



Planning Board Meeting
May 12, 2009

Those present at the May 12, 2009 Planning Board meeting were:

Planning Board: S. Bulger, Chairman, M. Hale, J. Koval, 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. Romano, Clough, Harbour and Associates;
M. Montague, Environmental Specialist;
P. Pelagalli, Counsel;
J. Dean, Secretary

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

Public Hearings:

[2009-011] **Saratoga Land Management Corp.** – Special Use Permit to allow timbering in an L2 zone pursuant to Section 184-3, 279 Ushers Road – Preliminary public hearing and possible determination. SBL: 259.-2-74.3

Mr. Bulger, Chairman, called the public hearing to order at 7:00p.m. The Secretary read the public notice as published in the Daily Gazette on May 4, 2009.

Mr. Charles Gerber, Certified Forester, presented this application that requests approval of a Special Use Permit that would allow selective timber harvesting on approximately 18 acres of an existing 32.8 acre parcel within the L2 zoning district. The parcel is located on the northerly side of Ushers Road west of its intersection with Wood Road. The thinning proposed by this operation will reduce the basal area by 30%-40%, thus spacing the residual trees for optimal growth. Access and egress to the site will be via an existing access road located east of tax map parcel number 259.-2-36, a property

that is currently owned by Corporate Services, Inc. The project will be supervised by an SAF Certified Forester.

Mr. Gerber provided written responses to the comments issued by the Environmental Conservation Commission, a topographical map of the parcel to be timbered, and an aerial photograph of the parcel that delineated the buffer area, harvest area, staging area, and access road. The speaker explained that the proposed thinning plan calls for residual densities of between 40 and 100 SF/acre depending on stand conditions: the removal of between 6-8 trees/acre and 14-22 trees/acre. At a minimum all trees cut will be utilized to a top diameter of between 3-5 inches. Remaining tops and slash will be lopped. Under the optimum condition, the lumbering company will be using mechanized harvesting equipment and all intact top wood and limbs will be chipped and removed from the site. The thinning plan designates a 100' buffer along the Northway. Within that buffer no more than 6-8 trees/acre will be removed. These will be diseased, damaged and/or overmature, at risk trees.

Mr. Scavo offered comments prepared by the Planning Department, explaining that Ms. Viggiani, Open Space Coordinator, prepared a number of written recommendations for the Board's consideration. She recommended that the applicant provide an aerial photo that would identify the area to be forested, the wetlands, streams, and endangered species habitat areas and that a timber harvesting plan and restoration plan be prepared by a professional forester. Ms. Viggiani also recommended that adequate provision be made for proper management for the endangered species habitat. Since the project site is anticipated to provide a future trail connection northerly to Wood Road, it is recommended that any logging access road be considered as a footprint for such a trail.

Mr. Scavo stated that the information provided by Mr. Gerber at this evening's meeting satisfied many of his prepared comments. He found the plan generally acceptable, though he asked that the applicant submit a reclamation plan that will ensure that all skid trails will be smoothed of ruts and cleared of debris and that the product loading and landing area will be smoothed and reseeded. In response to his question regarding the species of trees to be harvested, Mr. Gerber explained that there are a variety of trees on site including eastern white pines and sugar maples. All work should be done with NYS Standards & Specifications for Erosion and Sediment Control.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, has noted that a timber permit will be required and that timber harvesting is exempt from storm water requirements.

Mr. Romano reported that Clough, Harbour, and Associates reviewed the project plans and offered the following comments. The project may be located within the limits of the Wood Road Area GEIS. A site location plan depicting the limits of the subject parcel and the limits of the GEIS study limits should be provided for review. If the parcel is located within the limits, the project will be subject to the Statement of Findings. Pursuant to 184-3-D-7 a sketch plan should be provided for review that includes the following information:

- The location and boundaries of the property.
- DEC classified streams and wetlands.
- Approximate acreage of the forest affected by the harvesting activities and the approximate acreage of wetlands and buffer zones.
- Linear feet of streams affected by any stream crossings.
- The names and addresses of the owners of adjacent properties.
- The area within the property where the logging operation will be conducted.
- The location of the product loading areas.

All work should be completed in accordance with the New York State Standards and Specifications for Erosion and Sediment Control.

Mr. Romano noted that the information submitted for this meeting addressed many of the comments prepared by Clough, Harbour, and Associates.

Mr. Montague reported that, after review of data presented at the May 5, 2009 meeting, the ECC made the following comments. The applicant should state what the remaining basal area will be; per code, it can not be less than thirty (30) square feet per acre. The applicant should state the approximate number of trees that will be cut and the method to be used in harvesting and debris disposal per Town Code 184-3. The ECC also recommended that the forester designate adequate screening foliage along the Northway corridor that adjoins the parcel's northwest border. Mr. Montague stated that the information provided at this evening's meeting satisfied all of the ECC's concerns.

Mr. James Ruhl, 168 Wooddale Drive, reminded the Board that the Open Space, Trails, and Riverfront Committee has recommended that the Planning Board assure that land for a trail link is provided between Ushers Road and the proposed location of the Zim-Smith regional pathway. He views a connection through this parcel as a "vital" part of the Town's trail network.

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

In response to Mr. Werner's question regarding site access for heavy equipment, Mr. Gerber stated that there is an existing access from Ushers Road that has a substantial rubble base: a large cleared area for trucks to maneuver is already established. Mr. Bulger emphasized the fact that the applicant must comply with all of the conditions outlined in the Statement of Findings prepared for the Wood Road Corridor GEIS. Mr. Gerber agreed to flag the area that is believed to contain evidence of endangered species or supportive habitat.

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.

Mr. Koval moved, seconded by Mr. Hale, to approve the Special Use Permit #80733 that would permit timber harvesting in an L2 zone pursuant to Section 184 of the Town Code conditioned upon satisfaction of the comments offered by the Planning

Department, Clough, Harbour, and Associates, and the Planning Board. Ayes: Ophardt, Paulsen, Pace, Hale, Werner, Koval, Bulger. Noes: None.

Old Business:

[2009-010] **Reckner, Donald** – Proposed 1,105 SF addition to Elmo’s Autobody, 1143 Route 146A – Preliminary site plan review and possible determination.

Mr. Duane Rabideau, consultant for the applicant, presented this application that remains as presented at the Board’s April 28, 2009 meeting. The project plan calls for an 1,105 SF addition to the existing Elmo’s Autobody facility. The plan remains generally as presented at the April 28, 2009 meeting.

Mr. Scavo, Clough, Harbour, and Associates, and the ECC all reported that the plan presented for approval satisfactorily addresses previous comments and concerns.

Board members discussed a recommendation regarding the establishment of an easement along the property’s Route 146A frontage. It was agreed that it would be reasonable to request that the applicant provide a 10’ easement for future roadway or trail improvements.

Ms. Paulsen 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 moved, seconded by Mr. Ophardt, to grant preliminary and final site plan approval to this application conditioned upon the applicant’s granting of a 10’ easement along Route 146A to provide for future roadway and/or trail improvements. The motion was unanimously carried.

[2007-027] **DeMarco-Stone Funeral Home** – Proposed 4,000 SF funeral home, 533 MacElroy Road – Preliminary site plan review and possible determination from a public hearing held on February 10, 2009.

Mr. Scott Lansing, consultant for the applicant, introduced Mr. Michael DeMarco, applicant, and Mr. James Schultz, attorney for the applicant, who were in attendance at the meeting. He then presented the revised application for the Board’s consideration. Mr. Lansing explained that on August 21, 2007, the Zoning Board of Appeals approved Permit #80672 that authorized several setback variances for this project. The revised plan now includes 86 paved spaces and 39 “overflow” spaces for a total of 125 parking spaces on site. The 39 spaces provided for “overflow” parking will be constructed of geoblock porous pavement system or a similar material. This would allow these spaces to appear as lawn area. Mr. Lansing reported that Mr. Myers, Director of Building and Development, had agreed that “land banked” spaces lying beyond required setback limits did not require a variance from the Zoning Board of Appeals. Grace Chapel, a nearby church, has 141 paved spaces and 41 gravel parking spaces on site. Though no formal

agreement has been executed with the church, the applicant believes that the church would permit occasional use of its parking facilities. The consultant reported that lighting, landscaping, and storm water management plans have been prepared. All technical comments issued by Clough, Harbour, and Associates will be addressed. In response to recommendations issued by the Historic Preservation Commission, the applicant is committed to a building design that would be compatible with neighboring properties.

Mr. Romano stated that Clough, Harbour, and Associates reviewed the most recent site plan submitted by the applicant and offered the following comments. As was stated in the previous review letter, the zoning code does not allow parking within thirty feet of the front line or twenty feet within the side yard; that code also requires a landscaped buffer of at least ten feet along the side yards. The overflow parking spaces along the northern property line are only a few feet from the property line, and the spaces along MacElroy Road are as close as eighteen feet from the front property line. In addition, the overflow parking is proposed on turf areas, which could require special maintenance provisions during winter months to make sure they were readily available. The proposed overflow parking may also eliminate a portion of an existing vegetative buffer along the northern property line. The pedestrian crossing should include the appropriate identification and warning signs. The site plan should depict the location of the "No Parking" signs required for the handicap accessible striped aisles. The size of the existing watermain along MacElroy Road and the proposed method of connection for the 1" copper water service should be depicted on the plan. It appears the proposed evergreens along the western property line are incorrectly labeled on the landscaping plan. A manufacturer's cut sheet should be provided for the proposed light fixtures. Any proposed building mounted lights should be depicted on the plan. The plan does not depict a dumpster location. It should be verified that a dumpster will not be required. If not required, the detail should be removed from the plan set. The erosion and sediment control plan should be revised to clearly depict the installation of silt fence across the location of the proposed sidewalk at the intersection of Hatlee Road and MacElroy Road. The proposed invert elevations of the septic system should be provided to verify the minimum slope requirements can be met. A detail of a CDS water quality unit is provided, however, the location of the unit is not depicted on the site plan. The foundation drain lateral note on the typical catch basin detail should be revised to be specific to the proposed project.

Mr. Romano explained that Clough, Harbour, and Associates also reviewed the Stormwater Pollution Prevention Plan dated March 23, 2009 and offered the following comments. The reference to the residential subdivision in the section "Notice to Purchaser and Developers" should be revised. The report references the use of two CDS water quality units. The plans should indicate the location of the units. The Notice of Intent should be completed.

Mr. Scavo provided comments prepared by the Planning Department, noting that he concurred with the issues and recommendations made by Clough, Harbour, and Associates. Mr. Scavo also explained that this application may be considered a Type II action pursuant to SEQRA. As such, no further SEQRA determinations will be required. The speaker did advise the applicant that the plan must comply with all zoning code setback requirements.

Mr. Michael Montague, Environmental Specialist, read the comments that were issued by the ECC. The ECC is concerned about the lack of screening for surrounding properties. Of particular concern is the glare from headlights in the parking lot and at the exits. The applicant should submit façade renderings for review by the Planning Board to ensure the building will be consistent with the surrounding area. The following standard statements must be added to the plot plan:

- The borders of all land that is to remain undisturbed shall be clearly marked on the site before site preparation begins. These on-site boundary markers shall remain until construction is completed and soils are stabilized.
- All erosion and water quality controls shall be put into place at the initial phase of site preparation and shall be maintained until all constructions ends and soils are stabilized
- The applicant will control fugitive dust and debris during the construction/demolition phase of the project.

If hazardous materials will be stored on-site, the applicant must submit a plan addressing handling and storage and spill response to the Town of Clifton Park before such materials are stored.

Mr. Bulger noted that there appeared to be a serious discrepancy between the variances received and the project plan. He was also concerned about the applicant's contention that the "overflow" parking, including the double stacking of parking spaces along the property's northerly border, was approved by Mr. Myers, Director of Building and Development. He asked that a written decision be provided by Mr. Myers. Mr. James Shultz, attorney for the applicant, reported that Mr. Myers had indeed determined that the proposed overflow parking would not require additional variances.

Board members discussed the parking provisions at length. Mr. Hale expressed his concerns with the proposed parking arrangement, stating that he supports green areas along property boundaries: he would ask that the buffer requirement be respected. Mr. Werner requested clarification regarding the code requirements for paved parking and "land banked" spaces. Mr. Bulger believes that the 75 parking spaces (pursuant to code requirements) that would be required to serve this site would be inadequate. He explained that the Board has the discretion to mandate an increase in the number of spaces provided to protect the health, safety, and welfare of the public. He was particularly concerned with the prospect of people parking along MacElroy Road, Dyer Drive, and Main Street. Ms. Paulsen commented that although this location would be a reasonable location for a funeral business, she was concerned with its "proper fit" into the quaint hamlet of Jonesville. She observed that there are no shoulders along MacElroy Road that would provide for visitors to park safely. She asked that the applicant provide façade renderings of the proposed building for the Board's review. Mr. Werner recalled that the applicant had considered a Greek revival styling for the building. Mr. Bulger advised the applicant that he must provide an executed agreement with the church that would permit parking for funeral home visitors: Mr. Shultz stated that such an agreement could not be provided. In response to Mr. Hale's question regarding drainage from MacElroy Road to the site, Mr. Lansing explained that the storm water would be directed

to on-site storage facilities. Mr. Hale commented on the planting plan, recommending that Norway spruce replace the proposed evergreens along MacElroy Road and that the planting plan provided be reviewed to ensure accuracy. Ms. Pace stated that she was pleased that the applicant would be working with representatives of the Historic Preservation Commission to design a building that would complement other buildings in the hamlet. Mr. Koval referenced photographs of parking at the applicant's other business locations, stating his concern for the possibility of concurrent viewing times and the number of visitors that may attend a single wake. In response to his question regarding snow removal, Mr. Lansing stated that snow would be cleared from the overflow spaces and removed from the site. Mr. Shultz argued that experienced funeral directors anticipated problem situations, working to select the best time of day for viewing hours and services, and employing parking managers.

Mr. Bulger asked that the determination apparently rendered by Mr. Myers, Director of Building and Development, regarding the location and use of proposed overflow parking areas be clarified. The limited number of spaces for use by the funeral home was of significant concern.

New Business:

[2009-012] **Belmonte Properties, LLC** – Reaffirmation of subdivision approval granted to Project Number 1987-111 (Oakwood Estates Subdivision) and recommendation to the Zoning Board of Appeals, 16 Bonneau Road. SBL: 283.15-2-10

Mr. Peter Murray, legal representative for the applicant, presented this project for the Board's review. The applicant proposes the construction of a 2,100 SF single-family residence on a .47 acre parcel that is illustrated as a buildable parcel on a plat entitled "Subdivision Plan, Oakwood Estates, Prepared for William Ohler," dated June 18, 1987. The lot has been maintained as manicured lawn by an adjacent property owner at least since 2001. Within the parcel along the northern boundary there are three sheds totaling approximately 800 SF and a wooden fence surrounding a garden. The mapped boundary of Freshwater Wetland N-14 parallels the northern boundary of the parcel. Consequently, the entire parcel is within the regulated 100-foot adjacent area and Town's L-C (Land Conservation) zone. Mr. Murray reported that the NYSDEC has issued a conceptual approval for the parcel dependant on a final determination from the Zoning Board of Appeals. The speaker explained that there are two issues for the Board to consider. The first issue concerns the constructability of this lot. The second involves a recommendation pursuant to Section 208-109C(2)(e)(2) of the Town Code that requires the Planning Board to provide a written recommendation to the Zoning Board of Appeals for all projects proposed within the L-C zone.

The ability of the applicant to build on Lot #16 has been questioned by Mr. Myers, Director of Building and Development, because of a note on the approved plat that states that no building permits would be issued for the subdivision until such time as one of the following occurs:

The Town receives written notice from (2) the NYSDEC that this subdivision is within the service district of Crescent Estates Water Co; and

(b) NYSPSC that water is being supplied to each approved lot with the subdivision; or that a transportation corporation has been established to serve the subdivision; or that a municipally –owned water system is available to serve this subdivision.

Certain exceptions were made that allowed one building permit to be issued for certain groups of lots before the above conditions were met. Lot #16 was not included with those lot groups. Lot #16 was listed as “No Permit Issuable” under this exception which meant that one of the conditions had to be met before a building permit could be issued for this lot. It is the applicant’s position that if the above conditions had not been met, the entire subdivision would still not be built. Accordingly, the applicant believes that Lot #16 is a buildable lot provided a use variance is granted.

The second issue requires a written recommendation from the Planning Board to the Zoning Board of Appeals regarding the requested use variance. It is the applicant’s contention that the proposal meets the criteria for approval as outlined in the zoning code. Mr. Murray listed the applicant’s compliance with the criteria as follows:

- The proposal conforms to the Town’s comprehensive planning objectives
- The proposal complies with the general requirements for use variances as outlined in the Town of Clifton Park Zoning Code
- The uses proposed shall not be detrimental to the natural characteristics of the site or adjacent land uses
- Each phase of the development, as it is proposed to be completed, contains the required parking facilities, landscaping, and utilities necessary to create and sustain each phase independently
- The proposal is conceptually sound in that it meets local and area-wide needs and that the proposed roadways, pedestrian system, land use configuration, open space system, drainage system, and scale of elements shall function singly and cumulatively and conform to accepted design principals
- There are adequate services and utilities available to accommodate the development
- The traffic generated by the proposal shall not have an adverse impact on the existing transportation network
- The proposal is generally consistent with the purpose of the L-C (Land Conservation) zone pursuant to Section 208-69 of the Town’s Zoning Code

Mr. Artie Tompkins, Wetlands Program Manager for the Environmental Design Partnership, described the existing site conditions, explaining that most of the parcel lies within the 100’ NYSDEC wetland adjacent area. The applicant has received a jurisdictional approval letter for the wetland delineation. The project plan calls for the construction of an 1,800 SF single-family residence and driveway. The home would be served by municipal water and sewer services. Mr. Tompkins explained that the proposal would be environmentally beneficial. A portion of the lot would be deed restricted; run-off would be directed to a specifically designed rain garden; three existing sheds, fencing, and old fuel barrels would be removed from the site. A declaration of restrictive

covenants would be filed with the property deed to ensure continued maintenance of the rain garden, preventing negative impacts to the wetland area in perpetuity.

Mr. Scavo offered the following comments from the Planning Department. The speaker supported the concept of installation a rain garden proposed at the site for the following reasons:

- Rain garden plants create wildlife habitat and attract butterflies, birds, and other wildlife.
- Properly designed rain gardens don't need to be fertilized or sprayed, only weeded and mulched. They reduce the amount of lawn to maintain. This makes a healthier place for children, pets, and the adjacent wetlands.
- Small rain gardens can absorb a lot of rain and contribute to groundwater recharge that would otherwise runoff into wetland areas.
- Rain gardens remove many of the common pollutants in stormwater and nutrient loads.
- A rain garden is low maintenance. Once established, it requires no fertilizer, watering, or mowing. A once a year cleanup with the addition of shredded hardwood mulch to keep the surface moist, and removal of weeds and invasive species are all that are typically required.
- A rain garden project can be part of the educational toolbox used by a community stormwater education team.
- A rain garden reduces mosquito breeding.
- The proposed project would provide a better environmental condition than what the existing shed with equipment and 55-gallon drum barrels to the rear of the shed provide.

Mr. Scavo recommended that a condition of approval be that Clough, Harbour, and Associates review the rain garden design.

Mr. Myers, Director of Building and Development, offered the following comments in a memo dated May 12, 2009. The original approved subdivision map filed in 1989 clearly states that "No permit issuable" for Lot #16. The letter from Environmental Design Partnership, the applicant's consultant, dated April 23, 2009, is incorrect. The proposal does not meet the requirements for use variances. The LC zoning was instituted in 1999: Mr. Belmonte, applicant, purchased the property in 2001. Therefore, the hardship appears self created. In Mr. Myers' opinion, the alleged hardship is not unique since there are many L-C areas in town. Area variances are also required for the parcel.

Mr. Romano reported that Clough, Harbour, and Associates offered the following comments on this application. The proposed project appears to be an unlisted action pursuant to SEQRA, and as such, coordinated review is optional. The involved agencies are expected to include the following: Clifton Park Planning Board - Special Use Permit; Clifton Park Zoning Board of Appeals – Use Variance; NYSDEC – Article 24 Freshwater

Wetlands Permit. The subject parcel was part of a previously approved subdivision and was subsequently included into the Land Conservation zoning district. The applicant has submitted an application to the Zoning Board of Appeals for a use variance. A use variance requires a recommendation from the Planning Board based upon the items listed in Section 208-109C(2)(e)(2) of the Town Code. Based upon the lot development plan provided, it appears the parcel is a buildable lot with respect to grading and drainage.

Mr. Montague explained that, after review of data presented at the May 5, 2009 meeting, the ECC was unable to reach a decision regarding a recommendation for this project. Incorporated in the May 8, 2009 memo to the Planning Board are the minutes of the meeting:

After review of data presented, the following motion was made: The proposed development clearly intrudes into the existing LC Zone and is not acceptable. Motion was made by Jim Ruhl. There was no second for this motion and no vote was taken. After further discussion, a different motion was made by Rocco Ferraro to find the development acceptable as proposed. Again, there was no second for this motion, and no vote was taken. After additional discussion, a third motion was offered:

The proposed development clearly intrudes into the existing LC Zone, a violation of regulations which normally results in a disapproval of use. However, limited exceptions exist for this requirement for which the project has made a good faith effort to satisfy. The project appears to be superior to the existing use. Therefore, the ECC recommended approval of intrusion into the LC Zone with deed restrictions as presented. Votes for passage of motion were made by Fred Pineau, seconded by Rocco Ferraro. Votes against passage of the motion were made by Jim Ruhl, Brian Glick and Raoul Desy. Abstention: Malcolm Rosen. The motion was not carried

Finally, after a lengthy discussion, the ECC offered the following comment: Some members of the ECC held the position that the proposed development clearly intrudes into the existing L-C zone, a violation of regulations, and should not be allowed. Other members felt the design acceptably addresses the intent of the L-C zone, which is to protect the adjacent wetlands from the affects of development. Other members felt that there are opportunities to alter the design of the project to significantly reduce the impact of the lot development on the L-C zone (e.g., move the structure to the south and locate the garage to the east or west of the structure to create a "L" shape, move the structure to the south while rotating the structure and creating a "thinner" footprint). If the applicant desires ECC acceptance of development of this lot, then a revised design should be submitted which reduces the impact of development into the L-C zone or provides further information to support the belief that the proposed design will not negatively impact the LC Zone and/or the adjacent wetlands.

Mr. Scavo addressed the issue of the “constructability” of the lot, explaining that it is his belief that the original developer of the Oakwood Estates subdivision received approvals to construct homes on a limited number of lots due to the lack of a municipal water supply. A water line now extends the length of Bonneau Road and makes all lot development viable.

Ms. Penny Kienast explained that her parents have resided on 14 Bonneau Road for a number of years. Due to the high water table in the area and the location of the delineated wetland, it was assumed that no building would be permitted on Lot #16. Ms. Kienast reported that the sheds existing on the property were originally part of the farm that existed on the property prior to the development of the subdivision. It is her understanding that the sheds and debris must be removed whether or not the applicant receives approval to build a home on the property. She believes that the proposed building will have significant negative impacts to her parents’ property: adequate drainage is a concern for area residents. The requested side variance will place the proposed residence much closer to her parents’ home, impacting their privacy.

Mr. Murray argued that whether or not the LC zone was established after the subdivision plat was approved, the lot remains a buildable, subdivided parcel. Mr. Koval noted that he would likely concur with Mr. Myers’ determination regarding the “self-imposed hardship” that would prevent Zoning Board approval: this issue will be considered by the Zoning Board of Appeals.

Mr. Pelagalli explained that the Planning Board is charged with considering the application in light of reasonable planning principles and providing a recommendation to the Zoning Board of Appeals: members of that Board will be responsible for issuing a determination based upon the applicant’s rationale for requesting a variance from the zoning code. Board members, Mr. Murray, Mr. Tompkins, Mr. Belmonte, and Ms. Kienast discussed the proposal at length, considering issues such as whether the proposed building would negatively impact the wetlands, the benefits of site clean-up, the implicit NYSDEC approval, the orientation of the proposed residence on the lot, the proposed rain garden design that will allegedly protect adjacent wetlands, and on-going maintenance of the garden.

Before taking action on a possible recommendation to the Zoning Board of Appeals, Mr. Bulger asked each Board member to comment on the application. Mr. Hale said that, since clean-up of the property would be undertaken and adequate controls for water run-off are provided, he would support a positive recommendation to the Zoning Board of Appeals. Mr. Werner concurred with Mr. Hale, stating that it appeared that the proposed single-family residence was consistent with land use in the area. In his opinion, the construction of a residence would likely enhance the lot. Mr. Koval believes that his concerns as a Planning Board member have been satisfied by the comments provided by the Director of Planning and the purported comments and recommendations provided by the NYSDEC, though he noted that the Zoning Board of Appeals would have many issues to discuss when considering this application. Mr. Ophardt agreed with Mr. Koval and stated his support for a positive recommendation. Ms. Paulsen believed that the

construction of a single-family residence on the parcel was reasonable – she would support a positive recommendation. Ms. Pace supported a positive recommendation, though she would like approvals to be conditioned upon the assurance that there would be no negative impacts to existing residents. Mr. Bulger found the proposal acceptable.

Mr. Bulger moved, seconded by Mr. Werner, to recommend that the Zoning Board of Appeals approve the applicant's request for approval to construct a new, single-family residence on Lot #16 Bonneau Road. The recommendation must include the comments and concerns offered by each Board member. The motion was unanimously carried.

[2009-013] **Phillips, Robert and Sylvia** – Proposed (3) lot subdivision, 54-58 Clifton Country Road – Conceptual review. SBL: 271.-3-47.122

Mr. Joe Dannible, consultant for the applicant, presented this subdivision application for the Board's consideration. The parcel to be divided is located at on the northeaster quadrant of the Clifton Country Road-Clifton Park Center Road intersection. The project proposes the subdivision of 3.83 acres of land: Parcel #1 is located totally within the L-C (Land Conservation) zone; Parcel #2 is generally within the B2 zone, though a portion of the property lies within the L-C (Land Conservation) zone; all of Parcel #3 lies in the B2 zone. Parcel #1 contains an existing restaurant facility. This use was permitted by a use variance that was granted by the Zoning Board of Appeals in June, 1996. The other two parcels each contain 15,000 SF office building. Mr. Dannible noted that the parking calculations have been provided on the plan: the site requires a total of 152 spaces based on the general office use that requires one space for every 300 SF and the restaurant use that requires one space for every 75 SF. Currently there are 129 parking spaces provided. Mr. Dannible addressed this issue, indicating that a note on the plan states the following:

Existing parking for the mixed use development has proven to be sufficient for the demand required. The two uses have offsetting peak hour demands for the services provided. The office use peak demands hours ranging from 9:00a.m. to 4:00p.m. Monday through Friday. The restaurant use requires peak parking demand in the evenings and weekends.

A 6' rear yard area variance was granted by the Zoning Board of Appeals for the restaurant in 2001. The consultant explained that the site statistics tables provided on the site plan includes parcel-specific information regarding lot width, lot area, building setbacks, parking setbacks, and lot coverage. It is likely that the applicant will require the approval of several variances by the Zoning Board of Appeals prior to final Planning Board review. Mr. Dannible also noted that cross-easements for parking, ingress/egress, stormwater management, sewer, water, dumpster use, and all utility services will be required.

Mr. Scavo provided comments prepared by the Planning Department, explaining that he would recommend that the items listed in Note 2 on the map which states that cross easements for parking, ingress/egress, stormwater management, sewer, water,

dumpsters, and all utility services must be provided to the Planning Board Attorney for his review and comment prior to the granting of final approval. All necessary area variances must be granted by the Zoning Board of Appeals before a public hearing will be scheduled.

Mr. Myers, Director of Building and Development, offered the following comment in a memo dated May 4, 2009. The formal shared parking agreements should be filed with the subdivision plan.

Mr. Romano reported that, after reviewing the application, Clough, Harbour, and Associates provided the following comments. The proposed project appears to be an unlisted action pursuant to SEQRA, and as such, coordinated review is optional. The involved agencies are expected to include the following: Clifton Park Planning Board – Subdivision Approval; Clifton Park Zoning Board of Appeals – Area Variances. The existing water and sanitary sewer services should be shown for three buildings. Private services can not service multiple lots. As such, separate private services serving each parcel or public water and sanitary sewer facilities are required for the proposed subdivision. The table of variances for parcels #2 and #3 should be verified. It appears some of the proposed setbacks are not correct.

Mr. Romano offered several additional comments. Parcel #1 is located within the Land Conservation District. The bulk standards should be updated in the table of variances to reflect the requirements of the zoning district. A note on the plan indicates a use variance was granted for the construction of the restaurant, dining deck, and associated parking. The original variance should be reviewed for conditions that may prohibit the subdivision of the property. The proposed cross easement language should be provided to the Planning Board Attorney for review.

Mr. Peter Murray, legal representative for the applicant, explained that there are separate water service connections for each building. Sewer services for the two office buildings are currently connected, though the applicant would comply with all regulations: the services will be provided separately for each building.

Mr. Montague, Environmental Specialist, stated that after review of the project plans, the ECC offered no comments.

Mr. Bulger remarked that although he considered the subdivision to be “just lines on a map,” the cross-easements and shared site maintenance agreements must be provided with the preliminary plan. All required zoning variances must be received prior to Planning Board approval. Board members found the plan generally acceptable.

Minutes Approval:

Mr. Bulger moved, seconded by Mr. Koval, approval of the minutes of April 28, 2009 as written. The motion was unanimously carried.

Discussion Items:

Mr. Bulger moved, seconded by Mr. Werner, adjournment of the meeting at 9:35p.m. The motion was unanimously carried. The next meeting of the Planning Board will be held as scheduled on Wednesday, May 27, 2009. Mr. Scavo reminded the Board members that the meeting originally scheduled for July 14, 2009 has been rescheduled to July 21, 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, Lou Renzi, Town Attorney, Tom McCarthy, Town Attorney, Paul Pelagalli, Town Attorney, ECC, Clifton Park Water Authority

NOTICE OF DECISION**Resolution #5****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 May 12, 2009 there were:

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

Absent: None

Mr. Koval offered Resolution #5 and Mr. Hale seconded, and

Whereas, an application has been made to this Board by Saratoga Land Management Corp. for approval of Special Use Permit #80733 to allow timber harvesting in an L2 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 May 12, 2009 in the Town Office Building,

Whereas, at its May 12, 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 Saratoga Land Management Corp. for approval of a Special Use Permit #80733 to allow timber harvesting in an L2 zone pursuant to Section 184 of the Town Code is hereby approved conditioned upon the satisfaction of the comments offered by the Planning Department, Clough, Harbour, and Associates, and the Planning Board.

Resolution #5 passed 5/12/2009

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

Noes: None

Steven Bulger,
Chairman