

# Town of Clifton Park

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## PLANNING BOARD

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Sandra Pace

Kim Paulsen

Tom Werner

(alternate) Emad Andarawis

## Planning Board Meeting September 14, 2011

Those present at the September 14, 2011 Planning Board meeting were:

Planning Board: R. Ferraro, Chairman, M. Hale, J. Koval, E. Ophardt, T. Werner  
E. Andarawis – Alternate Member

Those absent were: S. Pace, K. Paulsen

Those also present were: J. Scavo, Director of Planning  
J. Romano, CHA Companies  
B. Glick, Chairman, ECC  
P. Pelagalli, Counsel  
J. Dean, Secretary

Mr. Ferraro, Chairman, called the meeting to order at 7:05p.m. All in attendance stood for recitation of the Pledge of Allegiance. The Chairman announced that Mr. Andarawis would be sitting as a full voting member of the Board in the absence of two Board members.

Mr. Ferraro commented positively on the Town of Clifton Park's response to the damage from hurricane Irene and subsequent storms, noting that Town officials kept residents updated on storm-related situations and town clean-up initiatives. He pointed out that the relatively little damage suffered by Town residents is reflective, in part, of good planning policies and practices.

## Public Hearings:

[2010-041] Casale, Tony – Proposed (4) lot subdivision and commercial development of 54,300 SF of office/retail space in four (4) buildings, 1751-1747 U S Route 9 – Preliminary public hearing, preliminary site plan review, and possible determination. SBL: 272.1-2-7; 272.1-2-8

Mr. Ferraro called the public hearing to order at 7:10p.m. The Secretary read the public notice as published in the Daily Gazette on September 6, 2011. It is noted that the applications for subdivision approval and site plan will be reviewed concurrently by the Board.

Mr. Tom Andress, consultant for the applicant, presented a general overview of this application that remains generally as presented at the August 9, 2011 meeting. The applicant has submitted a Full Environmental Assessment Form and a traffic study that was prepared by Greenman-Pedersen, Inc. The site will be served by a 40' wide common driveway and utility easement. Water service will be extended from the south side of the adjoining parcel identified as 1745 Route 9. The sewer connection will be made to the existing force main located on the westerly side of Route 9 via directional boring. Construction of Phase II of the project that consists of the construction of a 20,000 SF building to the rear of the site will be dependent upon future demand for office space.

Mr. Andress noted that the traffic study concluded that with the implementation of several recommendations "all movements at the proposed driveway intersection are expected to operate a LOS C or better during morning and afternoon peak hours under estimated 2016 build conditions." Mr. Andress stated that, pursuant to the study's recommendations, clearing along the southerly sight distance line will be completed and maintained as necessary. The study also states that "construction of the proposed development will not significantly impact operations of the adjacent roadway network."

Mr. Andress addressed several of the comments issued by CHA Companies. He explained that the applicant proposes the use of porous pavement and fire retention swales as part of the stormwater management design and he stated that groundwater levels have been revised to reflect accurate depth to groundwater throughout the site. A planting plan that depicts increased plantings along the property boundaries has been submitted. Modifications to the parking area and drive-thru around the proposed bank have been made to reduce conflicting traffic movements. The speaker stated that the applicant is awaiting a determination from the State Office of Parks, Recreation, and Historic Preservation as part of the Stormwater Pollution Prevention Plan that must be submitted for Mr. Myers' review and approval. He respectfully requested that the Board grant preliminary and final approval to this application since his client is attempting to meet contractual property-purchase deadlines.

Mr. Scavo read comments prepared by Mr. Hartnett, representative of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee. The Subcommittee notes that the "project features great internal pedestrian connections." It is recommended that a bike rack be installed at each building and that the internal sidewalk network be brought out to the bike lanes on Route 9.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, provided several comments regarding this application. He advised the Planning Board that the Notice of Decision issued by the Zoning Board of Appeals on April 19, 2011 listed several conditions of approval for the variances granted. Due to the "uniqueness of the stormwater plan," Mr. Myers has asked that any site plan approval be conditioned upon approval of the stormwater plan. He

noted that additional details such as drywell elevations and details of proposed porous pavement sections must be included in the plan. The Stormwater Pollution Prevention Plan discusses petitioning NYSDEC for stormwater discharges; however, the plan makes no reference to the required Town approval prior to the NYSDEC approval. A maintenance agreement with the Town of Clifton Park will be required.

Mr. Scavo offered comments provided by the Planning Department. A crosswalk should be stripped from the front of the proposed bank to the handicapped access aisle across the parking area to increase visual cues for drivers exiting the drive-thru that pedestrians may be crossing. It will also provide increased visibility and awareness for handicapped individuals attempting to cross the lot to reach the entranceway. The drive-thru/parking lot shared access off the private road should eliminate the out arrow onto the road and "DO NOT ENTER" signs should be installed on both the south and north side of the parking lot entrance. It should be noted that the applicant is seeking site plan approval for Phase I and subdivision approval. A SEQRA determination and any possible site plan/subdivision determination should make reference to the project limits. If a dumpster is proposed, details should be provided on the plan. It is recommended that the enclosure be constructed of chain link with green vinyl slats. Copies of all grading easements will be required prior to the final stamping of the plans. Mr. Scavo reported that Lorinda Tennyson from the Traffic & Mobility Division of NYSDOT, stated that the agency's comments to date are minor in nature and that a letter will be sent next week documenting the following comments that were described as "minor in nature": actual measured sight distances and lines should be shown on the plan; a note regarding the clearing and maintenance of cleared areas must be included on the plan; a drainage report must be submitted to NYSDOT; a letter explaining who is accepting ownership and responsibility for maintenance of both water and sewer in NYSDOT's right-of-way must be submitted. Mr. Scavo commented that final sign-off letters would be required from NYSDOT and CHA Companies prior to the stamping of the final plans. In response to Mr. Scavo's question regarding proposed grading behind the 12,000 SF building, Mr. Andress explained that the plan incorporates a porous pavement design. He also stated that necessary easements and agreements for grading and clearing to provide adequate sight distance from the site are being finalized.

Mr. Romano explained that CHA Companies reviewed the following documents submitted for preliminary review: 1751 Route 9 Development Traffic Analysis prepared by Greenman-Pedersen, Inc.; Subdivision Plan 1751 & 1747 Route 9, last revised April 18, 2011 prepared by ABD Engineers and Surveyors; Site Plans, last revised August 10, 2011 prepared by ABD Engineers and Surveyors; Stormwater Management Report, last revised August 31, 2011 prepared by ABD Engineers and Surveyors; Stormwater Pollution Prevention Plan, last revised August 24, 2011 prepared by ABD Engineers and Surveyors; Full Environmental Assessment Form dated August 24, 2011 prepared by ABD Engineers and Surveyors. A subdivision plan should be provided that depicts the bearing and distances for the proposed lot lines and proposed easements. A subdivision plan has been provided for review: the subdivision plan should depict all proposed easements, setback lines, and agreements with adjacent land owners. To promote improved access management along the Route 9 corridor, the potential for cross access easements to the adjacent parcels to the north and south should be investigated. Three cross access easements are depicted on the plan. The future cross access easement located along the northern property line is not currently feasible as it runs directly into the existing building. The easement location will only be able to be utilized if the property to the north is redeveloped and the building location is modified. Additionally, an easement should be provided north of the proposed cul-de-sac. Section 208.50.5 of the zoning code states that side yards shall be planted

with trees and shrubs for a width of 15'. Although a revised landscape plan has been provided, the Planning Board should determine if the number of plantings is sufficient. It appears that there are significant gaps in the proposed planting along the side yards. The grading plan depicts work on the adjacent parcels to the north and south. The clearing and grading limits associated with the work should be depicted on the plans and additional information regarding the "agreement" with the adjacent land owners should be provided. Agreements have not been provided. The proposed grading depicts a significant amount of excess material within the existing site. The impacts associated with the removal of the material including the vehicle traffic should be evaluated. CHA Companies continues to be concerned with problems associated with construction traffic since the EAF indicates 100,000 cubic yards of material will be removed from the site. The Bureau of Fire Prevention should review the fire access and hydrant locations. It appears that the Phase I development will not include the construction of the cul-de-sac. A limit of clearing and grading that depicts the limit of vegetation to remain should be depicted on the plan. The plans do not depict the limit of vegetation to remain: the existing conditions plan should show what trees are to be removed and which trees will remain. Additional grading detail should be provided within the lawn areas around the proposed buildings. The area north of the 20,000 SF building appears to be flat and will not drain to dry well #7. Additionally, limited detail is provided south of the bank/office and north of the retail/office building. Additional spot grading elevations are required at all high, low points and around the proposed buildings. The grading depicts run-off being directed to the existing office building to the south: additional detail on the conveyance of the run-off should be provided. The revised plans do **not** provide any measures to prevent pavement run-off directly onto the existing office building to the south. The spot elevations around the 12,000 SF retail/office building appear to depict curbing; however, the proposed limit of curb cannot be determined on the plan. Additional spot grading elevations are required at all high and low points and around the proposed buildings. There appears to be a mislabeled contour east of the Lot 1 parking area. Handicapped parking and no parking signs should be depicted for all accessible spaces and striped aisles. Additionally, all striped aisles should be depicted on the plan. The handicap parking shown on the east side of the 12,000 SF retail/office building shows a 6" curb with no accessible access.

Mr. Romano offered several additional comments. The size of the water and sanitary sewer services should be depicted on the plan. Limited utility information is depicted on the concept grading plan. A utility plan clearly depicting all utilities, such as stormwater, water and force main should be provided. Labels and details for valves, hydrants, drywells, etc. and profiles of the proposed water and forcemain sewer should be provided. The location of the proposed building mounted lights should be depicted on the plan and a lighting key to identify lighting types should be provided. The proposed lighting levels should be reviewed. Based upon the limited lighting levels provided, there are areas of parking that will have less than 0.5 footcandles. A more detailed photometric analysis that takes into account all light sources should be provided. The geotextile fabric provided at the bottom of the pavement section should be non-woven to allow for exfiltration into the underlying soils. The pavement section detail continues to reference Mirafi 500X which is a woven stabilization fabric: a different product should be specified. Architectural elevations of the proposed buildings should be provided for review. The project is proposed to be phased with the rear 20,000 SF building to be included in Phase II. It should be noted that a separate site plan approval will be required for Phase II. At the previous Planning Board meeting concerns were raised regarding the potential vehicle and pedestrian conflicts associated with the location of the proposed bank drive thru. All means of access to the building requires pedestrians to cross the drive aisle. The layout has not been modified.

The following comments are related to the Traffic Analysis dated August 25, 2011 prepared by Greenman-Pedersen, Inc:

- In general, CHA Companies concurs with the applicant's proposed recommendations as stated in the Traffic Analysis. In addition, it is recommended that the site provide the ability for continuation of their interior access road to connect to parcels to the north.
- The applicant should state the intersection and stopping sight distance for the project. The intersection sight distances should be provided for the left and right turn maneuvers from the minor road, looking north and south as well as the sight distance for vehicles making left turn maneuvers from the major road. The applicant should determine the extent to which clearing of vegetation along the Route 9 frontage and adjacent parcel to the south is required to meet the recommended sight distances. In addition, the applicant should provide documentation and/or the necessary agreements for this work to be performed on the adjacent parcel or evaluate alternative driveway locations to maximize sight distance.
- The capacity analyses should be revised to include the %HV for US Route 9 traffic. In addition, the Route 9 southbound volume for the PM peak period should be revised from 586 vehicles to 557 vehicles. These revisions should be made even though they are not expected to change the recommendations for the project.

The following comments on the Full Environmental Assessment Form:

- A verification letter from NYSSHPO stating that the site is not substantially contiguous to a building, site or historic district should be provided.
- A verification letter from NYSDEC stating that the site does not contain any threatened or endangered species should be provided.
- It should be verified that ACOE jurisdictional wetlands are not located within the limit of the project site.

The following comments were prepared on the basis of the landscaping plans submitted:

- Additional evergreen plantings should be provided along the northern property line since significant amount existing mature trees will be cut down for the proposed development.
- Addition plantings should be provided along the southwest corner property.
- Details of complex sign including spot grade elevations should be provided.
- A plan view of the planting locations within the bio-retention basin should be provided.
- The evergreen species in planting schedule should be specified: "Mix of pines and spruces" is not acceptable.
- The limits of the RP and TM plantings should be clarified. They appear to be grouped together.

The following comments were also issued by CHA Companies. The existing wells shown to be abandoned shall follow current NYS Dept. of Health regulations. A note shall be added to the plans. A detail of the proposed dumpster enclosures should be depicted on the plan. The limit of the proposed disturbance and restoration notes should be provided for the proposed

off-site watermain and sanitary force main construction. The plan should indicate the existing features to be preserved, removed, and replaced. The location, size and material of the existing watermain south of the project should be depicted on the plan. Based on the test pit information indicated on the Existing Conditions plan, the groundwater elevations vary considerably. There is the concern of ground water impacts at some of the stormwater management infiltration BMPs. Verify the groundwater situation and adjust design if necessary.

The following comments are related to the Erosion and Sediment Control Plans:

- The construction phasing on the plan sheets should be clarified. Depict the phases in numbered sequence
- Add phased construction sequence notes specific for each construction phase.
- Include plans and details of the sediment basin and outlets. Calculations and phasing instructions for the sediment basin should be depicted on the ESC plans.

The following comments are based on the Stormwater Pollution Prevention Plan:

- In section 1.4 of the SWPPP:
  - List the total disturbed area for each phase and the total impervious area increase for the project.
  - Include the specific groundwater data taken from the test pit data
- In section 1.5 of the SWPPP a section describing the 5 step process per Chapter 3 of the NYDEC Stormwater Management Design Manual should be included. The Water Quality calculations of the site planning and green infrastructure techniques should be quantified and included in the discussion to show that the RRv has been met.
- Add a Historic or Archeological Resource section to the SWPPP. The SWPPP must include documentation supporting the determination of permit eligibility with regard to Part I.D.8. (Historic Places or Archeological Resource).
- In section 1.6 of the SWPPP a list of phased construction sequence notes for each phase and include the total disturbed area for each phase should be provided. The sequence notes should reflect sequence notes on the Erosion and Sediment Control Plans.
- Question 12 of the Notice of Intent, should identify the Dwass Kill as the water body. This stream is identified as 303-d impaired according to Appendix E of Permit GP-0-10-001. Check Question 13 “Yes”.
- Include the specific groundwater data taken from the test pit data along with other specific soil conditions in the narrative. The data on the plans indicate variable groundwater levels.
- Provide a Section describing the 5 step process per Chapter 3 of the NYDEC Stormwater Management Design Manual. The Water quality calculations of the site planning and green infrastructure techniques should be quantified and included into show that the RRv has been met.

In response to Mr. Romano’s comment regarding buffering along property boundaries, Mr. Andress stated that additional evergreens will be added along the property’s southern and northern boundaries and “concentrated” landscaping will be placed around parking areas.

Mr. Glick, Chairman of the ECC, stated that the Commission found that the revised project plan satisfied all previously-issued comments and concerns.

There being no public comment, Mr. Ferraro moved, seconded by Mr. Koval, to close the public hearing at 8:56p.m. The motion was unanimously carried.

Mr. Ferraro commented that he was particularly concerned with the “aesthetic appeal” of the property since there is significant clearing and grading that will negatively impact the heavily treed site. He asked that there be “no bare landscape” during the development process. Though Mr. Ferraro suggested that a retaining wall may be installed along the southern boundary, Mr. Address stated that the steep slopes in the area would preclude the installation of such walls. Mr. Ferraro stated his approval of the proposed “visible markings” indicating walkways to make drivers aware crosswalks and directing pedestrians to their destinations. The applicant is directed to ensure that all necessary re-seeding and site reclamation on adjoining properties is completed in accordance with NYSDEC guidelines. Mr. Hale recommended that the plan provide an additional depression in the proposed grading behind the 12,000 SF building to allow for additional water storage. He also recommended that the applicant provide additional details of plans to ensure maintenance and stability of the slopes when site clearing and grading begins. In response to Mr. Werner’s question regarding façade renderings, Mr. Address presented building elevations that indicated that, with the exception of the bank building, the buildings will be constructed of brick. Retail buildings will have enhanced roof lines and awnings. Though Mr. Scavo noted that approval of any signage for the site was not part of any Planning Board approval, Mr. Address stated that the applicant proposes a single sign for the bank and another for the other three buildings. In response to Mr. Koval’s observation that there would be a significant amount of fill removed from the site, Mr. Address stated that construction traffic would be well controlled. He noted that NYSDOT enforces such activity. Mr. Romano explained that site clearing issues will be addressed in the Stormwater Pollution Prevention Plan. Board members agreed that although many of the issues raised during this deliberation could be characterized as minor, they were adamant that no final plans are to be stamped and released from the Planning Department before all issues of concern were adequately addressed. One issue of significant concern was the applicant’s ability to provide necessary easements and agreements with adjoining property owners for grading off-site. Mr. Pelagalli stated that he would review all agreements before authorizing the final stamping of plans. Board members agreed that if agreements cannot be reached with those owning adjacent parcels, the application must be resubmitted for Board consideration. Due to the considerable amount of site clearing that was to be proposed, Board members also asked that a detailed landscaping plan be prepared that showed substantial planting around the perimeter of the site. The landscaping plan must be approved by the Planning Department and the town’s consulting engineer.

Mr. Ferraro explained that the Planning Board determination for this project requires two actions: approval of the subdivision and approval of the site plan. The Board first considered the subdivision proposal.

Mr. Werner 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. Koval offered Resolution #10 of 2011, seconded by Mr. Ophardt, to waive the final hearing and to grant preliminary and final subdivision approval to this four (4) lot subdivision conditioned upon satisfaction of all the items listed in the final comment letter prepared by the Planning Department. Ayes: Ophardt, Andarawis, Hale, Werner, Koval, Ferraro. Noes: None.

The Board then rendered a determination on the site plan.

Mr. Andarawis 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.

Mr. Hale moved, seconded by Mr. Andarawis, to grant preliminary and final site plan approval to this application conditioned upon satisfaction of the comments offered by the Planning Board, Planning Department, CHA Companies, particularly the preparation of a detailed landscaping plan that includes substantial plantings along the perimeter of the site that will be approved by the Planning Department and the town's consulting engineer, and the execution of all necessary easements and agreements with adjoining property owners for off-site clearing and grading. If such easements and agreements are unacceptable to Mr. Pelaglli, the Board's Counsel, the applicant shall be required to reappear before the Board. The approval is also conditioned upon satisfaction of all items listed in the final comment letter prepared by the Planning Department. The motion was unanimously carried.

### **Old Business:**

[2011-021] **Boni Enterprises, LLC** – Proposed 2,996 SF office building, 313 Vischer Ferry Road – Conceptual site plan review. SBL: 277.13-4-2

Mr. Kevin Dailey, legal representative for the applicant, presented this application for the Board's consideration, explaining that the project plan remained generally as presented at the August 9, 2011 meeting. Mr. Boni, property owner and applicant, was also in attendance. Information regarding lot coverage and details regarding the percolation test and test pit observations has been included on the plan. Mr. Dailey addressed several issues of concern that were raised during conceptual review. He reported that Mr. Boni and he met with adjoining property owners regarding privacy and buffering concerns and that most issues were resolved, stating that the neighbors would prefer to see the construction of a single-story, rather than a two-story building, limited residential-style lighting, fencing where appropriate, and no disturbance of existing vegetation for the installation of utilities. The speaker addressed the issue of the building's proximity to the stream, reporting that a representative from NYSDEC conducted a site visit which determined that though an existing classified wetland lies on the westerly side of Vischer Ferry Road, a classified stream flows on the easterly side through Boni property: there is no associated buffer along a stream corridor. The 50' buffer requirement is imposed by the town's LC zoning legislation. Site development will not require grading beyond the areas already cleared and there will be no disturbance of the stream corridor. Mr. Dailey spoke to the issue of the labeling of the parcel on the approved subdivision plat that states that it was to be conveyed to the Vischer Ferry Fire Department, stating that a review of all Planning Board minutes associated with the Heavenly Way subdivision indicates that such a conveyance

was never a condition of subdivision approval. He contended that the reference on the map was added “by the property owner signifying what was then intended in good faith: it was not added by direction of the Planning Board.” He requested that the Board approve the plan as presented.

Mr. Scavo read comments provided by Mr. Myers, Director of Building and Development. All necessary variances were granted by the Zoning Board of Appeals at its June 21, 2011 meeting. A Stormwater Pollution Prevention Plan must be prepared and approved prior to site plan approval.

Mr. Scavo read prepared comments. He requested that the pole mounted down light fixture should be amended to read as follows: residential style and scale pole mounted lighting fixture. A note should be added to the plan that states the following:

The water and sewer laterals extending through Stewart’s property will be installed using directional boring and the only digging to occur will be at the connection to the mains.

Mr. Scavo explained that the applicant’s representative submitted incorrect site plans for consideration: the full-scale plan that was submitted did not include revisions to the concept plan. Planning Board members did receive the updated preliminary plans for review and additional copies were distributed at the meeting.

Mr. Romano offered the following comments prepared by CHA Companies, explaining that the review was based upon the deficient large-scale conceptual plan that was submitted. He reserved that right to provide additional comments on the updated preliminary plan. [CHA Companies’ comment letter is included in this document in its entirety to provide a comprehensive list of all engineering concerns considered by the Planning Board during its review of this application.] The following items were discussed at the last Planning Board meeting and do not appear to be addressed. The parcel proposed for development was created as part of the Country Club Acres Subdivision. The approved subdivision plan indicates that the 25,010 SF of land was to be conveyed to the Vischer Ferry Fire Department. It was represented to the Planning Board and our office at the time that the land was to be combined with the adjacent lands of the Vischer Ferry Fire District, and as such, the parcel was not reviewed as a standalone buildable lot. Had the lot been represented as such during the subdivision review, CHA Companies would have raised significant concerns regarding the development potential of the non-conforming lot. Concerns were raised regarding the lack of buffering (fencing or vegetation) provided within the project site and the proximity (11’) of the proposed building to the rear lot line of the adjacent residential properties. The plan has not been revised to address this concern. The Planning Board discussed the need for a visual assessment and/or photosimulation documenting the proposed views from the adjacent residential parcels. CHA Companies continues to remain concerned that the wetland boundary limit and jurisdiction has not been verified. Should the wetlands be considered within NYSDEC jurisdiction, the Land Conservation Zoning District boundary would be increased to 100 feet. The proposed plan would then require a use variance because the building would be located within the Land Conservation zoning district.

Mr. Romano stated that the following comments from the August 3, 2011 review letter remain to be addressed. Although the existing parcel has been granted a number of variances based on the proposed site plan, the site plan is not in conformance with the Town’s zoning and

site plan review regulations. Pursuant to Section 208-113A, the purpose of site plan review is to “assure functional and attractive development and minimize adverse impacts on the natural and man-made environment.” The project site contains a very significant stream corridor which includes a permanent NYSDEC regulated stream with known wetlands along its channel. This stream corridor has been afforded considerable protection through the development of other nearby properties including the Wishing Well Subdivision (to the west), Mill Creek Subdivision (to the north) and Country Club Acres Subdivision (to the east). This stream corridor is also protected by the Town’s LC-Land Conservation zoning district which restricts any land alteration within 50 feet of the high water line of the stream. The current plan proposes an office building exactly at the limit of the LC-Land Conservation zoning district boundary, and further proposes significant grading and clearing within the LC zone. The site is also adjacent to a recently developed residential housing development. Pursuant to Section 208-38.H of the zoning regulations, where a commercial use abuts a residential zone a minimum buffer of 100 feet shall be maintained and supplemented as deemed appropriate by the Planning Board. The plan proposes the building 11 feet from the residential parcel boundary and no buffer has been provided. With respect to SEQRA, the proposed project has the potential to result in significant environmental impacts. It is recommended that a Full Environmental Assessment Form be prepared in order to determine if other involved agencies may be required to more fully evaluate the environmental sensitivities of the project site. Section 208-40 of the zoning code requires the property margins at the sides from the front of the building to the rear property line shall be planted with trees and shrubs for a width of not less than 10 feet: no continuous buffer is proposed. A stream classification, wetland delineation and jurisdictional determination should be provided with reviews by the NYSDEC, Army Corps of Engineers and Town’s ECC. A mapped NYSDEC freshwater wetland is located along the west side of Vischer Ferry Road. The mapped wetland includes the upstream portion of the stream located on the proposed project site. The classification of NYSDEC wetlands within or adjacent to the project site will impact the location of the Land Conservation zoning district and the potential development potential of the project site. Although the plan indicates a permeable pavement parking area, it does not follow the primary green infrastructure technique involving conservation of sites’ environmentally sensitive features. Justification for additional parking beyond the code requirements should be provided. Additional detail of the existing vegetation to be removed should be provided. The location of the proposed curb cut to the Stewart’s parcel directs traffic over an existing catch basin. The drive location or the catch basin should be relocated outside of the wheel patch of vehicles exiting the site. The site plan does not depict a dumpster location. It should be verified that a dumpster will not be utilized. The plan depicts a basement finished floor elevation. The intended use of the basement should be provided on the plan. Based on the proposed elevation, CHA Companies expects the basement to be below the 100-year flood elevation of the stream along this reach. Pumped foundation drainage systems would be required. Future plan submittals should detail the utility connections and associated disturbance limits. The location of the nearest fire hydrant should be depicted on the plan. The plan should be reviewed by the Bureau of Fire Prevention. The access out of the easternmost parking spaces should be evaluated. Future plan submittals should depict the ingress/egress and utility easements over the Stewart’s property. It appears clearing and grading may be required on the adjacent fire station site: an easement from the adjacent land owner will be required. The handicap accessible and no parking signs should be depicted on the plan.

Mr. Romano offered the following additional comments. The proposed water service location would appear to disturb an existing vegetative buffer along the southern lot line of the adjacent residential parcel. The proposed handicap parking arrangement does not allow for the required “No Parking” sign to be installed at the striped aisle. The proposed site lighting appears to have been removed from the plan. Clarification should be provided. Additional grading details should be provided with future plan submission. The plan does not address roof run-off.

Future plan submittals should include construction details. Mr. Romano commented, in conclusion, that the updated and revised project plans presented at this meeting appear to address many of the issues raised in the comment letter.

Mr. Glick, Chairman of the ECC, read the comments issued by that Commission. The ECC notes that construction of the project may result in intrusion into the LC zone. The proposed clearing and grading limit line extends well into that zone and even abuts the stream. The applicant must file for an Application for Approval of Work To Be Done in the LC Zone with the Town of Clifton Park. The ECC also notes that the proposed building foot print abuts the LC zone: the applicant should mitigate any vegetation damage in the LC zone due to the construction of the building by replanting new trees in the LC zone. The applicant's Drainage, Stormwater, and Erosion Control Plans should be protective of the LC Zone during construction and occupation of the site. The ECC notes that the previous site plan states permeable pavement will be used, though the new site plan makes no mention of this. If impermeable pavement will be used, the applicant should install oil water separators.

Speaking of the note on the original subdivision plan that labeled the parcel now under review as land "To Be Conveyed to the Vischer Ferry Fire District," Mr. Koval noted that serving on Planning Board was a continual "learning experience". He suggested that if - in the future - the Board requires a certain disposition of land during subdivision review, that it be a clear condition of approval and that required conveyances be assured prior to the stamping of the final plans. Mr. Pelagalli provided closure to the issue by stating that he had reviewed all meeting minutes related to the subdivision that created the Heavenly Way neighborhood. In only one instance was the conveyance from the property owner to the fire department mentioned and the conveyance was never made a condition of approval by the Board. Since it was not required, he considers the label on the plan to be "an errant note on the map" which will not impede site plan approval. It may be removed by a simple administrative action. Mr. Romano questioned whether or not the proposed 11' separation between properties was sufficient. Mr. Ferraro stated that it seems, by their absence at this meeting, that the neighbors appear to be satisfied with the proposed buffering and fencing and that there is an existing tree line to the rear of most of the properties along the westerly side of Heavenly Way. In response to Mr. Werner's question regarding the height of the proposed fence, Mr. Boni stated that the fence would be 6' high and constructed of white vinyl. Though Mr. Hale remarked that he found that "poor planning" resulted in the "imposition of a commercial space" on a residential neighborhood, he recognized that existing zoning permitted the applicant to construct the building as presented. He hoped that the Board would more adamantly require more appropriate "transitional" uses for such areas in the future. Mr. Romano asked that all lighting fixtures – including wall-mounted lights – be depicted on the plan. When questioned about clearing within the LC zone, Mr. Dailey stated that the detention basin would be located in an area that has already been cleared. In response to Mr. Ferraro's question regarding clearing vs. selective cutting within the protected zone, the applicant stated that clearing would be limited to the "existing compromised area."

Mr. Werner moved, seconded by Mr. Ophardt, 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. Hale, to grant preliminary and final site plan approval to this application conditioned upon satisfaction of the applicable comments offered by the Planning Board, Planning Department, CHA Companies, that the site plan indicate that clearing shall be limited to the existing “compromised area,” and all items included in the final comment letter prepared by the Planning Department. The motion was unanimously carried.

[2010-028a] **Regal Cinema** – Proposed modification of approved site plan, 22 Clifton Country Road – Preliminary site plan review and possible determination. SBL: 272.-1-31.11

Mr. Ferraro explained that this application is being considered by the Board as a result of action by the Zoning Board of Appeals at its September 6, 2011 meeting. At that time, the ZBA determined that the use variance related to proposed signage for the cinema complex could be rescinded if the Planning Board agreed that the “blade” sign that will include the cinema’s identification marker is considered part of the building structure and EFIS.

Mr. MacElroy, representative of DCG Development Co., was in attendance at the meeting. Mr. Joe Dannible, consultant for the applicant, explained that his client proposes to amend the approved site plan to include a proposed refuse enclosure, overhead structure to indicate the location of the cinema area, and modification of the proposed parking area along the southerly side of the cinema building. Installation of the proposed refuse enclosure will require the elimination of five (5) parking spaces along the westerly side of the hotel that is currently under construction. The refuse area will be constructed of block with a chain link with green slat gate. The speaker stated that the cinema sign has been incorporated in the building structure: this “added appendage” requires approval from the Planning Board. The angled parking to the south of the south of the cinema building has been modified: regular spaces will be installed. The plan also includes the installation of a 36”-42” wrought iron fence on top of the retaining wall that has been constructed along Clifton Country Road in front of the hotel.

Mr. Scavo reported the Mr. Myers, Director of Building and Development, provided comments regarding this application. He noted that, with respect to the proposed refuse enclosure, the drawings submitted do not reflect the required clearances to gas meters and safety bollards. A “to scale” drawing requested of the applicant to confirm required fire department access adjacent to the dumpsters has not been submitted. Grades and widths of adjacent areas and fire department connections for both the Regal Cinema and Hilton Hotel should be clearly delineated on project plans. Mr. Myers recommends that the Board defer final site plan approval until these details have been provided and approved.

Mr. Scavo offered comments prepared by the Planning Department. He explained that, as Mr. Ferraro stated previously, that the Planning Board’s review for the sign involves approval of the sign structure as part of the building façade itself, therefore eliminating the classification of a “blade sign” by the Mr. Myers, Chief Zoning Officer. Mr. Scavo asked that the applicant provide at least six (6) trees that are 8’ in height along the existing berm adjacent to Clifton Park Center Road in the vicinity of Garden Drive to ensure that an adequate visual buffer from the residential properties is maintained. The specific species and planting locations will be determined by the applicant and Planning Department staff: this should be a condition of

approval. Since this application was viewed as a minor modification to an approved site plan, no engineering review was required.

Mr. Glick, Chairman of the ECC, reported that the ECC offered no comment on this application.

Mr. Ferraro asked that since the dumpster location is situated in a very prominent location that the enclosure be made to look as attractive as possible. In response to his question regarding the proposed mountable curbing sections to be installed in front of the enclosure, Mr. Dannible explained that the sidewalks will be continuous and handicapped accessible. Mr. Ferraro asked that the wrought iron railing proposed to top the retaining wall be of the same design and material as the railing bordering Chipolte Grill. Both Mr. McElroy and Mr. Dannible agreed to this condition. In response to Mr. Koval's question concerning the number of parking spaces to be eliminated, Mr. Dannible stated that 8 or 9 spaces will be eliminated from the site.

Mr. Koval moved, seconded by Mr. Anadarawis, 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 offered by the Planning Board, Planning Department, and, specifically that the proposed wrought iron fencing that will top the retaining wall to the front of the hotel match the wrought iron fencing that borders Chipolte Grill and that additional plantings as approved by the Planning Department be added to the existing berm along Clifton Park Center Road in the vicinity of Garden Drive. All items identified in the final comment letter prepared by the Planning Department must be satisfied prior to the stamping and release of the amended site plan. The motion was unanimously carried.

### **New Business:**

[2011-030] **Congregation Beth Shalom** – Proposed amendment to approved site plan, 688 Clifton Park Center Road – Preliminary site plan review and possible determination. SBL: 271.-5-24.2

Mr. Howard Vipler, representative of the Congregation Beth Shalom and Mr. Darren Herbinger, D. Herbinger Construction, were in attendance at the meeting. Mr. Vipler explained that the project proposal calls for the construction of a 10' x 20' addition to the southerly side of the existing building to provide unheated storage for tables, chairs, and other items. Board members reviewed building plans, a right side elevation and small site plan indicating the location of the proposed expansion.

Mr. Scavo explained that the project is a minor addition to the original site plan that does not alter the existing Special Use Permit. He recommended that the Board approve the application. No engineering review was required for this application.

Board members found the request reasonable.

Mr. Koval 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. Andarawis moved, seconded by Mr. Werner, to grant preliminary and final site plan approval to this application conditioned upon satisfaction of all Planning Department requirements. The motion was unanimously carried.

[2011-023] **Gold's Gym** – Proposed parking lot expansion, 1220 Route 146 – Preliminary site plan review and possible determination. SBL: 270.-2-25.1

Since neither the owner/applicant nor the consultant was in attendance at this evening's meeting, Board members agreed that that any discussion and/or vote on this application should be deferred until the September 27, 2011 meeting.

[2011-024] **Hertz Rent-A-Car** – Proposed rental car business to replace former car wash, 1768 Route 9, Preliminary site plan and possible determination. SBL: 266.3-3-16.2

Mr. Joe Dannible, consultant for the applicant, introduced Mr. Chuck Hoffman, property owner, and Mr. Bill Keefer, representative of Hertz Rent-A-Car, who were in attendance at the meeting. He presented this application for the Board's review, explaining that the applicant proposes the renovation of a former Jiffy Lube that has been vacant since 2006. The existing 2,800 SF building is situated on a 1.3 acre parcel located in a B-4A zone on the westerly side of Route 9 north of the US Post Office facility. The plan calls for the installation of new sidewalks, additional landscaping, and ADA compliant handicapped parking. Addressing comments issued by CHA Companies, Mr. Dannible explained that an existing easement has been shown on the plan, that additional landscaping has been provided along property margins, particularly along the northern property boundary, and that the grinder pump has installed pursuant to Saratoga County Sewer District standards.

Mr. Scavo stated that Mr. Myers, Director of Building and Development, has reported that the necessary use variance was approved by the Zoning Board of Appeals on December 7, 2010.

Mr. Scavo recommended that additional landscaping be provided along the northern property boundary. He reported that the required grinder pump has been installed in accordance with all required permits from the Saratoga County Sewer District. In response to Mr. Scavo's question regarding the proposed use of the site, Mr. Keefer explained that cleaning and detailing of vehicles will be the primary use: car rentals would be available on a very limited basis.

Mr. Romano reported that CHA Companies provided the following comments regarding this application. The proposed project appears to be an unlisted action pursuant to SEQRA and as such coordinated review is optional. Involved agencies are anticipated to include the following: Clifton Park Planning Board – Site Plan Review; Saratoga County Planning Board –

Section 239 referral. Additional information should be provided to the Planning Board regarding the proposed use, number of vehicles to be stored, hours of operation, etc. All parking should be located behind the building, and in order to discourage parking in front, it is recommended that the excess pavement in front of the building be removed and converted to greenspace. It was our understanding that a stormwater management area was created in the rear area of the parcel to support development of the adjacent Rekucki storage building, for which ABD Engineers and Surveyors were the consultant. The limits of the stormwater management area and easement should be provided to ensure these areas not developed or compromised by the proposed use. The long term access management strategy along this section of Route 9 is to minimize the number of curb cuts, consolidate them in strategic locations, and require cross connections between all compatible-use commercial properties. As such, an easement should be established that allows a future cross connection across the project site and aligns with the existing adjacent easement. The existing curb cut serving the site is excessively wide and should be reduced to no more than 30 feet. The grading of the proposed concrete sidewalks should be provided to verify an accessible route can be provided. Section 208.50.5 of the code requires the property margins at the sides from the front building line to the rear property line shall be planted with trees and shrubs for a width of not less than 15 feet. There is limited landscaping within the existing site, and very limited landscaping proposed. The design of the proposed grinder pump should be provided. The size and material of the proposed force main should be depicted on the plan. The sanitary sewer connection will require approval from the Saratoga County Sewer District and NYSDOT for work within the right-of-way. The proposed deciduous tree size should be 3” minimum caliper.

Mr. Glick, Chairman of the ECC, reported that the ECC requested that the applicant comply with the Town's Hazardous Materials Policy which can be obtained from the town's Environmental Specialist, Mr. Montague.

Mr. Dannible addressed CHA Companies recommendation that “excess pavement in front of the building be removed and converted to greenspace, explaining that it would be useful to have pavement in front of the building to allow vehicles to pull directly through the bays. The owner/applicant was amenable to providing a “floating easement” to allow for future cross-connections to adjoining properties. In response to the ECC’s comment, Mr. Hoffman explained that all contaminants have been removed from the site in accordance with NYSDEC guidelines.

Mr. Hartnett, representative of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee, requested the installation of a bike rack at the front of the facility and the installation of a sidewalk to connect with the bike lanes along Route 9.

Though Mr. Hale supported CHA Companies’ comment regarding a reduction in the width of pavement at the curb cut, Mr. Dannible explained that the applicant is anxious to have the site operational: it would require a significant amount of time to obtain necessary NYSDOT approvals. Mr. Ferraro expressed his concern for the number of cars stored on site, recommending that the Board condition approval on a maximum number of vehicles that can be parked at the location. Mr. Koval remarked that he was not as concerned with the number of vehicles maintained at the location as the fact that they be stored behind the facility. He recommended that such a restriction be added as a note to the plan. Mr. Ferraro stated that he

did not view the bike rack as necessary at this time: as redevelopment occurs within the corridor installation of such an amenity may be reasonable. Mr. Andarawis agreed that it would be sensible to require a reduction of the width of the access when adjoining parcels are developed, noting that if combined curb cuts and cross-easements are established, modification or elimination of this driveway may be required. Board members found the project plan acceptable.

Mr. Hale moved, seconded by Mr. Ophardt, 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. Werner, to grant preliminary and final site plan approval to this application conditioned upon satisfaction of comments issued by the Planning Board, Planning Department, CHA Companies, a note on the plan that requires that all vehicles stored on site be parked to the rear of the facility, and satisfaction of all issues outlined in the final comment letter prepared by the Planning Department. The motion was unanimously carried.

[2011-025] **Cartwheels Gymnastics Center, LLC** – Proposed gymnastics center, North Country Commons PUD, 1208 Route 146 – Preliminary site plan review and possible determination. SBL: 270.-2-55.

Mr. Brett S. Baxt, Associate Broker for the Howard Group, presented this application that calls for the renovation of a portion of the existing strip mall within the North Country Commons PUD to provide space for a gymnastics instructional facility. Mr. Jason Dammer and Ms. Dana Marion were also in attendance at the meeting. The project site, located on the southwesterly quadrant of the intersection of Route 146 and Vischer Ferry Road encompasses 15.83 acres, though approximately .25 acres will be utilized for the new facility. The 3,944 SF to be used for the proposed project is located along the easterly side of the building adjacent to a beverage container recycling center and fronting on Vischer Ferry Road. The space was formerly used as a garage for automobile and recreational vehicle repairs. The Cartwheels Gymnastics Center will operate six days a week: from 9:00a.m. to 8:00p.m. Monday through Friday; Saturday from 9:00a.m. to 4:00p.m. The business plans to employ four employees. Participants and members of the facility will be under the age of 18. The project will involve exterior renovations of the building as well as an interior fit up for the center. Exterior improvements will include reconfiguration of both doors and windows for the “creation of a new finished look to the facility’s façade.” The interior will have a new fit-up for the business what will include practice space with equipment, office space, an entrance vestibule, and bathroom areas. It is estimated that renovations will take thirty days to complete. No additional water or sewer services will be required. The speaker explained that per the zoning code, the facility requires a total of twenty (20) parking spaces. Since the strip mall has several hundred parking spaces and because the existing businesses within the mall have different hours of operation, it is anticipated that sufficient parking will be available. Three additional spaces will be installed to provide adequate parking within the immediate vicinity of the front facades of both the gymnastics center and the recycling center. Describing the center as “an additional successful commercial facility that will provide benefit for the community,” Mr. Baxt stated that it was another great addition to the North Country Commons mall.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, has stated that the proposed building renovation will require the issuance of a Building Permit for both interior and exterior work. The business will be required to be fully handicapped accessible.

Mr. Scavo explained that this application required Planning Board review because the prior use of the space as a boat and recreational vehicle repair station is viewed by Mr. Myers as a less intense use than that of the public assembly use proposed by the applicant. When a more intense use of a property is proposed, site plan review is required.

Mr. Romano reported that CHA Companies reviewed this application and provided the following comments. The proposed project appears to be an unlisted action pursuant to SEQRA and as such coordinated review is optional. Involved agencies are anticipated to include the following: Clifton Park Planning Board – Site Plan Review; Saratoga County Planning Board – Section 239 referral. There are a limited number of parking spaces being provided adjacent to the proposed facility. While such facilities typically have a reduced parking demand because the participants are dropped off and picked up, it should be verified that adequate parking is provided. Inadequate parking adjacent to the facility can result in illegal parking and the blocking of building access and fire lanes.

Addressing the issue of parking, Mr. Baxt referenced a response letter dated September 14, 2011 from Mr. Lansing, project consultant, which explains that the applicant is proposing to use the 17 new spaces created by the Beverage Recycling Center and to install 3 new spaces to meet the 20 space requirement. Mr. Baxt also noted that none of the businesses located within the strip mall have dedicated parking spaces: the site as a whole contains approximately 426 spaces which may be used by those patronizing the gymnastics center.

Mr. Glick, Chairman of the ECC, reported that the Commission found this project plan acceptable.

Ms. Brenda Gibbs, town resident, spoke in favor of the facility, stating that Clifton Park needs such a facility. She now takes her daughter to Saratoga Springs to participate in a gymnastics program. She stated that she would be willing to park in front of the strip mall if a more convenient parking space is not available.

Mr. Dan Hartnett, representative of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee, asked that the applicant place a bike rack near the entranceway. Mr. Baxt explained that, as a condition of approval for another business located within the mall, the owner is required to install a bike rack. Since the distance between the Recycling Center and the proposed gymnastics center is minimal, the owner will work to locate a bicycle rack in a location convenient to all mall businesses.

In response to Mr. Ophardt's question regarding the number of scheduled classes and students enrolled in each class, Ms. Marion stated that there will likely be two classes held simultaneously with 6-8 students per class.

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

### **Minutes Approval:**

Mr. Hale moved, seconded by Mr. Koval, approval of the minutes of the August 9, 2011 meeting as written. Ayes: Ophardt, Andarawis, Hale, Werner, Koval, Ferraro. Noes: None.

### **Discussion Item:**

#### **Trans-Border Parking Lot Expansion**

Ms. Sue Thompson, resident of 91 English Road, expressed her concerns regarding the application submitted by SOLAT, LLC for approval of an expansion of the parking lot at 2103 Route 9, explaining that the notification letter sent to inform adjoining property owners of the proposed action was received two days after the Planning Board approved the project on August 9, 2011. She expressed a concern regarding the timing of the notification to neighbors, noting that although the notice was dated August 1, 2011, the letter was actually posted on August 9, 2011 – the date of the Planning Board meeting. Reporting that her attempts to discuss the project with the owner/applicant had been rudely rebuffed and that a computer search resulted in scant information about the company or its products, she questioned “what activities” would “actually occur” on the site. Her other concerns included possible negative impacts of the development on existing wells, the noise generated by refuse removal trucks in the early morning hours, and the hours of operation at the site. Board members commented that there is no restriction on the time of trash pick-up in light industrial zones.

Mr. Koval explained that Board members did “take into account” possible negative impacts to residences lying in close proximity to the project during their deliberations. Mr. Pelagalli explained that the Board’s decision was properly rendered and would stand. He pointed out that reversal of a decision would require the filing of an Article 78: the 30-day time limit for such a filing for this application has past. Mr. Pelagalli did express his concern for the failure of the applicant to notify adjoining property owners in a timely manner. Mr. Ferraro reiterated his concerns regarding the time of mailing notification letters. After a brief discussion, it was agreed that proof of mailing must be submitted with preliminary submission materials, thus allowing a reasonable time period for delivery of the letters and review of plans by those interested in the application. Mr. Ferraro thanked Ms. Thompson for her comments and assured her that required 500’ notifications would be mailed in a more timely fashion to allow those interested adequate time to review an application.

Mr. Koval moved, seconded by Mr. Hale, adjournment of the meeting at 10:45p.m. The motion was unanimously carried. The next meeting of the Planning Board will be held as scheduled on Tuesday, September 27, 2011.

Respectfully submitted,

Janis L. Dean,  
Secretary

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 #10 of 2011**

**Preliminary and Final Subdivision 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 September 14, 2011, there were:

Present: R. Ferraro, Chairman, M. Hale, J. Koval, E. Ophardt, T. Werner,  
E. Andarawis, Alternate Member

Absent: S. Pace, K. Paulsen

Mr. Koval offered Resolution #10 of 2011, and Mr. Ophardt seconded, and

Whereas, an application has been made to this Board by Tony Casale for approval of a subdivision entitled Overall Subdivision Plan 1751 and 1747 Route 9 consisting of (4) lots;

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on September 14, 2011;

Whereas, the Planning Board was established as Lead Agency for this application, an unlisted action, and a negative declaration was issued pursuant to SEQRA on August 9, 2011;

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 for this application is waived and that the subdivision plat entitled Overall Subdivision Plan 1751 and 1747 Route 9 consisting of (4) lots is granted preliminary and final subdivision approval conditioned upon satisfaction of all items listed in the final comment letter prepared by the Planning Department.

Resolution #10 of 2011 passed 9/14/2011

Ayes: Ophardt, Andarawis, Hale, Werner, Koval, Ferraro

Noes: None

Rocco Ferraro,

Chairman