the public in attendance observed a moment of silence in memory and reflection for Mr. Roth and his many contributions to Clifton Park.

Mr. Ferraro then proceeded to review recent appointments and changes to the Planning Board for 2020. He noted that the Town Board had appointed him to a new full seven year term as a Planning Board Member since his previous term as a member expired on

December 31, 2019. He also mentioned that the Town Board had appointed him to serve as Chairman for the 2020 calendar year. Mr. Ferraro then noted that Jason Beach has been appointed as a Planning Board Member to fill the remaining term previously held by Mr. Jeffery Jones. Mr. Ferraro noted that Mr. Jones had resigned from the Planning Board prior to accepting an appointment elsewhere that prohibits his ability to serve on the Planning Board. Mr. Ferraro then noted that Mr. Ram Lalukota had been appointed to fill the one year term of the Planning Board Alternate Member Position for the 2020 calendar year. Both Mr. Lalukota and Mr. Beach took a few moments to introduce themselves and give a brief description of their background to the public and fellow board members.

Mr. Ferraro also noted that Paula Cooper has been reappointed as Planning Board Secretary for the next year, but was unable to attend the meeting and Mrs. Scavo would be serving in a volunteer capacity to assist the Planning Board with minutes taking for the meeting.

Minutes Approval:

Mr. Andarawis moved, seconded by Mr. Ophardt, approval of the minutes of the December 10, 2019 Planning Board meeting as written. Ayes: Andarawis, Szczesny, Ophardt, Bagramian, Neubauer, Ferraro. Noes: None. Abstained: Beach.

Public Hearings:

[2019-055] **Ashe 2 Lot Residential Subdivision**, – Applicant proposes subdividing the existing 9.98 acres into 2 lots. Lot 1 will be 4.95 acres and will contain the existing home with well and septic. Lot 2 will be for construction of a new single family home with proposed well and septic. Both lots will share a common driveway for access to Hatlee Road. The parcel is identified as 980 Hatlee Road and SBL: 258.-1-18.11.

Prior to taking SEQR Action required to be completed to open the preliminary plan public hearing, Mr. Ferraro requested the applicant provide clarification to a concern raised by MJ Engineering specific to any proposed expansion of the Common Driveway. Such expansion may trigger the proposed disturbance to exceed the less than 1 acre threshold for residential development, which then requires the applicant to obtain State Pollutant Discharge Elimination System (SPDES) Permit Coverage.

Mr. Duane Rabideau of Gilbert VanGuilder Land Surveyors, PLLC., noted that the existing driveway is paved and is 12' wide with a minimum 5' of subbase running surface on both sides to provide a total existing width of 22'. Mr. Rabideau noted that based on the existing width there will be no need to upgrade the existing driveway which complies with NYS Building & Fire Code Requirements. Mr. Rabideau did note the plan was in error in scaling the existing driveway to reflect approximately 9' when measured to the plan scale. Mr. Ferraro, then verified with Walter Lippmann, of MJ Engineering if that explanation satisfies the concern raised. Mr. Lippmann noted the explanation was

acceptable and the applicant shall clearly delineate the extent of the area proposed to be disturbed which appears to include a small portion of the existing driveway. Mr. Rabideau acknowledged the applicant will do such and adjust the proposed limits of disturbance, if needed to stay under the 1-acre threshold.

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 the required public hearings on this application. He explained that although the Planning Board would pronounce 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 warranted based on input received at the public hearing, SEQRA discussions will be reopened and a decision rendered when deemed appropriate.

Mrs. Bagramian moved, seconded by Mr. Szczesny, to establish the Town of Clifton Park Planning Board as Lead Agency for this application, an Unlisted Action, and to issue a negative declaration pursuant to SEQRA. The motion was carried with six affirmative votes and one abstention by Mr. Beach.

Mr. Ferraro, Chairman, called the public hearing to order at 7:10 p.m. Mr. Scavo then read the public hearing notice as published in the Daily Gazette on January 3, 2020.

Mr. Ferraro then invited Mr. Rabideau to present the application on behalf of his client. Mr. Rabideau noted the proposal is for a 2 lot subdivision that complies with CR Zoning and since the existing parcel proposed to be subdivided is less than 10 acres there is no 50% permanent open space requirement. Mr. Rabideau then explained that the project would not affect or impact any wetlands or designated 100' buffer areas, complies with CR Zoning, and feels all outstanding comments have been addressed prior to this evening's meeting. Specifically, Steve Myers, Zoning Officer for the Town, requested clarification on the site statistics calculations. Mr. Rabideau noted for the record, that the site is 9.98 acres. The unconstrained lands on the parcel is 7.57 acres which includes all the upland areas and the upland area within the 100' adjacent area around the DEC wetlands. Only the DEC wetlands (stippled hatching) of 2.41 acres would be considered constrained lands. $(9.98 - 2.41 = 7.57$ acres of unconstrained lands). Since the total parcel is less than 10 acres, there is no requirement to have any permanent open space preserved and the landowner has opted for this choice. Mr. Rabideau noted his client is requesting preliminary consideration this evening with a possible final determination and if board members have any questions, he will address them. Mr. Scavo noted that he would accept the explanation provided by the applicant and would verify the information prior to stamping the final plan. Mr. Ferraro, also requested that as a condition of approval, if an area variance is determined to be needed the approval of the subdivision is voided.

Mr. Ferraro then requested Mr. Scavo present staff comments regarding the subdivision application.

Mr. Scavo noted that the Town's Environmental Conservation Commission (ECC) had no comments regarding the application.

Mr. Scavo then reported that Scott Reese, Stormwater Management Technician for the Town observed that the Proposed area of disturbance is 43,146 square feet, approximately 0.99 acres and questioned if that include the proposed utilities from Hatlee Road to the proposed house.

Mr. Scavo then noted that Roy Casper offered the following written comments on behalf of the Trails Open Space Subcommittee:

The Trails Concept 2012 Draft Plan proposes "Widened Shoulders" along Hatlee Road for safe pedestrian and cycling activity. If necessary, sufficient ROW should be designated on the property boundary along Hatlee Road to accommodate a future roadway designed with widened shoulders for pedestrians and cyclists.

The applicant responded with the following comment on the Trails Subcommittee's recommendation: "Because of the extensive wetlands along the frontage of the proposed subdivision, it would be impractical, costly and possibly not allowable disturbance by NYSDEC or ACOE. The easterly side of Hatlee Road would be a better alternative."

The Trails Subcommittee has the following additional recommendations and comments regarding the applicant's comment review response:

- A ROW (4Ft to 5Ft) was recommended on the property boundary along Hatlee Road to accommodate a "future roadway designed with widened shoulders" for pedestrians and cyclists. The Trails Subcommittee was not recommending that the applicant construct a multi-use path or trail at this location on NYSDEC or ACOE wetlands.
- The existing asphalt entrance driveway crosses the wetland area on the eastern side of the property – this driveway must surely have been approved by NYSDEC or ACOE. It may also be possible to grant a narrow ROW to the Town, with NYSDEC or ACOE approval, for a future roadway designed with widened shoulders at this location.
- A well designed roadway that safely accommodates pedestrians and cyclists provides widened shoulders on both sides of the roadway.

Mr. Scavo then noted he had two comments that were issued to the applicant in a review letter dated December 30, 2019, that stated:

1. The mitigation fee for the Western Clifton Park GEIS preparation is applicable to this project. A payment of \$348 for one new building lot is required to be paid prior to the stamping of the final plan.

2. The Saratoga County Planning Board noted in a letter dated November 22, 2019, that the project has, “No Significant County-Wide or Intercommunity Impact.”

Mr. Walter Lippman then offered comments on behalf of MJ Engineering and noted that:

Relative to the State Environmental Quality Review (SEQR)

1. No additional comments.

Relative to the Subdivision Plan:

2. Indicate the location of the state regulated wetland R-21 and the 100’ buffer in the southwest corner of the property. If any proposed work takes place within the buffer zone, then the appropriate permits will need to be obtained.
3. Shared driveway detail indicates a width of 16’. Driveway on plan scales to 9’ wide, show proposed driveway width along with proposed limits of disturbance.
4. The delineated area of disturbance shown on the plan shall include the driveway. With the addition of this area of disturbance, the project may exceed 1-acre of total disturbance. If this is the case, the project may need to seek permit coverage under GP-0-15-002. Pursuant to GP 0-15-002, Table 1 if the project has less than 25% impervious cover at total site building-out, a SWPPP that addresses erosion and sediment control only is required. A draft NOI should be submitted for review.
5. Should the project require coverage under General Permit GP 0-15-002, a no effect letter from SHPO will be required.
6. Provide information on the plans to indicate how potential sump pump laterals may be positioned which shall be in conformance with Section 86-7(A)(6) of the Town Code.
7. The applicant proposes to service the lot with an on-site septic system. The proposed septic system shall be designed by a New York State licensed professional engineer and conform to the requirements of the New York State Department of Health (Section 208-91) for review and approval by the Town Building Department.

Both Mr. Ferraro and Walter Lippman reinforced the need for the applicant to show the common driveway's existing width on the plans correctly and clearly identify the limits of disturbance for the new single family home.

Mr. Ferraro then asked if the Planning Board Members had any questions, comments or were ready to take action on the proposed application. Mr. Neubauer offered a resolution to approve the subdivision application conditioned upon written verification from Mr. Myers that an area variance is not required and split rail fence with signage must be incorporated to encompass the boundaries of environmentally sensitive lands on both parcels. Mrs. Bagramian seconded the resolution and a roll-call vote was taken. The resolution passed with 6 - Ayes: Andarawis, Szczesny, Ophardt, Bagramian, Neubauer, Ferraro. 0- Noes: None. 1- Abstained: Beach.

Mr. Ferraro then read the heading for the second agenda item which was also scheduled for a public hearing.

[2019-057] **Kieper Timber Harvest – Special Use Permit Application for a Selective Timber Harvest** - Applicant proposes a forest management plan to improve the overall health and productivity of the forest ecosystem and to improve wildlife habitat. Buffers will be left along all property boundaries, NYSDEC wetlands and sensitive environmental areas, Riverview Rd, Zoned: CR, Status: PB Preliminary Review w/ possible determination

Mr. Ferraro noted that prior to action on SEQR a correction to the application should be made on the Part I Section of the Short Environmental Assessment Form (SEAF). Specifically, question 13A is answered "yes" as to the presence of wetlands on the project site and 13b is answered "no" but should be corrected to answer "yes" regarding if the potential to alter a wetland is present as a result of the action. Previously questions 12A & 12B were also answered no but had been corrected to answer "yes". Mr. Scavo noted that he has an amended SEAF form for the applicant to sign which will reflect the requested change to 13B in addition to other changes previously requested by staff and made to the form.

Mr. Gerber of Saratoga Land Management Corporation, a principal of that company and a Certified NYS Forester, noted that he is representing the application for the property owner Mr. Kieper. Mr. Gerber noted that regarding SEQR they will accept the modifications to the SEQR Form as requested. Mr. Gerber noted that the applicant originally marked no under the applicant's understanding of the definition of "encroachment" since NYS DEC regards "the protection of and management of forest

lands in its upstate watersheds as instrumental in safeguarding water quality for residents and NYS DEC acknowledges silvicultural activities, including managed timber harvesting, are specifically exempted from this stormwater permit requirement.” Mr. Gerber noted that interpretation is found within a NYS DEC publication titled, A Municipal Official’s Guide to Forestry in New York State, published February 2005. Mr. Gerber noted he had no issue in amending the form if the Planning Board felt an encroachment within the wetland was taking place as a result of the action since no impacts to the wetlands will occur or are proposed and didn’t want to get hung up on a difference in interpretation of “encroachment”.

Mr. Ophardt then asked if the applicant would be much more selective in tree removal activities within a wetland area. Mr. Gerber responded the wetlands would only be selectively harvested if frozen ground conditions were present and such harvesting would be much more selective than upland areas present on the site. Mr. Gerber noted the uplands would use a “Seed Tree Cutting Approach” to the upland areas, in essence creating a mosaic of “treed islands” with the removal of under-performing, lower performing stock and underbrush. Conversely, Mr. Gerber noted that the removal would be maybe 20% in the wetland areas. Such trees removed in the wetlands would include physiologically over mature trees, not to include cavity nesting trees that provide habitat; quality grown stock trees and undergrowth trees.

Mr. Ferraro then requested clarification from Walter Lippman that the Town’s Designated Engineers feel the question to 13B should be answered yes. Mr. Lippman responded in the affirmative. Mr. Ferraro then asked if the Board felt comfortable with taking action on SEQR this evening with the information that has been discussed relative to amending the SEQR SEAF Part I. Mr. Szczesny noted that he would be comfortable in taking action this evening on both SEQR and the application based on the comfort level provided by having a certified forester on-site to both manage and oversee the timber harvest operations. Mr. Szczesny also acknowledge that Mr. Gerber has years of forestry experience of overseeing and managing such operations previously. Both Mr. Ophardt and Mrs. Bagramian also noted they were comfortable. Mr. Scavo noted that the Board as part of normal course of operations under SEQR has every right and ability to modify or correct descriptions that they see on Part I of the SEAF submitted by the applicant. Mr. Scavo noted the corrected form is present reflecting the answer for 13B marked “yes” to allow the SEQR review to proceed forward.

Mr. Ferraro thanked all present for their patience as the interpretation issue was discussed and stated that based on the forgoing he would offer a resolution to issue a Negative Declaration pursuant to SEQR for the Special Use Application, as the Part I of the EAF is amended and replaced. Eric Ophardt made a motion to move the motion

which was seconded by Mr. Neubauer. The resolution passed with 6 - Ayes: Andarawis, Szczesny, Ophardt, Bagramian, Neubauer, Ferraro. 0- Noes: None. 1- Abstained: Beach.

Mr. Ferraro then opened the public hearing and had Mr. Scavo read the public hearing notice as published in the Daily Gazette on January 3, 2020.

Mr. Gerber then provided a description of the request and noted that the property owner desires to manage the existing forest to enhance the quality and health of the forest to encourage suitable habitat for white-tailed deer, wild turkey and other animal species. Mr. Gerber noted his client is a hunter and desires to continue to use the property for recreation use which includes bow hunting. Mr. Gerber then reviewed the three separate stands of trees present on the site and noted that the furthest stand from Riverview Road would not likely be harvested this year due to the lack of frozen ground conditions, frozen standing water, and snow cover. Mr. Gerber noted that beech and ash trees would be targeted with diseased trees in the rear of the property.

Mr. Ophardt then asked the applicant to address his concern with the presence of a steep slope to the rear of the property. Is there the potential to destabilize the slope by removing trees in that area? Mr. Gerber responded that selective tree cutting does not destabilize existing slopes since the root system and stumps of the cut trees are left in place and no soil disturbance will take place and the soils are held in place by the roots until tree regeneration occurs.

Mr. Gerber then noted he would be glad to answer any questions the Planning Board Members or Public may have concerning the application. Mr. Ferraro noted that Mr. Scavo will first review the staff comments offered.

Mr. Scavo noted the ECC provided the following recommendations:

1. The Applicant in preparing the submittal for the Planning Board Application for Special Use shall adhere to Town Code 184 and supply all data requested with the Town Code.
2. In particular the area to be logged shall first be reviewed by a consulting forester or state forester to be retained by the applicant to advise the applicant, in writing, concerning the proposed operation and this report is to be submitted to the Planning Board. Please note, that the DEC can provide information regarding foresters NYSDEC/FINDAFORESTER website.
3. The ECC is not able to supply any additional comments as there was no submission for the ECC to review.

Scott Reese, Stormwater Management Technician for the Town provided the following recommendations:

1. The entity that will be doing the timber harvest shall incorporate the New York State Forestry Best Management Practices for Water Quality.
2. There are steep slopes at the northern portion of the property, soil stabilization should be done on timbered slopes greater than 8%.
3. The NYSDEC EAF Mapper checks the following boxes that are contradictory of the submitted Short EAF.
 - a. 12a. and 12b. should be marked yes. The site is contiguous to a listed historic place. The project site is within an area designated as sensitive for archaeological sites.
 - b. 13b should be marked yes, as the plans show that logging will happen within the NYSDEC wetland in the southern portion of the property and will need to cross the NYSDEC wetland in the northern portion of the property. Verification if there are any ACOE wetlands on the project site should be done.
 - c. The project area has 100-year flood plain, so question 16

Steve Myers, Chief Zoning Officer for the Town had no further comments regarding the application for the Special Use Permit.

Roy Casper, representing the Trails Open Space Subcommittee had no comments regarding the application.

Mr. Scavo then read his comments and noted that the applicant has met with Planning Staff to ensure the requirements of the Town Code's Timber Harvest Chapter are met. He recommended that as a condition of approval, the Planning Board specifically reference §184-5 Standards for Harvesting within the Town Code are binding on the applicant and should be attached to the notice of decision. Mr. Scavo also noted that while "Yes" was triggered by the NYS DEC EAF Mapper in regard to the project's proximity to an archeologically sensitive area or historic site it should be noted that such response was triggered because on the south side of Riverview Road is the Historic Vischer Ferry Nature Preserve which contains remnants of the original and enlarged Erie Canal Systems. Mr. Scavo also noted the project was referred to the Saratoga Co. Planning Board which issued a letter dated December 2019, noting, "No Significant County-Wide or Inter-Community Impacts."

Mr. Lippman then noted that the comments relative to MJ Engineer's Review from their December 6th letter still applied at the time of their review of the resubmittal. Mr.

Lippman highlighted a few of those comments relative to oversight of the timber harvest operations.

Mr. Ferraro then asked if there was anyone from the public who would like to speak and offer comments regarding the special use application. Ms. Shannon Kune identified herself as an adjacent property owner and noted she had conversations with Mr. Gerber regarding the project and the buffer. Ms. Kune asked if the buffer adjacent to her parcel would be left untouched or also selectively cut.

Mr. Gerber noted that as he previously discussed with Ms. Kune on the phone, if there was “danger tree”, disease, or dying tree it would be removed but beyond those conditions the trees within the buffer will remain intact. Ms. Kune noted her other concern was to ensure that any access through the wetlands on the project site wouldn’t negatively impact the wetlands on her adjacent land. Mr. Ferraro noted that at the last meeting the Planning Board discussed hydrological impacts and the applicant noted there were none but asked Mr. Gerber to elaborate in order to address Ms. Kune’s concern.

Mr. Gerber noted that if there is water moving which there is, channeling is occurring which reduces the potential for sheet flowing. Mr. Gerber noted the selective timber harvest would avoid any disturbance or impact to channelized water moving across the property and respect those areas using best management practices. Also, the hydrological cycle will not be altered, and the roadway used to access the uplands for harvesting is an existing access way that doesn’t require any disturbance to the wetland.

Mrs. Kune stated she had no additional comments.

Mr. Ferraro confirmed with the applicant that he agreed only dead, dying, or diseased trees that would pose a negligent safety hazard if left, are to be removed within the buffer area to adjacent parcels.

Mr. Scavo noted that if a certified forester documents the need to remove a tree as a safety risk, the Town has to his knowledge never denied such request.

Mr. Weldon, residing at 27 Brittany Oaks, noted that he owned a parcel of land in Vermont that when timber harvested identified trees to be cut at both the trunk and root line so trees to remain were not inadvertently removed. Mr. Weldon pointed out the Town did not require such practice.

Mr. Gerber responded that such practice could be done in the area of Ms. Kune’s land but in the main block of the uplands the tree stands to remain will clearly be identified rather than to take. Mr. Gerber stated that this approach is being done because it is an even-age silvicultural system that is being utilized for the timber harvest.

Mr. Anthony Lafleche, 21 Wheeler Drive asked if aspen and popular would be the main species removed.

Mr. Gerber responded no and noted that other species such as locust and oak are present as well. The goal is to remove stunted declined, damaged, diseased trees that encompass the term “under-performing” for asset forest management. The remaining healthy stock will provide a seed source for a healthy forest future. Mr. Gerber pointed out that his company oversaw prior timber harvests of this land and the adjacent parcel previously all owned by the Van Vranken Family. He noted, such prior timber harvests have led to the successful wooded growth of the forest and this project will ensure the woods will continue to regenerate in the same healthy manner moving forward.

Mr. Lafelche then asked what the harvest timber would be used for.

Mr. Gerber noted that the highest and best use for each removed species and cut will be utilized for market sale.

Since there were no further comments from the public, Mr. Ferraro, closed the public hearing and offered the opportunity for Planning Board Members to provide comments, questions and feedback regarding the information before them.

Mr. Ferraro did note that the Planning Board Members did receive a written response to questions previously offered.

Mrs. Bagramian asked what the catalyst was for this timber harvest request.

Mr. Gerber noted that the property owner wanted to ensure the health of the forest going forward for wildlife habitat such as white tail deer and wild turkey. Mr. Gerber noted the prior plan to previously subdivide this land for development has been withdrawn.

Mrs. Bagramian asked if the special use permit will run with the land going forward.

Mr. Scavo noted the special use permit for this specific timber harvest request will sunset after a two year period and read the specific section within the Timber Harvest Chapter of the Town Code which states such.

Mr. Ferraro noted that the written packet stated that no impacts would occur within the wetlands and questioned why a wetland buffer was shown.

Mr. Gerber responded that the buffer would be where islands of trees remain within the even-age forest area. Mr. Gerber responded that the buffer areas would not have any open cut areas within 25’ of the wetland and will act as a filter strip for stormwater runoff. Mr. Gerber then reinforced that the area directly adjacent to Ms. Kune’s home would have a 50’ buffer rather than 25’ along the remaining property boundary to ensure his client remains on good terms with the neighbors.

Mr. Andarawis then asked if how the codification of the conditions is made to clearly understand what is to be done.

Mr. Scavo noted that Chapter 184 Section 5 offers the conditions to ensure the constraints are defined on what the applicant can and can't do when conducting the timber harvest. Mr. Scavo noted that this section should be specifically referenced in the notice of decision.

Mr. Gerber noted the conditions represented in the Town Code do represent best forestry management practices.

Mr. Ferraro requested that in addition to a Notice of Decision referencing Chapter 184 Section 5 he also requested the buffer zones be clearly identified within the buffer area and only dead, dying and diseased trees will be removed in such zones.

Mr. Ophardt offered a resolution to approve the special use permit application with the conditions noted by Mr. Ferraro and those outlined in the final review letter to be issued by Planning Staff. Mr. Szczesny seconded the resolution which was then put to a roll call vote. The resolution passed with 6 - Ayes: Andarawis, Szczesny, Ophardt, Bagramian, Neubauer, Ferraro. 0- Noes: None. 1- Abstained: Beach.

Mr. Ferraro, then noted a motion for site plan approval was required. A motion to approve the site plan conditioned upon satisfaction of any outstanding comments outlined within the final review letter to be issued by Planning Staff was made by Mr. Ophardt. Mr. Szczesny seconded the motion which was passed by passed with Six-Ayes. None – No. One Abstention.

Old Business

Mr. Ferraro then noted the next item on the agenda would begin review of the old business agenda items.

[2019-034] 1573 Crescent Road 4 Lot Subdivision Amendment

Applicant proposes subdividing the parcel into 4 lots creating a .61 acre lot for the existing single family home located on the property as well as 3 vacant lots of 2.28, 1.28, & .46 acres, 1573 Crescent Rd, Zoned: R-1, Status: PB Prelim Review - Poss. Determination

Mr. Ferraro noted that the project was last seen on September 11, 2019, at which time the application received both preliminary and conditioned final approval. Mr. Ferraro noted that this evening's consideration is very specific and limited in focus to an amendment that must be approved by the Planning Board. Specifically, the Surveyor of record from the conditionally approved plan has been changed which planning staff deemed a significant enough change to require additional review and approval by the Planning Board. Mr. Ferraro asked Mr. Scavo to provide additional clarification.

Mr. Scavo noted that Lot #4 was amended to meet the R-1 minimum Lot requirement of 20,000 sq. ft. However, the change in surveyor was considered substantial enough to require the Planning Board to reaffirm its approval which will provide a paper record of how the conditionally approved plat by VanGuilder Land Surveyors, PLLS had changed to the final plat to be stamped with Gerald Gray, now shown as the surveyor of record. Mr. Scavo felt that such approval to allow for the surveyor of record to change between conditionally approved and final approved plat for stamping is beyond a ministerial function of administrative planning staff. Mr. Scavo also noted that the two plans reflect very slight adjustments to the lot measurements regarding the two separate control points used by each surveyor. The current plan prepared by Mr. Gray is consistent with the control points used for the original Crescent Woods Subdivision which is important to ensure the improvements align properly when constructed.

Mr. Duane Rabideau, of VanGuilder Land Surveyors, PLLC noted that he is representing his client for the proposed 4 Lot Subdivision Amendment. He noted that Mr. Gray was provided the survey data for the four lot subdivision as originally prepared by VanGuilder Land Surveyors and adjustments were made by Mr. Gray to ensure the coordinates are in sync with the prior approved Crescent Woods Subdivision.

Mr. Scavo then read the following staff comments for the records:

The ECC recommended:

- Until the entire project can be supplied for review, the ECC cannot comment on the project. The potential exists for changes to the plan such as lot line adjustments, stormwater management redesign, utility placement, and other changes. The ECC recommends that this project be deferred until such time the master plan is provided. This recommendation is consistent with the Saratoga County Planning Board comment letter and our previous recommendation that this project be proposed in its entirety.

Scott Reese, Town Stormwater Management Technician noted:

1. The application for subdivision review, narrative application for a Minor Subdivision "Crescent Woods", and Subdivision Plat, dated December 20, 2019 have no reference on how stormwater will be managed.
2. The plans are showing a proposed road and reconfiguration of Crescent Woods Subdivision. Stormwater Management of the water quantity and quality will need to be located on the plan. The stormwater management areas are typically deeded over to the Town of Clifton Park.
3. The SWPPP for Crescent Woods Subdivision will need to be updated to include the proposed changes.

Steve Myers, Chief Zoning Officer had no further comments.

Roy Casper of the Trails Open Space Subcommittee noted that construction and sidewalk details were not provided on the Subdivision Plat for Fairmont Drive and Crescent Road. (Sub Plat indicates: See Sheet 3 for Construction and Sidewalk Details)

Mr. Scavo then noted that a supermajority vote was already made by the Planning Board which went against the Saratoga County Board's recommendation. Mr. Scavo noted that while he values the comments offered by both the ECC and County Planning Board, he does feel the applicant's February submittal package to further subdivide the four lots will address their concerns.

Mr. Walter Lippman highlighted previous comments from MJ Engineering's September 2019 review letter and noted these technical issues are relevant and must be addressed with future subdivision review.

A resolution to approve the amended subdivision plan conditioned upon satisfaction of all requirements previously called out under the September 11, 2019 Planning Board approval was moved by Mrs. Bagramian and seconded by Mr. Neubauer. The resolution passed with 6 - Ayes: Andarawis, Szczesny, Ophardt, Bagramian, Neubauer, Ferraro. 0- Noes: None. 1- Abstained: Beach.

[2019-037] **Boni, Ryan 2 Lot Subdivision**

Applicant proposes to subdivide a 13.07 acre parcel into 2 lots (10.04 acres and 2.82 acres) to accommodate 2 residential single family homes, Rt 146A, Zoned: CR, for Preliminary Consideration with Possible Final Determination.

Mr. Ferraro noted that a public hearing was held and closed at the November 13, 2019 Planning Board Meeting and based on the feedback received at that public hearing it was determined that an analysis of potential noise impacts from the nearby railroad would be appropriate. Mr. Ferraro further stated that the Planning Board is required to act on the preliminary application within 62 days of the public hearing. The action is to either approve, approve with conditions or disapprove the preliminary application for the 2 lot subdivision. Mr. Ferraro pointed out that January 14th is the limit of that 62-day timeframe.

Mr. Ferraro then pointed out that unfortunately, the noise study will not be completed until January 23rd. Therefore, the Planning Board was not in a position to review the noise study until the 23rd at the earliest. Mr. Ferraro presented a scenario that if the Planning Board went forward with granting preliminary approval at the meeting, final approval would be conditioned upon review and acceptance of the noise analysis to determine if the impacts are significantly

different from the one single family home that can be built by right verses the proposed two single family homes to be constructed on the subdivided lots. Mr. Ferraro pointed out that the property owner has the right to build a single family home currently on the parcel without any review by the Planning Board and can apply directly for a building permit. The remaining question is to what impact if any would a second home have in regard to existing railroad noise.

Mr. Walter Lippman then pointed out that the analysis being conducted will look ultimately at a trees present scenario verses the proposed area of development with trees removed.

Mr. Andarawis clarified the change in the land is based on two homes rather than one.

Mr. Boni then introduced himself as the applicant proposing to build the homes adjacent to Route 146A. He noted that since the last meeting, signage and split rail fence have been introduced along the protected buffer areas. He then pointed out the limits of cut buffering to provide additional screening along the proposed edges of the two parcels which includes the common side property boundary of proposed lots #850 & 846 #Route 146A. Mr. Boni noted that after concerns were raised about “the train” he spoke with an architect/engineer concerning the issue who stated to him that with a distance of over 400’ the sound is minimal and only a home would protect the existing homes rather than the low growth trees present which lose their leaves in the winter months.

Mr. Boni then noted that he also reached out to residents within the Prospect Pointe Subdivision who provided written comments that they live within 200’ of the same railroad tracks and they have no impacts to them or their family. Mr. Boni questioned why this project was under “the spotlight” regarding sound when other projects such as a recent subdivision on Ashdown Road adjacent to the railroad tracks wasn’t required to do the same analysis. Mr. Boni pointed out that he is the only applicant that has been required to do a sound study in Clifton Park.

Mr. Ferraro noted to the applicant that it was an issue raised during the public hearing and that all members of the Planning Board were in agreement that confirmation from a professional should be sought to determine to what if any impact would be associated with the proposed subdivision and ultimate construction of two single family dwellings. Mr. Ferraro noted that the Town is ultimately commissioning the study and asked Mr. Scavo for confirmation.

Mr. Scavo noted that in accordance with Town Law, the Planning Board has the power and authority to make investigations, maps, reports relating to the planning and development of the town.

Mr. Boni concluded that everyone present has seen this project many times

before and should know the details pretty well.

Mr. Ferraro then requested that Mr. Scavo read the written staff comments. Mr. Scavo read the following:

ECC Recommendations:

1. In reviewing this project, the Planning Board requested that the applicant provide – the LC Overlay Zone boundaries, land modified disturbance boundaries, the split rail fence, and a possible trail easement along Route 146A. Review of the file by the ECC indicates that this information has not been provided. Also in addition we have not received any data regarding to the agreed upon noise study. Consequently, the ECC recommends that no action be taken on this project until such time as the information is provided and can be evaluated.
2. The ECC had the following comments on the previous submittal:
 - A. In the June 18th minutes of the ZBA, the record states: “Mr. Boni added that he felt it was not a desirable location for a single-family home and that he felt it would be better suited for duplexes as rental units.”

This assumption, however, has various environmental and public safety dimensions:

 - First, this statement assumes the possibility of annoying environmental noise levels at the site presumable due to rail and road traffic.
 - Second, the statement assumes that renters will tolerate the annoying noise levels better than owners of single-family dwellings; why would they?
 - Third, the “remedy” is to increase the number of people annoyed by the surrounding noise levels by building duplexes.
 - Fourth, any real remedy such as a noise barrier is not mentioned because if the renters are vocal enough, it will be the Town that is saddled with the resolution of the problem.

The “solution” to the Boni statement is a noise study that identifies the noise level, source and frequency of rail and road traffic noise at the site. The odd shape of this parcel, its unique location and the possibility of small children in the rental units demands that statement #1 be resolved so that statements #2, 3, 4 can be empirically addressed.

- B. The ECC notes that this project is adjacent to a significant wetland area and the occupants of these duplexes will be subject to

mosquitos and other insects during warm weather months.

- C. The June 30, 2019 survey certifies a 100-foot buffer zone indicating the limits of the NYS Wetlands. The ECC recommends that LC boundaries be delineated by a split rail fence.
 - D. The parcel (subdivision) is located in an area which may be impacted by railroad activity. Impacts may include noise or vibration. The ECC recommends that this condition be recorded on the deeds.
3. Due to the change in the present proposal the ECC has the additional following comments:
- A. It appears to the ECC that the granting of the variances was contingent upon the donation of 7 acres of land to the Town of Clifton Park. However, a review of this proposed donation by the town planning department indicates that due to its lack of accessibility, this donation would be better suited to be made to Saratoga Plan which owns the adjacent Woodcock Preserve. The ECC recommends that the Planning Board / Town Board determine that such a donation would be acceptable to Saratoga Plan before proceeding with a decision. The criteria and procedure for approval is outlined in Town Code 208-43.16.
 - B. A noise and vibration and proximity and safety study should be required before any subdivision approval are granted.
 - C. The site needs a much more thorough wetlands study. The last one was done in July 2019 during dry summer months which given present moisture levels may not be appropriate.
 - D. In a letter dated April 19, 2019, the planning department noted “with single family home development, ... property owners will often clear beyond what was originally identified on building permit plans to increase yard space over time and encroach into protected wetland areas.” Therefore, the ECC requests the Planning Board require signage and split rail fencing indicating the limits of the 100’ buffer (LC Zone).
 - E. The ECC notes that the delineation of the LC zone is within 10 feet of the proposed dwelling on Lot 2. Therefore, appropriate construction barriers be required during the project in order to mitigate any

potential intrusions.

- F. The ECC notes that, per Town Code 208-16.D.(3)(a)[23], electrical substations (and other utility-related uses) are permitted in the CR Zone “subject to the provisions of § 208-79E(2)” (Standards for special use permits). These Standards require the Planning Board to determine, among other things, that the electric substation satisfies the following considerations:
- (a) That the use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use districts.
 - (b) That the use will not prevent the orderly and reasonable use of permitted or legally established uses in the district wherein the proposed use is to be located.
 - (c) That the public health, safety, general welfare or order of the Town will not be adversely affected by the proposed use in its location.

The Town Code further states that “(n)o special use permit shall be granted for an electrical substation in any residential district or Business District B-3 unless the Planning Board shall conduct a public hearing at a regularly scheduled Town Board meeting.” Due to the proximity of the project to an existing electric substation, the ECC recommends that the Planning Board determine that the introduction of the proposed single family dwellings will not subject the future homeowners to the health, safety and welfare exposures outlined in this section of the Town Code.

Scott Reese, Stormwater Management Technician for the Town noted:

1. The NYSDEC wetland & buffers should show the overlay LC Zone.
2. Erosion and Sediment Plans shall be provided to prevent any impacts to the NYSDEC Wetlands and or buffer.

Steve Myers, Chief Zoning Officer for the Town noted:

- Variances that were granted (variance #81213) were based on a proposal for duplex construction. Single family homes would basically only require half on the granted variances.
- Lot #1 - 3 acres unconstrained required/I acre available/variance granted based on 6 acres/unconstrained required for duplex, 5 acre variance

granted.

- Lot #2 - 3 acres unconstrained required/3 .57 acres unconstrained available/variance granted for 2.43 acres based on 6 acres required for duplex. In this case no variance would have been required.
- Variance was approved with conditions: 1. Property must be sold to Ryan Boni within two years of variance approval. 2. Owner must offer parcel #264.-3-67 to the town for addition to adjacent Saratoga Plan property within two years of variance approval.

Mr. Roy Casper on behalf of the Trails, Open Space Subcommittee noted:

- A 15 Ft. wide ROW/Trail Easement should be considered on the property boundary line along Route 146A for a future multi-use path and utility realignment. (The recommended 15 Ft. wide ROW/Trail Easement is not shown on the updated site plan.)

Mr. Scavo then read his review letter dated December 30, 2019 and noted:

1. Add locations for the installation of identifying signage along the NYS DEC wetland area and 100' buffer. Specific attention should be paid to the siting of such identifying features on lots #1 and #2. An example of the signage is shown below:



2. The following notes shall be added to the subdivision plat:
 - a. This project is located in an area adjacent to an active landscaping business, railroad line and power utility substation. Such activity commonly associated with these uses may include, but is not limited to periodic noise, odors, vibration, hours of operation. The property owner and potential tenants in each structure should be aware of the adjacent uses and operations.
 - b. In accordance with §86-10 of the Town Code, “The applicant shall be required to plant two new trees per living unit on the street side of new construction sites.”

c. Wetlands Notes:

- (1) A regulated 100' buffer area to a freshwater wetland is present on the lot. Prior to undertaking any project that may be within the wetland buffer, the property owner shall contact **both** the DEC Region 5 Office at (518) 623-1200, and the Town of Clifton Park at (518) 518-371-6651, to obtain required permits.
 - (2) The Land Conservation (LC) Zoning District Boundaries associated with wetlands consist of those freshwater wetlands inventoried and mapped by the New York State Department of Environmental Conservation pursuant to Article 24 of the Environmental Conservation Law and the one-hundred-foot adjacent area measured horizontally from the border of the wetland. Only the permitted uses identified within §208-69.2 of the Clifton Park Town Code shall be allowed within the LC Zone.”
 - (3) A portion of the identified Freshwater Wetland is protected and regulated under federal law (Section 404 of the Clean Waters Act) by the U.S. Army Corps of Engineers. Prior to undertaking any project that may be within or adjacent to the wetland, contact **both** the DEC Region 5 Office at (518) 623-1200, and the US Army Corps of Engineers at (518) 266-6350, to obtain required permits.
- d. Allowable uses within the permanent Open Space shall be pursuant to those prescribed within §208-16(2) of the Clifton Park Town Code.

Mr. Walter Lippman then read following comments offered by MJ Engineering:

State Environmental Quality Review

1. No further comments.

Site Plans

2. As noted in Comment 4 of our November 4, 2019 review, provide information on the plans to indicate how potential sump pump laterals may be positioned which shall be in conformance with Section 86-7(A)(6) of the Town Code.
3. As noted in Comment 4 of our November 4, 2019 review, indicate locations of the existing water and sewer mains along NYS Route 146A.
4. A noise study is currently in progress and once completed a copy will be provided to the applicant.

Mr. Ferraro then asked if anyone from the public would like an opportunity to speak on the application.

Mr. Matthew Weber identified that he lives across the street from the proposed site and noted that there are far more uses available on the lot than just single family homes so it was not immediately clear to him why the noise study would compare two houses to one house. Also, Mr. Weber pointed out that one home has never been proposed by anyone. Mr. Weber also had a counterpoint to a statement by the applicant that the only remaining issue was about the noise but Mr. Weber, his wife and many more members of the public have pointed out far more issues than just noise however, noise is the only one that the Planning Board has taken any action on.

Mr. Weber asked if there will be any designated noise receptor on his property identified as 2 Legends Way as part of the study. Mr. Lippman responded no.

Mr. Weber then asked if the applicant will be required to pay for the noise study and ultimately reimburse the taxpayers for the cost of that study.

Mr. Scavo responded no.

Mr. Webber then noted the application filed last July was for Boni Builders, Inc. and provided a Tax ID# as a means of identification for that entity. The owner authorization was signed and notarized by Country Club Acres which authorized Ryan Boni as the individual to come forward to present the applicant. Given these facts Mr. Weber requested the Board identify who they believe the applicant to be.

Mr. Ferraro asked Mr. Scavo to answer that question who responded Boni Builders and the burden is on the applicant to ensure they are a part to the entity or authorized to represent such.

Mr. Weber then commented that procedurally it is confusing because the application itself was from a company while the authorization for someone who doesn't own the land to come before the board with the application is for an individual. Mr. Weber noted there is no mention that the individual is representing the company so it is confusing as an outsider that two different people are reflected.

Mr. Morelli noted that there is an owner authorization form that is completed and the concern is the legitimacy of an individual to represent a company to come before the board.

Mr. Scavo stated that it has always been an individual who presents or is authorized to do so on behalf of a company. He pointed out that "a company" is an inanimate object that cannot represent itself without a human being doing so on behalf of such company.

Mr. Weber then noted that he just wanted to be clear that the way the Board and the

Town sees it the applicant is representing the company.

Mr. Scavo responded yes.

Mr. Weber then asked if his authorization as an individual then covers his representation of that company.

Mr. Scavo responded yes.

Mr. Weber then summarized the prior comments previously provided both in writing and verbally to the Town which he stated included municipal officials and Planning Board Members.

The written letter submitted by Mr. Weber has been included within the Planning Board Project File. Mr. Ferraro thanked Mr. Weber for his comments.

Planning Board Members then began their review of the information before them to date.

Mr. Szczesny asked if the Town has any idea based on previous history if the noise study will reflect no impact or may identify an impact?

Mr. Scavo responded he has no idea what the outcomes of the analysis will be.

Mr. Neubauer pointed out the only condition remaining for Planning Board Members is the outcome of the noise study and as such he noted conditioning that approval on an analysis of no impact was worth consideration. Mr. Neubauer noted that prior to any final approvals he would prefer to have the hard data from the noise study.

Mr. Szczesny then asked if the applicant would be willing to waive the 62-day requirement to act based on receipt and review of the noise study.

Mr. Boni noted that everything here is “ok” to build as of right to construct one house within the area of proposed disturbance with the only approval required to obtain a building permit. Mr. Boni requested to apply for such by way of building permit and if the sound study results show no impact then review and approval can proceed forward for the second lot. Mr. Boni pointed out that this 2-Lot Subdivision Application review has been ongoing since July of 2019.

Mr. Boni noted that he would honor the no-cut buffers shown on the plan but stick to the one lot he is allowed to build for now with no review or approvals required from either the Planning Board or Zoning Board of Appeals.

Mr. Andarawis noted that he would have no issue with that scenario since the scope to do such doesn't require any Planning Board review or approval.

Mr. Ferraro noted that while certain property owners within the subdivision across

the street may not agree with his assessment, the Planning Board did include conditions to minimize any negative impacts that may occur. Mr. Ferraro pointed out the split rail fence to visually identify buffers. Mr. Ferraro noted the conditions imposed on the current plan was to make the project more acceptable where such conditions wouldn't exist if the plan was just for a single family home since such construction is as of right.

Mr. Ferraro voiced that he is concerned by removing such conditions to allow for the construction of the one home.

Mr. Boni noted he will honor the buffers and conditions currently shown on the plan and desires to proceed forward with the construction of one of the homes as of right. He understood the study is due in a week but acknowledged it may be a week to three weeks before he is able to be back before the Planning Board. Mr. Boni reinforced his personal view that he feels the sound study will show minute findings because there are many examples of people living within 150' of a railroad line. Mr. Boni did acknowledge that if the sound study did show an impact he would be back before the board to review his options going forward.

After a brief discussion by Board Members it was agreed that the Town cannot withhold a building permit to authorize the construction of one single family home that meets all applicable code requirements.

Mr. Morelli clarified for the applicant and Planning Board that the next step would be for the sound study to be made available to the Planning Board and available within the project file for public review.

Mr. Scavo then read section 276 of Town Law which allows for the 62-day period to be extended by mutual consent.

Mr. Boni acknowledged he will waive the 62-day requirement for action on the preliminary application for the 2-lot subdivision and will begin construction of one single family home at this time, while honoring the conditions shown on the preliminary plan for clearing and grading.

Mr. Boni also noted that there is approximately 30' shoulder that already exists off the edge of pavement.

Planning Board Members noted that they feel there is sufficient ROW adjacent to the property and additional ROW doesn't appear necessary.

Mr. Ferraro noted that he still likes the idea for the land conveyance to Saratoga Plan of an adjacent parcel to expand the continuous protection. He also commented that any condition of approval for the 2 lot subdivision should include a requirement that the adjacent parcel be protected as forever wild either through conveyance to Saratoga PLAN, to the Town of Clifton Park or a conservation easement on the entire

parcel should Saratoga PLAN or the Town not be interested in the parcel.

Mr. Ferraro noted that in terms of public notifications, the comments were previously discussed and it is the Town's position that those conditions were met. Mr. Ferraro noted that residents who may disagree with that position have the ability to challenge that assertion. Mr. Ferraro also pointed out that the applicant was responsive to initial concerns and did withdraw the Special Use Permit Application for the consideration of duplex units and is now only seeking subdivision approval for two single family homes. Mr. Ferraro also summarized the site plan evolution and modifications made to the plan regarding proposed clearing and buffer areas. He noted that while residents may not agree, it is his opinion that the applicant has been responsive since July to address concerns and comments raised.

Mr. Ferraro noted that no action would be taken at the meeting. A Motion was made to acknowledge that based on mutual agreement between the applicant and Planning Board, the 62-day time period to take action by approve, deny, or approve with modification the preliminary subdivision application has been waived. The motion further stated that the applicant has, as of right, the ability to construct a single family home on the existing parcel and the building department is authorized to issue a building permit to allow for such, provided all state and local requirements are met. Mr. Szczesny moved the motion which was seconded by Mr. Ophardt. The motion was passed with six-Ayes, zero-Nos, and one-Abstention.

New Business

[2019-047] **Stewart's Shops 1740 Route 9 - Site Plan**

Applicant proposes subdividing 1.48 acres from CPOP site which currently contains the Residence Inn by Marriott and upon subdivision and Site Plan Approval will construct a new 3,696 sf store and self-serve canopy, 1740 Rt 9, Zoned: B-4A, Status: PB Preliminary Review SBL: 272.1-1-14

Mr. Ferraro introduced the next item on the agenda as new business for Preliminary Site Plan Review for a new Stewart's Shop that will also consider a subdivision of 1.48 acres. Mr. Ferraro noted that the project was last considered as a discussion item in October 2019 by the Planning Board. Mr. Ferraro noted while the project is on for preliminary review for site plan it is understood there is a public hearing that will be required prior to granting approvals for the subdivision. Mr. Ferraro did note that it appears the applicant did an excellent job in addressing concerns and comments previously raised by the Planning Board regarding the layout and site configuration.

Mr. Marcus Andrews representing Stewart's Shop, noted Stewart's Shop has no issues with approvals for both site plan and subdivision being considered in the future, at the same time since the applicant will be coming back for the required

subdivision public hearing.

Mr. Andrews provided a summary of the proposal, which in addition to the store includes a gas canopy with a fueling island. Mr. Andrews highlighted changes since the last meeting which included:

- Rotating the building 90 degrees;
- Moving the building closer to NYS Route 9;
- Adding a patio area to the eastern-side of the building;
- Extending the sidewalk system to connect to the existing sidewalk system out to NYS Route 9;
- Increased greenspace with land-banking of a few parking spaces.

Mr. Andrews noted a few of the parking spaces will be shared between the applicant and the existing Hotel. Mr. Andrews also noted that if the land-banked parking spaces were constructed, the project would still be above the minimum 35% greenspace requirement for the site.

Mr. Andrews noted that since the current submittal there have been slight modifications to the site plan to adjust grading and slope concerns for the proposed driveways raised by Town Staff. Mr. Andrews noted that a future submittal will show those modification. Mr. Andrews noted that Stewart's Shop has reached out to NYS DOT and based on feedback the proposed right-out-only should not be an issue. Official approvals from NYS DOT is pending approval of the official highway work permit that has been submitted.

Mr. Ferraro asked Mr. Andrews to provide additional details on the grading changes beyond what the Planning Board currently has been provided. Mr. Andrews noted the site plan showed a grade of approximately 14% for the driveway. Based on modifications that will be provided with the next submittal the Board will see that grade is now at 8% to 8.5%

Mr. Andrews noted that area variances were granted by the ZBA in December for canopy location setbacks and a landscaping buffer along the rear property boundary shared with the existing hotel facility.

Mr. Ophardt asked that Mr. Andrews speak to the grades in the vicinity of the fuel pumping areas. Mr. Andrews noted the area is relatively flat in that location and doesn't exceed a 3% cross slope.

Mr. Andrews further clarified for Mr. Ophardt that the parking spaces will not exceed the 2% cross slope required by State Building Code.

Mr. Scavo then read the following comments offered by professional staff:

The ECC had no comments for the current submittal.

Scott Reese, Town Stormwater Technician noted:

1. The project site is inclusive of the Resident Inn by Marriott stormwater management design area. The applicant shall refer to the approved Stormwater Pollution Prevention Plan – Residence Inn by Marriott – by OSPA Engineering Services, PC. – last revised May 10, 2013 when designing for stormwater treatment and management for this site.
2. Since the site is being subdivided and owned by different owner of the original SWPPP, procedures outlined in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activity Part II. E

– Change of Owner or Operator shall be followed.

3. The temporary concrete washout pit should be lined to prevent leaching of liquids into the ground. All Erosion and Sediment Controls shall follow the New York State Standards and Specifications for Erosion and Sediment Control, latest edition.
4. The Precast Concrete Drainage Catch Basin detail on sheet S-9 requires a hood on the outlet pipes. The detail refers to the Grading Plan for locations but does not reference the hood on Sheet S-8. Will the hood be installed in all proposed catch basins?

Non-Stormwater Comments:

5. Concern with the 17% driveway access slope and 9.5% incline at southern access to U.S. Route 9, with no transition for the large tanker trucks. The slope at the U.S. Route 9 entrance will need to meet NYSDOT Standards.
6. What is the ground clearance from the overhead utilities at the proposed U.S. Route 9 access?
7. The proposed sidewalk that connects the eastern side of the proposed building to the concrete sidewalk along U.S. Route 9 is steep, the applicant shall verify if handrails and / or landing areas are needed.

Steve Myers, Chief Zoning Officer noted:

- All variances approved but with conditions. The variances and conditions need to be shown on documents.
- All signage needs to be applied for separately to the building department.

Mr. Roy Casper on behalf of the Trails Open Space Subcommittee noted that:

- A sidewalk/crosswalk connection should be provided from the Stewarts

Shops front entrance to the circular concrete sidewalk at the front entrance to the Marriott Residence Inn. This is the shortest distance between the Stewarts Shop and the Marriott Residence Inn and the most likely used pedestrian route. (See Attached Map)

- The sidewalk segment that extends from the entrance driveway sidewalk along the west side of the Stewarts parking lot could be eliminated since it provides no direct pedestrian route.

Mr. Scavo then offered his comments and stated that:

1. The Saratoga County Planning Board issued a recommendation at their November 15, 2019, meeting that noted the project will have, “No Significant County-Wide or Intercommunity Impact.”
2. If the Planning Board finds the preliminary plans to be acceptable as shown, the Public Hearing for the proposed subdivision will be scheduled for preliminary approval with a possible final determination.
3. Based on my review of the minutes from the October 8, 2019, Planning Board Meeting, it appears the applicant has adjusted the site plan layout that reflect feedback provided by Planning Board Members.
4. The applicant should note that all signage proposed for the convenient store and fuel uses require a sign permit and approval from the Director of Building & Development pursuant to the Clifton Park Town Code and are outside the purview of the Planning Board’s Site Plan Approval.
5. It appears the plans and detail sheets are reflective of and consistent with final design details vetted out during recent Stewart’s Shop Redevelopment Projects. Therefore, I have no additional comments at this time.

Mr. Lippman then offered the following comments on behalf of MJ Engineering:

State Environmental Quality Review

1. Based upon our review of Part 617 of NYS Environmental Conservation Law, the project appears to be a “Type II” action and requires no further SEQR review. The action is consistent with section 617.5-c(9) which states that the “construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities”.

2. The applicant has submitted Part 1 of the Short Environmental Assessment Form (SEAF). Based upon our review of the submitted Part 1 SEAF, the following comments are offered:
 - a. No further comments at this time. Additional comments may be forthcoming as the project advances.

Site Plans

3. The project is located within the Town's Highway Business/Restricted Retail District (B-4A) Zoning District. The proposal for a convenience food store is a permitted principal use within the B-4A District pursuant to Section 208-50.2 of the Town's Zoning.
4. In our review of the concept plan submitted, it appears that there are instances where the bulk lot requirements are not satisfying the minimum requirements set forth in Sections 208-50.3 and 208-98 of the Town's Zoning. The potential lot deficiencies identified are as follows, noting that there are existing area variances in effect for the lot that have not be identified:
 - a. Section 208-50.3(C) of the Town Zoning indicates that no automobile parking spaces shall extend nearer to a side property line than 20-feet. The plan appears to show parking spaces within 20-feet of the side yard property line near the hotel.
 - b. Section 208-98 of the Town Zoning indicates that no building or part of a building, other than steps, eaves and similar fixtures, shall extend nearer to the center line of the street or road than 130 feet. The proposed gas canopy/pump is within this requirement.
5. Provide a delineation of the area of expected disturbance associated with the project along with the numerical value, which shall include both on-site and off-site improvements.
5. As reported in the Chief Zoning Officer's review several variances have been granted. If this is the case, the plat shall note the date and resolution approving the variance and the extent of relief granted.

6. The submitted information indicates the project is proposing to connect to an existing water main(s) within proximity to the parcel. These mains are owned and operated by the Clifton Park Water Authority (CPWA). It is recommended that the Town be furnished with documentation that the CPWA is willing and capable of providing potable water to the project.
7. The submitted information indicates the project is proposing to connect to an existing sewer main(s) within close proximity to the parcel. These mains are owned and operated by the Saratoga County Sewer District No. 1 (SCSD). It is recommended that the Town be furnished with documentation that the SCSD is willing and capable of providing sanitary sewer service to the project.
8. Provide the locations of the existing potable water and sanitary sewer mains that the project will be connecting to.
9. Verify the existing water easement alignment west of proposed building.
10. Label all inverts (in and out) for the sanitary system components (i.e. manholes, grease trap, pump stations) on the Utilities Plan.
11. Provide sewer details including grease trap and pump station.
12. Water details will need to be provided for water service connection.
13. Provide storm water hydrodynamic separator details.
14. The proposed site plan should be incorporated into the Residence Inn by Marriott SWPPP and modified accordingly.
15. By eliminating the parking spaces currently being utilized by the hotel, do the remaining spaces still meet the hotel's required parking spaces.
16. The project proposes access onto NYS Route 9, which includes construction of a new curb cut and a sanitary sewer connection. This proposed work is subject to the review and approval of the NYSDOT. The applicant shall coordinate with the regional office of the NYSDOT and obtain permitting in advance of construction.

17. Provide an updated traffic study incorporating the proposed use. Applicant shall use data from similar facilities in the area for representing trip generations since these stores are typically higher than the data provided in the ITE Manual.
18. At the ingress/egress locations along the shared driveway, curb ramps shall be maintained or installed as appropriate for the existing sidewalk.
19. At the current shared driveway access to Route 9, a curb ramp should be installed on the south side of the driveway and a curb ramp and associated sidewalk on the north side and extend to the property line.
20. It is recommended that the north curb be channelized to promote only right turns from this location and discourage entry. Signage should be provided at this location per the MUTCD to prohibit entry and alert drivers to the right only condition.
21. Sheet S-2, correct the front setback to be 130-ft from the centerline of Route 9 pursuant to Section 208-98 of the Town's Zoning.
22. Sheet S-8 should be titled "Erosion and Sediment Control Plan".
23. Sheet S-8 shall show existing and proposed contours to demonstrate that the erosion control measures shown are appropriate and being placed correctly.
24. Sheet S-8, provide any soil stockpile location(s).
25. Sheet S-8, Copper Water Service detail is provided however HDPE piping is identified on the plans. Please verify pipe material.
26. Sheet S-10, PVC Sewer Lateral trench detail indicates 4-inch SDR 26 while the proposed utility plan indicates 6-inch SDR 21. Please verify pipe size and material.

A conversation was also had regarding the number of parking spaces which appears to make the hotel parking deficient for the spots required by code. Mr. Scavo pointed out that as a condition of the subdivision, the Planning Board has the ability to waive parking requirements.

Mr. Anthony Lefleche, 21 Wheeler Drive asked if the proposed store was going to replace any of the existing stores in the area.

Mr. Andrews noted there are no plans to close any store and this store's goal is to pick up southbound traffic on Route 9 from Farm to Market Road to the Route 146 & Route 9 Intersection.

Mr. Andrews then answered a question to clarify that the sidewalk along Route 9 is there today.

Mr. Ferraro asked about landscaping elements along the front of the parcel in the vicinity of the black iron fence on the site plan and requested the applicant add some additional plantings in that area of lower growth and maybe a tree or two.

Mr. Neubauer discussed the orientation of the black iron fencing and the potential for another segment to be added. After a brief discussion, that suggestion was dismissed due to the lot's front property line being skewed from both Route 9 and the existing sidewalk, which visually would look out of place. Mr. Neubauer did agree with Mr. Ferraro's comment to increase landscaping by the black iron fence area in the front northeast corner of the parcel.

Mr. Ferraro then discussed the geometry of the Right-Out-Only with both the applicant and MJ Engineering to ensure the design discourages left turning movements out.

Mr. Andrews thanked the Board Members for their consideration and noted Stewart's Shop will prepare a final plan submittal for consideration of approvals for both site plan and subdivision applications and will be back before the Board in the near future.

Discussion Items:

Mr. Ferraro noted that there were no other items before the Board and asked Mr. Scavo to discuss the upcoming Ethics Training Session for Planning Board and Zoning Board Members. Mr. Scavo noted that Ethics Training sessions with Steven Leventhal will be held on Monday January 27th at 3 pm and 6 pm in the Wood Room. Members of the Zoning Board of Appeals, Planning Board and those employees authorized to approve

procurements under the Town's Procurement Policy and Procedures are expected to attend.

Since there was no additional business to come before the Board the meeting was adjourned at 10:20 p.m. by a motion made by Mr. Szczesny and seconded by Mr. Ophardt.

Respectfully submitted,

John Scavo

John Scavo
Director of Planning