

Town of Clifton Park

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PLANNING BOARD

ROCCO FERRARO
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ANTHONY MORELLI
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MEG SPRINGLI
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MEMBERS

Emad Andarawis
Denise Bagramian
Jeffery Jones
Andy Neubauer
Eric Ophardt
Greg Szczesny

(alternate) Teresa La Salle

Planning Board Minutes February 13, 2018

Those present at the February 13, 2018 Planning Board Meeting were:

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

Those also present were: J. Scavo, Director of Planning
A. Morelli, Counsel
M. Springli, Secretary

Absent: None

Mr. Ferraro, Chairman, called the meeting to order at 7:03pm
All in attendance stood for the Pledge of Allegiance.

I. Minutes Approval - January 23, 2018

Mr. Jones moved, seconded by Ms. Bagramian, to approve the minutes of the meeting on January 23, 2018 as written.

Ayes: All Noes: None. Abstained: Jones Motion carried.

II. Public Hearings- none

III. Old Business

2017-021 Abele 14 Lot Subdivision and Duplex SUP

Applicant proposes to create a 14 lot cluster subdivision to construct 14 Duplex Units on a private road to be connected to John J McKenna IV Way. A homeowner association will own and maintain the roadway. John J McKenna IV Way, Zoned: R-1, Status: PB Revised Concept Review SBL: 284.-1-10.21

Tom Andress with ABD Engineers described the revisions to the conceptual plan since it was last seen on August 8, 2017. Also present were Ed and Joe Abele of Abele Builders, and

Terresa Bakner, attorney for the applicant. Mr. Address explained that the project had been revised from earlier proposals to its current layout with 14 duplex units totaling 28 dwelling units. The consultant stated that wetlands have been delineated including the deed restricted area with the ACOE wetlands. Next, he said that the private road and units had been relocated, and that the connection to Christinamarie Dr had been modified with a foot trail/grass pavers from the cul-de-sac and then it would be paved beyond the wooded area until it reaches the private roadway, and two turnarounds were proposed at the end of the two private roadways. Mr. Address also noted that a homeowners' association was planned, and ownership and access to public water was still under discussion with the Clifton Park Water Authority.

Staff Comments

Environmental Conservation Commission

The ECC held a meeting on January 2, 2018 to discuss the project and issued a comment letter stating that:

- ECC requests the applicant provide a standard lot layout of single family residential lots as per the R-1 Zoning.
- Due to the existing topography there appears that significant grading will be necessary to provide buildable lots. Applicant shall include a grading plan for the R-1 zoned standard lot layout in order to assess the feasibility of this proposal.
- The ECC notes that eight proposed lots do not meet the minimum required size (20,000 Square Feet) for single family homes and duplexes are being proposed on these lots.
- The ECC would like to reiterate the comments above and are in agreement of the State Environmental Quality Review and Full Environmental Assessment Form comments by MJ Engineering, dated December 27, 2017.
- Due to the Deed Restrictions noted on the plan, the ECC recommends that this project be rejected as proposed, due to the environmental impacts.

S. Myers, Director of Building and Zoning issued a memo with the following comments:

- A letter from planning dated 1/19/18 addresses most of the issues present. There are still building and fire code issues such as road width and fire apparatus turn-a-rounds that need to be corrected. Approval from the Planning Department should not occur until all the issues are satisfied.

S. Reese, Stormwater Management Technician letter

S. Reed, issued a memo with the following recommendations:

- History has shown that private roads in large subdivisions have issues with maintenance of the streets and emergency access roadways. Who will plow and do general maintenance if the HOA goes defunct? This has proven to be an issue for emergency services.
- Provide a minimum width of the roadway for emergency services of 26 feet wide per IFC.
- Provide a street name for postal verification.

John Scavo, issued a review letter dated January 4, 2018 with the following:

- As previously noted at the April 26, 2017, Planning Board Meeting:

- In accordance with §239(m)&(n) of GML, the project will be forwarded to both the Saratoga Co. Planning Board and Town of Halfmoon for their recommendations and comments.
- The HOA Offering Plan should provide the HOA with oversight and additional enforcement of the ACOE deed restricted area for each private lot.
- As plans advance it will be important to ensure stockpiling of site materials, construction equipment, vehicles, and clearing/grading does not occur within the ACOE deed restricted areas.
- Provide for a cluster mailbox design detail and location on the plan and provide verification that it is to the satisfaction of the Clifton Park Postmaster.
- Add the following notes to a future preliminary plan:
- The Town of Clifton Park is not responsible for the snow removal in front of and around the cluster mailbox. It shall be the responsibility of either the homeowners association or the property owners within the subdivision to clear and maintain the area around the cluster mailbox for postal deliveries. The Town of Clifton Park is neither the owner of nor responsible for the designated cluster mailbox, mounted post, and concrete pad.
- The private roadway and emergency access drive shall be owned and maintained by the HOA and shall not be accepted for dedication by the Town of Clifton Park now or in the future.
- 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.
- This parcel is located in an area where aviation activity occurs. Such activity may include, but is not limited to periodic noise, vibration, hours or operation, and other associated activities. A study describing this impact in detail is available for inspection in the offices of the Albany International Airport.
- Due to the proximity of Interstate 87 and CR-92, the properties within the subdivision could experience noise and vibrations commonly associated with a busy interstate highway system and county highway.
- Additional comments this evening include:
 - The applicant should assist with preparation a Draft Part II SEQR Long EAF for the Planning Board's consideration. Also, provide supplemental information that may be considered to support a SEQR Determination of Significance.
 - It is important to note the action in its entirety includes, a subdivision, cluster subdivision determination, special use permit for duplex structures, and an area variance for lot number density. In accordance with §179-37(B) of the Town Code the analysis for allowable density under a Cluster Subdivision is prescribed. The applicant should provide a site statistic table and narrative to outline how the requirement is satisfied.
 - A copy of the Friends of Shawangunks, Inc. V. Knowlton, 64 N.Y. 2d 387 (1985) Court Decision is attached to this review letter and has been provided to the Planning Board for their consideration. It is important for the record to note that the court for that case determined, use that may be made of land under a zoning ordinance and use of the same land under an easement or restrictive covenant are, generally, separate and distinct matters, the ordinance being a legislative enactment and the easement or covenant a matter of private agreement. The

issuance of a permit for a use allowed by a zoning ordinance may not be denied because the proposed use would be in violation of a restrictive covenant.

- The project would be serviced by CK Sanitary, a private transportation corporation. The applicant must furnish evidence that CK Sanitary has both the capacity and willingness to service the proposed dwellings. It is also important to have CK Sanitary acknowledge that the Sewer Utility would not be within a publicly dedicated street and would be maintained within a private roadway system.
- The applicant should provide information from the Clifton Park Water Authority (CPWA) that there is capacity and willingness to service the proposed dwelling units. The Executive Director of the CPWA has expressed concerns of not wanting to have a public utility owned on private lands and be responsible for hydrant flushing along a private roadway system that may result in claims of damage to the roadway, if not properly maintained.
- The private roadway ownership should be held by Tenants in Common for each dwelling unit rather than just owned by an HOA which may have the future potential to be dissolved.

J. Scavo, Director of Planning, also sent a letter dated January 19, 2018 to Planning Board members to:

The land use proposed is deemed eligible for consideration by the Planning Board if it meets the following criteria:

1. §208-10 Residential 1 Districts (R-1) & §208-11 Space & Bulk Standards of the Clifton Park Town Code.
2. Provisions of Chapter 179: Subdivision of Land within the Clifton Park Town Code.
3. Provisions of §179-37: Cluster Subdivision Requirements.
4. All applicable provisions and requirement of NYS Town Law.

The Planning Director also outlined factors considered in the determination of eligibility, stating that:

“The Chief Zoning Officer in consultation with Town Staff has concluded that a 14-lot subdivision on 20.74 acres of land is eligible to be considered for consideration within the R-1 Zoning District. Furthermore, the applicant may seek to be granted permission by the Planning Board to invoke a Cluster Subdivision Design in lieu of a conventional layout, pursuant to §179-37 of the Town Code. In addition, a Special Use Permit Application to be considered for 14 lots by the Planning Board, is an eligible activity pursuant to Town Code §208-10(B)(9)(a)[7], provided the procedures prescribed by §208-79 Special Use Permits, within the Town Code are met.”

The letter is to be entered as part of the permanent record for this project and attached to any Notice of Decision.

Open Space, Trails and Riverfront Committee

Roy Casper offered the following comments:

Per the Cluster Concept Plan:

- Develop the road as a public roadway that connects in a loop instead of two dead ends for improved connectivity and snow removal. Is a roadway loop possible where wetlands exist?
- If the roadway and sidewalks remain private, a “Public Right-Of-Way Access Easement” should be granted to the Town of Clifton Park to ensure that the public can use the sidewalks and the emergency access/multi-use path for walking or bicycling. (Southwick Meadows is an example where this has been done.)
- Sidewalks should be provided along the entire roadway to provide a continuous sidewalk loop.
- A crosswalk should be installed across the roadway where it intersects with John J. McKenna IV Way.
- Emergency Access Drive/Co-Located Multi-Use Path: Plan proposes a 26 foot wide asphalt emergency access drive that converts to a 6 foot wide multi-use path connecting to the Christina Marie Drive cul-de-sac. The Trails Subcommittee recommends the following alternatives:
 - A 12 foot wide asphalt emergency access road with hardened shoulders to meet firetruck weight thresholds standards. (An example of this is the Vistas Neighborhood where the Vista Court emergency access road/asphalt multi-use trail to Sterling Heights Drive is 12 feet wide with 4 foot crusher run shoulders providing a total of 20 feet for emergency access.)
 - The 12 foot emergency access road should then taper into a 8 foot multi-use path as it approaches Christina Marie Drive for ease of maintenance of the emergency access/multi-use path and to meet minimum standards for multi-use path widths.
 - (Or) A 12 foot wide continuous emergency access road/multi-use path (with 4 foot hardened shoulders) could be designed and installed.
 - The future HOA should be required to clear snow on the emergency access drive/multi-use asphalt path at the same time that the roadway is cleared. Likewise, if it becomes a town road, it will need to be cleared of snow by the town.

Per the Conventional Layout Plan:

- A sidewalk should be provided along this town road.

Professional Comment:

M.J. Engineering, issued review letters April and August, 2017 and did not issue any further review at this time.

Public Comment:

Dan Hartnett, 32 Southbury Road resident, voiced opposition to the plan stating that he believed Shen school buses would not service the development. Next he questioned the calculation of the

number of buildable lots and what he felt was a lack of stormwater management areas. Mr. Hartnett also stated that he felt the density was unprecedented in R-1 zones within Clifton Park.

Ed Abele, Abele Builders, the applicant, then addressed the Board. Mr. Abele stated that he felt this was not a high-density project with 24 units on 20 acres, and that this project would be a housing type that he felt was needed in Clifton Park.

Mr. Hartnett asked what the buildable area of the parcel would be if you subtracted the deed restricted land. Mr. Ferraro stated that he understood that the deed restricted land can be included in the total calculation. Ms. Teresa Bakner with Whiteman, Osterman and Hanna stated that the deed restriction is between the ACOE and the property owner. The attorney, then added that case law has determined that the land ownership and zoning code is used for calculating the density. Ms. Bakner also stated that private agreements/restrictions/easements do not come into play unless explicitly excluded in zoning statute. It was noted that this project would include 6 acres of disturbance on 20 acres and the deed specifically reserves the owners' right to use the property.

Anthony LaFleche, resident of 21 Wheeler Drive, asked why the conventional layout was shown. Mr. Ferraro explained that as part of the application process, it would be used to determine the number of lots allowed under conventional design and then the applicant would present a cluster design using that calculation. Mr. LaFleche added that he preferred the conventional layout, and public roads with a loop rather than the two stubs.

Discussion ensued about the deed restricted area being used in the calculations. The Planning Board Attorney, applicant's attorney and the town designated engineer agreed that the minimum requirements were in fact met. Mr. Morelli explained that all 14 units on the conventional plan do meet the zoning, but that the planning board will be deciding whether the cluster might be a better design.

Then the accessibility of the adjoining lot in Halfmoon was discussed and whether approval of the development would create a landlocked parcel. Mr. Ophardt explained that development rights had been taken by the State when the Northway was built, so he felt that whether it was landlocked or not was not material to this decision.

Ryan MacEvoy, a resident of 17 Hiawatha Dr., expressed concerns with the location and ownership of the "private" road which would be in close proximity to his property. Mr. Andress responded that they could not meet the 50 foot right-of-way with the cluster development, and in order to do so, the developer would have to use the conventional layout with a public road between Christinamarie Drive and John J. McKenna IV Dr.

Planning Board Review:

Mr. Ferraro questioned the long-term viability of an HOA, due to the fact that these units might house a variety of occupants: owner/owner, owner/renter, or renter/renter. The chairman then stated that he was concerned that residents might not have much vested interest in maintaining an HOA.

Mr. Abele stated that HOAs have offering plans and that it must be accepted by the Attorney General's Office and that even though it has not been common in Clifton Park, that Abele Builders does have a lot of experience with HOAs. Ms. Bakner added that assessments are set to include plowing and maintenance and charged to the owner of the property not the renter, and a property management contract is in place for the maintenance, so renters would not be directly responsible for the annual assessments. The owners would be legally bound to keep up the assessments which could vary each year. Discussion ensued regarding the long-term viability of HOAs. Ms. Bakner explained that to dissolve The Declaration of Restrictive Covenants would require the agreement of the mortgage holders (banks/lenders) as well as each homeowner. Ms. Bakner also noted that the Town cannot be compelled to accept dedication of a roadway that is not built to its standards under any case, and that the private road would not by default become a public road.

Mr. Neubauer questioned the setbacks and the lack of right-of-way in the cluster design. Mr. Neubauer added that he would prefer a public road with lesser setbacks (stating that the Planning Board has the latitude to adjust setbacks). Mr. Andarawis also expressed favor of a public road. Mr. Ophardt stated that if it was a 50 ft right-of-way, then they would extend Christinamarie to McKenna and use the conventional layout.

Mr. Andress responded that plowing in very narrow setbacks would be more difficult but then the HOA would not have to address the roadways in that case.

Mr. Ferraro stated that he felt that the conventional layout did not address the concerns of existing residents who had spoken at prior meetings. Residents in attendance appeared to agree with the chairman's statement. The chairman then explained that he felt that the cluster design addressed many of those issues and added that he felt a proper maintenance agreement for the private roadway could satisfy some of the concerns.

Mr. Andress noted that the looped roadway would require approval and an adjustment to the existing deed restriction by the ACOE. Ms. Bakner stated that she felt that it would hold more weight if the Planning Board or Planning Director would support such a request from the applicant. Mr. Scavo added that he felt the planned emergency accessway could then be reduced to a multi-use path instead. Ms. Bagramian added that she supported the looped road and cluster design.

Planning Board members expressed that they would prefer the cluster design with the looped road, removing the emergency access and replacing it with a multi-use pathway. The chairman noted that the HOA would be required to grant a public easement across the multi-use pathway and private road. Members also stated that they would prefer to see a sidewalk added along the house side of the road(s).

Stormwater management was then questioned and Mr. Andress responded that the developer planned to use green infrastructure, with no need for infiltration basins. The grading and slopes of the parcel were also discussed. The Planning Director asked the consultant if he could show the topography and elevations on the next submittal. The Director also suggested that maintaining the hillside would be important for the neighbors on Hiawatha Drive.

Kathleen Kennett, 15 Hiawatha Dr., stated that she agreed that the hill on the portion of the roadway closest to Hiawatha would be a buffer from headlights into her backyard. Ms. Kennett also stated that she was concerned about additional traffic on Crescent Road. In response to Ms. Kennett's question about not meeting minimum lot sizes, Mr. Ferraro stated that the lot sizes were now compliant with minimums of 20,000 sf.

Mr. Jones asked if the number of units would trigger any improvements required for traffic improvements. Mr. Bianchi responded that it would not reach any thresholds with DOT.

Mr. Scavo remarked that pursuant to Section 208-79A3 the Special Use Permit application would be considered on a case-by-case basis based on each individual lot, adding that if a special use permit was not granted, then a single family home could be allowed on each individual lot approved. Discussion ensued about single family vs. duplex units. Mr. Ferraro explained that the project, as currently proposed, was for 14 proposed duplexes, and that the special use permit would not allow each unit to be owned separately. In order for each unit to be owned separately, each lot would have to be further subdivided down the middle of the common wall of the duplex units with each unit on its own lot.

Mr. Morelli explained that per 208-79A 11 factors will need be taken into consideration when assessing SUP, including traffic issues, and that they would be addressed at a future meeting.

Mr. Hartnett asked if it would be a 28 lot subdivision rather than a 14 lot subdivision and questioned why it is being done differently than any other subdivision in R-1 zoning. Ms. Bakner responded that the applicant is pursuing a 14 lot subdivision with a special use permit for duplexes as is allowed per zoning code and they were not seeking a variance with the Zoning Board of Appeals.

<<7:44 pm Recording paused. 5 minute break to allow signing of the students attendance for class.>>

IV. New Business

2018-006 Pagoda Duplex SUP

The applicant proposes to subdivide 2.61 +/- acres into 2 lots. Parcel 1 will be 1.32 +/- acres and Parcel 2 will be 1.29 +/- acres. Both are for construction of duplexes which require a Special Use Permit to be granted by the Planning Board. Each lot will have its own public utility connections and both lots will share one curb cut to Grooms Road. An area variance for each lot was granted on January 2, 2018, 532 Grooms Rd, Zoned: R-3, Status: PB Concept Review SBL: 277.-3-96

To be reviewed by: MJE Consultant: GVG Applicant: Pagoda Associates

2018-005 Pagoda Grooms Rd 2 Lot Subdivision

The applicant proposes to subdivide 2.61 +/- acres into 2 lots. Parcel 1 will be 1.32 +/- acres and Parcel 2 will be 1.29 +/- acres. Both are for construction of duplexes. Each lot will have its own public utility connections and both lots will share one curb cut to Grooms Road. An area variance for each lot was granted on January 2, 2018, 532 Grooms Rd, Zoned: R-1, Status: PB Concept Review SBL: 277.-3-96

Duane Rabideau with VanGuilder and Associates, representing Pogoda Associates LLC described the conceptual plan to subdivide the 2.61 acre parcel into 2 lots with a duplex on each lot serviced by public water and sewer.

Staff Comments:

Environmental Conservation Commission

The ECC held a meeting on February 8, 2018 to discuss the project and issued a comment letter stating that:

- The ECC recommends that this SUP be denied based on section 208-79 (E)(1)(a) that the use is out of character for the surrounding area.
 - The use will prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use districts. The historic single room school house at the intersection of Grooms Road and Moe Road will be negatively visually impacted by the development of the two duplexes.
- This project does not promote the general purposes and the intent of the Comprehensive Plan. This is an example of re-zoning via SUP and undermines the R-1 Zone.

S. Myers, Director of Building and Zoning issued a memo with the following comments:

- No documents provided.
- Two duplexes are proposed. Each lot should be reviewed separately. There was some concern by the ECC about further disturbance than originally approved.
- Variances for lot width were granted.

John Scavo, issued a review letter dated January 25, 2018 with the following comments:

- A notation should be added to the Subdivision Plan which states, "The proposed ingress-egress easement shown hereon as a common driveway shall be used in common by the owners of lot(s) numbered 532A & 532B. All such easements shall be in effect and binding upon the owners of said lots, their heirs, successors, and assigns and all future owners of said lots, their heirs, successors, and assigns, upon filing of this subdivision plat in the Office of the Saratoga County Clerk.
- Since the subdivision is adjacent to County Route 91 (Grooms Road), a referral to, and recommendation from the Saratoga Co. Planning Board is required. The Saratoga Co. Planning Board is scheduled to consider this project on February 21, 2018.
- The final assigned 911 Addresses must be added to each of the lots.
- The applicant should show the approximate location of the existing edge of woods line present on the parcel.
- The applicant should be aware a Town Zoning Board of Appeals decision is under litigation with a U.S. District Court concerning a denial to allow for the construction of a 91' Wireless Structure proposed on the parcel directly south of this subdivision (329 Moe Road).
- Provide proof of the 500' mailings prior to the public hearing being scheduled for preliminary consideration.

Open Space, Trails and Riverfront Committee

Roy Casper offered the following comments:

- The applicant should provide a 15' ROW/Trail Easement along the entire frontage length of these 2 lots on Grooms Rd. for a future multi-use trail. The multi-use trail route could be located on the county sewer easement. The applicant could seek permission from Saratoga County to grant a trail easement to the Town and have the easement recorded officially at the county.

Professional Comment:

M.J. Engineering issued a review letter dated February 9, 2018 with the following:

State Environmental Quality Review

- Based upon our review of Part 617 of NYS Environmental Conservation Law, the project appears to be an "Unlisted" action. If the Planning Board is to request Lead Agency status under SEQRA, the need to undergo a coordinated review is optional. Under a coordinated review, involved / interested agencies to be engaged may include, but is not necessarily limited to the following:
 1. Clifton Park Water Authority - Water service connection.
 2. Saratoga County Sewer District No. 1 – Request for reserve sewer capacity and sewer connection and potential plan approval for the extension of public sewers.
 3. Saratoga County Planning Board – 239m referral due to the parcel's proximity to County Rt 91 (Grooms Road).
 4. NYS Dept of Environmental Conservation – potential permit coverage under stormwater SPDES, identification of threatened and endangered species, potential plan approval for the extension of public sewers.

Short Environmental Assessment Form

- Under Part I. 2, list all other regulatory agency approvals required for the application.

Subdivision Plan / Site Plan

- The project is located within the Town's Residential I District (R-1). The proposal for two family homes is a permitted by way of a special use within the R-1 District as noted in Section 208-10(B)(9) of the Town's Zoning.
- The Planning Board shall review the proposal for two-family dwelling units following the criteria outlined in Section 208-79(E) of the Town's Zoning as it relates to the special use request.
- The subdivision plat shall include the existing and required bulk lot information.
- 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.
- The project proposes to service each new lot with public sewer from the Saratoga County Sewer District via extending a new public sewer main throughout the project. The applicant shall provide the Town documentation of the SCSD's ability and willingness to service the project with public sewer. Any action on the subdivision application should be conditioned upon receipt of plan approval from the SCSD.

- Each proposed lot are showing a shared driveway. A shared driveway maintenance agreement shall be prepared. It is recommended that the maintenance agreement language be provided to the Planning Board's legal counsel for review prior to filing.
- There may be a need to provide a drainage culvert at the new driveways to support existing drainage along Grooms Road. The applicant will need to coordinate with the Saratoga County Dept of Public Works for any such improvements. If required, show the location, size and materials of construction.
- 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.
- The proposed point of access to the project appears to provide adequate site distances for entering and exiting. Notwithstanding, there should be indication on the plan what the required and provided turning site distances are based upon the posted speed limit of Grooms Road.
- Prior to approval or filing of the subdivision plat with the Saratoga County Clerk, the appropriate 911 emergency response numbers must be obtained for and assigned to each lot created and placed on the filed plat.
- Considering this plan is conceptual in nature, subsequent comments will be provided with a preliminary plan submission.

Public Comment:

Anthony Lafleche, 21 Wheeler Drive, stated that he would like to see that an easement for a future trail would be added to the plan.

Planning Board Review:

Discussion ensued about the merits of the duplex units and the facades as they were oriented to Grooms Road. Mr. Ferraro explained that the ZBA had already granted the variance and that the subdivision was basically foregone but that he felt that the granting of a special use permit for the duplexes did not fit in to the surrounding character of a more rural area. The Board members generally appeared to be in favor of duplexes but asked the consultant to make some adjustments to the designs in order to improve the curb appeal from Groom Road.

2018-007 146A Holdings LLC Residential Subdivision

Applicant proposes the development of 34 single family residential lots and associated water, sewer, and stormwater infrastructure. Applicant is seeking to utilize the Open Space Density Incentive Zoning provision to achieve the requested number of building lots. Water will be provided by an extension of the CPWA main located along the west side of Route 146A. Sanitary Sewer will be provided by either gravity or forcemain connection to the existing gravity sewer located in Stratford Drive. Access to the lots will be provided by new roads connecting to Route 146A and Dawson Lane, Rt 146A, Zoned: CR, Status: PB Concept Review SBL: 265.-3-7.11

Scott Lansing with Lansing Engineers described the concept plan, a 34-lot subdivision with single family homes requesting Open Space Density Incentive Zoning consideration. Mr. Lansing then showed the surrounding neighborhoods on an aerial map which consisted of single family homes to the north, south and east and some undeveloped lands directly to the west. The

consultant explained that the applicant was requesting a 100% increase in density, per Code by transferring development rights of a portion of the Lands of Cotton at 216 Sugar Hill Road. Mr. Lansing stated that Lands of Cotton consisted of 51 acres of unconstrained lands out of a 61.86 acre portion of the Lands of Cotton. Next, the consultant stated that public water and public sewer will be provided to the homes and the project area will meet and exceed all the requirements for protected open space. It was explained that 3 homes will have frontage on NYS Route 146A and the remaining 31 lots would be serviced by a new road accessing both Route 146A and Dawson Lane.

Staff Comments:

Environmental Conservation Commission

The ECC held a meeting on February 8, 2018 to discuss the project and issued a comment letter stating that:

- The ECC recommends the applicant provide the items listed in Section 208-16 Conservation Residential Zones (E) (13) (b) [3] (i.e., resources that must be mapped and illustrated for the review of the Planning Board).
- The ECC requests that the applicant provides a detailed map of constrained and unconstrained lands for the proposed incentive zoning “sending” parcel on Sugar Hill Road.
- The ECC requests a Draft Deed of (Permanent) Conservation Easement with both entity who will hold the deed and the property owner.
- In order for the ECC to properly evaluate this project, it is requested that the applicant demonstrate adherence to the GEIS design guidelines.

S. Myers, Director of Building and Zoning issued a memo with the following comments:

- Parcel is zoned CR
- The narrative describes a parcel on Sugar Hill to be considered for an amenity bonus. No drawings of this parcel were provided.
- The setbacks noted on drawing CP-1 are not correct for front setbacks. They should be 100’ from the centerline of Rt. 146A and 30’ from the property line (not 125 and 25 as shown)
- A full SWPPP will be required.
- The FEAF is incomplete (unanswered questions).
- The proposal appears to comply with zoning. A further review when more detail is available will be conducted.

S. Reed, issued a memo with the following recommendations:

- Provide a street name for postal verification.

John Scavo, reviewed comments from a letter dated January 26, 2018

- Since the subdivision request is adjacent to NYS Route 146A, a referral to, and recommendation from the Saratoga Co. Planning Board is required. The Saratoga Co. Planning Board is scheduled to consider this project on February 21, 2018.
- A note should be added to the plan to include the subdivided lots for this project within the Sherwood Forest Park District.

- I have reviewed the base density calculations outlined with the project narrative and it appears the based density calculation of 17 is correct, per the CR Zone.
- Town Staff will prepare SEQR Lead Agency Coordination Letters for involved agencies. It is recommended the Town Planning Board declare Lead Agency Status for this project.
- It is recommended that the Town's Open Space, Trails, & Riverfront Advisory Committee review and provide a recommendation to the Town for the proposed density incentive proposal. Specifically, the proposed permanently protected land at 216 Sugar Hill Road should be evaluated, in regard to the goals and objectives of the Western Clifton Park GEIS.
- It should be noted that the project site is not identified on the Land Conservation Plan as an Agricultural or Open Space Resource parcel worthy of special protection. However, 216 Sugar Hill Road has been identified on the Land Conservation Plan as an Agricultural or Open Space Resource parcel worthy of special protection. As such, development of the project site may be considered appropriate by the Planning Board.
- The applicant should prepare an image showing how the proposed open space within the project site is contiguous and adjacent to other protected open space.
- A Letter dated August 14, 2017 from NYS DEC to the applicant's representative documents NYS DEC has confirmed the wetlands delineation for the parcel. This allows for the Planning Board to confirm the exact limits of the Town's LC (Land Conservation) zoning limits within the project site.
- The adequacy of the sight distance at the proposed accesses to Route 146A should be verified.
- The names of all adjacent land owners should be shown on the plan.
- Since there are existing street lights at the Dawson Lane/Rt. 146A Intersection and Strafford Drive/Rt. 146A Intersection, no additional street light should be required.

Open Space, Trails and Riverfront Committee

Roy Casper offered the following comments:

There are potential trail opportunities through natural areas to connect to other cul-de-sacs and neighborhoods:

- Dawson Lane cul-de-sac
- The Vistas - Vista Ct. cul-de-sac

Professional Comment:

M.J. Engineering issued a review letter on February 12, 2018 with the following:

General Comments

- The project proposes to service each new lot with public water from the Clifton Park Water Authority via extending a new public water main throughout the project. The applicant shall provide the Town documentation of the CPWA's ability and willingness to service the project with potable water. Any action on the subdivision application should be conditioned upon receipt of plan approval from the CPWA.
- The extension of public water mains to the project is subject to NYSDOH plan approval and potentially the NYSDEC for the taking of additional water. As part of the project's regulatory review, the applicant will have to apply for the referenced plan approvals. Any

action on the subdivision application should be conditioned upon receipt of plan approval from the NYSDOH and/or NYSDEC for the additional taking of water.

- The project proposes to service each new lot with public sewer from the Saratoga County Sewer District via extending a new public sewer main throughout the project. The applicant shall provide the Town documentation of the SCSD's ability and willingness to service the project with public sewer. Any action on the subdivision application should be conditioned upon receipt of plan approval from the SCSD.
- The extension of public sewer mains to the project is subject to NYSDEC plan approval. As part of the project's regulatory review, the applicant will have to apply for the referenced plan approvals. Any action on the subdivision application should be conditioned upon receipt of plan approval from the NYSDEC.
- The project will disturb more than 1-acre of land. As such, it will be subject to the NYSDEC Phase II Stormwater Regulations and General Permit GP-0-15-002. Therefore, a full SWPPP will be required that addressed water quantity and quality controls. As the project proceeds through the Town's regulatory review process, a fully conforming SWPPP shall be provided for review.
- The concept plan indicates that a NYSDEC wetland extends onto the parcel with the 100-foot adjacent area extending into the development area of the project. The boundary of the noted NYSDEC wetland have been validated by the NYSDEC (refer to August 14, 2017 NYSDEC correspondence). The project design does not anticipate any impacts to the NYSDEC wetlands or buffers. Should this continue to be the case, no permitting is anticipated from the NYSDEC relative to wetland and buffer impacts.
- The concept plan indicates that there are regulated waters of the US within the project boundaries. The applicant has requested a jurisdictional determination from the USACOE. The applicant shall provide the Town with all correspondence with the USACOE regarding their review of the wetlands and streams on-site.
- It is recommended that at a minimum, the number of peak hour vehicle trips be provided as well as examining vehicle site distance at the access onto Route 146A. The findings of the study should be provided to the Region 1 office of the NYSDOT for input.

State Environmental Quality Review

- Based upon a review of the proposal, it is considered a realty subdivision under Environmental Conservation Law (ECL) Part 74. In accordance with 10 NYCRR Part 97 in the NYSDOH regulation implementing SEQRA (Article 8 of the ECL), Section 97.14(b)(2)(ii) requires that a realty subdivision be classified as a Type I action.
- For applications that come before the Planning Board, with few exceptions, the Planning Board is the SEQRA Lead Agency. Applications for incentive zoning are one of those few exceptions. Pursuant to Section 208-43.16(E)(3) of the Town Zoning, the Town Board will act as the SEQRA Lead Agency, with the Planning Board being an involved agency.
- Assuming the Clifton Park Town Board is to request Lead Agency status under SEQRA, a coordinated review is required for Type I actions. Under a coordinated review, involved / interested agencies to be engaged may include, but is not necessarily limited to the following:
 - a. Town of Clifton Park Planning Board, if not lead agency, – Subdivision approval
 - b. Clifton Park Water Authority – public water supply plan approval.

- c. NYS Dept of Health – realty subdivision approval and public water supply plan approval.
- d. NYS Dept of Environmental Conservation – permit coverage under stormwater SPDES, identification of threatened and endangered species, potentially taking of additional water.
- e. NYS Department of Transportation
- f. NYS Office of Parks, Recreation and Historic Preservation – identification of cultural or historic resources.
- g. Saratoga County Planning Board – 239m referral due to the parcel’s proximity to NYS Route 146A.
- h. US Army Corps of Engineers – Jurisdictional Determination of waters of the U.S.

As the Planning Board reviews this application for incentive zoning and prepares its advisory report, it may be appropriate to start deliberating on aspects of the project that are of concern and may require further analysis under SEQRA.

Full Environmental Assessment Form

- Under Part D.2.c.ii, additional information must be furnished to substantiate the response that the existing water district is capable of servicing the project.
- Under Part D.2.d.iii, additional information must be furnished to substantiate the response that the existing sewer water district is capable of servicing the project.
- Under Part D.2.j, additional information must be furnished to substantiate the response that the project will not result in traffic that is substantially above present levels.
- Under Part E.2.o, the response indicates the site does not contain any species of plants or animals that are listed by the federal government or NYS as endangered or threatened. A majority of Saratoga County has been determined to potentially include the Indiana Bat or Northern Long Eared Bat, both of which are federally listed endanger species. Confirm the response provided is correct. It may require a review of the USFW Ipac database to obtain the federally listed species.
- Under Part E.3.f, the response indicates that the site is located in or adjacent to an area designated as sensitive for archeologically sensate sites on the SHPO site inventory. Additional information is required to demonstrate there will be no adverse impacts relating to adverse impacts to these resources.
- Northern Long Eared Bat, both of which are federally listed endanger species. Confirm the response provided is correct. It may require a review of the USFW Ipac database to obtain the federally listed species.
- Under Part E.3.f, the response indicates that the site is located in or adjacent to an area designated as sensitive for archeologically sensate sites on the SHPO site inventory. Additional information is required to demonstrate there will be no adverse impacts relating to adverse impacts to these resources.

Subdivision Plan

- The project is located within the Town’s Conservation Residential District(CR). The proposal for single family homes is a permitted principal use within the CR District as noted in Section 208-16(D)(1)(b) of the Town’s Zoning.

- Section 86-6(E)(5) of the Town Code requires that street lighting be provided at the intersection of subdivision streets and an existing arterial or collector street. There may not be a need to provide the noted lighting due to existing conditions along Route 146A.
- Lots 32 and 33 proposed along Route 146A may be considered flag lots under the Town's Zoning. This topic should be reviewed with the Town's Chief Zoning Officer.
- Confirm the setbacks shown for Lots 31 through 34 noting they are along Route 164A which has unique setbacks pursuant to Section 208-98 of the Town's Zoning.
- There should be consideration of consolidating the driveways for Lots 31 through 34 by way of shared driveways.
- The proposed point of access to the project appears to provide adequate site distances for entering and exiting onto Route 146A. Notwithstanding, there should be indication on the plan what the required and provided turning site distances are based upon the posted speed limit of Route 146A.
- The concept plan shows areas set aside for stormwater management. Given the conceptual nature of the plan, the type of practice has not yet been determined. The applicant should be aware that the Town prohibits the use of a P-5 practice and in the event it is determined that the P-5 practice is the only viable option, supporting materials will need to be submitted to the Town for review before it will be deemed acceptable for use. As the project proceeds through the Town's regulatory review process, it is urged that the applicant meets with the Town's Stormwater Management Officer to review any proposed green infrastructure practices to avoid those that may be deemed undesirable.
- Subsequent plans shall show the Town's LC location and boundaries which are defined by Section 208-69.1 of the Town's Zoning.
- Prior to approval or filing of the subdivision plat with the Saratoga County Clerk, the appropriate 911 emergency response numbers must be obtained for and assigned to each lot created and placed on the filed plat.
- Considering this plan is conceptual in nature, subsequent comments will be provided with a preliminary plan submission.

Incentive Zoning Analysis

- The applicant is seeking Incentive A, Single-family residential incentives: increases in single-family dwelling unit density beyond the base density within the HM, HR, or CR Districts.
- The applicant indicates a base density of 17 lots with a 100% incentive bringing the total number of proposed lots to 34.
- The parcel is located within the Town's CR Zoning District. The maximum permitted base density is calculated in accordance with Section 208-16 (E)(2)(b) of the Town Zoning. Based upon the bulk lot table of the concept plan, the project has a total of 49.95 acres of unconstrained lands. Utilizing the calculation example provided in Section 208-16 (E)(2)(b) of Town Zoning, the maximum base density would be 56.82 acres (total parcel area) - 6.87 acres (of constrained land) x 0.33 or 16.48 lots or 16 lots (applicants may round down fractional units of 0.5 or less and round up fractional units greater than 0.5). The narrative indicates a permitted base density of 17 lots, which appears incorrect.
- The incentive zoning request shall not to exceed an increase of 100% of the original base density for the incentive site. Assuming the base density calculation stated above is correct, the maximum incentive would be 32 lots, not 34 being requested, which is not

consistent with the applicant's request of 68 lots. The applicant is proposing to provide open space at a ratio of one dwelling unit per three acres of unconstrained land protected by permanent conservation easement of lands located at 216 Sugar Hill Road. A plan showing this parcel or area shall be provided for review in order for the Town to determine if the proposal is acceptable for the incentive zoning being requested.

- From a historical perspective, the Town Board has approved three previous applications for incentive zoning. This information has been furnished to the Planning Board by the Town's Open Space Coordinator. They are as follows;
 - a. Bridlewood Ridge (2006): Base density of 21 lots, approved incentive of 12 additional lots.
 - b. Rolling Meadows (2006): Base density of 19 lots, approved incentive of 19 additional lots.
 - c. Tanner Road Subdivision (2007): Base density of 7 lots, approved incentive of 2 additional lots.
- The applicant has proposing community benefits or amenities in the form of open space. The Planning Board should provide comments on the open space as it relates to the adequacy, location and connection to adjacencies.

Public Comment:

Mr. Ferraro noted that both he and Planning Board member Jeffery Jones are members of the Sherwood Forest Park District, and live in that neighborhood.

Bob Voelker, Stratford Drive resident stated that he was concerned about a road directly across Stratford and so close to Dawson Lane. He also asked if traffic studies considered all the proposed development in the area, and whether the existing bike path should be shown on the plan.

Anthony LaFleche, 21 Wheeler Drive, asked the engineer to consider traffic connections, connectivity to surrounding properties and trails, and preserving as many trees as possible. He also questioned the development prospects of the Lands of Cotton, and whether it would be a true benefit to the Town.

Lee Hockford, Route 146A, owner of an adjoining property, stated that she was in support of the development and asked if it would be possible to have one common access point for the 3 homes fronting on 146A.

Planning Board Review

John Scavo indicated that the number of lots proposed by the applicant (34) under the Incentive Zoning provisions of the Zoning Code is the correct calculation.

Mr. Andarawis stated that he felt the transfer of development rights of the property adjacent to Riverview Orchards was a positive thing and that he was in favor of a common drive on 146A. Then, the member questioned the method of preserving Open Space, and whether it would be

HOA or Town owned parcel(s). Mr. Scavo responded that a map of nearby parks and preserves and open space would be made to help envision what the best use might be, and that it had not been determined yet.

Mr. Ophardt stated that he also supported a common drive on 146A and that he would like trail to continue across the driveways.

Mr. Jones asked if a traffic study done at the intersection of Rt. 146 and Rt. 146A would have included these projects and Mr. Scavo responded that the analysis would have included potential build out scenarios.

Mr. Neubauer pointed out that the Lands of Cotton was designated as a strategic parcel for the Open Space.

Board members stated they would like to see some strategic trail connections. They appeared generally favorable of the subdivision and supportive of the concept of incentive zoning utilizing the Sugar Hill Road parcel.

2018-004 Firehouse Rd Associates Subdivision

Applicant proposes to subdivide a 6.11 acre parcel into 3 commercial lots. Project also involves Tax ID 272.9-1-10,11, & 38.1, 1712-1718 Rt 9, Zoned: B-4, Status: PB Concept Review SBL: 272.9-1-21.1

Applicant was not present at the meeting to discuss the proposed subdivision.

Staff Comments:

Environmental Conservation Commission

The ECC held a meeting on February 8, 2018 to discuss the project and issued a comment letter stating that:

- The Planning Board should verify if the two recommendations above were addressed by the Zoning Board.

S. Myers, Director of Building and Zoning issued a memo with the following comments:

- Zoning variances to be heard 2/6/18 so long as county response is received.
- Map does not depict required variances. 3 area variances required – 2 for lot size and 1 for rear setback.

John Scavo, issued a review letter dated January 24, 2018

- The subdivision is associated with the approved site plan for Planning Board Project #2016-005. The applicant should add a note to the plan which states, “This subdivision plan is bound by all covenants, restrictions, and conditions of the site plan approval for Planning Board Project #2016-005.”

- The applicant is scheduled to appear before the Clifton Park Zoning Board of Appeals (ZBA) at the February 6, 2018 meeting, for consideration of the following three area variance:
- From Section 208-46A which requires a minimum lot size of 43,560 SF in the B-4 Zone; 34,756 SF available for Lot #2; 8,804 SF variance required; and
- 30,492 SF available for Lot #3; 13,068 SF variance required.
- Section 208-46D which requires 30' rear yard setback in B-4 zone; 15' proposed for Lot #2; 15' variance required.
- If relief is granted for the above referenced variances it should be noted on the site statistics table and reference Area Variance Permit #81150, with the date granted by the ZBA.
- The applicant should verify that the 35% Green Space shown within the Site Statistics Table is met by each lot on its own merits.
- A notation should be added to the Subdivision Plan which states, "The proposed perpetual ingress-egress easements shown hereon shall be used in common by the owners of lot(s) numbered 712, 714 & 714 Route 9. All such easements shall be in effect and binding upon the owners of said lots, their heirs, successors, and assigns and all future owners of said lots, their heirs, successors, and assigns, upon filing of this subdivision plat in the Office of the Saratoga County Clerk.
- Since the project is adjacent to NYS Route 9, a referral to, and recommendation from the Saratoga Co. Planning Board is required. The Saratoga Co. Planning Board is scheduled to consider this project on February 21, 2018.
- The assigned 911 Addresses must be added to each of the 3 proposed subdivided lots.
- Provide proof of the 500' mailings prior to the public hearing being scheduled for preliminary consideration.

Open Space, Trails and Riverfront Committee

Roy Casper offered the following comments:

- Please consider a request to grant a public access easement for pedestrians and bicyclists to be co-located exactly on the "Common Ingress/Egress Easement to be granted to the owners of Lot numbers 1, 2 and 3 on easement area of approximately 30,572 square feet" to ensure that pedestrian connectivity can occur through these three parcels following what will be access roadways.

Professional Comment:

M.J. Engineering

State Environmental Quality Review

- Based upon our review of Part 617 of NYS Environmental Conservation Law, the project appears to be an "Unlisted" action. Assuming the Planning Board is to request Lead Agency status under SEQRA, the need to undergo a coordinated review is optional. Under a coordinated review, involved / interested agencies to be engaged may include, but is not necessarily limited to the following:

1. Saratoga County Planning: 239m referral due to the parcel being along U.S. Route 9.
2. Town of Halfmoon Planning Board: Subdivision approval.
3. Additional involved/interested agencies may be defined as the project proceeds through the Town's regulatory review.

Short Environmental Assessment Form

- No comments.

Subdivision Plan

- The project resides within the Town's B-4, Highway Business District. Since the application does not include additional uses beyond what has been previously approved under application 2015-005, it has not been reviewed against the requirements of Section 208-45 of Town Zoning.
- Based upon the proposed lot configurations and Section 208-46 of the Town's Zoning, the following bulk lot deficiencies appear to exist:
 - a. Section 208-46(A) of Town Zoning requires that the minimum net land area per establishment shall be one acre (43,560 square feet). Lot 2 and likely the portion of Lot 3 within the Town of Clifton Park do not meet the minimum lot size.
 - b. Section 208-46(D) of the Town Zoning requires a 30-foot rear yard setback. The plan appears to propose a 15-foot setback for Lot 2.
- Update the site statistics noting the required/provided greenspace on each lot. Depending upon the result, additional area variances may be warranted, especially for Lot 3.
- Lot 3 does not yet have a building constructed. There may be a need to seek additional area variances on this lot, specific to lot set back requirements, depending upon how the lot is treated.
- Lot 3 is bisected by the municipal boundary of the Town of Clifton Park and Halfmoon. It is anticipated that the parcel may be assigned separate tax ID numbers. It may also be prudent to treat this as two distinct lots, making this a four-lot subdivision. In discussions with the applicant's design professional, we understand that the ZBA granted a variance for the portion of Lot 3 within the Town of Clifton Park for deficient lot area as if it were an individual lot.
- Provide a summary of all area variances being requested (and suspected as being approved at the 2/6/18 ZBA meeting) for reference. Provide the date of relief granted, ZBA resolution number granting relief and extent of relief granted.
- As a condition of approval, the applicant should apply for and obtain subdivision approval for lots within Halfmoon's jurisdiction. Proof of approval should be furnished to the Town prior to filing with the County Clerk's office.
- 911 emergency response addresses need to be obtained from the Town and included on the filed subdivision plat.

Public Comment: NONE

Planning Board Review

Planning Board members expressed that they felt that applicant should have been present for the meeting. It was explained by the Planning Director that since they did not hear a presentation regarding this submission, the planning board has the option to open the scheduled public hearing at the next meeting and not close it. Then the 60-day time frame for making a decision would not begin until a public hearing was closed. Planning board members stated that they felt that the applicant should show the green space calculations and indicate the asphalt on the plan. Finally, the members stated that they would like an assessment of potential changes with respect to the possible extension of the Town Center form based code that was being studied in this area.

V. Discussion Items – none

Mr. Szczesny moved, seconded by Mr. Jones, to adjourn the meeting at 10:24pm. All in favor.
Motion carried.

Next Meeting Date: February 27, 2018

Respectfully Submitted,


Meg Springli