

**Town of Clifton Park Planning Board**  
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Clifton Park, New York 12065  
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PLANNING BOARD

ROCCO FERRARO  
Chairman

ROBERT WILCOX  
Attorney

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Emad Andarawis  
Eric Ophardt  
Ram Lalukota  
Andrew Neubauer  
Denise Bagramian  
Greg Szczesny

(alternate) Keith Martin

**Planning Board Minutes**  
**January 26<sup>th</sup>, 2021**

Those present at the January 26<sup>th</sup>, 2020 Planning Board meeting were:

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

Those absent were:

Those also present were: J. Scavo, Director of Planning  
W. Lippmann, M J Engineering and Land Surveying, P.C.  
R. Wilcox, Counsel  
P. Cooper, Secretary

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

**Minutes Approval:**

Ms. Bagramian moved, seconded by Mr. Ophardt, approval of the minutes of the January 12<sup>th</sup>, 2021 Planning Board meeting as written. The motion was unanimously carried.

**Public Hearings:**

None

**Old Business:**

None

**New Business:****2021-004 DCG Tallow Wood Subdivision**

*Applicant proposes to subdivide the 8.15 acre lot into 2 lots which will be utilized for zoning compliant site developments, 855 Rt 146 & 3 Tallow Wood Dr, Zoned: TC4, Status: PB Concept Review SBL: 271.-3-67.1*

To be reviewed by: MJE      Consultant: EDP      Applicant: DCG

**Consultant/Applicant Presentation:**

Joe Dannible – EDP – Mr. Dannible stated that this application is for a 2 lot subdivision on Tallow Wood Drive. He stated that this subdivision includes the recently approved 34 unit apartment building as well as the existing building that will be converted to residential apartments and will separate the residential from the commercial areas on the current lot. Mr. Dannible showed on the Zoom screen, a map of the parcel as it stands currently. Mr. Dannible stated that the lot is currently 8.1 acres and 2.38 acres will be subdivided from the commercial portion of the site. He stated that in the future, different types of investors look for different properties based on needs, so having them separated is optimal. Mr. Dannible stated that another reason to have them separated is that residential and commercial properties have different needs of maintenance and this would make it easier to manage. Mr. Dannible stated that there would be cross access easements for management of water, sewer and stormwater facilities as well as shared ingress and egress and any other utility lines as well. Mr. Dannible stated that he did review a comment about a density requirement of 10 units per acre and this would not meet the requirement by subdividing the lots as proposed. Mr. Dannible then showed on a map how the applicant is proposing to deed restrict a total of five acres over both parcels to not allow for additional residential density. He stated that the restriction would follow with the land and be in effect for as long as the density cap is in place within the Town Center Zoning District.

**Staff Comments:**

**Steve Myers, Director of Building and Development issued a memo dated 1/4/21 stating:**

1. New apartment building and conversion of existing space to apartments previously approved
2. Subdivision does not meet density requirements of Town Center Zoning Section 208-22-6.A, TC-4
3. Additional density may be allowed if approved by the town board per Section 208-226.B
4. Currently 50 units proposed. For 2.38 acres only 23 units allowed. Previous approvals were based on entire parcel of 8.15 acres.

**Wade Schoenborn, Chief of the Bureau of Fire Prevention:**

1. No comment

**Scott Reese, Stormwater Management Technician issued a memo dated 1/7/21 with the following comments:**

1. The sharing of the stormwater management area will need to have a use / maintenance agreement between the two separate properties.

**The Environmental Conservation Commission held a meeting on 1/5/21 and issued a memo recommending:**

1. The ECC concurs with John Scavo's review letter dated, December 29, 2020.

**The Open Space and Trails Committee submitted the following comments for the Planning Board to consider in its decision making:**

1. No comments

**John Scavo, Director of Planning issued a letter dated 12/29/20 with recommendations he made:**

1. Proposed Parcel #1 as shown under this subdivision application, does not meet the form based code requirements to support the residential density of the site plan previously approved. Pursuant to §208-22 of the Town Code, "The allowable base residential density within the Town Center shall not exceed 10 dwelling units per acre, exclusive of undevelopable lands, up to a maximum of 50 dwelling units per project." Parcel #1 as shown would support a maximum of 23 residential dwelling units.
2. The subdivision cannot be approved as proposed with residential densities exceeding thresholds established for under the Town's Form Based Code.
3. The applicant should complete the attached TC-4 Checklist for proposed Lot #1 so the Planning Board can determine full compliance with the form based code requirements.

Mr. Scavo then stated that an e-mail was sent to Board members including the density plan and that from a Planning Staff standpoint that this would be acceptable. Mr. Scavo stated he would be willing to write a letter to the Town Board stating that the proposed deed restrictions preserve

the intent and integrity of the Town Code and does not appear to be an end-around the density restrictions in this case.

**Professional Comments:**

**Walter Lippmann, P.E. of MJ Engineering in a letter dated 1/8/21 had the following comments:**

**STATE ENVIRONMENTAL QUALITY REVIEW**

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

- a. Town of Clifton Park Planning Board: Subdivision Plan approval
- b. Saratoga County Planning: 239m referral due to location along NYS Route 146
- c. NY State Historic Preservation Office (SHPO): correspondence with SHPO to ensure no archeologically sensitive resources on project site

Additional agencies may be identified by the Town during its review of the project.

The applicant has submitted Part 1 of the Short Environmental Assessment Form (SEAF). Based upon our review of the submitted Part 1 SEAF, the following comments are offered:

1. Part I. 12b - The response indicates that the project site is located within or adjacent to an area designated as sensitive for archeological sites on the NY State Historic Preservation Office (SHPO) archeological site inventory. The applicant should provide a correspondence letter from SHPO to confirm the presence or absence of archeologically sensitive resources.
2. No further comments at this time. Additional comments may be forthcoming as the project advances.

**SUBDIVISION**

3. In reviewing Section 208-22(6) TC-4 of Town Zoning, the base residential density in the Town Center Districts shall not exceed 10 dwellings units per acre which would translate to no more than 23 units on Lot 1. It does not appear the previously approved site plans meet this requirement as 50 units were proposed.
4. In reviewing the proposed lot configuration, the created lots appear to be deficient in regards to meeting the minimum bulk lot requirements outlined in Section 208-22.1 of the Town’s Zoning. The noted deficiencies are as follows:
  - a. Based on parking setback requirements shown, it appears the minimum rear setback requirements of 5 feet minimum for parking has not been met. Both lots provide 0’ setbacks.

The plan would need to be modified or the applicant will be required to seek relief from the Town Zoning Board of Appeals for the lot layout as proposed.

5. The previously approved site plan for Lot 1 indicated 82 parking spaces, it appears the subdivision line reduces this total to 75 spaces.
6. Provide the building setback lines for each lot shown.
7. Subsequent submissions shall include the metes and bounds of the affected lots and right-of-way. This plat shall be prepared by a surveyor licensed to practice in the State of New York.
8. Prior to approval or filing of the subdivision plat with the Saratoga County Clerk, the appropriate 911 emergency response numbers must be obtained for and assigned to each lot created and placed on the filed plat.
9. Comments on the individual site plans were addressed during each site plan application process.
10. Considering this plan is conceptual in nature, subsequent comments will be provided with a preliminary plan submission.

#### **Public Comments:**

No public comments.

#### **Planning Board Review:**

Mr. Ferraro asked if this subdivision has any changes to the apartment site plan application that was previously approved. Mr. Dannible stated there would not be other than parking going from 82 spaces to 75 spaces for the apartment parcel and the remaining spaces needed would be located on the commercial lot with a shared parking easement. Mr. Dannible stated there would be reciprocal easements similar to the mall property which is what they would like to Request. Mr. Ferraro stated that stormwater and maintenance agreements needs to be put into place, to address issues that may arise from separate ownership entities going forward. He noted the Board should review such draft agreements prior to final approvals for this application. Mr. McElroy – DCG - stated that this is an example of shared parking in downtown Clifton Park and that this subdivision is for estate planning purposes.

Mr. Andarawis asked for clarification on the zoning code for density. Mr. Scavo stated that the form based code for density in regards to residential helps an area from growing too fast and too large. Mr. Scavo stated the density cap is 50 units per project to avoid the applicants from subdividing as a means to create additional density if the cap was parcel based. The application as proposed allows for the subdivision while accounting for the original density used from the master parcel to allow the residential units.

Mr. Ophardt stated that he likes this project and asked Mr. Scavo where the applicant provides offsets for the amenities to the residential area and recreational areas. Mr. Scavo stated that if things are built too fast without the amenities the town would hear back eventually from residents, so this is where the town can look at the what contributions or amenities would be offered such as trails by an applicant when seeking a density increase within the Town Center. Mr. Scavo stated this is what the Town Board will be considering under the request to them by the applicant to seek the density increase for the subdivision.

Ms. Bagramian stated that she likes the project as well but the parking and maintenance plan needs to be shown in detail before approval. She stated that this is important for snow removal and landscaping as well as other maintenance. Especially since in the future there would possibly be 2 different property owners and this needs to be done before the owners differ so that there are no disagreements or lack of responsibility. Mr. McElroy stated that DCG has had these issues before and that they have experience in writing the agreements. Mr. McElroy stated that generally both property owners agree on a contractor to help maintain both properties. Mr. Ferraro also requested that the town has a chance to review the agreement before the project is signed off.

Mr. Scavo added that the applicant should also address if there is a need for temporary construction easements to allow for the apartment project to be constructed in accordance with the approved site plan.

### **New Business:**

#### **2021-003 22/42 Clifton Country Rd Subdivision**

*Applicant proposes subdividing the 23.1 acre lot into 3 lots to be utilized for Town Center zoning compliant site developments., 22 Clifton Country Rd, Zoned: TC5, Status: PB Concept Review*

SBL: 272.-1-45.1

To be reviewed by: MJE      Consultant: EDP      Applicant: DCG

### **Consultant/Applicant Presentation:**

Joe Dannible – EDP – Mr. Dannible stated that there would be 4 lots when the application is finished. Mr. Dannible showed on the Zoom screen the map of the area included in this application. Mr. Dannible stated that the current property includes the Homewood Suites, the mall, the approved mix use building not yet constructed, and frontage on Clifton Park Center Road with proposed brownstone townhomes that was before the Board in the past. Mr. Dannible stated that this application is for estate purpose as well and the desire is to separate commercial property areas from residential uses. He stated that the parcel currently has the Homewood Suites hotel; Park Tower proposed residential and commercial building, the mall, and the proposed

town homes. Mr. Dannible stated that parcel one, would be Park Tower including 16 residential units, and would be 0.8 acres which is similar to the previous application in regards to now not meeting the residential density requirements as a standalone parcel. Mr. Dannible stated lot 2, would be Homewood Suites on 2.9 acres, and the third parcel would be 3 acres, with up to 50 units of residential, and the remaining land would be Clifton Park Center Mall. Mr. Dannible stated that this property already has easements over all of properties for ingress, egress, and parking and that all the buildings already share utilities and stormwater easements. Mr. Dannible stated that this has also been submitted to Mr. Scavo. Mr. Dannible showed on the Zoom screen a map indicating in blue the area needed to allow the density for the previously approved Park Tower mixed use building that includes 16 residential units and an orange area that shows the additional area that is needed if 50 brownstone townhomes are approved to be constructed on Parcel 3. He stated that the applicant would need to go before the Town Board for the approval of additional residential density on the standalone parcels with deed restrictions encumbering land on other parcels restricting additional density.

Mr. Ferraro stated that for Lot 1 the site plan has already been approved but, on Lot 3 there has been no site plan approval and review by the Planning Board is not for site plan but for the subdivision only at this time.

### **Staff Comments:**

#### **Steve Myers, Director of Building and Development issued a memo dated 1/4/21 stating:**

1. Proposal is for the subdivision of property in the TC-5, TC-2, and OS areas of the Town Center zoning
2. 50 proposed units does not meet the density requirements of the Town Center zoning Section 208-226.A. additional density may be allowed by the town board
3. Parking currently utilized by Homewood Suites will be eliminated
4. Proposed building on Parcel #1 will also be limited to 8 units per Town Center zoning
5. Driveways are shown on three different parcels for proposed buildings.

#### **Wade Schoenborn, Chief of the Bureau of Fire Prevention:**

1. No comment

#### **Scott Reese, Stormwater Management Technician issued a memo dated 1/7/21 with the following comments:**

1. There are existing stormwater management areas along the east side of the Homewood Suites that appear would be omitted from the driveways of the proposed apartment buildings. Stormwater management should be managed on the individual properties.

**The Environmental Conservation Commission held a meeting on 1/5/21 and issued a memo recommending:**

1. The ECC has no comment at this time.

**The Open Space and Trails Committee submitted the following comments for the Planning Board to consider in its decision making:**

1. No comments

**John Scavo, Director of Planning issued a letter dated 12/30/20 with recommendations he made:**

1. Since parcel 272.-1-45.1 is just within 500' of the ROW Boundary with I-87, the Preliminary Subdivision Plan will be referred to the Saratoga Co. Planning Board for a recommendation, in accordance with GML §239(m)&(n).
2. Town skate park improvements adjacent to Parcels #1 & #2 should be called out on this subdivision plan with notations and a copy of an agreement on how access and parking will be accommodated. This subdivision increases the likelihood for multiple ownership entities of these parcels over time. Agreements currently in effect need to be reflected on this subdivision plan to ensure these agreements are binding and transparent to ownership entities in the future.
3. The approved site plan for the 6,700 sq.ft. "office building" will be required to be amended to reflect the new agreements between property owners if the subdivision is approved. The site plan would no longer be constructed or maintained in the manner originally proposed (i.e., stormwater maintenance agreement modifications, construction & new permanent easements needed). In addition, the original project allowed for 15 residential dwellings on the upper floors based on the site having 43 acres. The subdivision would create a lot that is no longer capable of supporting 15 residential units at 0.8 acres. Pursuant to Town Code §208-22(6)(A.), "The allowable base residential density within the Town Center shall not exceed 10 dwelling units per acre, exclusive of undevelopable lands, up to a maximum of 50 dwelling units per project." The form based code does not provide for a transfer of development rights from one adjacent parcel to another for residential densities.
4. Parcel #3 shows 3.08 acres. Under the residential density limits prescribed by the town's form based code, only, 30 residential units could be supported on the proposed lot, not 50 as shown.
5. The subdivision cannot be approved as proposed with residential densities exceeding thresholds established for under the Town's Form Based Code.
6. While Parcel #2 is not adjacent to a public ROW, the Town's Form Based Code appears to allow for lot frontage to be considered from the property line along the front of a parcel which directly abuts a public or private street, accessed by that street.

Mr. Scavo stated that with the town houses in concept he sees a future potential street coming into the mall site that may be worth exploring at this time.

**Professional Comments:**

**Walter Lippmann, P.E. of MJ Engineering in a letter dated 1/8/21 had the following comments:**

**STATE ENVIRONMENTAL QUALITY REVIEW**

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

- a. Town of Clifton Park Planning Board: Subdivision Plan approval
- b. Saratoga County Planning: 239m referral due to location within 500’ of the right of way boundary with I-87
- c. U.S. Army Corps of Engineers: Wetland permit
- d. NY State Historic Preservation Office (SHPO): to confirm presence or absence of archeologically sensitive resources

Additional agencies may be identified by the Town during its review of the project.

The applicant has submitted Part 1 of the Short Environmental Assessment Form (SEAF). Based upon our review of the submitted Part 1 SEAF, the following comments are offered:

1. Part I. 12b - The response indicates that the project site is located within or adjacent to an area designated as sensitive for archeological sites on the NY State Historic Preservation Office (SHPO) archeological site inventory. The applicant should provide a correspondence letter from SHPO to confirm the presence or absence of archeologically sensitive resources.
2. Part I. 13a – The response indicates that a portion of the site of the proposed action contains wetlands or other waterbodies regulated by federal, state or local agencies, including Army Corps of Engineers jurisdictional wetlands. Subsequent submissions will need to identify any potential disturbance to wetland areas and may require state and/or federal wetland permits.
3. No further comments at this time. Additional comments may be forthcoming as the project advances.

**SUBDIVISION**

4. In reviewing the subdivision plan it appears that four (4) lots are being developed not three as indicated.
5. Provide a site statistics table for each of the proposed lots.

6. In reviewing the proposed lot configuration, the created lots appear to be deficient in regards to meeting the minimum bulk lot requirements outlined in Section 208-22.1 of the Town's Zoning. The noted deficiencies are as follows:
  - a. Based on parking setback requirements shown, it appears the minimum rear setback requirements of TC2 (side: 8' min., rear: 5' min) and TC5 (side: 0' min., rear: 5' min) 5 feet minimum for parking has not been met. Lots 1, 2 & 3 provide 0' setbacks.
  - b. Parcel 3: The allowable base residential density within the Town Center shall not exceed 10 dwelling units per acre, therefore 3.08 acres can accommodate Up to 30 dwellings.

The plan would need to be modified or the applicant will be required to seek relief from the Town Zoning Board of Appeals for the lot layout as proposed.

7. Provide the building setback lines for each lot shown.
8. Will an ingress/egress easement agreement be in place to access the western most apartment buildings.
9. The subdivision plat should show the parcels in their entirety (272.-1-45.1).
10. Subsequent submissions shall include the metes and bounds of the affected lots and right-of-way. This plat shall be prepared by a surveyor licensed to practice in the State of New York.
11. Prior to approval or filing of the subdivision plat with the Saratoga County Clerk, the appropriate 911 emergency response numbers must be obtained for and assigned to each lot created and placed on the filed plat.
12. Considering this plan is conceptual in nature, subsequent comments will be provided with a preliminary plan submission.

### **Public Comments:**

No public comments.

### **Planning Board Review**

Mr. Ferraro asked if parking would require a variance for setbacks. Mr. Scavo stated that the Board would have authority to waive that requirement, if not it would need a variance. Mr. Scavo stated that the applicant should show at the next meeting, individual setback lines and parking calculations.

Ms. Bagramian stated that as in the last application, she would like to see the maintenance agreement and have it be detailed to include all roadways and parking maintenance as well as snow removal and landscaping maintenance.

Mr. Ferraro asked if the previously approved mixed use building site plan has changed which would be on proposed lot 1. Mr. Dannible stated that the site plan has not changed.

## **Discussion Items:**

### **Town Solar Moratorium**

Mr. Scavo stated he is finalizing a scope with other town staff before a review to be led by the Town Board, specific for codifying special use permits and site plan design elements relative to ground mounted solar arrays and incorporating it into the Town Code. Mr. Scavo noted that the Town Planning Board already is meticulous and well educated in reviewing detailed design elements and considerations unique to community solar arrays. This moratorium will take much of what this board is already considering and place in into the code so applicant and residents are aware of these considerations. . Mr. Scavo state that he is also looking into background information on the state and federal level to understand how community solar regulations are shifting. Mr. Scavo stated that he thinks that the Governor will look to further limit the ability of local communities to regulate community solar arrays. Mr. Scavo also spoke to developing technologies regarding battery storage and insulators. Mr. Scavo stated that over the next few months more information will be coming from the Research and Development. He stated that the town is still in the fact finding phase of this and will be reaching out to town staff and committees to help with discussions.

Mr. Ferraro asked if this was all going through town staff and not involving consultants at this point. Mr. Scavo stated that it is currently all through the Town Board with the help of the town staff, but they are working with CUNY as they have been a great resource and partner in preparing for solar technologies.

Mr. Ophardt asked if the Blue Barns project was a part of the moratorium. Mr. Scavo stated that based on findings by Mr. Myers and Town Attorney Mr. McCarthy that project was not included.

## **Discussion Items:**

**Pasquarelli Mixed Use Planned Development District** – PDD Referral from Town Board for a Recommendation Only on the Applicant’s PDD Request for Consideration: Applicant proposes to develop a Commercial/Business area limited to lands fronting NYS 146, to create a single-family residential community, establish vast areas of open space and buffers adjacent to existing residential properties and develop a multi-use trail system connecting Waite Rd to Tanner Rd.

Mr. Neubauer stated he would be recusing himself from this discussion item and left the meeting.

**Staff Comments:**

**The Open Space and Trails Committee submitted the following comments for the Planning Board to consider in its decision making:**

1. Given the above review, we do not recommend that the project be permitted in the proposed configuration.
2. The project should be developed in strict adherence to the CR Zoning Requirements to protect the long term integrity of the CR Zone and the Western GEIS.
3. If the adjoining B-5 property is made part of the proposal, it should be rezoned to CR to put all of the project area within the CR Zone. This would increase the number of “by right” units permitted.
4. Any additional units proposed beyond the “by right” quantities should be approved under the “cash incentive” provision of the Open Space Incentive Zoning code Section 208-43.14.A.
5. Do not utilize a PDD since PDDs have the potential to undermine the integrity of the CR Zone and are open to reconsideration in the future.

**The Environmental Conservation Commission held a meeting on 1/5/21 and issued a memo recommending:**

1. The Town of Clifton Comprehensive Plan states that a Planned Development District (or "Planned Unit Development" as it is referred to in section 208-72 in the Zoning Code) should place greater importance "on the retention of larger amounts of open space and a density cap. The PUD could be also strengthened to encourage greater preservation of environmentally sensitive areas or features. Density and uses should be consistent, to the extent possible, with the surrounding area, which will ensure that the character of the area is not altered." Given this goal, the Environmental Conservation Commission supports the inclusion of the Pasquarelli parcel in the CR Zone and the preservation of this land as permanent open space deeded to the Town of Clifton Park. In addition, any project approval should be based upon existing Town code applicable to housing density in order to ensure that the objectives established for the CR Zone are achieved.
2. The ECC endorses and reiterates with the Open Space, Riverfront and Trails Committee, Town of Clifton Park recommendations as noted below:
  - a. Given the above review, we do not recommend that the project be permitted in the proposed configuration.
  - b. The project should be developed in strict adherence to the CR Zoning Requirements to protect the long term integrity of the CR Zone and the Western GEIS.
  - c. If the adjoining B-5 property is made part of the proposal, it should be rezoned to CR to put all of the project area within the CR Zone. This would increase the number of “by right” units permitted.
  - d. Any additional units proposed beyond the “by right” quantities should be approved under the “cash incentive” provision of the Open Space Incentive Zoning code Section 208-43.14.A.
  - e. Do not utilize a PDD since PDDs have the potential to undermine the integrity of the CR Zone and are open to reconsideration in the future

3. Please refer to Exhibit A attached to the official minutes reflecting a scope and review pertaining to the ECC final recommendations stated below. In conclusion the ECC backs the Open Space, Riverfront and Trails Committee recommendation e.
4. ECC also cautions the Planning Board decisions surrounding proposals such as this may lead to degradation of the CR Zone and the GEIS.

### **Applicant Presentation:**

Joe Dannible – EDP – Mr. Dannible stated that he is here tonight for Waite Meadows LLC and Mr. Pasquarelli. He stated that he was present at the joint meeting between the Open Space Committee and the ECC, he stated that the logistics of how to achieve the density was not looked at favorably by either Board. He stated that none of the recommendations addressed what was proposed such as the trail connectivity, large open space, and parking. Mr. Dannible stated that he feels that this is a huge opportunity for the town to gain land in all directions from this project. Mr. Dannible stated that he feels the B5 Corporate Commerce Zone and CR Conservation Residential Zoning District are clouding up the overall picture of what this project could be and how it could benefit the town. He stated that the land in the B5 zone could support 400,000-500,000 sf of light industrial uses but under this PDD this land would be saved from pavement and heavy traffic, and instead preserve land with an adjacent residential setting. Mr. Dannible stated that commercial is now being looked at which would have more impact on the area. He stated that he feels that there were more pros than cons brought up at the joined meeting and that the cons were brought up more times than the pros. Mr. Dannible stated that he feels that this is a great opportunity for the Town of Clifton Park and it should be considered.

### **Public Comments:**

Jim Ruhl – Open Space Committee - Mr. Ruhl stated that the proposal for the commercial development the ECC and the Open Space Committee is for that portion of the proposal that is on the east side of the present project and should be included in the open space which it currently is not. He stated that he feels this is a benefit for the potential residents and this area should be deeded to the town. Mr. Ferraro stated that the commerce park zoning is B5 and can be developed for warehouses per the current zoning and would not be included in open space associated with the development of the PDD if the properties stay separate. Mr. Dannible stated that the Open Space Committee is requesting the approximate 90 acres of the B5 to be rezoned to CR which would allow for about 17 more lots and bring the total number of units to 51. Mr. Dannible stated that the current proposed trail system cannot be done if the zoning would change to allow a total of 51 units stating the trail links would not be feasible

Ray Seymour – Open Space Committee – Mr. Seymour stated that Mr. Dannible has described accurately the project and though this is a desirable proposal for open space, it has not been discussed for larger parcels in the western part of town that could create a green belt. He stated

that this could change if the parcel would become available as CR. Mr. Seymour stated that he is also a part of the ad hoc Sub Committee and they would like to see the open space. He stated that the Open Space Committee would like to see the land preserved as open space but would like the trails to be determined at a later time by the town. Mr. Ferraro stated that if the PDD is not approved, then the remaining B5 would allow for a potential high density of commercial space. Mr. Seymour stated that the Open Space Committee decided that they recommend that the B5 parcel be rezoned to CR. He also stated that the Committee did not ask for the trails to be required but to rather donate the designated open space land to the town who would then look into the placement of the trails system.

Mr. Scavo stated that he has written down some points so far and stated the comments as he understands them are:

1. If the Town Board rezones to the CR zoning that this is another way to get to the 51 lots and that in lieu of the trails and parking, the additional cash received through an incentive option can be applied for activities depending upon priorities.
2. Applicant then can request additional residential density through the incentive option within the CR Zone to pay for 16 addition units that would get them to 67 total residential units.

Mr. Ruhl stated that the value of the trails in the opinions of the Open Space Committee and the ECC are not very much because it is not on the trails master plan and is mostly useful to residence only. He stated that the cash is better for the town to use with its discretion on what and where to use it.

Mr. Ferraro asked if the Town Board turns this down, the 90 acres that are zoned B5 are back to square one. Mr. Scavo agrees. Mr. Ferraro suggests that the B5 be rezoned to CR to give more flexibility to the Planning Board regarding the number of additional residences that would be allowed under the incentive program.

Mr. Dannible stated that when the PDD application was first brought to the town, there was an incentive bonus and the application was referred from the Town Board to the Planning Board and there was a recommendation to pass and it failed as well as a recommendation to decline and that did not pass either. Mr. Dannible stated that the town was offered value from this application and the Town declined the incentive money. He stated that the residents around there stated that they were concerned that the surrounding residence may not benefit from the money given to the Town. Now he stated he is back offering the town substantial open space and a trail linkage and there still seems to be conflict. Mr. Dannible showed on the Zoom screen a map of the area and the town's parks there. He showed the connections on the Zoom screen to the parks from the dedicated open space in the proposal and how they would connect to the current parks. He stated that with the proposed trail it would keep residents safely off the road as well as a parking area to access those trails.

Mr. Ruhl stated that the Open Space Committee and ECC are not opposed to the proposal but rather are offering options to the PDD and the concern of the committees are the 3 zones and incorporating 2 would make a consolidated parcel. Mr. Ruhl stated that this does preserve the merits of the project and that this was good work by the two committees to come to this.

Mr. Seymour stated that he agrees with Mr. Ruhl's comments and that all the committee members liked the connectivity of the project. Mr. Ferraro asked if the committees would be agreeable to the increased density that would come along with the zoning change. Mr. Seymour stated that they did not look at that aspect of the proposal; they were concerned about the preservation, they were not asking for the developer to construct the trail; while leaving the density up to the Town Board and the Planning Board.

Daniel Mathais – Mr. Mathais stated that there is a lot of merit to preserving the additional open space and how to do this and justify the additional units.

### **Planning Board Discussion:**

Mr. Andarawis stated that the project has connectivity benefits with the amount of land being preserved. If the B5 becomes rezoned to CR what is the baseline of the housing and what would the numbers actually be for density. He also stated that the trail seems to be more local and if this were considered a standalone subdivision how much of the open space would be saved without any incentive. Mr. Ferraro asked for clarification that based on the requirements of the CR zone, and that there are 163 unconstrained acres, based on the formula in the code there could be up to 54 homes. Mr. Andarawis stated that this is his concern, in relation to density but this could look and turn out differently than it did the last time.

Mr. Ophardt stated that he agrees with Mr. Andarawis' comment on the application of the CR zoning and the land that is being given by the developer. He stated that most of this land is undevelopable anyway and this needs to be looked at as well and that the money could be better used elsewhere due to the natural state of the land. Mr. Dannible stated 140 acres are being proposed to be given to the town and that 60% of it is unconstrained land and is not considered wetland and that land is useable. Mr. Ferraro stated that the CR zoning states the 25% of unconstrained land needs to remain open space. Mr. Scavo agreed with Mr. Ferraro.

Mr. Dannible stated that he thinks the alternative to being rezoned to CR with the incentive zoning of up to 16 additional lots is something the applicant is willing to consider. He stated that he feels this will have the same public concern as it did when the proposal was originally brought to the Board. Mr. Dannible stated that residents of Waite Road would have concerns about the incentive and 70 more lots. Mr. Ferraro stated that the prior incentive did not include the B5 zoned parcel. Mr. Dannible stated that this is true. Mr. Ferraro stated that this would make a difference and if that stays a B5 zone that the development could be more aggressive than it being zoned CR.

Mr. Ferraro stated he has concern with transfer rights to the CR zone. He stated that his observation is that by allowing a higher density than is ordinarily allowed in a CR zone would require a benefit to the community. Mr. Dannible showed a map of the 70 residential lots as well as the open space on the Zoom screen and stated that a benefit of this is to avoid a commercial high density area. He showed an alternate map showing a commercial development and stated it could be put next to the residential area and they would not be compatible together and still in western Clifton Park.

Mr. Ferraro stated that resident concerns that have been voiced are traffic concerns with the development of more residential homes going onto Waite Road. Mr. Ferraro stated that even though the conceptual map of the commercial site shows that there is an exit going to Waite Road, it may not be approved that way and that the traffic from this site could potentially go to Commerce Drive. Mr. Dannible stated that there are no rights from the commercial lot onto Commercial Drive and there are National Grid power lines that interfere with potential roadways.

Mr. Ferraro asked Mr. Scavo that when the zoning was done to establish the Commerce Park B5 zone, if there was a master plan done there addressing traffic impact. Mr. Scavo stated it was not done specifically but there was a general environmental impact statement done. He stated that the state prefers curb cuts on existing roadways to minimize multiple curb cuts along state highways. Mr. Dannible stated that he has reviewed the GEIS and it shows frontage on 146 and Tanner Road, not onto Waite Road.

Mr. Ferraro asked for a recommendation for this discussion item to approve, disapprove or approve with modifications. Mr. Andarawis asked if the recommendation for modification is to make this a CR zone and not a PDD, would this be an acceptable one. Mr. Ferraro stated his concern with the proposed modification and agreed rezoning the parcels in question to CR and then coming back to the Planning Board to reconcile the density and any additional number of units that can be built through the incentive option is his preference. He stated that he feels it is important to reevaluate the density and investigate the rezoning.

Mr. Dannible stated that from the applicants perspective, then other modifications need to happen such as if this is changed to a CR, then the development needs to be consistent with the CR zoning. He stated that if the Board recommends the CR zoning, the applicant should be able to purchase the rights for 16 additional units so that the applicant does not have to go back to the Planning Board. Mr. Ferraro stated that the purchase of additional development rights is acceptable to him but he does not want to establish an exact number on this just yet until there is further review of a proposed subdivision. Mr. Szczesny and Mr. Ophardt agree with Mr. Ferraro's comments and recommendation.

Mr. Ferraro stated the recommendation would be to not approve the PDD but to explore and support the creation of the CR to incorporate the lands within the Corporate Commerce Park Zoning and that further review to identify and allow up to 16 additional units to the original CR zone. Mr. Dannible stated that this statement would not be acceptable to the applicant and would like an approval with modification.

Mr. Szczesny moved, second by Mr. Andarawis to disapprove the PDD but recommend that the Town Board should look at rezoning a portion of the corporate commerce B5 zone to a CR to allow for approximately 54 units as of right with the applicant having the right to apply for the purchase of additional density within the CR zoning for up to 16 additional units for a total 70 of for the Waite Meadows Project. The motion was carried unanimously.

Mr. Szczesny moved, seconded by Mr. Andarawis, adjournment of the meeting at 9:33 p.m. The motion was unanimously carried.

The next meeting of the Planning Board will be held as scheduled on February 9<sup>th</sup>, 2021.

Respectfully submitted,

*Paula Cooper*

Paula Cooper, Secretary