

Planning Board Meeting
April 14, 2009

Those present at the April 14, 2009 Planning Board meeting were:

Planning Board: S. Bulger, Chairman, M. Hale, J. Koval, J. Larkin, E. Ophardt,
S. Pace, K. Paulsen, T. Werner
T. Deleonardis – Alternate

Those absent were: None

Those also present were: J. Scavo, Director of Planning;
J. Grasso, Clough, Harbour and Associates;
M. Montague, Environmental Specialist;
P. Pelagalli, Counsel;
J. Dean, Secretary

Mr. Bulger, Chairman, called the meeting to order at 7:10p.m. He announced that the agenda item regarding the DeMarco-Stone funeral home that was listed on the draft agenda was withdrawn at the request of the applicant. All in attendance stood for recitation of the Pledge of Allegiance.

Public Hearings:

[2009-004] **Caulfield, Tamara** – Proposed (2) lot subdivision, 6 Sunset Street – Preliminary public hearing and possible determination.

Mr. Bulger, Chairman, called the public hearing to order at 7:12p.m. The Secretary read the public notice as published in the Daily Gazette on April 6, 2009.

Mr. Duane Rabideau, consultant for the applicant, explained that this application remains generally as presented at the March 10, 2009 Planning Board meeting. Mr. Irvin

Hilts, III, applicant, proposes the subdivision of 1.53 acres of land that lies within the CR (Conservation Residential) zone approximately 330 feet northeast of the intersection of Camp Road and Sunset Street. Lot 1, which contains an existing residence, totals 34,558 SF of land: the home is served by an individual well and septic system. A new single family home with well and septic is proposed for Lot 2 which will contain 32,155 SF of land. Mr. Rabideau reported that the Zoning Board of Appeals approved Permit # 80682 on December 4, 2007 which granted the following variances to the applicant. A variance was granted from the 10 acre minimum lot size. The proposed lot size is 1.55 acres: the variance granted was 8.45 acres. A variance from the required two acre lot size was approved. The proposed Lot 1 is .81 acres: the variance granted was 1.19 acres. The proposed Lot 2 is .74 acres: a variance of 1.26 acres was granted. A variance from the requirement that the initial subdivision be to family members in the CR zone was approved. A variance from the required 40,000 SF minimum lot size without public water and sewer was approved for each lot. Lot 1 received a variance of 5,000 SF to allow for a lot size of 35,000 SF. Lot 2 received a variance of 8,000 SF to allow for a lot size of 32,000 SF.

Mr. Rabideau addressed several concerns raised by Clough, Harbour, and Associates in a letter dated March 6, 2009. In response to the comment regarding the ability of soils on the new parcel to accept the septic system, Mr. Rabideau explained that the proposed septic system has been designed by a licensed engineer: a copy of the design was supplied to Clough, Harbour, and Associates and will be included with the final set of plans. Existing and proposed well and septic locations have now been included on the plans to verify adequate separation between facilities. Clough, Harbour, and Associates questioned whether or not the sheds located on the parcels would meet setback requirements. Mr. Rabideau noted that the sheds are preexisting. The applicant has verified that Sunset Street is owned and maintained by the Town of Clifton Park. There are no designated ACOE or NYSDEC wetlands on the site. Mr. Grasso reported that all comments issued by Clough, Harbour, and Associates have been adequately addressed.

Mr. Rabideau explained that a 15' wide easement along Sunset Street to be granted to the Town of Clifton Park has been shown on the subdivision plan in accordance with a comment issued by the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee.

There being no public comment, Mr. Bulger moved, seconded by Mr. Ophardt, to close the public hearing at 7:16p.m. The motion was unanimously carried.

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

Ms. Paulsen offered Resolution #1, seconded by Mr. Ophardt, to grant preliminary and final subdivision approval to this application. Ayes: Ophardt, Paulsen, Koval, Pace, Hale, Werner, Bulger. Noes: None.

[2005-063] **XAR Development** – Proposed (9) lot subdivision, Route 9 and Wood Road – Reconvening of a preliminary public hearing held on September 11, 2007 and possible determination.

Mr. Bulger, Chairman, called the public hearing to order at 7:20p.m. The Secretary read the public notice as published in the Daily Gazette on April 6, 2009.

Ms. Terresa Bakner, legal representative for the applicant from the firm of Whiteman, Osterman, and Hanna, introduced the following individuals who were present at this meeting: Mr. Ron Backer, property owner and applicant; Dom Arico, engineering consultant from Boswell Engineering; Wendy Cimino, traffic engineer from Creighton Manning Engineering. Ms. Bakner then provided an overview of the proposed project plan.

Ms. Bakner explained that Mr. Backer has owned this 202 acre parcel located between Wood Road and Route 9 just south of the Round Lake border since 1972. The property is located in a L2 zone. Though the property was farmed for a period of time, it has also contained a gas station, mining activities, septage lagoons, hazardous waste disposal sites, and billboards. The applicant is now seeking approval of ten (10) lot subdivision. The plan presented at this meeting illustrates that Lots A-I will be developed in accordance with all LI zoning requirements. Lot J, consisting of 150 acres of land, will be preserved as permanent open space. The applicant hopes to transfer this parcel to a land preservation agency that will assume ownership and maintenance responsibilities. In response to recommendations issued by Clough, Harbour, and Associates in 2007, the plan now shows that all stormwater management areas have been removed from the wetland buffer areas.

Two significant documents were prepared by the applicant and submitted to the town for review. A Phase I environmental site assessment identified a number of areas of concern. Although the parcel was at one time identified as a hazardous waste site, remediation has taken place. Areas used by Halfmoon Septic as septage lagoons remain a concern as does an area that formerly contained a gas station. Additional areas include lots that contained residences and areas where illegal dumping took place. The applicant proposes site clean-up on a site-by-site basis since this would likely allow the use of brownfield clean-up funds. Several years ago, the EPA and XAR reached a settlement agreement regarding site clean-up. In 2003, the last monitoring report concluded that wetland restoration had been successfully completed. The NYSDEC has approved the wetland delineation and the ACOE has issued a jurisdictional approval letter. In June, 2007, Kathy O'Brien, NYSDEC endangered species representative, conducted a site visit with the applicant's consultant and concluded that there was no habitat for the Karner blue butterfly on the project parcel. There will be no disturbance of the stream that traverses the property from east to west.

Mr. Ed Curtain, archeologist, oversaw a comprehensive archeological review of the site. It was determined that there were two sites that would be of historical interest.

The first was an area near a former home site. The second was a small site that revealed evidence of “being touched by prehistoric peoples.” These sites will be protected.

Mr. Dom Arico, consultant for the applicant, explained that the current plan defines wetland areas as well as adjacent 100’ buffer areas. Each development parcel has frontage on a town roadway. Building footprints, detention areas, and open space areas have all been illustrated on the sketch plan and have been designed in accordance with all town codes. The applicant intends to link a low pressure sewer system to an existing trunk line that runs through the property. Connection will be made to an existing water line from Country Knolls. A 20’ wide easement along Wood Road has been provided for a multi-use pathway or future roadway improvements.

Ms. Wendy Cimino, Creighton-Manning Engineering, reviewed the initial traffic report that was prepared in 2007. She explained that an analysis of four (4) intersections and anticipated growth within the Wood Road corridor resulted in the following recommendation: a 250’ long right turn lane should be installed at the south bound lane of Route 9 at its intersection with Ushers Road to accommodate the increased truck traffic. The study also concluded that only 20% of the trips from the development area would go through the Village of Round Lake. It was Ms. Cimino’s opinion that drivers would not “cut through” Washington Street because there is a four ton weight limit on that “very rural” roadway. A written response to the concerns identified by Clough, Harbour, and Associates was distributed to each Board member. The consultant addressed the issue of truck traffic noting that the proposed warehouse facilities, ranging in size from 6,000 SF to 88,000 SF, are relatively small in comparison with most warehouse developments. She also explained that it is common for warehouse operators to vary scheduled truck arrival times in order to avoid traffic problems.

Mr. Scavo provided comments prepared by the Planning Department. He recommended that the applicant contact the Planning Department to develop a Habitat Management Plan that could be reviewed by the Planning Board prior to the granting of final subdivision approval. A notation should be added to the plan that the Wood Road Corridor GEIS Study Fees will apply to each parcel and must be paid in full at the time of final site plan approval.

Ms. Viggiani, Open Space Coordinator, provided additional comments and recommendations. She notes that while the site is located within an L2 zone, it also includes significant Land Conservation (LC) zoning due to the presence of wetlands and watercourses. It is her recommendation that the Planning Board accept and act upon the applicant’s willingness to work with NYSDEC and require the development of a habitat management plan that could protect and preserve the wetlands while also providing upland open meadow habitat for butterfly species on the property to remain open space between Wood Road and the Northway, as the Wood Road corridor includes important habitat in the vicinity of the subject site. The green space areas should be included in the habitat management plan which should incorporate the 159 acres of project acreage to remain undeveloped. The green space areas should not be all landscaped, manicured lawn, but rather include meadow habitat that is managed to remain a meadow over time.

It is recommended that the landscape and habitat management plan be developed at the time of subdivision, providing a comprehensive plan rather than one done in a fragmented manner parcel by parcel.

Ms. Viggiani also recommends that the Planning Board require that billboards be removed prior to the issuance of building permits for any parcels which contain them. This will provide a significant visual enhancement to the Wood Road corridor which is highly visible from the Northway and provide an improved scenic quality to Wood Road and its future buildings. The proposed subdivision plan should include legible, clear notes about the recommendations for Phase II subsurface analysis and investigations that should be followed per the Phase I Environmental Site Assessment for XAR Corporation for all relevant, applicable parcels. Ms. Viggiani supports the easement for the multi-use trail along Wood Road and recommends that the applicant consider design of trail as part of water line design. She also recommends that the Town consider exploring a permanent east-west highway transportation/trail easement from Wood Road to Route 9 via either the existing dirt road/sewer easement and/or in combination with the future water utility easement proposed for potential future co-location of a trail and/or other future access. Though this area is zoned for light industrial uses, the opportunity to create an east-west connection via this long-time existing utility line route would be a benefit to the community and region, providing visual access to the significant state and federal wetlands. The east-westerly trail would also provide a connection from Wood Road to Route 9 and ultimately help the Town achieve the Town Trails Master Plan goal of connecting the Town of Clifton Park to the nearby county-wide, regional Zim Smith Trail that is just east of Route 9.

Mr. Bill Mackesey, representative of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee, recommends that the Board require the applicant to provide a 15' wide right-of-way on Wood Road and US Route 9. A trail along the "stream sides and broad walks" in the area where there is wetland is also recommended.

Mr. Myers, Director of Building and Development, provided comments regarding this application in a memo dated March 31, 2009. It is recommended that the sewer connection for current warehouse on Route 9 constructed recently by M. J. Rekucki be required prior to any approvals or permits for this project. All practices on all parcels are expected to discharge to NYSDEC wetlands which will require approval from NYSDEC and must be completed in accordance with the Town of Clifton Park's Stormwater Plan review and approval procedures.

Mr. Grasso explained that Clough, Harbour, and Associates reviewed the following items regarding the above referenced project:

- Subdivision Plans last revised September 26, 2008 prepared by Boswell Engineering.
- A letter dated October 10, 2007 prepared by Creighton Manning Engineering.
- Traffic Report prepared by CME, dated August 22, 2007 prepared by Creighton Manning Engineering.

- Phase 1A Literature Search/Sensitivity Assessment and Phase 1B Archaeological Survey dated November, 2008 prepared by Curtin Archaeological Consulting, Inc.
- Phase I Environmental Site Assessment dated June 2008 prepared by Boswell Engineering.
- Correspondence from Boswell Engineering dated February 10, 2009 regarding the presence of an aquifer and stormwater management.
- Correspondence from the United States Environmental Protection Agency and New York State Department of Environmental Conservation regarding the past wetland impacts on the property.
- A revised Full Environmental Assessment Form dated August 21, 2007 prepared by Boswell Engineering.
- Letter dated February 10, 2009 from Teresa Bakner summarizing the submission materials.

Based on the review of these documents, the following comments were issued. The revised subdivision plan is consistent with the previously reviewed plans. It should be noted that detailed site plans will be required at the time of individual lot redevelopment when site plan approval is sought. The individual applications will also need to include site specific Stormwater Pollution Prevention Plans and Stormwater Management Reports. As previously requested, the subdivision plans have been revised to depict the proposed stormwater areas outside of the limits of the 100' foot NYSDEC regulated buffer. A Phase IA archaeological survey was conducted and recommended shovel testing of specific areas of the site. As such, a Phase 1B archaeological field investigation was conducted and determined the presence of one prehistoric site. The report recommends avoidance of the area surrounding the test pit that indicates the presence of a prehistoric site. If disturbance of the area can not be avoided, a Phase 2 archaeological investigation is recommended. The applicant has indicated that the area will either be avoided by future development or will be further investigated at the time of the site plan application. This appears acceptable.

The Phase I Environmental Site Assessment identified the following environmental concerns and recommendations:

- Concern: A former septage disposal facility (Halfmoon Septic) included the disposal of industrial neutralized ferric hydroxide solution from General Electric.
Recommendation: Preparation of a Phase II site investigation to include a radiological survey, soil testing, and groundwater testing.
- Concern: A former service station was located within the northeast portion of the project site.
Recommendation: Clear the area of the former service station and perform a geophysical survey to investigate the presence of underground storage tanks.
- Concern: Debris at a former residence.
Recommendation: Removal of potential contamination sources such as tanks and drums. Following removal, samples should be collected beneath the items to detect the presence of contaminants.
- Concern: Potential underground storage tanks southwest of the former residence and north of the tire dump.
Recommendation: An excavation should be performed in the

location of the two observed depressions to determine the presence of underground storage tanks.

- Concern: A large tire pile was observed near the center of the property. Additionally, a junk automobile was observed adjacent to the tire pile.

Recommendation: The tires should be excavated, removed and properly disposed of during any future construction. All junk automobiles should be removed and disposed.

- Concern: Illegal dumping and discarded 55 gallon drums.

Recommendation: Any suspicious piles should be investigated with a backhoe or excavator. Contamination sources should be investigated in accordance with applicable NYSDEC regulations. Any drum carcasses should be removed and samples should be collected beneath to determine the presence of containments.

The applicant is requesting to proceed with the above recommendations on a site-by-site basis as individual lot development occurs. Although this may generally be acceptable, it will result in significantly more effort by Town staff to track the required mitigation measures. In order to ease tracking, a tracking matrix should be set up identifying which measures need to be completed commensurate with each individual lot or lots.

Mr. Grasso identified several other issues of concern. A letter dated February 10, 2009 from Boswell Engineering indicates that the aquifer located beneath the project site is known as an unconfined aquifer and not a sole source aquifer. Additionally, the letter states that the project is not located within the 100 year floodplain. A letter dated February 10, 2009 from Terresa Bakner indicates that the owner of the billboards has agreed to their removal at the time of the issuance of a building permit for a structure located on the property containing the billboards. This appears reasonable. The proposed subdivision includes sanitary sewer and watermain extensions. Engineer's reports for the extensions should be provided for review prior to any final approvals. Future plan submissions should include construction details for the proposed utility installations. The limit of the proposed disturbance for the construction of the utilities should be depicted on the plan. The low pressure sewer is proposed along the centerline of Wood Road. Details of the replacement of the disturbed areas of Wood Road should be provided. A note should be added to the plans depicting the testing requirements of all proposed public utilities. The stationing of the proposed sanitary sewer should be included on the profile. The "double" stationing along Wood Road reduces the clarity of the plan. The profile should depict the connection to the existing 6" watermain to be activated by the Clifton Park Water Authority. It should be verified if the northern portion of the existing watermain will be utilized. A final subdivision plan, stamped and signed by a NYS Licensed Surveyor should be provided. The subdivision plan should include the bearings and distances for all property lines and easements.

Clough, Harbour, and Associates reviewed the Traffic Impact Study dated August 22, 2007 prepared by Crieghton Manning Engineering, LLP and offered the following comments. Because development of the project site will start to trigger the need for off-

site transportation improvements, a comprehensive review of all transportation improvements within the Wood Road corridor should be completed which reviews the timing and responsibility of improvements, construction costs, fees collected to date, etc.

- The trip generations provided in the report appear appropriate. However, since the report was prepared, the development of the Luther Forest Technology Park and the associated highway improvements have been more defined. As such, the study should discuss the impacts of the access improvements associated with the Luther Forest Technology Park on the trip distribution of the proposed project.
- It does not appear that the no-build volumes accounted for the development of the Luther Forest Technology Park.
- The study states that the access connecting parcels B and C would be for emergency vehicles only. This should be clarified. It would appear that a full access through connection could be a logical location for a future signal control if warranted.
- The pavement section of Wood Road should be documented to identify if improvements are required to support the projected traffic volumes resulting from the development. The Wood Road GEIS indicated the reconstruction of Wood Road as an improvement. It would appear that the timing of the reconstruction of Wood Road would be best coordinated with the proposed public utility improvements associated with this project.
- The proposed mitigation of the construction of a separate right turn lane on the Route 9 southbound approach at Ushers Road appears appropriate.

Mr. Montague, Environmental Specialist, reported that the ECC recommends that the Board require the applicant to complete SEQRA, EAF Parts I, II and III before any future reconsideration of this proposal.

Mr. Bulger supported Clough, Harbour, and Associates' recommendation that the applicant prepare a matrix that would identify environmental issues to be addressed on each specific development parcel, though he recognizes the need for a plan that comprehensively addresses environmental issues since there may be instances in which issues extend beyond defined property boundaries. Mr. Bulger commended the applicant for his willingness to work with the Board to create a viable project.

Ms. Barbara Murphy, Clifton Park resident, asked that Board members consider the "worst case scenario" for total build-out of the proposed project. She asked that members consider the most intense uses that could be developed on the property and the effects of building, parking areas, and traffic generation on natural resources, surrounding properties, and existing roadways. She views the development as a "massive change" to the area. The speaker observed that no in-depth evaluation of traffic between this site and the proposed Luther Forest development was presented as a part of this application and that potential residential growth within the area had not been considered.

Mr. Bill Koebbeman, 861 Riverview Road, labeled the parcel slated for development as “valuable in natural resource terms” and expressed his concerns regarding management of drainage and other problems that may arise after Planning Board approvals are granted. The speaker reported that documents provided to him by NYSDEC indicated discrepancies in the delineated wetlands which may impact site development. He encouraged the Board to require the preparation of a comprehensive stormwater management plan for the entire parcel. Mr. Grasso pointed out that although Planning Board review will be conducted on a site-specific basis, he recommended that a comprehensive review of proposed stormwater management plan be undertaken.

Mr. Bill Engleman, 6 Partridge Plateau, recognizing that several members of the Planning Board have been appointed since the initial public hearing for this project was held in September, 2007, distributed copies of a letter that he had prepared at that time. The letter lists several potential environmental impacts that may result from development, though Mr. Engelman’s main focus of concern was the hazardous waste that may be present on the site. The speaker recommended that the Board issue a positive declaration pursuant to SEQRA and require the preparation of a Supplemental Environmental Impact Statement. Mr. Engleman commented on the site plan presented at this evening’s meeting, stating that the two large building proposed for each side of the stream corridor would negatively impact aesthetic qualities, scenic vistas, wetlands, lighting, and traffic along the Wood Road – Route 9 corridor.

Board members discussed the project plan. Mr. Bulger stated that it was clear that the applicant and his consultants attempted to address the issues of concern that were raised during the initial public hearing. Significantly more information has been submitted for review and plans have been revised in accordance with recommendations issued by town officials, engineering consultants, and Board members. Mr. Hale asked that the language regarding SEQRA reviews in the documents provided by Ms. Bakner be changed to state that future environmental reviews shall be required as the plan is refined. Mr. Werner requested clarification regarding the type of traffic that would be generated by the warehouse development. Ms. Cimino confirmed that of the approximately 330 vehicle trips per hour likely generated, most would be generally categorized as “light industrial”. In response to Mr. Werner’s question regarding whether or not the emergency access would be gated, Ms. Bakner reported that although it is not the applicant’s intention to provide a gated entrance, consultation with Ms. Reed, Chief of the Bureau of Fire Prevention, has not yet been scheduled. In answer to an additional question regarding combined access drives, Mr. Arico explained that wetland areas prohibit the combining of most driveways. The consultant will review the project plans to determine whether or not combined drives would be feasible for some adjoining parcels. Mr. Ophardt requested that Ms. Cimino list the several projects approved or pending within or in close proximity to the development site. These include the DCG “flex warehouse” development, the Rekucki storage and office complex, County Waste, Fairchild Square redevelopment, and the Ushers Woods PUD. He asked if these projects in addition to this one would require improvements to Wood Road. Ms. Bakner explained that the mitigation fees received from all projects within the corridor would be

used to upgrade Wood Road. Ms. Bakner emphasized the fact that the applicant has provided substantial open space areas for the town, limited disturbance of natural resources, and has minimized site development. Mr. Grasso stated that any light industrial development on Wood Road would require roadway improvements. Mr. Deleonardis' question concerned the number of storage tanks on the site and plans for their removal. Ms. Bakner explained that none of the storage tanks on the site have been registered with NYSDEC. As individual site plans are progressed, tanks will be removed and necessary site remediation will be undertaken. Mr. Hale asked that the applicant provide an updated jurisdictional letter from the NYSDEC. Ms. Bakner, however, reported that NYSDEC approvals were issued in 2007 and that such approvals are generally valid for a five-year period. She stated that all debris remaining on the site will be analyzed and tested for contaminants and hazardous materials prior to removal.

Ms. Bakner stated that the applicant and appropriate consultants will meet with town officials to discuss the environmental audit and design a matrix in accordance with recommendations provided by Clough, Harbour, and Associates and town representatives.

Mr. Bulger stated that it was likely that the Board would conduct public hearings for each site plan presented for approval. Mr. Grasso noted that the sewer must be extended to serve the Rekucki warehouse.

Mr. Bulger moved, seconded by Mr. Werner, adjournment of the public hearing at 8:50p.m. The motion was unanimously carried. The public hearing will be reconvened at a later date.

[2009-006] **Wagner Lumbering** – Proposed Special Use Permit, 698 Grooms Road – Preliminary public hearing and possible determination.

Mr. Bulger, Chairman, called the public hearing to order at 8:55p.m. The Secretary read the public notice as published in the Daily Gazette on April 6, 2009.

Mr. Tom Kane, Forester, presented this application on behalf of the applicant, The Wagner Companies. The speaker reported that, pursuant to Town Code, he has submitted a comprehensive application for review. This timber harvesting operation is proposed for the lands of Anthony and Maria Rotundi, a 35-acre parcel lying on the southern side of Grooms Road approximately half a mile west of the Grooms – Vischer Ferry Road intersection. Mr. Kane explained that prior to marking the timber, the Wagner Lumber Company located and marked the boundary lines of the property. He noted that although the company intends to cut trees within 50' of the property boundaries, trees will be felled onto the lands of Rotundi. Since the adjacent land is wooded, the cutting of trees within 50 feet of the boundary will not be visible from anyone's residence or yard, and there is no possibility of damaging any structure. The applicant proposes the cutting of 366 trees or 65 feet of basal area based on 8 random prism plots: the removal of 12 trees per acre. Mr. Kane described the plan for the restoration of the property and access drive, the method to be used for harvesting, and the plans for disposal of all debris. A copy of the NYSDEC permit for the stream crossing has been submitted. A temporary bridge will be installed to minimize stream disturbance and harvesting activities will be conducted in accordance with NYS standards.

Mr. Scavo provided comments from the Planning Department, explaining that the Special Use Permit is required since timbering activity is proposed within 50' of a property boundary. The Highway Superintendent must be notified of the timbering activity to determine if a driveway permit will be required.

Mr. Myers, Director of Building and Development, advised that if the Special Use Permit is approved, a building permit must be issued.

Mr. Grasso reported that Clough, Harbour, and Associates reviewed the application package dated February 13, 2009 for the above referenced project as prepared by The Wagner Companies and offered the following comments. The proposed project appears to be an "Unlisted" action pursuant to SEQRA, and as such, coordinated review is optional. The only involved agency is expected to include the Clifton Park Planning Board since a special use permit is required. In general, the application appears to meet provisions provided in Section 184 of the Town Code. Per the code, if the special use permit is granted, the Town Highway Superintendent shall be notified by the applicant so that he can determine whether or not a driveway-opening permit will be required for the particular operation. All work should be done in accordance with the New York Standards and Specifications for Erosion and Sediment Control.

Mr. Grasso stated that the comments issued by Clough, Harbour, and Associates have been adequately addressed, though he asked that the applicant provide information regarding the hours of operation. Mr. Kane stated that work would likely be done between the hours of 9:30a.m. and 4:00p.m.

Mr. Montague, Environmental Specialist, reported that the ECC recommended that the following note be added to the project plan.

The Land Conservation (LC) Zone has been delineated in accordance with Section 208-69 of the Clifton Park Town Code. Uses and activities in this area are restricted.

Mr. Montague noted that Section 208-69.3, Additional Standards for Permit, states that the applicant must furnish sufficient data to demonstrate that this will not result in any of several impacts listed in the Zoning Code. There is no data provided in the application to demonstrate this. The applicant must clarify that the cutting will not result in less than 30 square feet per acre of remaining basal area. The ECC notes that this project may have significant environmental impacts and recommends that the applicant complete the Environmental Assessment Long Form for Planning Board and ECC review.

Ms. Margaret Catellier, 26 Royal Oak Drive, asked if the trees would be replanted on the site. Mr. Kane explained that no trees will be planted: it has been determined that the process of natural succession works best to reforest an area.

Mr. Bill Engleman, 6 Partridge Plateau, asked Mr. Kane if the proposed harvesting would be conducted within the L-C (Land Conservation) zone. Mr. Kane stated that approximately half of the area to be timbered is delineated wetland. For this reason, the harvesting will likely occur in the winter. Mr. Engleman asked if work within the L-C zone would require additional review and oversight by town officials. Mr. Myers has reported that no additional protective measures will be required. In response to Mr.

Engleman's question regarding sizes of the trees to remain, Mr. Kane stated that the number of other species would approximately equal the number of trees removed.

There being no additional public comment, Mr. Bulger moved, seconded by Ms. Pace, to close the public hearing at 9:05p.m. The motion was unanimously carried.

In response to Mr. Hale's question regarding the classification type of the proposed timbering operation, Mr. Kane stated that it would be considered a "thinning of the overstory". The project, though dependent upon the weather, would likely take two weeks to complete.

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

Mr. Werner offered Resolution #2, seconded by Mr. Ophardt, to approve a Special Use Permit to allow timber harvesting within 50' of an adjoining property boundary in the CR (Conservation Residential) zone conditioned upon satisfaction of the comments issued by the Planning Department and Clough, Harbour, and Associates. Ayes: Ophardt, Paulsen, Koval, Pace, Hale, Werner, Bulger. Noes: None.

[2009-007] **Torres Tae Kwan Do** – Proposed Special Use Permit #80732, Parkwood Plaza, Route 9 – Preliminary public hearing and possible determination.

Mr. Bulger, Chairman, called the public hearing to order at 9:12p.m. The Secretary read the public notice as published in the Daily Gazette on April 6, 2009.

Mr. Torres, owner of Torre's Tae Kwon Do, presented his application for approval of a Special Use Permit which would permit the operation of a Tae Kwon Do studio in a B3 zone. He explained that he would like to consolidate two existing studios into a single facility within the Parkwood Plaza in a space previously occupied by Judy's Cards and Gifts.

Mr. Scavo reported that the applicant seeks approval of a Special Use Permit to operate his "recreational" facility in a B-3 zone pursuant to Section 208-45C(1)(a).

There being no public comment, Mr. Bulger moved, seconded by Ms. Paulsen, to close the public hearing at 9:15p.m. The motion was unanimously carried.

In response to Mr. Grasso's question regarding the number of students attending the school and the hours of operation, Mr. Torres reported that each class would be limited to 15-20 students. Most of the classes begin after 4:30p.m. Although Clough, Harbour, and Associates did not issue a comment letter regarding this application, it appears that parking within the Parkwood Plaza will be adequate for the proposed use.

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

Mr. Pelagalli stated that his children attend music classes at a studio within the Parkwood Plaza. In his opinion, since Judy's Gift Shop closed, traffic within the Parkwood Plaza has "been greatly diminished". He also commented that his children attend Tae Kwon Do at a competing studio at a studio located in Halfmoon. Based upon the traffic generated by that studio, it was his opinion that the traffic generated by Torres would be much less than the traffic generated by the previous use.

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

Mr. Hale offered Resolution #3, seconded by Mr. Koval, to approve this Special Use Permit #80732 which would permit the operation of a Tae Kwon Do studio within a B3 zone pursuant to Section 208-45C(1)(a) of the Town Code. Ayes: Ophardt, Paulsen, Koval, Pace, Hale, Werner, Bulger. Noes: None.

Old Business:

[2009-001] **Pilczuk In-Law Apartment** – Special Use Permit, 809 Plank Road – Preliminary site plan review and possible determination from public hearing held on March 10, 2009.

Ms. Pilczuk, applicant, presented this application that calls for the construction of a 15' x 45' addition to an existing residence to provide an "in-law" apartment for aging parents. The plan remains as presented at the public hearing held on March 10, 2009.

Mr. Scavo reported that, pursuant to a request from Clough, Harbour, and Associates, the applicant submitted a letter regarding the design and capacity of the existing septic system on March 23, 2009. Mr. Scavo recommended that the Board's approval be conditioned upon the addition of a note to the plan that requires that the proposed apartment addition be "reintegrated" into the existing residence when it is no longer used to provide housing for "in-laws". This application is submitted pursuant to Section 208-8B(a) of the Town Code to allow the construction of a two-family residence in an R-1 zone.

Mr. Myers, Director of Building and Development, provided the following comments regarding this application in a memo dated March 31, 2009. If a Special Use Permit is approved, a building permit will be required. It appears that a professional engineer has determined that the septic system is adequate for the additional load from the addition.

Mr. Grasso explained that Clough, Harbour, and Associates reviewed the memo regarding the septic system dated March 18, 2009 for the above referenced project as prepared Karl R. Vogel, P.E. and offered the following comments. The memo appears to verify the adequacy of the existing based upon the original design parameters. However,

the memo does not discuss whether the system is currently operating as designed. Over time, the infiltration rate of the original system may be reduced. The memo should discuss the age of the existing system and current operation of the facility. Mr. Grasso stated that he would defer to Mr. Myers' recommendation regarding the adequacy of the septic system.

Mr. Montague reported that the ECC provided no comment on this application.

Mr. Pelagalli recommended that the condition regarding reintegration of the apartment into the main residence be provided not only on the plan provided with the Special Use Permit but also in the deed of conveyance to new property owners. He recommended that the Board require that the following note be added to the plan:

If the apartment ceases to be maintained as the residence of a party related to the primary owner of the residence, the dual residency must be extinguished.

Board members discussed their concerns regarding use of an approved apartment use following the relocation or death of the relatives for whom the additional unit was constructed. Mr. Pelagalli explained that several years ago the Town Board discussed the adoption of legislation that would specifically regulate "in-law" apartments. No action was taken at that time. After discussing the issue, Mr. Bulger directed Mr. Scavo to prepare a memo to the Town Board recommending that consideration be given to the preparation of legislation that would address the issues surrounding the construction and maintenance of "in-law" apartments.

The Board first considered approval of the Special Use Permit. Mr. Werner moved, seconded by Mr. Bulger, to establish the Planning Board as Lead Agency for this application, an unlisted action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried.

Ms. Pace offered Resolution #4, seconded by Mr. Hale, to approve this Special Use Permit #80725 which would permit the construction of a two-family residence within an R-1 zone pursuant to Section 208-8B(a) of the Town Code conditioned upon the addition of a note on the project plans as well as the property's deed of conveyance that states the following:

If the apartment ceases to be maintained as the residence of a party related to the primary owner of the residence, the dual residency must be extinguished.

Ayes: Ophardt, Paulsen, Koval, Pace, Hale, Werner, Bulger. Noes: None.

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

Mr. Ophardt moved, seconded by Mr. Werner, to grant preliminary and final site plan approval to this application conditioned upon satisfaction of the comments provided by the Planning Department. The motion was unanimously carried.

[2008-017] **Crown Jewels Daycare Center** – Proposed amendment to a Special Use Permit, 1612 Crescent Road – Preliminary review and possible determination.

Mr. Scavo explained that although the applicants for this site plan amendment application were unable to attend this meeting, they did provide a letter that outlines their proposed planting plan. In an attempt to improve screening and “noise filtration” at the daycare center, the applicants propose to extend the existing berm and to plant five Canadian hemlock trees and five high bush cranberry shrubs during the week of April 27, 2009. These species were selected because they are most likely to flourish in the shady, wet, and sandy soil. The applicants report that they have been working with representatives of the Saratoga County Soil and Water Conservation District to select the most appropriate materials for the site.

Mr. Scavo explained that issues regarding site compliance have surrounded this application since it was submitted in June, 2008. Upon learning of the proposed changes to daycare at the site and observing the removal of trees from the rear and westerly property boundary, adjoining property owners expressed several concerns regarding the proposed operation of the site. Since the initial application was received by the town, the applicants have reduced number of students to conform to the terms of the original Special Use Permit. Pursuant to Section 208-123 of the Town Code, however, town officials may determine whether or not “the site is in compliance with approved special conditions.” It is clear from formal records that vegetative screening was required when the original daycare facility was approved in 1988. To ensure compliance with original approvals, town officials agree that the replanting of appropriate landscaping materials is required. To be certain that approvals have been met in the future, a formal, revised landscaping plan in addition to the narrative presented at the this evening’s will be required. This landscaping plan will necessarily include the location of the materials to be planted on a sketch site plan and a schedule listing each plant, shrub or tree, its approximate initial size, and the quantity of each proposed.

Though unrelated to the issues being deliberated by the Board, Mr. Scavo noted for the applicant’s benefit that the only exterior stand-alone sign allowed under the Special Use Permit is the Crown Jewel Daycare Sign. The Zoning Officer has confirmed that the building sign is permitted under the Town’s sign regulations and is, therefore, also to be allowed. The utility trailer sign is also permitted as long as the vehicle is not parked in the town right-of-way and it is used for other purposes than just sign advertisement. Any other exterior sign needs to be temporary in nature and should be placed on the property only after coordinating the placement and time frame for its display with the Town’s Zoning Officer, Steve Myers, to ensure it meets the Town Code.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, provided a memo dated March 31, 2009 that states that this item appears to be strictly to discuss the lack of trees that were required on the original site plan. The proposed correction is at the discretion of the Planning Board.

Mr. Montague stated that the ECC provided the following comments regarding this application. The applicant should minimize the amount of trees that are cut. Any fill should not negatively impact the drainage pattern or impact on neighboring properties.

Mr. Jonathan Newman, 8 McIntosh Drive, reported that the owners of Crown Jewels Daycare Center have recently removed several trees in the rear of the property. Mr. Bulger explained that the trees removed were diseased and presented a safety hazard to the children attending the daycare center. Removal of the trees was approved by town officials.

Mr. Dick Federice, 10 McIntosh Drive, questioned whether the proposed ten (10) trees would provide a sufficient buffer to adjoining homes. Board members agreed that the plantings should be sufficiently tall enough to adequately screen adjoining properties. Mr. Federice also expressed his concern with site drainage. Mr. Bulger explained that the representative from the County Soil and Water agency will work with the applicants to ensure that drainage from the site will not impact neighboring properties.

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

Mr. Koval moved, seconded by Mr. Hale, approval of the amendment as proposed conditioned upon satisfaction of the comments issued by the Planning Department and that the submission of a formal, revised landscaping plan that will include the location of the materials to be planted on a sketch site plan and a schedule listing each plant, shrub or tree, its approximate initial size and the quantity of each proposed. The motion was unanimously carried.

New Business:

[2009-006] **Riverview Orchards** – Consideration of a recommendation to the Town Board – Term Conservation Easement application, 660 Riverview Road.

Mr. Scavo presented this agenda item because the applicant was not in attendance at the meeting. He explained that on March 9, 2009 the Town Board referred an application submitted by Isabel Prescott for approval of a Conservation Easement to the Planning Board for review and comment. The application seeks approval of a conservation easement designation for agricultural use for 92 acres of land currently known as Riverview Orchards.

Mr. Scavo commented on the applicant's request, noting that the application form submitted to the town did not contain sufficient information regarding the public benefit to be derived from approval of the easement. Though Ms. Viggiani, Open Space Coordinator, offered written comment on the application, items of concern were not specifically addressed on the application form provided by the applicant.

Mr. Montague reported that the ECC provided the following comment regarding this application. Though the ECC encourages conservation easements, the applicant has not listed exactly what land they are looking to protect under the easement. The applicant should supply more information specifically defining the property area to be placed under the easement. The ECC understands the Conservation Easement issue at hand to be primarily a legal issue and not an environmental one.

Mr. Bulger moved, seconded by Mr. Hale, to recommend that the Town Board require the applicant to supply additional information in the conservation easement application. Such information should include, but not be limited to, the anticipated benefits of the easement protections for all town residents. The motion was unanimously carried.

[[2009-007] **Assembly of God, Residential Addition** – Proposed addition of a single story residence to the Special Use Permit #80107, 635 Englemore Road – Conceptual site plan review.

Mr. Gavin Vuillaume, consultant for the applicant, and Pastor Dwight Moore were in attendance at this meeting. Mr. Vuillaume explained that the Planning Board approved a Special Use Permit #80107 in 1994 that would permit the construction of a church within an R-1 zone. The applicant would now like to amend the Special Use Permit by including a residence on the property. The church has purchased a small home that has been constructed on the Shenendehowa School District property by students enrolled in the technology program. The home is to be relocated in July to its new location on Englemore Road. The home will require the installation of a new well, septic system, and driveway.

Mr. Scavo provided comments from the Planning Department. A building permit is required prior to the completion of construction for the new home. Adequacy of the proposed septic system location must be demonstrated.

Mr. Scavo reported that Mr. Myers offered the following comment in a memo dated March 31, 2009. The dual use of a single parcel is not allowed unless specifically zoned for it as in the HR (Hamlet Residential) and HM (Hamlet Mixed Use) zoning districts. Since the residence is proposed to provide housing for the church pastor, it is his recommendation that the Special Use Permit should limit the occupancy accordingly.

Mr. Grasso reported that Clough, Harbour, and Associates reviewed the site plan for this project as prepared by Environmental Design Partnership and offered the following comments. The proposed project appears to be an “Unlisted” action pursuant to SEQRA, and as such, coordinated review is optional. The only involved agency is expected to include the Clifton Park Planning Board for a special use permit and site plan review. The previous plan proposed significantly less parking than required by code. The proposed drive will eliminate at least two future parking spaces: justification for the reduced parking should be provided. Test pits and percolation tests should be performed within the proposed new septic system. The system should be design by a licensed

professional engineer. It should be verified that the proposed septic system location provides adequate separation (up to 200') from adjacent wells. The grading plan should be updated to include the proposed residence and driveway. Detailed grading around the proposed residence should be provided. Provisions should be provided to direct the drainage from the steep slope along the rear of the property around the residence. The plan should indicate if the residence will include a basement and if so, its basement floor elevation. The discharge of the foundation drain laterals should be depicted on the plan. The location of the proposed water service should be depicted on the plan. Access to the stormwater management area must be provided.

Mr. Montague reported that the ECC made the following comments after reviewing this application. The applicant must address the following issues: the means by which clean water will get to the house; the means by which water shed from the building will be directed to the retention pond; identification of the area to be used for installation of the proposed new septic system; the dangers posed by a septic system located in close proximity to a property boundary. The location of the closest structure, well, and septic system on the property west of the proposed project should be shown on the plan. The applicant should supply adequate perc tests for the proposed septic system. The following statement should be added to the plot plan:

This parcel (subdivision) is located in the vicinity of a rod and gun club and may be subject to periodic noise and other associated activities affiliated with the club.

In response to Ms. Paulsen's question regarding the occupancy of the home, Pastor Moore reported that the church is currently searching for an associate pastor. The house would be used by this individual. Board members found the proposal generally acceptable. Mr. Vuillaume was directed to prepare preliminary plans.

Discussion Item:

[2007-015] **Country Club Acres – Ushers Woods PUD**

Mr. Scavo explained to Board members that the Town Board has requested to be named Lead Agency pursuant to SEQRA for the Country Club Acres – Ushers Woods PUD. Board members agreed that since it is the Town Board that will be required to approve the enabling PUD legislation, that that Board should assume such status.

Mr. Grasso explained that Planning Board members could provide comment and recommendations to the Town Board throughout the review process.

Mr. Bulger moved, seconded by Mr. Koval, to consent to the Town Board's assumption of Lead Agency status pursuant to SEQRA for the proposed Country Club Acres – Ushers Road PUD. The motion was unanimously carried.

Minutes Approval:

Mr. Bulger moved, seconded by Mr. Hale, approval of the minutes of the meeting of March 10, 2009 as written. Ayes: Ophardt, Paulsen, Koval, Pace, Hale, Deleonardis, Bulger. Noes: None. Abstained: Werner.

Mr. Bulger moved, seconded by Ms. Pace, adjournment of the meeting at 10:30p.m. The motion was unanimously carried. The next meeting of the Planning Board will be held as scheduled on April 28, 2009.

Respectfully submitted,

Janis L. Dean

cc: Planning Board Members, Planning Department, Clough, Harbour, and Associates, Supervisor, Town Administrator, Assessor, Zoning Board, Department of Building and Development, Town Clerk, Town Board Members, Highway Superintendent, Joel Peller, Town Attorney, Lou Renzi, Town Attorney, Tom McCarthy, Town Attorney, Paul Pelagalli, Town Attorney, Department of Parks and Recreation, ECC, Saratoga County Planning Board, Shenendehowa Central School, Clifton Park Water Authority, Fire Districts.

NOTICE OF DECISION

Resolution #1

Preliminary and Final Approval

At a meeting of the Planning Board of the Town of Clifton Park, Saratoga County, New York, held at the Town Office Building, One Town Hall Plaza, on April 14, 2009 there were:

Present: S. Bulger, Chairman, M. Hale, J. Koval, E. Ophardt, S. Pace, K. Paulsen, T. Werner
T. Deleonardis (alternate)

Absent: None

Ms. Paulsen offered Resolution #1, and Mr. Ophardt seconded, and

Whereas, an application has been made to this Board by Irvin M. Hilts, III for approval of a subdivision plat entitled Subdivision of the Lands of Tamara Caulfield consisting of (2) lots;

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on April 14, 2009;

Whereas, the Planning Board established itself as Lead Agency for this application, an unlisted action, and a negative declaration was issued pursuant to SEQRA on April 14, 2009;

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

Now, therefore, be it resolved that the final hearing is waived and that the subdivision plat entitled Subdivision of the Subdivision of the Lands of Tamara Caulfield consisting of (2) lots is hereby granted preliminary and final subdivision approval.

Resolution #1 passed 4/14/2009

Ayes: Ophardt, Paulsen, Koval, Pace, Hale, Werner, Bulger

Noes: None

Steven J. Bulger,
Chairman

NOTICE OF DECISION**Resolution #2****APPROVAL****Special Use Permit**

At a meeting of the Planning Board of the Town of Clifton Park, Saratoga County, New York, held at the Town Office Building, One Town Hall Plaza, on April 14, 2009 there were:

Present: S. Bulger, Chairman, M. Hale, J. Koval, E. Ophardt, S. Pace, K. Paulsen, T. Werner

Absent: None

Mr. Werner offered Resolution #2 and Mr. Ophardt seconded, and

Whereas, an application has been made to this Board by The Wagner Companies for approval of a Special Use Permit to permit timbering in a CR (Conservation Residential) zone pursuant to Section 184 of the Town Code;

Whereas, pursuant to Section 276 of the Town Law a public hearing was advertised and was held on April 14, 2009 in the Town Office Building,

Whereas, the Planning Board was established as Lead Agency for this application, an unlisted action, and a negative declaration was issued pursuant to SEQRA, and

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

Now therefore, be it resolved that the application of The Wagner Companies for approval of a Special Use Permit to permit timbering within the CR (Conservation Residential) zone pursuant to Section 184 of the Town Code is hereby approved.

Resolution #2 passed 4/14/2009

Ayes: Ophardt, Paulsen, Koval, Pace, Hale, Werner, Bulger

Noes: None

Steven Bulger,
Chairman

NOTICE OF DECISION**Resolution #3****APPROVAL****Special Use Permit**

At a meeting of the Planning Board of the Town of Clifton Park, Saratoga County, New York, held at the Town Office Building, One Town Hall Plaza, on April 14, 2009 there were:

Present: S. Bulger, Chairman, M. Hale, J. Koval, E. Ophardt, S.
Pace, K. Paulsen, T. Werner
Absent: None

Mr. Hale offered Resolution #3 and Mr. Koval seconded, and

Whereas, an application has been made to this Board by Torres Tae Kwon Do for approval of a Special Use Permit to allow the operation of a recreational facility in a B3 zone pursuant to Section 208-45C(1)(a) of the Town Code;

Whereas, pursuant to Section 276 of the Town Law a public hearing was advertised and was held on April 14, 2009 in the Town Office Building,

Whereas, the Planning Board was established as Lead Agency for this application, an unlisted action, and a negative declaration was issued pursuant to SEQRA, and

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

Now therefore, be it resolved that the application of Torres Tae Kwon Do for approval of a Special Use Permit to allow the operation of a recreational facility in a B3 zone pursuant to Section 208-45C(1)(a) of the Town Code is hereby approved.

Resolution #3 passed 4/14/2009

Ayes: Ophardt, Paulsen, Koval, Pace, Hale, Werner, Bulger

Noes: None

Steven Bulger,
Chairman

NOTICE OF DECISION

Resolution #4

APPROVAL

Special Use Permit

At a meeting of the Planning Board of the Town of Clifton Park, Saratoga County, New York, held at the Town Office Building, One Town Hall Plaza, on April 14, 2009 there were:

Present: S. Bulger, Chairman, M. Hale, J. Koval, E. Ophardt, S. Pace, K. Paulsen, T. Werner

Absent: None

Ms. Pace offered Resolution #4 and Mr. Hale seconded, and

Whereas, an application has been made to this Board by Mr. and Mrs. Michael Pilczuk for approval of Special Use Permit #80725 to allow the construction of a two-family dwelling in an R-1 zone pursuant to Section 208-9B(a) of the Town Code;

Whereas, pursuant to Section 276 of the Town Law a public hearing was advertised and was held on March 10, 2009 in the Town Office Building,

Whereas, at its April 14, 2009 meeting, the Planning Board was established as Lead Agency for this application, an unlisted action, and a negative declaration was issued pursuant to SEQRA, and

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

Now therefore, be it resolved that the application of Mr. and Mrs. Michael Pilczuk for approval of a Special Use Permit #80725 to allow the construction of a two-family dwelling in an R-1 zone pursuant to Section 208-9B(a) of the Town Code is hereby approved conditioned upon the addition of a note on the project plans as well as the property's deed of conveyance that states the following:

If the apartment ceases to be maintained as the residence of a party related to the primary owner of the residence, the dual residency must be extinguished.

Resolution #4 passed 4/14/2009

Ayes: Ophardt, Paulsen, Koval, Pace, Hale, Werner, Bulger

Noes: None

Steven Bulger,
Chairman

